

**Cartoon depicting *slonik*  
("elephant") torture: see page 26  
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Society for Human Rights**

# Torture in Russia

*"This man-made Hell"*

INTRODUCTION

**"We don't have torture here; it's prohibited by law. And in fact, we have never had torture in Russia. No, there is no torture..."**

Colonel Leonid Golovnyov, Deputy head of the Department on Information, MVD of the Russian Federation, 1996

On 12 November 1996 the United Nations (UN) Committee against Torture in Geneva examined the Second Periodic Report of the Russian Federation under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture).<sup>1</sup> Amnesty International urged the Russian Government to implement the recommendations of the UN Committee against Torture.

Amnesty International had submitted its own report to the members of the Committee detailing its concerns about allegations of systematic and widespread use of torture and ill-treatment in Russia. In addition, this current report was submitted to the members of the Committee in a draft form in order to brief them on particular individual cases of concern to Amnesty International and give them a solid background information regarding the practice of torture and ill-treatment of suspects in the Russian Federation. The human rights organization also held a meeting with the Russian delegation in Geneva in which measures planned by the authorities were discussed.

Amnesty International has received numerous reports of torture and ill-treatment of criminal suspects in police custody throughout the Russian Federation, and within the context of the conflict in Chechnya. Members of ethnic minorities are particularly vulnerable. There is an apparent pattern of ill-treatment of detainees who are members of ethnic minorities, specifically ethnic Chechens and those from the Caucasus, by the law enforcement officials in Moscow, the capital, and other parts of Russia. The torture methods used by the police officers include asphyxiation, known in Russian as *slonik*

("elephant"), beatings, and special methods of physical restraint, known as *lastochka* ("swallow").

Under the guise of fighting crime, there is a tendency to expand the powers of security and law enforcement agencies to the detriment of constitutional rights and guarantees.

The findings of the Committee against Torture confirmed Amnesty International's concerns: soldiers have been brutalized by older soldiers and officers in the army without the authorities taking appropriate remedial measures; the authorities have failed to establish an effective machinery for the prompt examination of prisoners' complaints; the process of harmonizing domestic legislation with human rights is progressing slowly; the police and prison personnel lack training; people facing extradition do not enjoy appropriate safeguards; the widespread reported abuses of human rights in the conflict in Chechnya, including torture, are not being investigated promptly and effectively.

Amnesty International strongly supports the recommendation of the Committee that the Russian Federation adopt a comprehensive action plan to stop torture. The plan includes:

- the criminalization of torture
- expediting the process of training of personnel, including medical personnel, of all agencies engaged in the enforcement of the law and detention of prisoners;
- the adoption of programs to inform detainees and the public of their rights and the legal means to protect them;
- the establishment of an effective machinery to monitor the conditions under which investigations of crimes are conducted, the conditions under which persons are held in custody and conditions in prisons;
- the establishment of an appropriate process for the prompt investigation of complaints of suspects, detainees and prisoners and the prosecution of the offenders;
- the radical improvement of conditions in prisons;
- the abolition of acts, rules and regulations allowing remand in custody for longer than 48 hours without judicial authorization;
- the abolition of acts, rules and regulations limiting access to legal assistance; and
- the establishment of an independent committee to investigate allegations of torture and inhuman or degrading treatment

committed by the military forces of the Russian Federation and Chechen separatists with a view to bringing to justice those against whom there is evidence of their involvement or complicity in such acts.

The information in this report is based on various sources, including two visits to Russia by Amnesty International delegates to interview victims of torture and ill-treatment and visit penal institutions.<sup>1</sup>

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<sup>1</sup>During a July 1996 visit to Russia Amnesty International delegates gathered an extensive number of personal testimonies and interviewed victims of torture and ill-treatment. A representative of the organization visited the pre-trial detention centre (SIZO) No. 60-1 and the corrective labour colony in the town of Ryazan, which for the first time had opened their doors to human rights monitors. In Moscow, Amnesty International visited SIZO No. 2 at the Butyrka prison and the City Department of Internal Affairs No. 40. A number of interviews with victims of alleged torture and ill-treatment were conducted in Moscow, St. Petersburg and Ryazan. Information on ill-treatment had also been gathered during an earlier visit by Amnesty International to Siberia in December 1995.

I.  
CURRENT LEGISLATION  
FACILITATING TORTURE AND  
ILL-TREATMENT

***"I am all for the violation of human rights  
if the human is a bandit or a criminal".***

Sergey Stepashin in 1994, then head of the FSB  
commenting on the Presidential Decree on fighting  
organized crime No 1226

The Russian Federation is a party to the  
Convention against Torture, and to the  
International Covenant on Civil and Political  
Rights (ICCPR) and its first Optional Protocol.<sup>2</sup>  
Both these treaties prohibit the use of torture and  
other cruel, inhuman or degrading treatment or  
punishment. The 1993 Russian Constitution  
provides in Article 21 (2) that "no one shall be  
subjected to torture, violence or other cruel or  
degrading treatment or punishment. No one may  
be subjected to medical, scientific or other  
experiments without voluntary consent".<sup>3</sup>

Nevertheless, new legislation continued  
to be enacted by the State Duma (the lower  
house of the Russian Parliament) or promulgated  
by the President, and old legislation has  
remained in force, which facilitates the  
occurrence of acts of torture and ill-treatment.

1. Presidential Decree No. 1226 of 14  
June 1994

For some time Amnesty International has  
expressed concern about Presidential Decree  
No. 1226 of 14 June 1994, "Urgent  
measures to defend the population from  
banditry and other manifestations of

organized crime"<sup>4</sup>, and urged the President  
to rescind it, on the grounds that it conflicts  
with international human rights standards  
and the Russian Constitution and facilitates  
torture and ill-treatment.<sup>5</sup> The organization  
has called on the President to order, as a  
matter of urgency, a thorough and impartial  
investigation into all human rights violations  
and abuses, including allegations of torture  
and ill-treatment by law enforcement  
officials while conducting investigations,  
arrests and interrogations, and specifically  
those which occurred under the provisions of  
the presidential decree on fighting organized  
crime.

