

RUSSIAN FEDERATION

SAVAGERY BEGETS ONLY SAVAGERY

An open letter by Amnesty International to Members of the Russian Parliament

It was not long ago, when even mentioning the words “human rights” in Russia meant for some people years of imprisonment in a labour camp, tapped telephone lines and surveillance of personal correspondence, and constant threat to their life. More than fifty years ago, in 1948, the United Nations adopted the Universal Declaration of Human Rights, asserting that ALL fundamental rights belong to ALL people, and that ALL governments are bound to promote and protect those rights. Only eight governments from the entire world did not vote for the adoption of the Universal Declaration. One of them was the Soviet Union. But the world changed and 1998 was proclaimed as a Year of Human Rights in the Russian Federation to mark the 50th anniversary of the UDHR.

But even in the years of the Soviet Union there were people who went even further in dreaming the impossible dream of the mankind: to create a just and free world for all. “All people have the right to life, freedom and happiness”, wrote Andrey Sakharov in his draft Constitution of the Soviet Republics of Europe and Asia.

In its work in the Russian Federation over several decades, Amnesty International has always believed that its concerns can and should be resolved through the political process, through an open and honest dialogue between the government and its people, through the good will of everyone in society for a change for the better. One such concern has been the use of the death penalty.

In February 1999, Amnesty International has welcomed the Russian Constitutional Court's ruling not to sentence any more people to death until their cases have been heard in a jury trial. The Constitutional Court ruling banned judges from sentencing people to death until the jury trial system is introduced everywhere in the Russian Federation. Amnesty International believes that the Constitutional Court's ruling is unprecedented as it is a *de facto* abolition of the death penalty until new laws and practices are introduced.

Analysis of jury trials in nine regions of the Russian Federation in recent years showed that juries were most often reluctant to impose the death penalty and much more inclined to vote for alternative punishments, such as life imprisonment. In the 80 regions where juries have not yet been introduced, criminal procedures were still weighted heavily in favour of the prosecution. Rates of conviction remained above 99 per cent, as opposed to the 16 per cent acquittal rate by juries.

In July 2001 Amnesty International welcomed Russian President Vladimir Putin's commitment to abolish the death penalty. In a meeting with World Bank President James

Wolfensohn President Putin was reported as saying "the state should not assume the right which only the Almighty has -- to take a human life. That is why I can say firmly -- I am against Russia reinstating the death penalty."

President Putin was also quoted as saying that he was aware of public opinion on the death penalty but believed that state-sponsored cruelty did nothing to fight crime and only engendered new violence.

Despite the political will of the Russian Federation's Government and the President to end the use of the death penalty, a lot of work remains to be done by the parliament.

The Russian Federation officially committed itself to suspending all executions, pending the full abolition of the death penalty within three years, when it acceded to the Council of Europe on 28 February 1996. Although the executions stopped in August 1996 and in April 1997 Protocol No. 6 to the European Convention on Human Rights and Fundamental Freedoms, relating to the abolition of the death penalty was signed, this protocol still needs to be ratified. The State Duma still needs to fully abolish the death penalty in law, as the country promised on its accession to the Council of Europe. The parliament should move to enact the legislation, prepared by the Ministry of Justice, to remove the

death penalty from the Russian penal code. The constitution also should be amended to exclude the death penalty.

The abolition in national law will become a long-term guarantee that no future political and government changes or possible judicial and institutional instructions would be able to re-introduce the use of the death penalty in the Russian Federation. Because such an issue like the taking of life could not be left to the mercy of individual politicians. Governments change; the taking of human life is irreversible.

President Putin's statement is a clear message of political will from on high and Amnesty International is urging him to use all measures appropriate to his position to ensure that members of the Russian parliament move without delay in taking the concrete steps necessary to abolish the death penalty completely.

Amnesty International understands that this will not be easy. A number of deputies in the State Duma are not convinced that the death penalty should be abolished. Each of them has different reasons for the same opinion.

Some are trying to appear tough on crime in front of their electorate.

Others believe that they are serving best the interests of the people they are representing by being against abolition, because the popular opinion is for the death penalty.

