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Opening Remarks

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OPENING REMARKS

Remarks of Dean Claudio Grossman*

Good morning everyone, and welcome to American University Washington College of Law for this conference on “Enhancing Visits to Places of Detention: Promoting Collaboration.” I would like to welcome all of you, particularly those who came from afar, to participate in this important occasion for reflection designed to promote collaboration concerning visits to places of detention. I would like to add that we are very pleased to cosponsor this conference with the Association for the Prevention of Torture (APT). This is not the first time we have teamed up with APT to convene academics, practitioners, and experts to analyze key issues related to the prevention of torture. It is very important for law schools to partner with crucial actors, not only to pool material resources, but also for the valuable contributions of knowledge and expertise from civil society that help advance the fundamental values at the heart of this conference. With that in mind, I want to thank Mark Thomson for his leadership of APT, as well as his staff for their contributions to organizing today’s event.

Treaty bodies and special procedures at the UN and regional levels are facing a situation which we may describe as a proliferation of mechanisms. There are valid reasons for this proliferation. For example, the establishment of the UN Committee against Torture, which I chair, is owed to a collective human desire to stress the value of the struggle against torture by adopting a special convention and treaty monitoring body. Similar developments have taken place with regard to disabilities, the promotion of women’s rights, and so forth.

At the same time, a proliferation of mechanisms and treaty bodies can ultimately raise issues of legitimacy, as important conditions of legitimacy include coherence and consistency in decision making. Proliferation of treaty bodies and special procedures within universal and regional systems creates the danger of conflicting jurisprudence.



For example, torture is defined as an aggravated form of inhuman treatment. If different treaty bodies offer conflicting interpretations of this requirement, the legitimacy of the prohibition will be consequently weakened. The potential for conflict alone would be enough to make the case for harmonization.

In addition to preventing possible conflicting jurisprudence, the case for harmonization is strengthened by the need to share techniques and expertise that have an impact beyond jurisprudential analysis. Numerous mechanisms and procedures deal with the conditions of places of detention, and they have developed unique knowledge in matters such as negotiating access, balancing the need of access with publicity, and influencing the situation on the ground. Greater coordination and harmonization will only strengthen their impact.

There was a time when people thought that places of detention would contribute to the rehabilitation of human beings, but I think that we now know that, unfortunately, the dire conditions in most places of detention around the world contribute to a different reality. In fact, many places of detention have become universities of crime. Still, there is tremendous public support for the proposition that locking someone behind bars is the best way to achieve the security which we all legitimately seek. However, the treaty bodies and experts in this field agree that actually achieving security is not just a matter of locking people away.

* Since his appointment in 1995, Claudio Grossman has served as Dean of American University Washington College of Law, where he is also Professor of Law and the Raymond Geraldson Scholar for International and Humanitarian Law. Dean Grossman has served as Chair of the United Nations Committee against Torture since 2008, and was first elected as a member of the Committee in 2003. He was a member of the Inter-American Commission on Human Rights from 1993-2001, where he served in numerous capacities including President (1996-97; 2001), the Special Rapporteur on the Rights of Women (1996-2000), and the Special Rapporteur on the Rights of Indigenous Populations (2000-2001).

Alternatives to detention are not only a response to the failure of our aspirations to rehabilitate individuals whenever possible. Conditions of detention also show the values of a society. From this perspective, coordination among experts answering questions such as: “What are the best practices?”, “What are the best ways to act?”, and “What can we learn from each other?” responds not only to narrow, technical issues but reveals our general vision of the world in which we want to live. Considering the broader impact of the topic, the contributions and knowledge of governments and civil society enrich the field and are at the same time expressions of the right of legitimate stakeholders to shape society.

To help facilitate exchanges and interaction among all those interested, the law school and APT organized this conference. In addition, yesterday we hosted a meeting of experts of universal and regional treaty bodies and special procedures whose deliberations will undoubtedly enrich today’s conference.

I look forward to an exchange that will contribute to the common goal of full compliance with the obligations established under human rights law, including the prohibition against torture and other forms of cruel, inhuman and degrading treatment and punishment. I will now give the floor to Mark Thomson to share with you how this conference has been structured and our objectives for today. Mr. Thomson, you have the floor.

Remarks of Mark Thomson*

Thank you very much Claudio, and thank you to the rest of your team for organizing and preparing this meeting. Thanks also to all of you, especially people who have come from afar, for participating in today’s meeting. As Claudio said, there are now a number of bodies that visit places of detention, often with different objectives. It is also true that an increasing number of these bodies exist at the international, regional, and national levels. We are very pleased to have the participating in today’s meeting the International Committee of the Red Cross (ICRC), which has the most experience in this area at the international level, as well as the UN Committee Against Torture (UNCAT), which Claudio chairs. The most interesting development over the last ten years has been the emergence of the new Subcommittee on the Prevention of Torture (SPT), which now has 25 members, several of whom are here with us today. This is a very important new development in the prevention of torture and cruel, inhuman, and degrading treatment worldwide.

