

RUSSIAN FEDERATION

**New laws lead to increased
repression of fundamental
rights**

*Amnesty International
Submission to the UN Universal
Periodic Review*

**AMNESTY
INTERNATIONAL**



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INTRODUCTION

In this submission, prepared for the UN Universal Periodic Review of the Russian Federation in April 2013, Amnesty International assesses the implementation of a number of recommendations that Russia supported during its previous UPR in 2009.

Amnesty International also sets out its concerns around the current human rights situation in the Russian Federation, including increased clampdown on the rights to freedom of expression and association, often accompanied by excessive use of force by the police. Human rights activists and journalists are particularly at risk of harassment and physical intimidation.

Amnesty International also has grave concern about the frequently alleged use of torture and other ill-treatment, enforced disappearances, and extrajudicial executions in the North Caucasus. Amendments to various laws and the creation of a Public Monitoring Commission have done little to address these issues; in some cases, loopholes have facilitated an increase in the use of torture and other ill-treatment.

FOLLOW UP TO THE PREVIOUS REVIEW

During its first review in 2009, the Russian Federation supported a number of recommendations, including the following:

Ratification of international instruments

The Russian Federation accepted recommendations to ratify the Convention for the Protection of All Persons from Enforced Disappearance;¹ it has, however, failed to act on these.

The Russian Federation rejected the recommendation to accede to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT) and stated that the Public Monitoring Commissions, established under the European Convention on the Prevention of Torture, largely duplicate the provisions of the OP-CAT.

Human rights defenders, journalists and lawyers

The Russian Federation accepted recommendations to protect human rights defenders, including by revising legislation on combating extremism and on NGOs to conform to international standards.²³ Amnesty International is concerned to note that, as yet, the Law 'On Combating Extremist Activities' has not been revised. New pieces of legislation governing the operation of NGOs were introduced during 2012 which, contrary to the Russian Federation's commitments, signal further stifling of civil society activism (see also below).⁴

Reform of the judiciary

The Russian Federation accepted recommendations to reform its judiciary, including by increasing its independence.⁵ However, the steps taken so far by the government have failed to ensure the independence of the judiciary and to fully uphold the principles of fair trial.

Women's human rights

The Russian Federation supported recommendations to promote equality between men and women and to adopt specific legislation on combating domestic violence.⁶ Amnesty International is concerned to note that no such legislation has yet been adopted.

Violence against women in the family remains widespread.

Torture and other ill-treatment

The Russian Federation supported recommendations to step up efforts to combat torture and to address the concerns of the Committee against Torture about the use of torture and other ill-treatment in the North Caucasus.⁷ However, despite a number of steps taken, torture and other ill-treatment, and impunity for the perpetrators, remain widespread across the Russian Federation.

The death penalty

Amnesty International regrets that the Russian Federation rejected a number of recommendations concerning the death penalty⁸ on the grounds that no executions have been carried out since 1996 and that all individuals sentenced to death have had their sentences commuted to 25 years or life imprisonment.⁹ Amnesty International welcomes, however, the November 2009 decision of the Russian Constitutional Court to extend the moratorium on executions.¹⁰

Lesbian, gay, bi-sexual, transgender and intersex (LGBTI) rights

In its review in 2009, the Russian Federation rejected a recommendation to take policy measures to promote tolerance of LGBTI persons on the grounds that there was no official policy of discrimination against them.¹¹ However, in recent years laws banning “propaganda of homosexuality, lesbianism, bisexuality and transgenerence amongst minors” have entered into force in nine of Russia’s regions, and a similar draft has received a nearly-unanimous support in the federal parliament.

PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

RESTRICTIONS ON THE RIGHTS TO FREEDOM OF EXPRESSION AND ASSEMBLY

Since the last review, there have been continuing encroachments on the rights to freedom of expression and assembly in the Russian Federation, including arbitrary restriction on the right to freedom of assembly and increasingly harsh sentencing of peaceful protesters. Peaceful street gatherings, including of small groups of protesters who presented no public threat or inconvenience, have been routinely dispersed, including through excessive and disproportionate use of force by police, unless expressly authorized by the authorities.