The presidential decree allows law  
enforcement authorities to detain persons  
suspected of ties to organized crime for up to  
30 days without charge and without access  
to a lawyer or to the outside world. This  
conflicts with Article 22 of the Russian  
Constitution which provides that a person  
may not be held for more than 48 hours  
before a court rules on the legality of the  
detention. Article 9 of the ICCPR states that  
"anyone who is arrested or detained on a  
criminal charge shall be brought promptly  
before a judge", and that "anyone who is  
deprived of his liberty by arrest or detention  
shall be entitled to take proceedings before a  
court, in order that that court may decide  
without delay on the lawfulness of his  
detention and order his release if the  
detention is not lawful". The presidential  
decree also does not guarantee the right of  
the accused to access to a defence counsel  
during the period spent in detention. Prompt  
access to a defence lawyer of one's own

<sup>2</sup> The USSR acceded to the Optional Protocol formally in July 1991. The Russian  
Federation is bound as a successor state to both the ICCPR and the Optional Protocol.

<sup>3</sup> As one of the leading experts and promoters of the Russian legal reform, Sergey Pashin,

noted in 1995, "people in a lawless state (which Russia still is) suffer more from arbitrary

enforcement of the law and misapplications of proper legal norms than from the lack of

laws".

<sup>4</sup> See for example, Open letter from Amnesty International to the presidential candidates  
on the occasion of the 16 June 1996 Presidential Elections, AI Index: EUR 46/29/96.

choice is recognized as an essential safeguard in international standards such as Principles 15, 17 and 18 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles) and Principle 7 of the UN Basic Principles on the Role of Lawyers. Amnesty International has found that denial of such access to a lawyer, family and medical practitioner is one of the possible pre-conditions of torture.<sup>6</sup>

Accompanying the decree is another document, "Instructions on Effecting the Norms of the Decree of the President of the Russian Federation of June 14, 1994, No. 1226," of 24 June 1995, signed by the Procurator General, the Minister of Internal Affairs, and the Director of the Federal Security Service of the Russian Federation. Both acts authorize law enforcement officials to conduct searches of individuals, their relatives, and private homes without a court warrant, and to detain individuals without charge but "with sufficient grounds" for up to 30 days.

In 1994 the State Duma identified no fewer than eight constitutional articles with which the decree is in conflict. The breaches of the Constitution are so evident that they are acknowledged even by the lawyers of the State Legal Administration, which is controlled by the President. However, law enforcement authorities employ this decree extensively, especially with respect to members of ethnic minorities from the Caucasus. Criminal suspects detained under the provisions of this decree are often subjected to torture and ill-treatment by the police or by officers from the Department on Fighting Organized Crime (RUOP). According to official information, during the first six months after the introduction of the

decree, about 14,000 people were detained for up to 30 days without being charged.<sup>7</sup>

2. Presidential Decrees No. 1815 of 2 November 1993 and No. 1025 of 10 July 1996

In addition to Decree No. 1226 on fighting organized crime, on 10 July 1996 the Russian President signed a new Decree No. 1025 "On Urgent Measures on Strengthening Law and Order and Intensifying the Fight Against Crime in Moscow and Moscow Region".<sup>8</sup> The decree gives additional legal powers to law enforcement officials in Moscow city and the surrounding Moscow Region (*oblast*) in their activities in fighting crime. The decree authorizes law enforcement officials to detain up to 30 days for a personal identity check people deemed to be vagrants, beggars or homeless. It also allows the expulsion and resettlement of such people to places outside Moscow and Moscow Region if "significant reasons" are found to do this; no additional explanation of the terms and conditions for expulsion and resettlement are given in the decree. This is in violation of Article 27 of the Russian Constitution, which provides for the right of any person to freedom of movement and a choice of place of residence.

According to reports in the press and from human rights groups in Moscow, Decree No. 1025 has already been used by law enforcement officials allegedly to target ethnic Chechens as well as other persons from the Caucasus resident in Moscow.<sup>9</sup>

<sup>7</sup> *Pravda* magazine, No. 4, 1995.

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"", *Rossiyskaya Gazeta*, 16 July 1996.

<sup>8</sup> The decree of 10 July was not published until 16 July. On 11 and 12 July bombs exploded on the Moscow public transport system. Following the incidents Moscow Mayor Yuri Luzhkov made public comments broadcast on television, threatening to expel members of the ethnic Chechen diaspora from the city and linking them to the two explosions. During the days before the decree was published the Mayor and other government officials reportedly made statements quoting the decree and its provisions on forcible deportation of persons from the city and

<sup>6</sup> See Amnesty International, *Torture in the Eighties* (AI Index: ACT 04/01/84), p. 79.

Throughout Russia the period under which people deemed to be vagrants or beggars can be held without charge had already been extended to nine days, in violation of the 48-hour maximum period provided in the Constitution and the 72-hour maximum period permitted by the Code of Criminal Procedure, by Presidential Decree No. 1815 of 2 November 1993 "On Measures to Prevent Vagrancy and Begging"<sup>10</sup>. This decree was used extensively

by the Russian federal army to legitimize detention in "filtration camps" of residents of Chechnya during the armed conflict there (see below). Furthermore, members of the Charitable Foundation "Nochlezhka", an independent group based in St. Petersburg which provides help and assistance to that city's homeless, have registered several cases of physical abuse and other ill-treatment by police of vagrants detained under this decree.<sup>11</sup> None

allegedly claimed that they would use it extensively (16 July 1996).

<sup>10</sup> "\_\_\_\_\_"  
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*decrees. Unfortunately all materials are currently with the Constitutional Court. The Constitutional Court is not covered by the law passed in 1994 which sets time limits for a court to deal with particular cases, and so it is not subject to such deadlines".*

Izvestiya,

November

<sup>11</sup> Interview with members of "Nochlezhka" and homeless persons, victims of police ill-treatment, during a visit by Amnesty International in July 1996.

During the review of Russia's Second Periodic Report by the Committee against Torture on 12 November 1996, one of the members of the Russian Government delegation, Yury Ivanov, a Deputy Head of the State Duma's Committee on Law and Judicial and Legal Reform, stated: "As I see it all three presidential decrees mentioned have made a major contribution to democracy; they are in keeping with international standards and should not be abrogated. Any call for their abrogation is unacceptable. I should like to assure you that this is the same position held by the State Duma - we cannot abrogate a presidential decree. According to existing legislation a motion calling for a decree to be recognised as unconstitutional

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of these cases are known to have been promptly and impartially investigated by the authorities.

### 3. The Code of Criminal Procedure

After a significant delay, a new Criminal Code was adopted by the State Duma in May 1996, and has entered into force in January 1997. Although this is a significant step forward in Russian legal reform, the adoption of a new Code of Criminal Procedure continues to be delayed, which has a significant negative impact

on the areas where human rights are often in jeopardy.

The old Code of Criminal Procedure, albeit heavily amended, continues to be applied, even though in a number of instances it violates constitutional provisions. Although the Russian Constitution provides in Article 15 (1) for direct applicability of its norms in the judicial process, it explicitly places a limitation on this provision by stating that until legislation on criminal procedure is brought into line with the new Constitution, "pre-existing procedures for the arrest, taking into custody and detention of persons suspected of committing crimes are retained".