A third group are saying that the situation in Russia is unique and it cannot be compared with the situation in the countries of Western Europe, members of the Council of Europe, which abolished the death penalty.

Another group are justifying their refusal to adopt a law and ratify Protocol No. 6 by saying that Russia's commitments on accession to the Council of Europe are not legally binding, they are just promises, which are not mandatory to be kept.

Other deputies are turning the death penalty into a partisan issue: if our opponents are for abolition, then we will be against.

There are State Duma deputies who say: look at the United States -- they are executing even women and children -- and still pretend to be the most democratic and civilized state in the world: then why should we abolish the death penalty while they will not?

Amnesty International, an organization with over a million members which has been campaigning against human rights violations in every country of the world for forty years, is often

brought face to face with the dilemmas which exist in the field of human rights. One of the greatest of these concerns is the exercise of the death penalty.

The twentieth century has seen more change than any other century in human experience. Great advances have been made in many fields including in the acknowledgement and practice of human rights. Yet more human lives have been taken in the twentieth century than in any other in human history.

Dr. Martin Luther King said: "When the world looks back on the twentieth century, they will weep not for the atrocities that took place, but for the silence of the good people." Amnesty International together with the members of the human rights movement around the world has taken upon ourselves to be that voice. I hope that all of you today will join together with us in one voice, which breaks the silence in the face of injustice and inhumanity.

Amnesty International knows that it can take courage to call for abolition of the death penalty. Politicians may face enormous pressure from members of the public who are clamouring for action on crime. Human rights activists may face abuse for seeming to ignore the suffering of victims of crime. But the prize is worth fighting for. The death penalty not only violates fundamental human rights, it also carries the official message that

killing is an appropriate response to killing. It brutalizes, it contributes to desensitizing the public to violence and it can engender an increasing toleration of other human rights abuses.

Public acceptance of abolition can be won. The way people think and behave changes over time, often after long battles and heated debates. Injustices that were the norm in earlier centuries are outlawed today. Injustices that were reluctantly accepted as inevitable by our forebears have been fought against by their descendants and overcome. Museums display thumbscrews and racks, guillotines and garrottes – instruments of torture and death once commonly in use but now serving as reminders of a cruel and distant past. Our aim is to relegate electric chairs, nooses, the guns of firing squads and lethal injections to museums, where future generations will wonder how any society could ever have sanctioned their use.

It is not by chance that for the past two decades two or more countries a year have abolished the death penalty for all crimes. Sooner or later the world's governments will accept that executing people in cold blood violates fundamental human rights and serves no legitimate penal purpose.

Yet we witness a paradox.

Today abolition of the death penalty is occurring faster than ever before in history.

More countries have taken the decision to abolish the death penalty than ever before in history.

Over half the countries in the world have now abolished it either from their laws or in practice.

Yet at the same time thousands of people are still being put to death by their governments.

In 1999 Amnesty International received information of nearly 2000 executions in 31 countries. In 2000, around 1500 known executions took place in 27 countries. That is not the true total, these are only those we know about.

This is not the only paradox.

Examining how the exercise of capital punishment works in the “real” world throws up other contradictions, misconceptions and ethical problems.

1. That executions deter crime is a popular misconception

In England in the 1800's Charles Dickens became a famous author. He once told how, as a young reporter, he was sent by his newspaper to report on a hanging. The unfortunate criminal being executed had been convicted of pickpocketing. Dickens described how he watched other pickpockets at work in the crowd watching the event, stealing from other people's pockets as the man hung. On this occasion at least execution does not seem to have successfully deterred others from committing the same crime.

If the death penalty deters criminals why is it not obvious? For example in Saudi Arabia officials have repeatedly claimed that executions have caused crime to drop, yet executions in this country in certain times were escalating. In 1997 Amnesty International recorded at least 107 executions in Saudi Arabia. In 2000 there were at least 123 executions. If the death penalty is a deterrent why were executions in Saudi Arabia on the increase?

In the United States, those states which carry out executions have significantly higher rates of homicide than those which do not use the death penalty.

