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## Opening Remarks

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## OPENING REMARKS

### Remarks of Dean Claudio Grossman\*

I would like to welcome all of you to our law school, American University Washington College of Law (AUWCL), for this conference on the Use of Forensic Evidence in the Fight Against Torture.

The purpose of the conference is to discuss the experiences of stakeholders around the world in enhancing the use of forensic evidence to expose torture. This subject is crucial for many reasons. We know that brutal forms of torture, which leave physical scars, unfortunately continue to occur. However, notwithstanding the physical evidence, there are many situations where the passage of time or distance of international supervisory organs, for example, precludes the verification of the existence of torture. Additionally, more “sophisticated” forms of torture are utilized with the precise objective of hiding and denying its occurrence, creating further serious issues of accountability.

Torture is not only an issue involving a victim and a victimizer. Impunity for torture has grave societal consequences in addition to the impact on individuals. The practice of torture corrupts police and investigative agencies and their techniques, and with its corollary of brutality, denies important values of human dignity embodied in the rule of law, having a general negative impact on the society. It is very difficult, if not impossible, to isolate torture. Torture’s corrosive effect erodes important values of human dignity and the rule of law in the societies where it takes place. As a result, torture does not only impact individuals but all



of us, every individual who believes in the rule of law, and who wants to live in societies where human beings are accountable for what they do and where enforcement agencies, necessary in every society, perform their duties in accordance with the rule of law.

This conference concludes a three-year study by the International Rehabilitation Council for Torture Victims (IRCT). The law school is proud and honored to cosponsor this conference with the IRCT to explore topics that include survivors’ perspectives, national, regional and international best practices in using forensic evidence to combat torture, and challenges and emerging developments. The IRCT is renowned worldwide for its commitment to the prevention of torture and its contributions to advocacy, scholarship, and complete solidarity with the victims, which means so much not only to the victims, but to everyone who stands for the values embodied in the rule of law. If we were to live in a world with more NGOs like the IRCT, we would certainly live in a better world.

AUWCL has developed numerous initiatives in international law and human rights including joint conferences with the Association for the Prevention of Torture on the prevention of torture and other ill-treatment, and on enhancing visits to places of detention, and with Amnesty International on the evolution of the UN Committee against Torture and strengthening the prohibition against torture. In addition, AUWCL offers an LLM in International Legal Studies with eight different areas of

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\* Dean Claudio Grossman has been Dean of the American University Washington College of Law since his appointment in 1995. Dean Grossman also currently serves as chair of the United Nations Committee against Torture, and member of the Governing Board of the International Association of Law Schools, of the Board of the Inter-American Institute of Human Rights, and of the International Objectives Committee of the Association of American Law Schools (AALS). Dean Grossman is also serving as a referee in peer review evaluations for the European Research Council Dedicated Implementation Structure, under the Ideas Specific Programme, until 2013. As a member of the Inter-American Commission on Human Rights from 1993-2001, he served in numerous capacities including President (1996-97; 2001), Special Rapporteur on the Rights of Women (1996-2000), and Special Rapporteur on the Rights of Indigenous Populations (2000-2001). Dean Grossman has authored numerous publications on international law and human rights, and received numerous awards for his work in those fields including the 2010 Henry W. Edgerton Civil Liberties Award from the ACLU of the National Capital Area and the 2012 Deborah L. Rhode Award from the AALS Section on Pro Bono and Public Service Opportunities.

specialization, one of which is International Human Rights Law. Our law school is also home to the War Crimes Research Office, and our students and faculty contribute to studying issues of accountability that are very much related to the topic that convokes us today. AUWCL is the law school that perhaps offers the most courses in international law and human rights in the world, with approximately 40 courses each term that specialize in these topics. But this is not about what we do, this is about what remains to be done. That is why all our efforts should not be seen as things that create satisfaction for our accomplishments but as an incentive to move ahead in this important struggle for human dignity.