Nevertheless, in May 1995 the Constitutional Court ruled that two provisions of the Code, Article 220 (1) and Article 220 (2), violated the Constitution by restricting the right to challenge the legality of arrest to individuals who, at the time of the complaint, were actually in custody.<sup>12</sup> In November 1995, the Constitutional Court ruled unconstitutional the provisions of Article 209 (5) of the Code of Criminal Procedure, which limits the right of individuals who consider their rights to have been violated, to challenge authorities in court. The above-mentioned articles are inconsistent also with Article 9 (4) of the ICCPR and restrict the ability of detainees to have access to a judge who could exercise some judicial supervision over conditions of detention.

In practice, procurators often refer to the provisions of the Code of Criminal Procedure to justify violations in the procedure for individual complaints. For example, in cases where a decision has been taken either to close a criminal case or not to open a criminal case, the office of the procurator, after investigating all allegations of ill-treatment submitted by an individual, is required to issue a document which explains the basis for its decision. However, as a rule, the individuals who filed the complaint are not

<sup>12</sup>The current Code does not require that suspects be informed of charges against them and does not provide for the right of a suspect to a hearing before a judge, at which time he or she could challenge the grounds of the arrest.

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given a copy of this document, nor are they given access to the findings of the initial investigation. Since an individual is unlikely to be able to challenge a decision which has not been made clear to him or her, the possibility to appeal against the decision, either to a higher level of the procuracy or to a court of general jurisdiction, is seriously limited. In justifying their actions the procurators refer to the provisions of the Code, which allow individual's access to the findings of the investigation only if a criminal case has already been opened. The Constitutional Court in 1995 attempted to correct some of the shortcomings of the Code in this regard by providing for the right of an individual to challenge in court a procurator's decision to close a criminal case. However, the Constitutional Court made no mention of the right of an individual to appeal to a court against a procurator's decision not to open a criminal case. This includes individuals who allege violation of their rights by officials, including those alleging torture and ill-treatment.

The Code of Criminal Procedure specifies that only two months should elapse between the date an investigation is initiated and the date the file is transferred to the procurator so that he can file formal charges against the suspect in court. However, investigations are seldom completed that quickly. Detainees are held longer than the maximum investigation period. Some suspects spend two-three years in detention under harsh conditions. The Code provides that the regional procurator may extend the period of criminal investigation to 6 months in "complex" cases. If more time is required in "exceptional" cases, the Procurator General can personally extend the period up to 18 months. Extensions of the investigation period are often issued without explanation to the detainee. Until the investigation is completed, the suspect is under the jurisdiction of the Office of the Procurator and the Ministry of Internal Affairs. There is no procedure for a suspect to plead guilty during the investigative period, although if a suspect informs the investigator that he is guilty, the period of the investigation is usually shorter than if he maintains his innocence.

The use of bail is extremely rare in Russia, even if suspects are not flight risks or have not been charged with violent crimes. This aggravates crowding in pretrial detention and, due to delays in bringing cases to trial, results in many suspects remaining in pretrial detention for longer than the maximum penalty they might face if convicted.

On 13 June 1996 the Constitutional Court ruled unconstitutional the provisions of Article 97(5) of the Code of Criminal Procedure, which does not allow the conditional release of the accused from detention pending trial after the conclusion of the criminal investigation, while he or she (and respectively their defence lawyers) reviews the materials of the criminal case. A number of voices in the Russian society have been critical of the ruling of the Constitutional Court. They claimed that without the authorities applying Article 97(5) many of the leaders of the criminal world will be released pending trial and this would defeat the efforts in the fight against crime.

On 31 December 1996 President Yeltsin signed a new federal law amending Article 26, Article, 97 and Article 133 of the Code of



During a recent public opinion poll Moscow residents were asked: "Imagine that you are home alone and a person in a police uniform rings the bell. What would be your actions?" 43 per cent answered that they would not open the door under any circumstances, because they generally mistrust the police. On the question of "who do you fear more -- the criminals or the police?", 37 per cent of the Moscovites questioned answered that they fear them equally.

(Sociological centre "Status"), *Komsomolskaya Pravda*, 15 March 1996

Criminal Procedure. According to this law the length of pre-trial detention of the accused during the criminal investigation of the case was extended. The new law preserved the jurisdiction of the procurators to extend the period of detention up to 18 months. In addition the law grants the court the right, on the request of the Office of the Procurator, to extend the period of detention by six more months to allow a review of the materials of the case by the accused. The law also provides for further extension of six months of the pre-trial detention to allow processing of appeals by the accused for additional investigation of the case. There is no mention in the law of the right of the accused and the defence lawyer in the court's hearing of such appeals. No provision in the law indicates possibilities for the accused to appeal the decision of the court.

The provisions of Article 97(5) and of the new law relating to pre-trial detention violate Article 9 and Article 14 of the ICCPR. The provisions of the law of 31 December is a clear violation of the Constitutional Court ruling and by disregarding it the authorities undermine the Court's authority.

Finally, the current Code of Criminal Procedure continues to violate the Constitution by preserving the dual role of the Office of the Procurator (see below), and granting it the power to sanction arrest, instead of the court.

According to reports, some of the drafts of the new Code of Criminal Procedure discussed to date have been produced by the Ministry of Justice and the Office of the Procurator, and the discussions concerning the proposed new Code continue to be carried out

without consulting the Russian legal community, especially defence lawyers (*advokatura*).

4. The Law on the Federal Security Service of 3 April 1995 and the Law on Operative Searches and Seizures of 12 August 1995

Both of the above laws have significantly strengthened the legal powers of the Federal Security Service (known by its Russian acronym FSB) and other internal security agencies. The Law on the FSB provides it with broad law enforcement functions. In addition to its traditional security and counter-intelligence tasks, the new law authorized the FSB to participate in fighting crime and corruption. In the course of carrying out their duties, according to the law, FSB officials may enter a private residence, office, or other premises without prior judicial approval, if there are sufficient grounds to believe that a crime is in progress or has been committed, or if it is believed that the welfare of citizens is endangered. The Law on Operative Searches and Seizures also permits law enforcement officials to enter a private residence without a court order in cases of emergency that may result in the commission of a serious crime or if Russia's political, military, economic, or environmental security is threatened. In these cases, a judge must be notified within 24 hours of the FSB's actions. However, the law does not define what would constitute a case of "emergency" or the term "security", and thus allows for wide interpretation by law enforcement agencies.

