

FAR FROM JUSTICE IN THE RUSSIAN FEDERATION

[PAGES 1-2]

At its birth in 1991, the Russian Federation publicly committed itself to being a state based on the rule of law, with respect for the human rights of its citizens as its main priority.

Since then, there has been a constant battle between these aspirations and political expediency – often accompanied by the use of force.

Part of the struggle has revolved around the emergence of parliament (the State *Duma*) as an independent power. Part has revolved around the role of the courts and their power to dispense justice. This struggle continues.

Despite numerous reforms to extend the rule of law and strengthen the power of the courts, many people in the Russian Federation have little legal protection.

Women who are beaten or raped in their homes are unlikely to get any help from the authorities. Russian law does not recognize domestic violence as a distinct crime, even though officials stated in early 2002 that 14,000 women die every year at the hands of their husbands or other relatives.

Women also suffer violence by state agents. There are regular reports of the torture and ill-treatment of women in Russian police stations and prisons, and in the armed conflict in the Chechen Republic women continue to suffer a wide range of abuses.

The two wars in Chechnya have seen gross abuses of human rights committed by both government forces and Chechen fighters. Government forces have so far been prosecuted for these crimes in very few cases, and then after long delays.

The wars have also brought to light flaws in the institutional system that should promote and protect human rights. People living in Chechnya have no clemency commission, no regional parliamentary ombudsman and, between late 1999 and late 2001, they had no courts.

Reforms under the new Criminal Procedure Code, such as jury trials, will not reach them before 2007.

Political violence and continuing problems in the justice system show that, despite the strides made by the Russian Federation since 1991, much still needs to be done to protect people's fundamental human rights and to ensure that everyone has an effective remedy if their rights are violated.

Some groups are particularly vulnerable to abuses of their rights. This briefing paper focuses on three such groups: prisoners serving life sentences, members of minority ethnic groups and children born with mental disabilities.

This briefing paper is a contribution to a worldwide campaign launched in October 2002. Amnesty International members and supporters in countries in every part of the world are pressing the Russian authorities to ensure human rights and justice for everybody in the Russian Federation.

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amnesty international

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Amnesty International's vision is of a world in which every person enjoys all the human

rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

Amnesty International undertakes research and action focused on preventing and ending grave abuses of the rights to physical and mental integrity, freedom of conscience and expression, and freedom from discrimination.

Amnesty International is a democratic, self-governing movement with more than 1.5 million members and supporters in over 150 countries and territories. It is funded largely by its worldwide membership and public donations.

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The Russian Federation

The Russian Federation emerged as a sovereign state from the collapsing Soviet Union in 1991.

A major nuclear power, a permanent member of the UN Security Council, and one of the G8 grouping of industrialized countries, Russia is an influential player on the international stage.

The Russian Federation is the largest country in the world and is divided into 89 federal administrative units.

There are around 144 million people in the country from some 100 distinct ethnic or national backgrounds. These include ethnic Russians (84 per cent of the population), Tatars, Ukrainians, Chuvashians, Bashkirians, Belarusians, Moldovans and Kalmykians.

The majority religion is Russian Orthodox Christian. An estimated 19 per cent of the population are Muslims, while smaller numbers are Jews, Buddhists and members of other religious groups.

A new Constitution was adopted in 1993. The Russian Federation is a federal presidential republic with a bicameral legislature. The current President, Vladimir Putin, was elected by popular vote in March 2000 and is serving a four-year term.

The Russian Federation has ratified numerous international human rights treaties including: the International Covenant on Civil and Political Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the Convention on the Elimination of All Forms of Discrimination against Women; and the International Convention on the Elimination of All Forms of Racial Discrimination.

In 1991 the Chechen Republic (Chechnya) declared independence. Three years later, Russian forces were sent to Chechnya. The ensuing conflict lasted two years and cost thousands of lives. The Chechen capital, Grozny, suffered massive destruction. The Russian forces failed to subdue Chechen opposition and a compromise agreement was signed in 1996 to end the conflict.

In September 1999 the Russian authorities again sent troops to Chechnya. This followed attacks, reportedly by up to 1,000 Chechen fighters, in neighbouring Dagestan and a series of bombings of apartment buildings in Moscow and two other cities which were blamed by the Russian authorities on "Chechens". This second armed conflict in Chechnya is continuing to this day.