I would like to welcome you all once again to this conference, and to recognize in particular many of you who have come from all over the world to be here. This conference will be webcast and its proceedings reproduced by the law school's specialized, student-run publication, the *Human Rights Brief*, which is distributed to over 4,000 subscribers in more than 130 countries. Through these means we hope to multiply the impact of the conference and contribute even further to achieving our common goals. I would again like to thank the IRCT. This conference would not have taken place without this organization and its three-year project. I would like to recognize in particular Margaret Hansen, Senior Programme Assistant, Miriam Reventlow, IRCT's Head of Legal and Advocacy, as well as IRCT's President Mohamud S.N. Said, Secretary General Brita Sydhoff, and Medical Expert Jonathan Beynon who is serving as the conference moderator. The cooperation between our law school and IRCT has been truly spectacular and I think it bodes well for future events at this institution.

On our side, I would like to thank Jennifer de Laurentiis who spearheads our efforts involving the Committee against Torture through our United Nations Committee against Torture Project, and who also helped organize this conference. I would also like to thank the Center for Human Rights and Humanitarian Law as well as our offices of Special Events and Continuing Legal Education, Public Relations, Grants and Programs, Technology, and two of our law school's faculty members participating in this conference: Professor Juan Mendez who is also Special Rapporteur on Torture; and Professor Diane Orentlicher who is the Former Deputy for War Crimes Issues at the US State Department between 2009 and 2011.

For all of you coming to the law school for the first time it will be interesting for you to know that this conference is part of our annual Founder's Celebration, which commemorates the history of this institution. WCL was founded by two pioneering women in 1896, in a moment when women were not allowed in legal education or into the practice of law because, "by nature," women were not considered to have the intellectual or practical skills required to practice the profession. The law school's founding mothers instead thought we should not blame nature for things we do ourselves and that the study of the law irrespective of gender is essential to achieving a world of equality and nondiscrimination. This is an important example that inspires what we do here. We do not need to consider torture and other forms of cruel, inhuman or degrading treatment or punishment as inevitable occurrences. We can roll up our sleeves to act against those situations, and imagine and contribute to a world free of torture. I am sure that this conference will contribute further to its realization. Thank you very much.

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## Remarks of Brita Sydhoff\*

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**P**rofessor Grossman, Dean, thank you so much for inviting us to the American University Washington College of Law and being such a wonderful partner to this project.

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*\* Brita Sydhoff is Secretary-General of the International Rehabilitation Council for Torture Victims (IRCT) since September 2004. Responsibilities include implementation of the IRCT's policies and strategies with a broad mandate to promote and support IRCT rehabilitation centers and programs and the prevention of torture globally. Her previous positions include Head of the Department of International Law and Refugees of the Swedish Red Cross; Resident Representative of the Norwegian Refugee Council in Geneva, Switzerland; Head of Programmes with the International Council for Voluntary Agencies, also in Geneva; Head of research program on international migration in the International Organisation for Migration in Budapest, Hungary; Head of the Danish Refugee Council's operations in the former Yugoslavia with responsibility for implementing humanitarian emergency programs; and consultant for the World Health Organization. Prior to leaving Sweden in 1984, Ms. Sydhoff worked for the Swedish Migration Board in senior positions for 13 years.*



As a victim-centered global movement of around 150 centers in 74 countries around the world, who focus on the rehabilitation of torture survivors, access to justice, and the prevention of torture, it can come as no surprise that the documentation of torture is so important to us. Therefore, for a decade now, a key priority of the International Rehabilitation Council for Torture Victims (IRCT) has been the promotion of the medical legal documentation of torture. Such documentation is a crucial means to increase victims' access to justice, fight impunity, and ultimately, to act as a deterrent to would-be torturers.

Impunity, as you well know, is one of the most serious impediments to the prevention of torture. Perpetrators are seldom brought to court and torture survivors rarely receive any type of reparations or redress. In the climate of impunity, perpetrators of torture can continue their crimes without risking arrest, prosecution, or punishment. Besides adding to the suffering of the victims, such a situation leads to a general lack of trusting justice and the rule of law. Consequently, few complaints are brought forward and few actual prosecutions are made.