It is therefore feared that both laws, by granting extraordinary and unlimited powers to law enforcement officials in special circumstances, provide the possibility for ill-treatment to occur. These laws in practice facilitate torture because in practice there is no effective judicial supervision over arrest and detention.

### 5. The "Propiska" System

The residence permit system or "propiska" violates the right to freedom of movement, guaranteed by the Russian Constitution and the 1993 law "On the Right of Citizens of the Russian Federation to Freedom of Movement and Choice of Place of Arrival and Residence Within the Boundaries of the Russian Federation," as well as a number of international instruments. Under the Soviet "propiska" system, introduced by the Soviet regime, people were obliged to register their place of residence and were forbidden to move or change it without official permission from the authorities. In 1991, by decision of the Soviet Constitutional Supervision Committee, the "propiska" system was abolished and the Committee ruled that the legal restrictions on the freedom of movement would be invalid as of 1 January 1992. However, the situation has not changed in practice. Since 1994, local governments, such as Moscow and Moscow region, St. Petersburg, Krasnodar and Stavropol territories, Vladimir, Nizhny Novgorod, Rostov and others, have passed local decrees and regulations introducing or reinforcing strict rules which require prior official permission for residence. Laws restricting movement and choice of residence have also been passed at the federal level. Government Resolution No. 713 of 17 July 1995 ratified Rules of Registration and Removal of Citizens of the Russian Federation from the Registration List of Temporary or Permanent Residence within the Russian Federation and the List of Officials Responsible for Registration. In fact the Rules created a new "propiska" system requiring prior authorization of residence, and undermined the right guaranteed by the Constitution and the law.

In October 1995 the Ministry of Internal Affairs issued a special instruction on the implementation of the Rules. The instruction, among other things reportedly led to the creation of a special database containing information not just on persons who have committed an offense, but virtually on everyone in the country, tracking

their places of residence and all their movements, even business trips or visits to friends and relatives. On 26 December 1995 the government of Moscow and Moscow Region issued a resolution confirming their own Rules for Registration of Citizens.

The government at federal and local level has failed to inform law enforcement officials that the system has been abolished or that federal laws and the Constitution override local regulations. The lack of a "propiska" makes specific ethnic groups an easy target for law enforcement officials. Most of the reported cases of torture and ill-treatment of ethnic Chechens, Armenians, Azeris, and members of other ethnic minorities have happened after the victims were apprehended on the initial pretext that these persons did not have a valid "propiska". Often, law enforcement officials have used the provisions regarding the "propiska" in combination with the provisions of the presidential decree on fighting organized crime to detain persons for up to 30 days without charge and without access to a lawyer, thus creating one of the preconditions for torture.

### 6. Institutional and local law making violating the Constitution

In this transitional period for Russian legal reform, when a number of important pieces of legislation designed to provide the implementing mechanisms for constitutional human rights provisions have not yet been adopted by Parliament, a climate exists where unlawful institutional and local decrees and directives, and in some cases secret instructions, continue to be enacted and enforced all over Russia.<sup>13</sup>

<sup>13</sup> One example of federal lawmaking in accordance with the provisions of Article 11 of the Convention against Torture (which requires from the states-party a systematic review of rules and practices) is the 1995 federal law, "On the Detention of Persons Suspected or Accused of Having Committed Offences". The law was adopted by the State Duma on 21 June and signed by the President on 15 July 1995. It officially came into force on 20 July 1995. While the law strives to improve the safeguards for detainees and prisoners in Russia,

Article 4 of the law states: "Detention shall be effected in accordance with the principles of legality, equality of all citizens before the law, humanity and respect for human dignity, and in accordance with the Constitution of the Russian Federation, the principles and norms of international law and the international agreements of the Russian Federation, and shall not be accompanied by torture or other actions intended to cause physical or psychological suffering to persons who are suspected or accused of having committed offences and who are in custody."<sup>14</sup> In addition to the three Presidential Decrees mentioned above which clearly violate the Constitution and existing laws, the local authorities in some of Russia's autonomous republics, such as Tatarstan, Bashkortostan, Udmurtia, Chuvashia and Tuva, under the pretext of fighting crime, continue to enforce various local laws and decrees which clearly violate human rights and the Constitution. Some of these local laws allow for the detention of a suspect for up to 30 days without charge (akin to Presidential Decree No. 1226) and for a search by the police of personal vehicles and private residences and business offices without sanction from a procurator or judge. For example, on the basis of such a law, in March and April 1994 in Dyurtyuli, a town of 35,000 people in Bashkortostan, following the murder of a local official 500 people were detained without charge. Three detainees tried to commit suicide, and two detainees, independent of one another, confessed to the crime, allegedly as a result of ill-treatment in detention.<sup>15</sup>

In addition, there are a whole range of decrees, orders and instructions, which are often marked "secret", regulating the actions

of officials from the ministries with responsibility for security services, such as the Ministry of Internal Affairs (MVD), the FSB and the Ministry of Defence. Most of these normative documents have not been published and officials refuse to make them available upon request to Russian human rights groups or individuals.

For example, in addition to the Corrective Labour Code, which officially regulates the conditions of detention of inmates, there is an internal instruction of the MVD, "Internal Regulation Rules of the Correctional Labour Institutions" of 1992, which sets out in detail the rules and limitations concerning day-to-day life in places of confinement. This internal document is not available either to the prisoners or to human rights groups, which is inconsistent with Rule 35 of the UN Standard Minimum Rules for the Treatment of Prisoners..

In 1992 an official of the office of the procurator of Kaliningrad explained the Ministry's refusal to provide copies of the Rules with the following statement: "...MVD orders and instructions are issued for service purposes and are not supposed to be copied in any way or presented to organizations, societies, agencies, which are not involved in the monitoring of the functioning of the corrective labour institutions."

The Presidential Commission for Human Rights in its report on human rights practices in 1993 noted that special order No. 13 of the MVD (15 January 1993) reintroduced the reduced norm of nutrition, previously abolished in 1988 (popularly known among prisoners as "torture by hunger") for prisoners at penitentiaries serving disciplinary punishments in the so-called punishment-isolator (known by its Russian acronym ShIZO), punishment cell (*portser*) and in solitary confinement cells. In 1994 the senior deputy of the Procurator

in practice its provisions are frequently violated and law enforcement bodies and prison personnel continue to refer to other decrees and institutional instructions when violating the rights of those detained.

<sup>15</sup>Independent Submission of the Moscow Center for Prison Reform to the Human Rights Committee, July 1995. Amnesty International is not aware of any investigation of the report on ill-treatment.