Here, in the Russian Federation, officials too fall for this misconception. In February 2001 the governor of the Far East Region of Khabarovsk said "I'm against abolition of death penalty. This is a humane step, but under today's circumstances it

unfavourably effects the criminal situation in this country.” In May 2001 the Russian Prosecutor General Vladimir Ustinov told the press that it was impossible to consider the annulment of the death penalty without due account for the crime rate. His statements were made after he had met Walter Schwimmer, Secretary General of the Council of Europe.

During his visit Walter Schwimmer also met the Russian Minister of Justice, Yury Chayka, who later stated, that he stands for the abolition of the death penalty but also asked “how it looked in terms of moral norms if international terrorists are sentenced to life imprisonment and their victims’ relatives as taxpayers have to pay for their upkeep to share their bread with them”.

In December 1998, the Chairman of the State Duma, Gennady Seleznyov, was reported to have called for the reintroduction of “katorga” (forced labour) for prisoners sentenced to life imprisonment, if the death penalty is abolished: “Prisoners should die little by little from exhausting work, in quarries or cutting wood, and pray for death every day.”

We at Amnesty International recall the words of one of the biggest supporters of the Universal Declaration of Human Rights and the founder of the Russian human rights movement, Andrey

Sakharov, who wrote in a letter to Amnesty International in September 1977:

“I regard the death penalty as a savage and immoral institution which undermines the ethical and legal foundations of a society. The state, in the person of its functionaries, who like all people are inclined to making superficial conclusions, who like all people are subject to influences, connections, prejudices and egocentric motivations for their behaviour, takes upon itself the right to the most terrible and irreversible act -- the taking of human life. Such a state cannot expect an improvement of the moral atmosphere in its country. I reject the notion that the death penalty has any real deterrent effect whatsoever on potential criminals. I am convinced that the contrary is true -- that savagery begets only savagery”.

On the basis of figures available today, not long ago every third death penalty execution in the world was carried out on the territory of the Soviet Union, mainly in Russia. Annually here were executed the same amount of people like during the 200 years of autocracy (samoderzhavie). For 80 years (between 1826 and 1906) the courts of the Russian empire have sentenced a total of 612 people to death; about half of them were not executed. During the period between 1962 and 1989 were executed 24,422 people. During the second half of the 1980's in the Soviet

Union more than 2,000 people were sentenced to death. The countries with higher rates of sentencing were only Iran, South Africa, China and Nigeria.

Therefore, it doesn't sound convincing when some Russian politicians today call for the preservation of the death penalty, pointing out the increase in crime after the collapse of the Soviet Union. If so many thousands of people have already been executed in previous years, why is the crime on the increase?

- The truth is that no scientific proof has ever been provided to show that the death penalty deters criminals any more than any other punishment and, to quote a UN study, "such proof is unlikely to be forthcoming".

2. Another widely-held belief is that execution is a penalty which has the backing of the ordinary person - public opinion demands it.

So, if the death penalty does not actually work, why is it used?

And why are some people so passionately in favour of it? Why is it that in the United Kingdom, despite numerous parliamentary debates about the death penalty, public opinion polls still seem to show a majority of the population in favour of hanging people?

Why is it that in the United States mobs gather outside prisons to bay for the blood of prisoners about to be executed?

"An eye for an eye" is usually the answer. "Live by the sword, die by the sword".

Most of the people we know would say they were ordinary. How many of them would kill anyone themselves? Very few if any.

But if they were asked if they approved of the use of the death penalty many would say yes. This is because most people are uninformed about the issues surrounding executions or have not given the subject much thought.

But show them the fuller picture:

Show them the cruelty of the punishment. All execution methods are gruesome, and all methods of execution can go wrong. The idea that lethal injection is somehow a "humane" way of killing is nonsense. Many such executions have resulted in prolonged deaths, including Guatemala's first execution by lethal injection in February 1998.

Manuel Martínez Coronado, an impoverished peasant farmer of indigenous descent, took 18 minutes to die, despite assurances by the authorities that the execution would be painless and "over in 30 seconds". After the execution had begun, there was a power

cut, so the lethal injection machine switched off and the chemicals stopped flowing. Witnesses in the observation room also reported that the executioners had trouble finding a vein into which to insert the needle. Human Rights Procurator Julio Arango said: "I think we all have the obligation to tell what happened: his arms were bleeding heavily." The execution was broadcast live: audiences could hear Manuel Martínez Coronado's three children and their mother sobbing in the observation room as the execution took place.