Since 2009, our work in this field has also embraced direct medical and psychological support to select legal cases in collaboration with IRCT member centers, particularly in Ecuador, Georgia, Lebanon, and the Philippines. Alongside our medical centers in these countries, we have supported torture survivors in taking their cases to court, promoting medical documentation, and advocating for change in their national systems.

The European Commission has been the main donor in this work from the very beginning and we are most grateful for their continued and generous support. Collaboration with academic institutions has been a key to success in the IRCT's work on the promotion of forensic evidence in the fight against torture. And the Washington College of Law has been a great partner to us for several years, as has the forensic department of the medical faculty at Copenhagen University, with whom we have worked so closely in the last decade. The forensic department at Copenhagen University has been an important partner actually from the very outset. Together, we took the initiative to form an international group of forensic experts to increase the availability of high quality forensic documentation. We are delighted that more than 34 prominent experts from seventeen different countries have joined this group, it comprises outstanding collective knowledge and experience in the documentation of physical as well as of psychological torture colloquium. This group has served as a reference point and has provided advice on cases and technical issues over the years in many parts of the world. And let's not forget that often this work is not without significant personal risk.

On the 6th of July, 2010 our colleague Dr. Germán Antonio Ramírez Herrera, a forensic doctor working in the prison of Quevedo in Ecuador, was killed under mysterious circumstances. As a former trainee and a member of the national

network of independent experts created by PRIVA (Foundation for the Integral Rehabilitation of Victims of Violence), the IRCT member in Ecuador, Dr. Ramírez documented cases of torture and executions inside the prisons where he worked. On the same day he was killed, PRIVA presented a number of cases that Dr. Ramírez documented to United Nations Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, Philip Alston. Dr. Ramírez knew about the risk of his documentation work since he had received numerous threats against his life, but he did not let this intimidate him.

The lack of safety for professionals working on torture cases and the absence of assured protection for victims pursuing justice is sadly all too common and a problem that is a major concern of ours. The pressure placed on medical staff, lawyers, and survivors to dismiss action in torture cases for fear of retribution is one of the most serious challenges to fighting impunity. I know that I don't need to spell this out to those of you present here today, but still it has to be said.

But unfortunately, it's only one challenge among a long list which may include: a lack of independent national forensic institutions, a lack of understanding and expertise in both the medical and legal professions, flawed legal systems, and inadequate procedural legislative and institutional structures. The challenges are many; yet, over the past two years we have together with the independent forensic expert group that I mentioned earlier provided input to more than thirty cases of torture and ill-treatment worldwide. They have been supporting the work of lawyers representing torture survivors, with medical expertise to affect positive change through strategic litigation.

The support has taken the form of examinations of torture survivors and provisional medical and psychological reports, medical opinions on existing records, and expert testimony on medical forensic questions in court. As we have seen, such investigations can be essential in strengthening the evidentiary basis for the case of the victim.

Today, there is a growing array of case law at the domestic level as well as at the European and Inter-American courts of human rights where medical and psychological reports have provided decisive facts and insight for court decisions. Over the coming two days, we will hear of some of these cases, and a range of practitioners and academics from the legal, health, and other fields will present achievements, challenges, and good practice examples from their work. My hope is that together we can exchange and share learning and find inspiration and motivation to continue working for victims' access to justice and ultimately the prevention of torture, as Dean Grossman mentioned. We have to have vision.

One thing is clear: forensic documentation of torture and the use of the documentation as evidence in court is never a straightforward issue. There are many hurdles to overcome. We as an organization, worldwide, are committed to take this work

forward as one of the key stakeholders in this avenue of addressing impunity. We think we have added value to give here.

Another important aspect, that so many of our colleagues all over the world are engaged in and we hope to strengthen over the coming years, is to enhance the psychosocial support to victims who either file complaints to courts or act as witnesses. Today, there is too limited consideration to the measures needed to support and counter the potential psychological harmful effects for victims involved in legal proceedings. Our global movement is increasingly exchanging experiences on how this is best brought about.