General of the Russian Federation recognized that this decree was unlawful,<sup>16</sup> but since then sources have suggested that it may remain in force in some places.

On the basis of a similar MVD order and in violation of the law, new special departments were established in some penitentiaries to punish prisoners "actively opposing prison administration" or who had committed no disciplinary offence but in the opinion of the administration "had a negative attitude to prison authority": these departments were called "local preventive zones" and "inter-regional common cell-type premises".

#### 7. The new Criminal Code of the Chechen Republic: the coming of *Shari'a*

In August 1996 a peace agreement ended the hostilities in the armed conflict in the Chechen Republic.<sup>17</sup> It was reported that a new Criminal Code had been introduced by a presidential decree but that after several months, toward the end of 1996, another presidential decree had prevented its implementation. Members of the Human Rights Centre Memorial had tried to obtain without success copies of these decrees during a trip to Chechnya in late 1996. Many observers fear that although implementation was stopped the new Criminal Code continues to be used by some local procurators and judges who were believed not to be informed about the second presidential decree.

According to reports in February 1997, a special Chechen government commission had been set up to revise the existing Code and make appropriate amendments in order to, on the one hand preserve the spirit of the Islamic

law, and on the other hand, to "soften" some of the harsh punishments provided for in the law.

In essence, the new Code is a legal document which introduces the rules and regulations of the Islamic religious tradition, the so-called *Shari'a* law, into the judicial practice of the Chechen Republic. According to press reports, the former acting Chechen President, Zelimkhan Yandarbiyev, said on 21 January 1997 that, "Chechnya will be an independent Islamic state based on the *Shari'a* law". The *Shari'a* legal code was one of the key issues of the presidential election campaign in January 1997. Much of the debate about the role of Islam was focused on the *Shari'a*, the traditional Islamic legal code that is strictly enforced in many Muslim countries.

Under the August 1996 peace agreement the region's final political status has been deferred for five years but the Chechen leadership has insisted upon Chechnya's independence from the Russian legal and governmental institutions, including the laws of the Russian Federation. According to reports, a number of Chechen officials have stated that Russian laws may be applied as long as they do not contradict the Chechen laws. On the other hand, technically, Chechnya is still a part of the Russian Federation and Russian federal laws are applicable. In sum, regardless of its legal status, the Chechen Republic is still obliged to observe all international human rights and humanitarian law standards, which always take precedence over national legislation.

While the question of implementation of the new Criminal Code remains legally and practically unsettled, Amnesty International is deeply concerned about the large number of provisions in the Code with punishments which violate the prohibition of torture and ill-treatment, including the number of offences which carry the death penalty.

A number of articles in the Code provide for a variety of corporal punishments, in violation of the prohibitions of torture and ill-treatment in the ICCPR and the UN

<sup>16</sup> Statement of Yu. Szherbanenko, senior deputy Procurator General. See *Outcoming*, No. 17/491-94, 1 July 1994.

<sup>17</sup> Shortly after that, on 6 September, a new Chechen Criminal Code was published in Grozny by the newspaper *Ichkeriya*.

Convention against Torture. Article 168(b) provides for amputations of the right hand from the wrist and the left leg at the ankle for a theft or a robbery. A number of articles provide for corporal punishment in the form of caning:

Article 47(b) provides caning "for educative purposes for minors over the age of 10". Caning is also the punishment for an act of "consensual sodomy" (which is defined as any "anal sexual intercourse between a man and a woman or a man and a man") for first time and second time offenders as prescribed in Article 148(a)(b); for adultery if the person was not chaste (Article 146(1)(b)); for rape (Article 149); indecent behaviour (Article 151); conduct insulting public morality (Article 152); materials (pornographic publications, films, etc.) and demonstrations insulting public morality (Article 153); debauchery (and prostitution) (Article 154); operating places of debauchery (Article 155); seduction (Article 156); slander relating to adultery, sodomy, rape, incest and debauchery (Article 157); for robbery (Article 173); for stealing (Article 174(2)); for creating public disturbance in relation to the use of alcohol (Article 78); for gambling or operating gambling establishments (Article 80(1)); for publicly insulting or humiliating any religion or its symbols or its prophecy (Article 125).

Amnesty International is gravely concerned about a number of provisions in the Criminal Code which provide for capital punishment. This is especially worrying in the light of the continuing efforts of the international community toward abolition of the death penalty in the Russian Federation as part of its commitments given upon accession to the Council of Europe in 1996. According to Article 27(1) of the Code, the death penalty could be used either as a punishment under the *Shari'a* law, or for those crimes which fall into the category of "eye for an eye". Some of the most severe punishments are included in the category of "eye for an eye". Article 30(4) provides for multiple amputations of parts of

the body of the accused if one or several of his victims so desire. The number of amputations of his body parts could be a summary of the amputations that he conducted to many different victims.

The death penalty could be applied also for exemplary purposes and the body of the executed prisoner might be exhibited publicly (notably for robbery).

Furthermore, the Chechen Criminal Code introduces new types of executions for prisoners sentenced to death, such as decapitation, stoning (for adultery as provided for in Article 146), or "in the way in which the criminal deprived the life of his victim".

The Criminal Code allows for execution of minors for crimes under the *Shari'a* law, and under the category of "eye for an eye". Women are not spared from the death penalty and no special exemption is provided for pregnant women or mothers of many children.

The death penalty is the punishment also for acts of sodomy, when the person is convicted for "an act of sodomy for the third time" (Article 148(c)); and for a theft or a robbery (Article 168(a), which in some cases is accompanied by public exhibition of the body after the execution).

The death penalty is also the punishment for apostasy (Article 126) when "a Muslim propagates the idea of rejecting the religion of Islam".

On 28 February 1997 Radio Russia reported that the Chechen Interior Ministry has set up a special department to investigate crimes connected with kidnapping. The republic's Interior Minister, Kazbek Makhachev, claimed this form of crime was particularly dangerous to Chechen society. Appropriate changes have reportedly been made to the republic's legislation. Chechen President Aslan Maskhadov issued a decree stipulating the death penalty or life imprisonment for kidnapping. It was reported

that such cases would be considered by the *Shari'a* court which was being set up.

## II. PATTERNS OF TORTURE AND ILL-TREATMENT: CIRCUMSTANCES AND METHODS

Torture and ill-treatment occur at all stages of detention and imprisonment, and is a feature of life in the Russian army. However, torture has been most often reported during preliminary or pre-trial detention, while the victims are held in police stations or in various types of detention centres, including the "filtration camps" during the conflict in Chechnya. Its main purpose appears to be to intimidate detainees and obtain "confessions". Confessions still play a major role in the criminal justice system in Russia.