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A police officer checks the documents of a man at a metro station in Moscow, November 2002. Identity checks are disproportionately targeted at members of ethnic minorities and are often accompanied by intimidation, extortion and arbitrary detention. © AP/Alexei Sazonov

Police guard a square in Oslo, Norway, before the arrival of Russian President Vladimir Putin. Members of AI Norway and other human rights activists held a demonstration to highlight concerns over human rights abuses in the Russian Federation. ©AI/Nils Røhne

STRUGGLE FOR JUSTICE

The government of the Russian Federation has struggled since 1991 to establish the rule of law and to overcome the legacy of the Soviet system, where Communist Party and government officials ruled by "administrative command".

These efforts have faced opposition from powerful institutions reluctant to surrender their powers to the courts. Federal decisions have been undermined by local authorities and political violence has been used by some people to get their own way. Throughout the Russian Federation police officers have flouted the law with impunity.

Constitutional Court

The Constitutional Court, established in 1991 to interpret and enforce the Constitution, has made a number of important human rights decisions. It has raised the standards required of national bodies, especially in the field of criminal procedure. Its decisions have reflected the principle that the international human rights treaties which bind the Russian Federation form an integral part of domestic law, and take priority in cases where the two diverge. In February 1999 it issued a ruling which led to an effective moratorium on the death penalty.

New Code

The adoption in December 2001 of a new Criminal Procedure Code to strengthen the role of the courts marked a watershed in the reform of the criminal justice system. Until then, although dozens of new civil laws had been passed, criminal justice was dispensed under procedures from the Soviet era, with an intrinsic bias in favour of the prosecution.

The new Criminal Procedure Code introduced a phased program of reforms, including jury trials. In July 2002 the rights of access to a court within 48 hours of arrest came into force. Within three months, 3,000 detainees were freed after courts decided they had been arrested without sufficient grounds – 1,000 more than during the whole of 2001.

Arrests have fallen, and the number of detainees awaiting trial has dropped sharply, leading to improved conditions in the grossly overcrowded prisons where pre-trial detainees are held.

It is too soon to know if judicial supervision of arrests has also helped to reduce the high levels of torture and ill-treatment of suspects in Russian police stations.

The independence of the courts has also been strengthened by laws giving judges tenure, a professional body to scrutinize their performance, and a system of centralized funding. The Supreme Court plans to recruit up to 30,000 judges; by the end of 2001 there were 18,000.

Challenges remain

However, not all the changes have been positive. Convicted prisoners have the right to petition the President for clemency, and the Presidential Clemency Commission was one of the most effective mechanisms of human rights protection in the post-Soviet era. In 2002 it was replaced by regional clemency commissions, which have proved far less effective. Only 181 of the 6,600 applications made in 2002 were granted by the President.

Amnesty International's research also indicates that very few people within the criminal justice system genuinely subscribe to the presumption of innocence. This is true not only of officials, but also of judges and even defence lawyers. Many believe that anyone who comes before a court is a criminal who should not be returned to society unpunished.

[Photo captions]

A Moscow prison cell © AP/Alexei Sazonov

Jury trials are being introduced for serious crimes under the new Criminal Procedure Code, but not until 2007 in Chechnya. Here Moscow lawyers learn the new trial procedures in a mock courtroom. © Sean Sprague/Panos Pictures

RACISM AND THE DENIAL OF RIGHTS

'My son is 20. They won't give him a passport... He can't go anywhere without a passport. Even people with passports get arrested, so what would happen to him?... It is like living in a prison camp.'

Mikhail Madjitov, a Meskhetian living in Krymsk District, Krasnodar Territory, May 2002

Life without a passport in the Russian Federation is fraught with difficulties.

For thousands of Meskhetians living in Krasnodar Territory in the southwest of the country, being refused a passport is just one aspect of the racial discrimination they face every day. They are denied access to pensions, child benefits and higher education. They cannot officially register house or vehicle purchases, marriages or deaths. Racial discrimination affects almost every aspect of their lives.

The Meskhetians are a largely Muslim group who, according to Russian law, have the right to Russian citizenship. They were citizens of the former Soviet Union and permanently residing in the Russian Federation when the 1992 Citizenship Law came into force. Most Meskhetians have affirmed their rights to Russian citizenship, but in Krasnodar Territory, discriminatory laws and practices serve to deny them their legal rights.