There are many other international bodies — so I will not go through all of them now — but let me just quickly make reference to some of the regional bodies. The two bodies that have the most experience regionally are the European Committee for the Prevention of Torture (CPT) and the Inter American Commission on Human Rights (IACHR). We have with us today the vice president of CPT and staff persons from the IACHR. For those who are unfamiliar, the IACHR is a regional human rights body here in the Americas that has experience visiting places of detention. At the national level, national preventive mechanisms are being developed under the



Optional Protocol to the Convention Against Torture (OPCAT). These national preventive mechanisms must have a specific mandate to visit places of detention in order to find solutions to prevent further abuses taking place or possible abuses taking place in all places where people are deprived of their liberty. We will also be hearing from some nongovernmental organizations, members of the judiciary, and parliamentarians today on their experiences in visiting places of detention.

Now, as Claudio rightfully said, that is a lot of people going to places of detention. Therefore, we need to be looking at how these bodies can best collaborate, which is the purpose of today’s meeting. How can we enhance collaboration between the variety of bodies at the international, regional, and national levels to ensure that people deprived of liberty are getting the best protection we can provide? The enormity of the problem

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requires even more people to be involved in this issue of opening up places of detention to inspection and also opening up dialogue with the authorities who are detaining those persons to dialogue on how the risks of torture and ill treatment can be reduced and hopefully eliminated. And that requires a rather different approach — it requires some creative thinking on our part regarding how to ensure that not only the prison governors and police guards, but also policy makers and government, are made aware of the risks and take action accordingly in order to reduce those risks.

Therefore, let me just quickly run through how we have tried to structure today's agenda. The first panel will look at promoting safeguards through detention visits, with the first presentation from Ariela Peralta on the legal perspective of such visits. The second presentation, from Suzanne Jabbour, will look at these safeguards more from the health perspective. Brenda Smith will then discuss visits from the perspective of sexual violence, in prisons and places of detention. Finally, Alison Hillman will give a presentation from the perspective of persons with disabilities. Linked to that last point, the second panel develops the discussion on how to protect vulnerable groups. In every country in the world, there are certainly more vulnerable groups than others in places of detention, and they require particular attention in terms of affording them better protection than they currently receive.

In order to take us through this approach of looking at how to better protect vulnerable groups, we will have, first of all, a presentation from a vice president of the CPT, Haritini Dipla, who will discuss the European perspective. Then, from the African perspective, we will hear from Catherine Dupe Atoki who will focus on her experiences with the African Commission on Human and People's Rights. We will then hear from Pamela Goldberg on protecting detained refugees — a very important vulnerable group that often does not have access to normal safeguards such as lawyers and family, and therefore, is often in a particularly vulnerable situation. Alison Parker will conclude the second panel with an overview of the incarcerated population in the United States and the difficulties of meeting with detained individuals in a productive manner.

Over lunch, we are very pleased to have with us Mary Wernitz, who is the head of the regional delegation for the ICRC here in Washington. As I said early on, the ICRC has a very rich experience going back to the First World War when they visited prisoners of war. It is very important that we hear about the ICRC's experiences generally, but also their views on the impact of visiting mechanisms on the prevention of torture and other ill treatment. It is a special privilege to get to hear from Mary today.

After lunch, we will move on to a panel on collaboration among visiting mechanisms in order to increase impact and increase effectiveness of preventing torture and other abuses. Yesterday we had a very interesting meeting with the international and regional bodies on the possibility of improving their collaboration and looking at ways of sharing information for

the preparation of visits and methodology, as well as improving follow-up and coordination. I should note that one of the major points that came out of that meeting was a recognition of the need for the international regional bodies to link up better with national partners in order to see how their reports, information, and general support can better assist those national actors who are working in this area.

So, we are pleased to have with us today various experts who will give us different perspectives on how this collaboration can occur. First of all we have the former president of SPT, Víctor Rodríguez. As many of you know, the SPT is a new UN body that has emerged over the last few years and is able to visit all countries where states have ratified OPCAT. From the IACHR, we have a lawyer in the office of the Special Rapporteur on Persons Deprived of Liberty, Andrés Pizarro, who will talk about applying the variety of international, regional, and national standards to better protect persons deprived of liberty. Then we have Roselyn Karugonjo-Segawa, Director of Monitoring and Inspections for the Uganda Human Rights Commission (UHRC), to share her experiences working on a national body visiting places of detention. Finally, Alessio Bruni, a member of UNCAT, will share his views on this issue of collaboration. As Claudio rightly mentioned, regarding international obligations to prohibit torture and ill treatment, I think it is very important that we hear from a member of that important UN committee on how the convention against torture can be better respected and implemented. It is our hope that the broad perspective and experience represented on this panel will provide key insight into how to improve collaboration, not just at the national level, but also at the regional and international levels.

So we have a rather busy day ahead of us. From my point of view, I am very much looking forward to hearing the different presentations, but I am also intrigued to hear your questions and perspectives. I see in the audience people who have their own experiences of visiting places of detention. I think it is very important just to bring us back to the title of the meeting — how do we enhance the impact of visits to better protect people deprived of liberty? Another issue that came out yesterday was that the regularity of contact with people that are deprived of liberty is an essential element in prevention of abuses taking place. This speaks to the importance of the type of collaboration that we are here to talk about today. Because you will never be able to get international and regional bodies to be able to visit regularly places where people are deprived of liberty there has to be collaboration with national partners. Therefore, what we are talking about today is an essential way forward to ensuring better protection.

I look forward to hearing how you all view the possibilities of increased collaboration and increased regularity of contact with people deprived of liberty and the persons responsible for detaining them. So please let us know what you think works well, what hasn't worked well, and why. It is very important that we hear from you. Thank you very much, Claudio.