The training and capacity development of health and legal professionals on effective investigation and documentation of torture is another area where there are endless needs. The understanding and collaboration between the two professions must be furthered. Legal and health professionals have a different frame of reference and often have limited insight into each other's work. Having legal and medical professionals work closely together and exchange views and understanding will greatly advance the effectiveness and impact of medical and psychological work towards preventing torture. This is what our experience over the last decade has told us.

I hope that this conference can provide us with a further step in the right direction. In the IRCT, we continue to do our best to support our national member centers as well as local and international health and human rights organizations who are doing most impressive work in documenting violations and providing support to victims under often very difficult conditions. But in this, we must take care not to relieve governments of their primary responsibilities. We need to continue to remind states of these responsibilities and to hold them accountable. It is they who are ultimately responsible for adopting domestic laws, implementing international legal obligations, putting in place complaint mechanisms and the appropriate procedures on investigations and independent monitoring, and for making sure victims can access independent and impartial medical examination and access reparations including rehabilitation, for their ordeals.

Finally, once again Dean Grossman and also Professor Méndez, I'm most grateful to you for inviting us to hold this conference here in these fantastic premises, and I thank you for all your invaluable support in the preparations and your generosity. I wish us all here very fruitful deliberations in the coming days and that we can further move this work in the right direction. I thank you all.

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## Remarks of Dr. Mohamud S.N. Said\*

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**T**hank you, Professor Grossman. Dear colleagues, I am privileged to be here today. This historical moment for us at the IRCT and all human rights defenders. Forensic documentation is a very important tool to use in litigation of torture. I represent over 150 centers worldwide, some of which were started by victims using meager resources. Looking at the background of all those centers, they were started very humbly by humble people, ordinary people. Sometimes people tell us that they are amazed by our activities on behalf of torture victims. They say, for example, "you people are extraordinary." I usually tell them, "we too are ordinary people doing extraordinary things anywhere we are needed. Among us are professionals, students and peasants, all engaged in the defense and protection of human rights. If we go back, especially into third world countries where torture is very prominent, many centers have been established. Looking at what is happening in the great lakes regions and also in Liberia, where women are raped and tortured, and where child soldiers are prominent, there is massive abuse of human rights. Our collaboration with universities and other institutions has enhanced our work of documenting



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\* Dr. Mohamud S. N. Said is a medical doctor and President of the International Rehabilitation Council for Torture Victims (IRCT). He is also a member of the Board of the Independent Medico-legal Unit (IMLU) in Kenya.

torture cases. The training of the Istanbul Protocol in all of our centers has given us added strength to go into court and state our cases. In some cases, mainly in Latin America, we have been successful. Most of our centers are dealing with medical issues. Rehabilitation, especially in psychological torture cases in the

third world are very low. That is the area in which we need to increase our work.

On many occasions, torture cases are handled by medical doctors who are government employees and it happens, in some cases, they falsify the reports. I can give an example from Kenya where some years back a prominent minister was killed and the then chief pathologist wrote down that he burnt himself and then shot himself, but another pathologist from Egypt who was working at the same institution wrote a contradicting report and was immediately deported. The other case was of a tourist from England who was murdered in the Maasai Mara game parks. In this case, the postmortem report listed that she was killed by wild animals, but the evidence by independent pathologists found that she was murdered.

Soon after, the Kenya Medical Association concluded “enough is enough” and became active in the fight for human

rights and proper documentation of torture cases. I am happy to say that, all over the world now, medical personnel are very much involved in issues related to human rights abuses. In my view, documentation is an important aspect of our collective works. This great two-day meeting, I believe, will provide us opportunity to come up with comprehensive resolutions and recommendations.

As we meet in Washington, it is a fact that impunity is everywhere. Fighting impunity through proper documentation is crucial to our collective work. Human rights abusers should be aware that there is no escape from litigation when they are caught. I am happy to note that both in Africa and Latin America, through the Istanbul Protocol trainings and the instruments we applied, we were able to get good results in some cases. Finally, I express my sincere gratitude to Dean Grossman and American University for hosting us. My thanks also go to all the participants. Thank you again.