During the peaceful demonstrations which took place on 4 December 2011 after the disputed parliamentary elections, over 1,000 protesters were detained across the Russian Federation and more than 100 sentenced to administrative detention in proceedings that frequently violated their right to a fair trial. Several opposition activists were arrested “pre-emptively” at home or on their way to the demonstrations. A protest march in Moscow on 6 May 2012 was accompanied by a stand-off and localized skirmishes between protesters and police. The authorities charged at least 20 individuals with “participation in mass riots”, which is punishable by up to eight years’ imprisonment. One individual pleaded guilty and was sentenced in November 2012 to four years in prison; others have spent months in pre-trial detention or under house arrest while the investigations are ongoing. On 6 and 7 May 2012, hundreds of peaceful individuals were arrested across Moscow, some merely for wearing white ribbons as a symbol of protest against electoral fraud.

Three members of the ‘Pussy Riot’ punk group were arrested in March 2012 and convicted of “hooliganism” in August 2012 in connection with their brief and peaceful, albeit

provocative, political performance in a church. The three performers spent several months in detention, and two of them are currently serving a two-year prison sentence.

Further legislative restrictions on the rights to freedom of expression and assembly have been swiftly introduced since the inauguration of Vladimir Putin as President on 7 May 2012. These include tighter rules governing public gatherings and increased fines for those who fail to observe them, new restrictive regulations of the Internet, and re-criminalization of libel, only one year after it was de-criminalized.

HUMAN RIGHTS DEFENDERS AND JOURNALISTS

Human rights defenders and journalists continue to face harassment and intimidation, and often physical violence, while the perpetrators enjoy impunity. More than three years after the abduction and killing, in July 2009, of Natalia Estemirova, a prominent human rights activist from the North Caucasus, no-one has been brought to justice.

Lawyers in the North Caucasus who represent victims of human rights violations are themselves frequently subjected to harassment, pressure and even violence by law enforcement officials. On 20 January 2012, lawyer Omar Saidmagomedov and his cousin were shot dead in the street of Makhachkala. The authorities claimed they were armed and had shot at security officers; however, Saidmagomedov's colleagues have dismissed these claims and presented a strong case that he was a victim of an extrajudicial execution because of his professional activities. These allegations have yet to be investigated in an impartial manner.

The authorities have repeatedly tried to instigate criminal proceedings on spurious grounds against Igor Kalyapin, a prominent campaigner against torture. Several journalists who have published information based on interviews with him, as well as human rights activists who have written letters of support for him to the Russian authorities, have themselves been summoned for questioning by criminal investigators or members of the Federal Security Service.

THE RIGHT TO FREEDOM OF ASSOCIATION

New legislation regarding NGOs came into force in November 2012. This requires NGOs to register as 'organizations performing the functions of foreign agents' – language akin to accusations of spying – if they receive foreign funding and engage in very broadly defined 'political activities'. Failure to comply with these regulations envisages heavy fines and imprisonment. The law introduces significant administrative hurdles for NGOs, undermines their financial viability and creates new opportunities for the authorities to subject independent civil society organizations to harassment and pressure. Further legislative restrictions were passed in December 2012 which, amongst other things, forbid US funding for Russian NGOs altogether and discriminate against NGO leaders with dual citizenship.

TORTURE AND OTHER ILL-TREATMENT

In spite of a number of positive initiatives in recent years, such as the introduction of Public Monitoring Commissions authorised to visit places of custody, torture and other ill-treatment remain widespread across the Russian Federation. The new Law on Police, which came into force in 2011, contains no substantive provisions to strengthen the accountability of the police for torture and other ill-treatment and allegations of torture used to extract confessions are seldom effectively investigated.

Denial of adequate medical care in penitentiary institutions is widely reported, and injuries sustained by individuals in custody are allegedly either not documented or are dismissed as injuries resulting from the legitimate use of force.

Although a number of legal and policy safeguards exist to prevent torture and other ill-treatment, these are often circumvented by the investigation or other law enforcement officials, including through secret and unacknowledged detention and enforced disappearances, particularly in the North Caucasus, but reportedly in other parts of the Russian Federation too. Some individuals later “reappear”, including in official places of custody; however, the fate and whereabouts of most of those forcibly disappeared remain unknown.