Several other ethnic or national minority groups have been denied citizenship by local authorities, contrary to federal law. For example, local authorities sometimes insist that citizenship can only be granted to those who had permanent registration at their place of residence (*propiska*) (rather than permanent residence) in 1992. Most of the Meskhetians living in Krasnodar Territory since 1989 have been denied permanent registration by the regional authorities.

In 2002, two new federal laws were introduced dealing with citizenship and the status of foreign nationals. These laws have exacerbated the problems faced by hundreds of thousands of former Soviet citizens in obtaining official legal status. They have also increased the risk that racial discrimination will influence whether citizenship and permanent residency rights are granted or denied. President Putin has publicly acknowledged the shortcomings of these laws.

Other forms of racism are also rife. Chechens and people from the Caucasus and Central Asia living in Moscow often face hostility from the authorities, including the police. Asylum-seekers and refugees suffer the additional difficulty that their documentation is frequently not recognized by the police.

National and international law promise those living in the Russian Federation equality and protection from discrimination. However, procedures and practices on the ground, as well as local laws, mean that racial discrimination frequently goes unrecorded and unpunished. Indeed, the very authorities and institutions charged with upholding human rights are often complicit in such abuses.

Many racist attacks are not reported to the police because the victims fear further abuses by the police themselves. Police often fail to register such attacks as racially motivated or to investigate them. The result is that victims of racist crime rarely see justice done.

The federal authorities have a responsibility to combat racial discrimination whether it emanates from discriminatory regional laws or from the discriminatory implementation of federal or local laws. Denial of citizenship on grounds of racial or ethnic origin violates Russian law and international human rights standards.

'The Russian Constitution does not apply in Moscow.'

Yury Luzhkov, mayor of Moscow, referring to the continuing imposition of the *propiska* registration system. Local authorities continue to impose unconstitutional residence requirements in some parts of the country, in defiance of Constitutional Court rulings.

President Putin has the authority to suspend unconstitutional laws and to warn and dismiss Heads of Subjects who endorse them.

[photo captions]

'It was the first time we had dared to go out to work the field. There were about 15 of them, in three cars, one of them a police car... they just started telling us to go "home", saying we did not belong here... They don't think we are human beings. My parents [Begzadi and Sultan Akhmedov (above)] were terribly upset '

Gulya Ishikhova, May 2002. The Akhmedov family are Meskhetians living in Krasnodar Territory. ©AI

The Aliev family, who have been told by the Krasnodar authorities that their home will be demolished as it was built without official permission. Because they are Meskhetians, the family have been unable to officially register their house or land. ©AI

'This is the wrong place for black skins. But we don't have a place to go, so we stay... Since 1996 I have been beaten about 20 times.' Adefers Dessu, a refugee from Ethiopia. No one has been held to account for the assaults.

© Paula Allen

LIFE IMPRISONMENT IN THE RUSSIAN FEDERATION

Conditions for prisoners serving life sentences in the Russian Federation are so harsh that they amount to cruel, inhuman or degrading treatment or punishment, and in some cases possibly torture.

From death row to 'special regime'

In 1996 the Russian Federation promised to abolish the death penalty. It has not done so, although since 1999 there has been an effective moratorium on executions.

A new punishment of imprisonment for the duration of a prisoner's natural life has been introduced as an alternative to the death penalty. Life prisoners serve their time on "special regime", the harshest category of imprisonment.

Fire Island, a converted monastery on an island in White Lake in Vologda region, houses 156 prisoners with commuted death sentences. Since the first prisoner arrived in the colony in February 1994, at least 32 prisoners have died; four committed suicide. Opponents of the abolition of the death penalty have used figures like these to argue that execution is more humane than what they call the "slow death" of life imprisonment. In Amnesty International's view, the figures indicate that the conditions in which life prisoners are held violate their right to be treated with humanity and not to be subjected to torture or other cruel, inhuman or degrading treatment.

Isolated from other prisoners

The provisions isolating life sentence prisoners contravene the conditions recommended by international standards, and the way they are put into practice makes them even harsher.