Torture often occurs at the moment when a person is detained, immediately after arrest, or during initial interrogation, when police officers try to force suspects to give information about themselves or others, or to admit alleged offences. Torture often occurs in the course of criminal investigations, after a suspect has been charged, to extract "confessions" or sufficient "evidence" to initiate prosecution and trial. Torture may also continue throughout the period of pre-trial detention, which can last for months or years before a detainee is either tried, or released without charge.

Torture and ill-treatment are also common in penal institutions where prisoners are transferred after being tried and sentenced by a court. Prisoners have been subjected to torture by the prison officials or by fellow prisoners on behalf of the prison authorities. The conditions of

detention amount to ill-treatment.

The victims of torture and ill-treatment in Russia come from all walks of life, but those most likely to be ill-treated are the less educated or the less privileged - for instance, ethnic minorities (especially those from the Caucasus), the unemployed, vagrants, workers or peasants, women, adolescents and in some cases, disabled persons.

Torture and ill-treatment on a large scale exists in the Russian army. The torturers are usually older soldiers or the commanding officers. A high suicide rate among new recruits is strongly attributed to the conditions in the army and the pattern of torture.

Overall, one of the reasons for the continuing use of torture and ill-treatment during the years after the breakup of the Soviet Union appears to have been the anti-crime campaigns launched by the Russian government and the President, including the presidential decrees mentioned above.

The most common methods of torture have been beatings, use of electric shock, and the "elephant", "swallow" and "envelope" tortures in police custody. The torture methods "press-camera" and "crucifixion of Christ" have been reported as used in pre-trial detention and in the corrective labour colonies. (For explanations of these methods and for individual cases see the special sections in this report).

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### III. TORTURE AND ILL-TREATMENT IN DETENTION DURING THE ARMED CONFLICT IN THE CHECHEN REPUBLIC

The Russian Law on the State of Emergency provides in Article 27 that "the introduction of a state of emergency may not serve as a justification for the use of torture or cruel, inhuman or degrading treatment or punishment...within the meaning accepted in the International Covenant on Civil and Political Rights".

Although a state of emergency was not introduced in relation to the armed conflict in the Chechen Republic, the provisions of Article 2 (2)<sup>18</sup> of the Convention against Torture have been violated by the use of torture and ill-treatment of detainees in "filtration camps" set up by the Russian federal army. (For more information see *Russia: Armed conflict in the Chechen Republic: Seeds of human rights violations sown in peacetime*, AI Index: EUR 46/10/95, April 1995, and *Russian Federation: Brief summary of concerns about human rights violations in the Chechen Republic*, AI Index: EUR 46/20/96, April 1996.)

Perpetrators of most of the cases of torture and ill-treatment of civilians carried out during the conflict in Chechnya still remain unpunished. According to reports, despite the fact that the Military Prosecutor's Office has received dozens of complaints from human rights groups, no one expects anything more than a few symbolic convictions. In 1995, the group of representatives of the Parliamentary Assembly of the Council of Europe, which visited Chechnya, expressed similarly pessimistic views on the prospects for bringing

the perpetrators of human rights violations to justice.

#### 1. The draft amnesty law

On 27 December 1996 a draft amnesty law relating to the armed conflict in the Chechen Republic, prepared by a group of Duma deputies, was introduced for debate in the Russian parliament. According to the draft law amnesty would apply mainly to Russian servicemen from the federal forces who took part in the Chechen conflict. Excluded from the amnesty are those convicted under a number of articles of the (old) Russian Criminal Code, including Article 77 (banditry) and Article 103 (pre-meditated murder or bodily harm). However any Chechen who allegedly took part in an armed opposition group could face charges under Article 208 (organization of or participation in an illegal armed formation) and Article 209 (banditry) of the new Russian Criminal Code, and any member of such groups who took part in the fighting during the conflict may be charged under Article 105 (pre-meditated murder) or others, including illegal possession of weapons.

If passed by the Duma, this amnesty law would make impossible the process of exchange of prisoners of war and those detained on both sides. According to reports, there are several hundred Russian soldiers and officers still held in detention by the Chechen fighters who are willing to release them in exchange for members of the Chechen armed groups currently detained by the Russian authorities on criminal charges.

In addition, excluded from the amnesty, according to the draft law, are persons charged under articles of the Russian Criminal Code relating to treason, espionage and terrorism, which casts serious doubt on the procedure for resolving cases of servicemen who evaded service in Chechnya, including cases of desertion from the Russian armed forces during combat operations and cases of conscientious

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<sup>18</sup> Article 2 (2) of the Convention against Torture states that "no exceptional circumstances whatsoever, whether a state of war or threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture."

objection to military service to avoid participation in armed conflict.

The Russian human rights group Memorial, supported by the Committee of Soldiers' Mothers and individual families of Russian soldiers detained in Chechnya, have called for the revision of the draft amnesty law, which if adopted in its present form could endanger the lives and safety of those still detained and would suspend the process of exchange of POWs. Members of Memorial have prepared and offered for discussion an alternative draft on amnesty.

## 2. "Filtration Camps"

The 1996 report of the Russian Presidential Commission on Human Rights (covering 1994-1995) states that during the period up to 25 January 1995, when the majority of detentions took place, civilians were detained and brought to the "filtration camps" without being officially charged or their detention acknowledged in any way. Beginning in February 1995, when detention orders began to be written up in some instances, they were processed in violation of existing Russian laws. In the majority of cases, the orders contained references to the Russian President's Decree "On Measures to Prevent Vagrancy and Begging" of 2 November 1993, which, in violation of the law, was applied to legal residents of the Chechen Republic possessing proper identification papers.

According to official information, a total of 1,325 persons passed through the "filtration camps" between 11 December 1994 and 22 July 1995. During the summer of 1996, according to witnesses, every Russian army checkpoint in Chechnya had a common list of 958 names of people wanted for "filtration",<sup>18</sup> and in addition every checkpoint had created its own list of local residents to be detained and transferred to "filtration camps". Often, detained civilians from the "filtration camps" were exchanged for Russian soldiers who had been

taken as prisoners of war (POW). For example, in April 1996, a large group of civilians from the "filtration centre" in Grozny were exchanged for Russian POWs. Prior to their exchange, they were ordered to sign a document stating that they were taking part in the exchange voluntarily and they had no claims against the administration of the "filtration camp".<sup>19</sup> In some cases detained civilians, including women and children, were used as "human shields" by the Russian troops, such as reportedly in the village of Samashki in March 1996. There have been reports of widespread beatings and torture, including electric shocks, of detainees held in such camps throughout the war in Chechnya. None of these cases are known to have been officially investigated.