On 27 April 2010, Zelimkhan Chitigov was abducted from his home in Karabulak, Ingushetia, by a group of 30-40 armed masked men and held at a secret location until 30 April 2010 when he was handed over to local police. He told Amnesty International that during this time he was blindfolded and repeatedly tortured, which included kicking and punching, electrocution, having his toe-nails pulled out and skin twisted with pliers, and being suspended from metal bars. His captors wanted him to confess to a crime he had not committed. After his transfer to official custody he was hospitalised due to his severe injuries. Two former senior police officers from Karabulak have been prosecuted in connection with Zelimkhan Chitigov’s abduction, secret detention and torture – the first such case ever in Ingushetia. The judge announced the verdict several weeks after the hearing was over, on 7 November 2012, and sentenced one defendant to eight years imprisonment, but fully acquitted the other, his former superior. No other officials have been prosecuted, including those who were involved in Zelimkhan Chitigov’s abduction and secret detention, or in attempts to extract a confession from him at the police station in Karabulak.

In most cases, however, the authorities fail to effectively and impartially investigate allegations of enforced disappearance, secret and unacknowledged detention, or torture and other ill-treatment. This creates a climate of impunity for the perpetrators of these crimes.

In April 2012, special regional departments were created within the Investigative Committee to investigate crimes allegedly committed by police and other law enforcement officials. However, Amnesty International is concerned that these newly created departments are not adequately staffed and resourced to undertake full and effective investigations and that not all allegations of torture and other ill-treatment are referred to them for investigation. The organization is aware of only one case which has reportedly been investigated by such a department, namely the criminal case against human rights defender Igor Kalyapin.

THE RIGHT TO A FAIR TRIAL

The current reform of the judicial system in the Russian Federation appears to have a stronger focus on increasing its material resources than on ensuring its independence and fully upholding the principle of fair trial.

Amnesty International is concerned that a number of convictions have been politically motivated, including those of the ‘Pussy Riot’ members¹² and the second criminal conviction of Mikhail Khodorkovsky and Platon Lebedev.¹³

In 2010, the right to trial by jury was abolished for terrorism-related crimes and crimes against the state, following which the conviction rate in such cases reportedly increased.

Criminal defence lawyers across the country complain of procedural breaches which undermine their clients' right to a fair trial. These include being denied access to their clients, failure by the investigative authorities to promptly inform the lawyer and family about a person's detention, circumvention of the rules according to which lawyers are assigned to work on cases as state-appointed legal counsels and involving only those lawyers whom investigation officials can trust not to raise concern about the use of torture and other ill-treatment of criminal suspects.

LESBIAN, GAY, BI-SEXUAL, TRANSGENDER AND INTERSEX RIGHTS

The legislatures in nine of the 83 subjects (regions) of the Russian Federation have introduced laws banning "propaganda of homosexuality, lesbianism, bisexuality and transgenerness amongst minors", and a similar federal-level draft law was supported almost unanimously during its first reading at the Russian State Duma in January 2013. The term 'propaganda' remains undefined, or unclear, which enables its arbitrary use by the authorities. Moreover, the majority of the regional laws conflate the issue of sexual orientation with paedophilia thereby linking the sexual abuse of children with consensual, private sexual activity and personal gender expression of adults. Amnesty International is concerned that these laws have been used to restrict the rights to freedom of expression and assembly of LGBTI individuals. In April 2012, the authorities in St. Petersburg refused to authorize pickets by LGBTI activists, and when two activists went ahead with the pickets, they were arrested and charged with "disobedience to lawful demands of the police" and "propaganda of homosexuality amongst minors".

WOMEN'S HUMAN RIGHTS

Over ten thousand women become casualties of domestic violence in the Russian Federation each year.¹⁴ There is still no law providing a framework for the prevention of domestic violence, although a draft law is currently being developed in consultation with, and spearheaded by, civil society organizations.

Amnesty International continues to be concerned about the inadequate provision of services for women facing domestic violence. There is an alarming lack of shelters for victims. According to independent estimates, across a country with a population of 143 million people there are only around 3,000 small state-supported centres which can provide some support to victims of domestic violence. While some may offer temporary shelter facilities, only 23 centres operate specifically as shelters for victims of domestic violence. Moreover, these services are usually only accessible to those who are officially registered as residing in the particular region. This restriction applies for example to Moscow's only shelter which, in a city with a population of over ten million inhabitants, provides space for only a dozen women.

In some North Caucasus republics, gender inequalities have been growing under the spurious pretext of resurging ethnic, religious or cultural traditions, sometimes promoted by local political leaders. This is most notable in Chechnya where strict dress code has reportedly been introduced for women in workplaces and educational institutions. This has resulted in increased vulnerability of women and girls to violence, including to domestic and sexual abuse.