Every aspect of imprisonment for life prisoners is designed to ensure their isolation from the outside world and from other prisoners. They are held in cells, either alone or in the company of one other prisoner. They exercise in a separate enclosed area. Their work assignments are carried out in a separate workshop. They are entitled to study, but only in their cells on their own.

Prisoners on Fire Island spend almost all their time in their cells. They leave their cells only to go to work, visit the bath-house or take exercise (an hour and a half in a steel-plated box measuring three by four metres).

Isolated from the outside world

There are currently five institutions for prisoners serving life sentences in the whole Russian Federation. A prisoner can find himself several thousand kilometres away from home, so keeping contact with loved ones is extremely difficult. This imposes extreme physical and psychological isolation on life prisoners and makes them utterly dependent on the fairness and professionalism of the prison officials.

Parliamentarians and human rights activists who have visited these colonies describe regimes that are needlessly restrictive in some places and downright humiliating in others. Life sentence prisoners in Perm, Vologda and Mordovia, for instance, are handcuffed each time they are moved from their cell, no matter who the prisoner is or how short the distance. Life sentence prisoners in Mordovia are made to adopt a special walk in front of prison staff, with bowed heads and small steps.

Life prisoners may submit an application for judicial review only if they have had no disciplinary infractions for the previous three years. If an application is turned down, a new application for a court hearing cannot be submitted for a further three years.

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Life imprisonment is a relatively new form of punishment in the Russian Federation. Amnesty International urges the authorities to reassess its aims and the way it is currently being applied. Among other things, life sentence prisoners should have many more opportunities for social contact. They should also have the possibility of a judicial review of their sentence within a reasonable period.

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Life prisoner in his cell, Fire Island, 2001

A steel-plated exercise area on Fire Island

Prisoner receiving food in his cell, Fire Island

Fire Island prison

All photos ©TV Channel Russia

CHILDREN – THE RIGHT TO A FULL & DECENT LIFE

Anna was eight years old, with lively eyes. She ran up to greet the Amnesty International delegate in an *internat* (state orphanage) 400km from Moscow. She had an open hare lip and an open cleft palate. She was able to eat despite this, but could not speak. Two teeth projected through the open lip from her upper gum, disfiguring a vital face.

Back in the office at *Internat Z* (not its real name), the delegate asked the doctor if it would be possible to operate on Anna's mouth, particularly as she was approaching a self-conscious age. The doctor doubted that with her mental disability she would survive the anaesthetic. "And, anyway, she has no awareness of herself, and in the future we foresee for her, she has no need to be self-aware. She will be living in these four walls, and then in those four walls." He gestured to an old people's home in the same complex, where Anna would go when she reached the age of 18.

Anna lives in one of the 155 *Internats* in the Russian Federation which are home to around 29,000 children. Some of the children are orphans or from broken homes, but a significant number were born with mental disabilities and taken away from their parents.

There is no law passed by parliament protecting the interests of children with mental disability. They can be put into an institution through a relatively simple procedure which often starts in the maternity ward.

If a commission of doctors diagnoses that a baby has abnormalities in its central nervous system that will lead to mental disability, they may recommend taking the child into state care. If the parents agree, they sign a legally binding form renouncing their parental rights. This procedure has typically been applied to babies with Down's Syndrome. When the child is older the same procedure may come into play if he or she is suspected of having cerebral palsy or autism.

At the age of four the children undergo further examination by a commission of doctors and educationalists that typically finds them "unfit to be educated". This diagnosis presents a bleak picture of the future to parents.

No independent information is available to parents that might put a different light on the medical advice they are receiving. There are also virtually no social services to help parents bring up children with mental disabilities at home, so the alternative to putting their child in a state institution is immensely daunting.

Most alarming, from the child's point of view, is that there is no requirement for a review of their placement.

Doctors working in *Internat Z* and elsewhere in the mental health field in the Russian Federation refer to conditions like "imbecility" and "idiocy" that do not exist in the World Health Organization's International Classification of Diseases (ICD-10).

"It is surprising they are alive... They are like vegetation. Their lungs and hearts work but there is nothing going on in their heads."

Chief doctor at *Internat Z*

Over recent decades medical science in many parts of the world has learned more about conditions such as Down's Syndrome and autism, and has understood the potential of people who have these conditions.