In July 1995 the Human Rights Committee noted in paragraph 29 of its Comments: "The Committee expresses deep concern about the large number of reported cases of torture, ill-treatment of the person and arbitrary detention in 'reception centres' or 'filtration camps', which were originally established to determine the identities of captured combatants but are reported to accommodate large numbers of civilians as well. It deplores the maltreatment of detainees in these centres and is concerned that the International Committee of the Red Cross (ICRC) has not been given access to all such camps."<sup>20</sup> The Committee, in paragraph 42, urged the Russian government "to ensure that all persons held in detention are held for legitimate cause, for a reasonable period of time, and under humane conditions, in conformity with the State party's obligations under the Covenant." Amnesty International is unaware of any effective steps to implement these recommendations.

<sup>18</sup> See *The Seizure of hostages and the use of civilian population by federal troops of Russia as a "human shield" during the armed conflict in Chechnya*, report of the Memorial Human Rights Centre, October 1996.

<sup>19</sup> See *Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant. Comments of the Human Rights Committee, Russian Federation*, UN Doc. CCPR/C/79/Add.54, 26 July 1995.



According to reports, **Magomed Maksharipovich Meyriyev**, an ethnic Ingush, was punched, kicked and beaten with rifle butts and truncheons by Russian soldiers at various locations, including Mozdok and Pyatigorsk camps, while detained from 3 January to 15 February 1995. He was also attacked and bitten by an Alsatian guard dog, which was set on him by the Russian soldiers. He was eventually released with 14 other people who had also reportedly been beaten.

According to witnesses, **Hasan Khamidov**, from the village of Terskoe, was subjected to torture while he was detained at the "filtration camp" in Mozdok in January 1995: the Russian guards, reportedly, cut his feet with a bayonet blade and burned him with cigarettes. Ruslan Hajiev, a bank official from Grozny, was also reportedly beaten with a club about the head during interrogation at two locations, the camps in Mozdok and Stavropol, in January 1995. He reportedly lost his sight as a result of the beatings.

Another resident of Grozny, **Magomed-Rashid Akhmetovich Pliev**, an Ingush journalist, was reportedly subjected to electric shock torture during his detention in the "filtration camp" in Mozdok in January 1995. The Russian soldiers who interrogated him tried to force him to confess to being a fighter. He was released on 24 January 1995.<sup>21</sup>

In early March 1996, during an attack on Sernovodsk by Russian federal troops, men between the ages of 16 and 55 were not allowed to leave the town freely under any circumstances, but were moved to "filtration camps".

### 3. Other cases of ill-treatment

The body of 32-year-old Russian journalist **Nadezhda Chaykova** was found on 30 March

1996 in a shallow grave near the Chechen village of Gekhi, about 20 km outside Grozny and was

exhumed on 12 April when Moscow journalists made a positive identification of her. She had been missing since 20 March. Nadezhda Chaykova, a correspondent for the respected weekly newspaper *Obshchaya Gazeta*, had been investigating the alleged embezzlement of money earmarked for the reconstruction of the Chechen Republic's economy. In 1995 she had published material in the newspaper *Ekspress-Khronika* which claimed that commanders from the Russian federal forces, representatives of the Chechen Government and commanders loyal to rebel leader Dzhokar Dudayev were involved in the misappropriation of funds. She had reportedly received anonymous warnings to stop her investigation if she wished to stay alive. According to the results of a post-mortem examination, Nadezhda Chaykova had been blindfolded, severely

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<sup>21</sup>These cases were reported by the Human Rights Centre "Memorial" in 1995.

beaten, forced into a kneeling position and killed by a bullet in the back of the head. She had last been seen on 20 March by fellow reporters who claimed that she was heading for Samashki and had plans to disguise herself as a Chechen peasant woman in order to cover the Russian federal army's operation there.

Amnesty International believes that Nadezhda Chaykova may have been the victim of an extrajudicial execution or deliberate and arbitrary killing. A local official and a note written by Nadezhda Chaykova reportedly pointed to the Russian federal troops as the perpetrators, but other sources reportedly indicate that Chechen leaders themselves may have ordered her execution, believing that she was a spy and perhaps acting on rumours spread by the FSB.

In July 1996 Amnesty International received an official reply from the Office of the Procurator General of the Russian Federation in respect of this case. In the letter, dated 24 June, the Assistant Procurator General, V. I. Mishin, stated that "a criminal case and an investigation have been opened into the circumstances of the death of Nadezhda Chaykova... and measures have been taken to ensure that the perpetrators of this crime are identified." In addition, the letter stated that the investigations were under the control of the Office of the Procurator General of the Russian Federation.

Amnesty International has received no further information on the progress of this investigation so it is not possible to determine whether the investigation is consistent with international standards requiring thorough, prompt and impartial investigations of such deaths, such as the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

The body of Nadezhda Chaykova was found in a shallow grave on 30 March 1996. She had been severely beaten and killed by a bullet in the back of the head.

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### Chechen fighters

In August 1996 Amnesty International expressed its concern to Chechen forces about allegations that civilians had been held hostage and ill-treated during detention. **Father Sergey Zhigulin** and **Father Anatoly Chistousov**, both priests of the Russian Orthodox Church, were said to have been seized as hostages while in the Chechen Republic undertaking pastoral work. Although Father Zhigulin appears to have been held initially on suspicion of being an agent of the Russian Federation Security Services, both priests subsequently appear to have been held solely as hostages in order to secure the release of Chechen prisoners held by Russian forces. Father Zhigulin is said to be a church official in charge of contacts with the Moslem community. He was in the Chechen Republic as part of a special mission to facilitate joint church relief work, and as a personal envoy of the head of the Russian Orthodox Church, Patriarch Alexey II. Amnesty

International understands that Father Chistousov is dean of the Russian Orthodox Church in Grozny, and had previously served as an army officer before resigning to become a priest in 1990.

Father Zhigulin is said to have been released after 160 days, and to have made his way to the hospital at the Russian military base of Khankala outside Grozny. No further reports of the fate of Father Chistousov have come to light.

Reports have described Father Zhigulin on his release as looking "emaciated and pale" with "festering wounds inflicted by Chechen whips and rods". Father Zhigulin himself alleges that he was tortured during long interrogations by Chechens while in captivity in the village of Stariye Atagi.

#### 4. Rape

Soldiers in Chechnya have allegedly detained and raped women. In January 1995 four masked Russian soldiers reportedly entered the house of **Olga Sokulova** in the village of Assinovskaya, ransacked it and raped her. No investigation has taken place.