"Zarema" (name changed) told Amnesty International that she had been systematically subjected to sexual violence by a close male relative for several years before she got married in 2010. When she left her family and moved with her husband to Grozny, Chechnya, she suffered months of physical abuse from him too. During this time, Zarema sought help from her family, the local religious authorities and a special government commission set up to deal with family matters, but was told by all of them to stay with her husband and to obey him. Fearing for her life and expecting reprisals from both her husband and her brothers, Zarema left Chechnya and in the spring of 2012 left the Russian Federation altogether.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of the Russian Federation

International standards, ratifications, and UN mechanisms

- To ratify the Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the Convention against Torture;
- To cooperate fully with all UN human rights mechanisms, including the Special Procedures.

Freedom of expression and assembly

- To respect and protect the rights to freedom of expression and peaceful assembly for all, including those who represent a minority or have a dissenting political or other opinion;
- To remove legislative and other regulations which limit the legitimate exercise of the rights to freedom of expression and assembly, and to refrain from arbitrarily restricting these freedoms;
- To investigate all allegations of arbitrary, excessive and disproportional use of force by police against demonstrators, and to bring to justice those responsible.

Human rights defenders and journalists

- To respect and protect the right of human rights defenders and journalists to undertake their legitimate work without the fear of harassment, criminal prosecution or other pressure;
- To investigate promptly, effectively and impartially all reports of attacks or threats against human rights defenders, journalists and civil society activists, and to identify the perpetrators and bring them to justice.

The right to freedom of association

- To reverse the law 'On Introducing Changes to Certain Pieces of Legislation of the Russian Federation as Regards Regulation of Activities of Non-Commercial Organizations Performing the Functions of Foreign Agents'.

Torture and other ill-treatment

- To take effective steps to eliminate torture and other ill-treatment by law enforcement agencies;
- To introduce effective mechanisms to ensure accountability of law enforcement officials for all human rights violations, including the use of torture and other ill-treatment, secret and unacknowledged detention, and enforced disappearances;
- To ensure that the new departments within the Investigative Committee, mandated to investigate human rights violations committed by law enforcement officials, are adequately resourced and that all relevant cases are referred to them for investigation.

The death penalty

- To abolish the death penalty.

The right to a fair trial

- To take all necessary steps to strengthen the independence of the judiciary, including by ensuring that courts are free from political interference or any form of pressure from the executive;
- To ensure that all criminal suspects and defendants have unobstructed access to legal counsels of their choice from the moment they are taken into custody and for the duration of criminal proceedings against them.
- To introduce effective disciplinary and other measures against investigation officials who circumvent the rules and procedures by which lawyers are assigned to work on cases of criminal suspects as state-appointed lawyers.

Lesbian, gay, bi-sexual, transgender and intersex rights

- To introduce legislation prohibiting discrimination on grounds of sexual orientation and to take measures to ensure that it is fully and effectively implemented;
- To repeal regional laws and regulations which promote or condone discrimination on grounds of sexual orientation, to abstain from passing similar legislation at the federal level and to take effective steps to prevent arbitrary use of existing regulations to discriminate against the rights of LGBTI people, including their rights to freedom of expression and peaceful assembly.

Women's human rights

- To promptly introduce specific legislation for the prevention of domestic violence;
- To allocate adequate resources for the development of support services for victims of domestic violence, including the establishment of additional shelters, throughout the country;
- To take effective steps to end discrimination and violence against women and girls in the North Caucasus, including by eradicating impunity for it, sending a clear message that human rights abuses and discrimination against women will not be tolerated, ensuring that the victims have access to effective services and protection schemes, and amending regulations to protect women and girls from discrimination, including discrimination based on religious beliefs or "cultural traditions".

ENDNOTES

¹ Human Rights Council. *Report of the Working Group on the UPR of the Russian Federation*. A/HRC/11/19. Paragraphs 85.4 (UK, Brazil, Mexico), and 85.7 (Argentina, Mexico).

² A/HRC/11/19, Paragraphs 85.42 (Slovakia, Netherlands), 85.43 (Australia, Italy, Norway, Switzerland), 85.45 (Netherlands, and 85.46 (Austria)

³ Human Rights Council. *Report of the Working Group on the UPR of the Russian Federation*. A/HRC/11/19. Paragraphs 85.42 (Slovakia, Netherlands)

⁴ Amnesty International, 'Russian Federation: Freedom of Association under a New Attack', public statement, 13 July 2012 (AI Index: EUR 46/029/2012); Amnesty International, "'Dima Yakovlev" Bill in no one's best interests', press release, 20 December 2012 (AI Index: PRE01/628/2012).