The Russian Federation has adopted numerous laws on the rights and opportunities of disabled people since it became a sovereign state in 1991, but none relate specifically to the rights of children with mental disability. Because their future is regarded as hopeless, many human rights are automatically taken away from them.

The budget and staffing allocated to the institutions housing children with disability are minimal. The children live in close confinement with little or no sensory stimulation, in

conditions that are not only cruel, but degrading. Because they are diagnosed as “uneducable”, no effort is made to help them become self-sufficient or fulfil their potential. Their treatment shows no respect for the rights of children born with mental disabilities. It also undermines the right of their parents to take responsibility for them.

In recent years the authorities have begun to acknowledge the woeful way that children with mental disability are treated in the Russian Federation. However, to date they have not taken the steps necessary to remedy the problem.

In Amnesty International’s view, the situation of children with mental disability in the Russian Federation poses questions of fundamental rights – including the rights to liberty, education, access to justice, and protection from torture and cruel, inhuman or degrading treatment.

As a basic minimum, Amnesty International believes that the Russian Federation should urgently adopt a law whose primary concern is the best interests of children with mental disability.

This should set down the procedures and criteria for placing a child in an institution and taking him or her away from their family. The child’s best interests should be represented by an appropriate independent expert. It should guarantee that the placement is automatically subject to review and, where continued institutionalization is shown to be in the best interests of the child, it should prescribe conditions for the treatment and welfare of the child.

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The Russian Federation is a party to the UN Convention on the Rights of the Child, but it is failing to provide children with disabilities in its care with some of the most basic protections guaranteed by that Convention.

“States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child’s active participation in the community.” (Article 23(1))

“States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.” (Article 25)

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[photo captions]

Right) Child in an *internat*. In 1996 the Russian Federation said that 5,600 children were permanently confined to their beds in internats. © Valery Shchekoldin

Child in an *internat*. Ministerial directives for putting children with mental disability in institutions also determine the conditions in which they will live. For example, Section IV of the 1962 Directive states that no effort is to be made to teach or train “uneducable” children. © Sergey Koloskov/Moscow Down’s Syndrome Association

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Justice for everybody

Find out more. Amnesty International has produced a number of reports as part of its campaign for human rights in the Russian Federation.

The Russian Federation: Denial of justice

focuses on serious violations of international human rights and humanitarian law by

Russian law enforcement and security forces.
(AI Index: EUR 46/027/2002)

Rough Justice: The law and human rights in the Russian Federation
examines legal reforms and their impact so far on human rights protection.
(AI Index: Eur 46/054/2003)

'Dokumenty!' Discrimination on grounds of race in the Russian Federation
highlights patterns of racial discrimination and their effect on the lives of ordinary people.
(AI Index: Eur 46/001/2003)

Doing business in the Russian Federation: the human rights approach calls on companies to ensure that their activities are consistent with international human rights standards.
(AI Index: Eur 46/059/2002)
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[BACK PAGE]

YOU CAN MAKE A DIFFERENCE

Add your voice to the worldwide Amnesty International campaign to achieve justice for everybody in the Russian Federation. Together we can help make a difference to the lives of the people featured in this briefing.

- Please write to President Vladimir Putin and urge him to introduce measures to guarantee that Russian citizenship is granted to all those legally entitled to it. By law former Soviet citizens who were resident in the Russian Federation when the previous Law on Citizenship came into force in 1992 are entitled to Russian citizenship (Part 1, Article 13 of the 1991 Law on Citizenship).
- Please write to the Minister of Justice and urge him to take immediate steps to ensure that life prisoners are held in conditions consistent with international standards. In particular, their contacts with other prisoners and with the outside world should be restricted only when strictly necessary for security reasons.
- Please write to the Minister of Health and the Minister of Labour and Social Development and urge them to take immediate steps to ensure that institutionalized children with mental disabilities are provided with supervised opportunities for play and education in accordance with their age and abilities. This should include activities that promote visual, auditory and sensory stimulation and should aim to “ensure dignity, promote self-reliance and facilitate the child’s active participation in the community.” (Article 23(1) of the UN Convention on the Rights of the Child.)

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(please tick box)

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[photo caption]

Campaigning against human rights abuses in the Russian Federation in (from top, left to right) Russia, Hong Kong, Poland, Pakistan, United Kingdom, Chile, Nepal and Switzerland.

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