This execution was an attempt by the authorities to sanitize the method of inducing death. The previous executions, Guatemala's first for 13 years, were carried out in 1996 by firing squad. One of the prisoners was not killed by the first volley of bullets. He probably heard the order for another shot to be fired at his head to kill him. Public outrage in Guatemala and abroad at this execution forced the authorities to end the use of firing squads.

In the United States of America, several states still use the electric chair. One of the most horrific executions took place in Florida in 1997. Pedro Medino, a Cuban refugee with a history of mental illness, was strapped to a chair that was built in 1924. The chair malfunctioned and the black leather face mask shielding Pedro's terrified face burst into orange and blue flames, filling the death chamber with dense smoke. The power was kept on until he died.

In Saudi Arabia, executions are routinely carried out in public. In the case of migrant workers, relatives may not even know that an execution is happening, yet the general public is there to watch the final moments of their loved ones.

Show them that despite safeguards death can depend on where you live - for example:

Some countries execute the old - in Japan in recent years two old men were executed. One, aged 68, had been on death row for 11 years and the other, aged 70, for 17 years.

Some countries execute the young - those who are under 18 years of age when the offence was committed. Since 1990 Amnesty International has documented 28 executions of juvenile offenders worldwide, carried out in six countries: Iran, Nigeria, Pakistan, Saudi Arabia, the USA and Yemen. Fifteen of these were carried out in the United States of America. The UN Convention on the Rights of the Child, which prohibits sentencing juvenile offenders to death, has been ratified by all UN member states, except two: Somalia and the USA.

Show them that to die can be a matter of chance - stress the haphazard way that some of those convicted end up on

death row and some do not and, above all, the chance that a mistake can be made.

Sergey Mikhailov, from Arkhangelsk Region of the Russian Federation, was sentenced to death in 1995 for rape and murder of a 10-year-old girl. Allegedly he had been tortured and ill-treated in detention in order to extract a confession. According to reports Sergey Mikhailov was denied access to a lawyer while in police custody and he had eventually confessed to the murder. After he was granted access to a lawyer, he withdrew his confession and maintained his innocence. In 1996 another man was found guilty for the same crime. An investigation into the new circumstances was opened, and concluded in July 1997 that Sergey Mikhailov had been wrongly accused and sentenced for a crime which he had not committed. According to reports, on two occasions -- in October 1998 and in April 1999 -- the office of the Procurator General had sent back the conclusions of the investigations, reportedly classifying them as insufficient to overturn Sergey Mikhailov's conviction. Following the decision by President Boris Yeltsin to grant clemency to all death penalty prisoners in June 1999, Sergey Mikhailov's sentence was replaced by 25 years imprisonment. Amnesty International and local human rights defenders continued to call for an investigation into the allegations that Sergey Mikhailov's confession had been obtained under torture and ill-treatment. However, it was only in July 2001 that Sergey Mikhailov was finally released from prison,

after the Prosecutor General accepted the conclusions of a further investigation as proof of innocence.

3. Execution is a justifiable punishment for the guilty - a deep conviction held by many.

Justifiable punishment for the guilty - but guilty of what?

Many governments still use the death penalty to terrorize their opponents. In 1995, despite widespread condemnation, Ken Saro-Wiwa and eight other Ogoni were executed in Nigeria for their non-violent activities protesting against the environmental damage being done to their country by an oil company.

In China in 1996 a man was executed for stealing 14 cattle, another for stealing 6 motorcycles, three others for breaking into a car and stealing its contents.

For such offences should a human being lose his or her life?

And what of innocence?

In the United Kingdom in 1998 alone, the courts overturned two convictions which had led to executions in the 1950s, before the death penalty was abolished.

In February 1994, the Soviet Union authorities executed serial killer Andrey Chikatilo for the highly publicised murders of 52 people. The government acknowledged that they had previously executed the “wrong man”, Alexander Kravchenko, for one of the murders in their desire “to stop the killings quickly”. Another innocent man suspected by the authorities of the killings committed suicide.