⁵ A/HRC/11/19, Paragraphs 85.35 (Malaysia) and 85.36 (New Zealand)

⁶ A/HRC/11/19, Paragraphs 85.27 (Algeria, Belarus) and 85.32 (Czech Republic, South Africa, New Zealand, Sweden).

⁷ A/HRC/11/19. Paragraphs 85.29 (Denmark, Australia)

⁸ A/HRC/11/19, Paragraphs 85.1 (Germany, Australia) and 85.2 (Germany, Brazil Australia).

⁹ Human Rights Council. *Addendum to the Working Group Report on the UPR of the Russian Federation*. A/HRC/11/19/Add.1/Rev.1, pg 2.

¹⁰ Russia moves one step closer to death penalty abolition. Amnesty International. November 20, 1999. <http://www.amnesty.org/en/news-and-updates/good-news/russia-moves-one-step-closer-death-penalty-abolition-20091120>

¹¹ A/HRC/11/19, Paragraph 85.28 (Sweden) and A/HRC/11/19/Add.1, page 5.

¹² Amnesty International, 'Pussy Riot: Russian court orders conditional release of one, other two jailed', press release, 10 October 2012 (AI Index: PRE01/483/2012); 'Russia: Release punk singers held after performance in church', public statement, 3 April 2012 (AI index: EUR 46/014/2012).

¹³ Amnesty International, 'Unfair Trial Concerns Cast Doubt on the Integrity of the Conviction of Mikhail Khodorkovsky and Platon Lebedev', public statement, 27 December 2010 (AI index: EUR 46/042/2010); 'Russian businessmen declared prisoners of conscience after convictions are upheld', press release, 24 May 2011 (AI Index: PRE01/276/2011).

¹⁴ Estimates by the National Centre for Prevention of Violence ANNA.

ANNEX

AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE¹

Restrictions on the rights to freedom of expression and assembly

Russian Federation: Freedom of association under a new attack (AI index: EUR 46/029/2012)

Russian court jails Pussy Riot for two years (AI Index: PRE01/397/2012)

Russian authorities must stop mistreatment of peaceful protesters (AI Index: PRE01/612/2011)

Human rights defenders and journalists

Russian authorities must investigate threats received by a prominent Russian human rights defender (AI index: EUR 46/038/2012)

Russian Federation: Beaten up for speaking out: Attacks on human rights defenders in the Russian Federation (AI Index: EUR 46/038/2011)

Russia must act to protect journalists in Dagestan (AI index: PRE01/627/2011)

Russia must deliver justice for Natalia Estemirova and other murdered activists (AI Index: PRE01/343/2012)

The right to freedom of association

Russia Federation: Harassment of NGOs must stop (AI Index: EUR 46/049/2012)

Russian Federation: Freedom of association at imminent risk (AI Index: EUR 46/048/2012)

'Dima Yakovlev' Bill in no one's best interests (AI Index: PRE01/628/2012)

Torture and other ill-treatment

Russian Federation: Briefing to the UN Committee against Torture (AI Index: EUR 46/040/2012)

The circle of injustice: Security operations and human rights violations in Ingushetia (AI Index: EUR 46/012/2012)

Russia must investigate claims Leonid Razvozhayev was abducted and tortured (AI Index: PRE01/510/2012)

The right to a fair trial

Russian Federation: The authorities must stop Sergei Magnitsky's posthumous criminal prosecution and bring to justice all those responsible for his death (AI Index: EUR 46/015/2012)

¹ All of these documents are available on Amnesty International's website:
<http://www.amnesty.org/en/region/russia>

Russia: Lawyer threatened in North Caucasus: Magamed Abubakarov (AI Index: EUR 46/005/2013)

Russian Federation: Unfair trial concerns cast doubt on the integrity of the conviction of Mikhail Khodorkovsky and Platon Lebedev (AI Index Number: EUR 46/042/2010)

Lesbian, gay, bi-sexual, transgender and intersex rights

Russia's anti-gay 'propaganda law' assault on freedom of expression (AI Index: PRE01/044/2013)

Russian bill threatens freedom of expression (AI Index: EUR 46/051/2012)

Anti-LGBT Bill passes final hearing (AI Index: EUR 46/008/2012 2012)

Women's human rights

Russian Federation: Briefing to the UN Committee on the Elimination of Discrimination against Women - 46th session July 2010 (AI Index: EUR 46/022/2010)

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