

EXTERNAL

20 December 1993

Gagik ARUTYUNIAN, Garnik ARUSTAMYAN
Arvid MANGASARYAN and Grachik PETROSYAN
(in cyrillic _____,
_____)

Azerbaijani Republic

The four ethnic Armenians Gagik Arutyunian, Garnik Arustamyan, Arvid Mangasaryan and Grachik Petrosyan were sentenced to death by the Azerbaijani Supreme Court in the capital, Baku, on 19 March 1992 after being convicted of the murder of an Azeri journalist and three military personnel in the disputed region of Karabakh. The four men were due to be executed on 2 April 1992, just two weeks after being sentenced to death. This was replaced by a stay of execution until 16 May 1992. However, Amnesty International has learned that the four ethnic Armenians are still alive and their petitions for clemency are believed to be under review by the new President of Azerbaijan, Geydar Aliyev. A representative of an organization delivering humanitarian aid was able to meet briefly with the men in Baylovsky prison in Baku on 23 June 1992. The International Committee of the Red Cross and the men's lawyer have been denied access to them.

Amnesty International is concerned that the men, being tried initially by the court of highest instance, were thus deprived of the right to lodge an appeal. The organization is also concerned that a report in the Azerbaijani newspaper Bakinsky rabochy on 4 March referring to the defendants as guilty as charged prior to their conviction may have prejudiced their right to a fair trial.

All of them are from villages in the Shushi region of Nagorno-Karabakh. A fifth ethnic Armenian co-defendant, Arno Mkrtchyan, died in prison at the end of September 1993 at the age of 40. The official death certificate is said to have given tumours as the cause of death.

Amnesty International opposes the death penalty in all cases and without reservation, on the grounds that it is a violation of the right to life and the right not to be subjected to cruel, inhuman and degrading treatment or punishment as proclaimed in the Universal Declaration of Human Rights. Amnesty International is appealing to the authorities in the Azerbaijani Republic to commute the death sentences passed on Grachik Petrosyan, Gagik Arutyunian, Arvid Mangasaryan and Garnik Arustamyan.

Background information

Death sentences are regularly passed in the Azerbaydzhani Republic. The most recent available figures on its application were given to an Amnesty International delegation by an official of the Supreme Court in October 1992. According to this material, at that time 76 people had been sentenced to death since 1986, including 18 people in the first half of 1992. All but two convictions were for premeditated, aggravated murder. The exceptions were for sabotage and the attempted murder of a police officer. Thirty-four people were executed between 1986 and 1990, all for premeditated, aggravated murder, but no executions were reported to have been carried out since then. A further 17 death sentences have come to light since those figures were given. No executions have been reported, although one prisoner on death row is said to have hanged himself in February 1993 and three have died in prison reportedly of natural causes, one in 1992 and two in 1993. Five men were believed to face imminent execution after their petitions for clemency were turned down by the president in October 1993. At least six death sentences were commuted in the past year. Lieutenant Yevgeny Lukin, an ethnic Russian army officer, was sentenced to death for murder in August 1992 but was pardoned and returned to Russia at the end of December that year. A further five ethnic Russian soldiers were sentenced to death on 12 May 1993 accused of taking part in fighting in the disputed Karabakh region in June 1992, during which some 30 Azerbaydzhani soldiers were killed. The Azerbaydzhani parliament voted on 3 September to hand all five over to Russia.

The Azerbaydzhani Criminal Code retains the death penalty for 18 offences in peacetime. Although some of these such as certain economic crimes do not involve the use of violence, the death penalty has not been applied for these offences since at least 1986. There are proposals to limit the scope of the death penalty, but these have yet to come before parliament. A death sentence may not be passed on a pregnant woman or on anyone under 18, or ruled to have been insane, at the time of the offence or when sentence is passed.

Although a jury system was introduced after provisions were made for this under a USSR law passed in 1989, it was subsequently suspended and capital cases are still tried by a bench of three judges, of whom only one is professionally trained. A defence lawyer must assist in capital cases. Prisoners can appeal against the verdict or sentence to the next highest court within seven days of receiving a written copy of the judgment. As their cases are heard at a higher level at first instance, however, prisoners under sentence of death have fewer opportunities to appeal than many other prisoners. Some have been sentenced to death without right of appeal: there is no appeals mechanism for those tried by the Supreme Court of Azerbaydzhani, the highest judicial organ, as the court of first instance.

Death sentences may also be reduced by a judicial review. Under this procedure a higher court re-examines the case after it has received a protest against the judgment of the court of first instance or the court of appeal. Although death sentences are suspended pending appeal, they may still be carried out before a judicial review has been completed.

If these remedies fail, prisoners under sentence of death can petition for clemency, which may be granted by the President of the Azerbaydzhani Republic. These petitions are examined first by a clemency department attached to the President's office, and which considers all cases in which a death sentence has been passed, even if the prisoner has not, or refuses to, submit such a petition on his or her own behalf.

Execution is by shooting. Prior to the break-up of the USSR death sentences were carried out in the neighbouring republic of Georgia. The recent halt in executions may in part be connected with the need to set up the necessary procedures and facilities, although the previous President, Abulfaz Elchibey, was also said to be opposed to the death penalty in principle.