While looking for the Vitebsk serial killer, who had killed 36 women over 14 years, the authorities in Belarus sentenced 14 innocent people. One of them was executed; another had lost in detention his ability to hear and became handicapped; a third one spent ten years in prison before the real killer was found and convicted. All of the 14 “confessed” to the crimes during the pre-trial investigation.

It is especially dangerous to use the death penalty in a country where torture and ill-treatment are used against criminal suspects in police custody to obtain a confession of guilt.

In Arkhangelsk Mikhail Yurochko had been tortured and otherwise ill-treated by his interrogators, in order to extract a confession . He was arrested in 1993 and charged with murder. Mikhail Yurochko was only allowed to see his lawyer three weeks after his arrest. He was reported to have been severely beaten and deprived of food, and to have been told by his interrogators that

they would drive him to suicide. There are also allegations that he was raped by his cell mates with the complicity of the prison authorities. Two other co-defendants claimed they were similarly tortured. Subsequently, Mikhail Yurochko and Yevgeny Mednikov were sentenced to death. The third co-defendant, Dmitry Elsakov, was sentenced to 15 years' imprisonment.

In November 1995 the Supreme Court of the Russian Federation overturned the death sentences, and sent the case back for additional investigation by the same procuracy in Arkhangelsk, where the three were tortured and forced to confess. Mikhail Yurochko and Dmitry Elsakov were released from detention in July 1998 when the legal terms of their pre-trial detention expired. Yevgeny Mednikov was released from pre-trial detention but remained imprisoned under the terms of a separate conviction. In December 1998 the investigation was concluded, but the case had not been sent to court by the end of the year due to intervention by the Office of the Procurator General which decided to consider transferring the investigation to another regional procurator.

President Leonid Kuchma in Ukraine said in a media interview in November 1998, while commenting on the trial of serial killer Anatoly Onuprienko: "As a human being I cannot see any punishment for him other than death." On 27 March 1996 Yury Mozola, aged 26, was arrested in Lviv on suspicion of

multiple murder. Anatoly Onuprienko was later accused of those murders. Yury Mozola was tortured to death while being interrogated about the crime. He died four days after his arrest. Another man was also arrested in Lviv and then sentenced to death in connection with the same murders. He was later released.

A study on innocence, first published in the United States in 1987 concluded that between the years of 1900 and 1985 almost 350 people were condemned to death in the United States of America for crimes they did not commit and, of these, 23 were actually executed. More recently there have been many cases of people released from death row because of further developments - including DNA testing - have either proved their innocence entirely or cast doubts on their guilt. The latest figure being 98 people released since 1973.

If only one innocent person is executed a shocking and irretrievable mistake has been made. But the reality is that hundreds of innocent people have been executed by their governments to whom no recompense can ever be made.

Amnesty International would like to conclude these address by referring to progress - a key word in today's world.

In 1979 - 22 years ago - when Amnesty International began its long-term program for the abolition of the death penalty there

were 34 countries abolitionist in law or practice and 122 countries which retained and used the death penalty. By the end of 2000, 75 countries had abolished the death penalty for all offences and 14 for all but exceptional offences, such as wartime crimes. This represents progress indeed.

Europe is one of the regions where states in recent years have taken the lead in the gradual walk away from the execution of our fellow human beings. The Council of Europe has made an immediate moratorium on executions a prerequisite for becoming a member state.

A moratorium or suspension of executions is not abolition, but it means that executions cease. It gives time – time for nations to become used to the idea that no one need be executed; time to realise that executing the few does not mean less crime in the world; time to realise that there is another way.

It is now time for Russia to join the family of abolitionist countries; to show an example to others in the region, to display political wisdom and world leadership to fellow members of the UN Security Council, such as the United States – by fully abolishing the death penalty in national law.

Let us finish with the words of someone whose loved one was murdered – Coretta Scott King, the wife of the Reverend Martin Luther King: “An evil deed is not redeemed by an evil deed of

retaliation. Justice is never advanced in the taking of a human life''