It was reported that a **young woman**, displaced from her home by the conflict was abducted and raped by several inebriated Russian soldiers in Sernovodsk in early October 1995. According to reports, there have been some cases of use of rape by Russian forces as a form of punishment against residents of villages which were believed support the Chechen fighters.

#### 5. Alleged torture and ill-treatment by the

***"...Rape is an especially traumatic form of torture".***

Professor Nigel Rodley, UN Special Rapporteur on torture

Father Zhigulin has further been quoted as saying that Chechen forces were continuing to hold dozens of Russian civilians as hostages, including construction workers and engineers. These, he said, "are subjected to physical violence and humiliation, and many of them die from exhaustion before they even catch a glimpse of hope for release". Amnesty International urged the Chechen forces to release all civilians taken hostage and to investigate allegations of ill-treatment in detention.

The Deputy Procurator General of the Russian Federation told the Committee against Torture on 12 November 1996 that:

"in the period from January to August 1996 the

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While giving statistics about cases under consideration by the authorities in the context of the conflict in the Chechen Republic, the Russian Government delegation did not provide any clear indication of how many law enforcement officials and military personnel have been investigated and prosecuted for the use of torture and ill-treatment toward detainees, including those held in "filtration camps" during the conflict.

IV.  
TORTURE AND ILL-TREATMENT  
OF BY THE POLICE

Amnesty International has received numerous reports of torture and ill-treatment of criminal suspects in police custody throughout the Russian Federation. The report of the Russian Presidential Commission on Human Rights for 1994 and 1995 noted that in 1994 more than 20,000 Interior Ministry employees were disciplined for breaking the law when conducting investigations and interrogations, and there was reason to believe that this figure seriously underestimated the real scale of violations. This figure did not indicate how many of these violations involved torture and ill-treatment. The number of officials charged with unlawful detention, the use of force against suspects and witnesses, and the falsification of evidence, had almost doubled since previous years. The Commission concluded that, under the guise of fighting crime, there was a tendency to expand the powers of security and law enforcement agencies to the detriment of Constitutional rights and guarantees.

### 1. Targeting members of ethnic minorities

Members of ethnic minorities are particularly vulnerable to possible ill-treatment in police custody. Amnesty International is concerned about the apparent pattern of persecution and ill-treatment of members of ethnic minorities, specifically those from the Caucasus, by law enforcement officials in Moscow and elsewhere in the Russian Federation, and by the fact that the authorities do not appear to have investigated complaints of such treatment. In its Comments the Human Rights Committee in paragraph 23 expressed its concerns "at reports of harassment shown towards persons belonging to minority groups from the Caucasian region taking the form of search, beatings, arrests and deportation."<sup>22</sup>

**For example, on 14 May 1996 Amnesty International approached the Russian authorities about two incidents of alleged ill-treatment of ethnic Chechens in Moscow and the subsequent detention of two of them. Neither incident appears to have been investigated.**

**It has been reported that on 22 March, at around 9pm, between 10 and 13 armed masked men in camouflage uniforms led by a police officer without a mask entered an apartment at Onezskaya street without identifying themselves. The apartment was home to two Chechen families, a total of five adults and six children, all displaced from their homes owing to the conflict in the Chechen Republic. The armed men allegedly took away the passports of the adults and for no apparent reason started beating the men, kicking them and hitting them with truncheons and gun butts.**

**According to the victims, they were beaten for an hour in front of their wives and small children. The officer in charge allegedly also hit one of the women, Raisa**

**Abdurahmanovna Gunayeva**, and threats were made to beat the other women. It was reported that one of the children, **A. Takayeva**, aged 12, who had just been released from hospital, went into shock and needed emergency medical help. The armed men allegedly cut off the telephone line and did not permit the Chechens to call for an ambulance. They also allegedly threatened to kill everyone in the apartment because they were of Chechen origin. According to the victims, **U.A. Akayev** was threatened that he would be killed for his public opposition to the war in Chechnya, including participation in anti-war demonstrations.

Medical personnel allegedly refused to send an ambulance to assist the victims for two days after the incident. Only on 25 March at 3pm an ambulance reportedly came and took one of the victims, **Salambek Hamzatov**, to city hospital No 67, where he was admitted with serious bruises and broken ribs resulting from the beatings. The doctors reportedly refused to register the wounds and bruises of the rest of the Chechens and to assist them. However, on the same day the Chechen families managed to get a consultation with the district physician. Shortly after the incident, the whole group of Chechens reportedly moved out of Moscow to another city, fearing for their lives and hiding from further persecution.

Another incident concerned the treatment of two Chechens, residents of Urus-Martan in Chechnya, but who had fled the fighting to Moscow: **Said Selim Bekmurzayev**, aged 52, a factory director, a father of five children and an opponent of President Dudayev's government, and his son **Sultan Bekmurzayev**, aged 24, a student at the State university in Grozny, who were allegedly beaten at their apartment and then detained on 23 April 1996 in Moscow by officers of RUOP. They were held on the premises of the Moscow City Department of Internal Affairs on Petrovka, 38.

According to reports, at 3pm on the day they were detained about 10 masked and armed men entered the home of the Bekmurzayevs at Golubinskaya street and without identifying

<sup>22</sup>See *Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant, Comments of the Human Rights Committee, Russian Federation*, UN Doc. CCPR/C/79/Add.54, 26 July 1995.

**Saidkhamzat Abumuslimov. He and his friends were reportedly beaten by members of the OMON special police force in June 1996.**

themselves or showing any order from the procurator began severely beating the father and son and accusing them of collusion with the Chechen fighters. According to Diznat Bekmurzayeva, Said's wife, who witnessed the attack, her husband and son were hit repeatedly on the head with the handles of pistols and the butts of machine-guns by the masked men, who later took them to an unknown destination. The family heard nothing about their whereabouts until 30 April, when they received information that the two were being held under Presidential Decree No. 1226 at the Moscow City Department of Internal Affairs and had not been charged with any criminal offence.

Another example is the case of **Saidkhamzat Abumuslimov; Adam Saigatkhadzhev; Andi Vagapov and Adnan Abumuslimov**. Amnesty International received reports that these four Chechens were beaten in a Moscow apartment on 17 June 1996 by 15 armed men, reportedly officers of the special police force (OMON). According to the victims,<sup>23</sup> **at around 8.30pm the officers, in**

**masks and carrying assault rifles, broke into the apartment of Saidkhamzat Abumuslimov, a student, which he rents with relatives. When the group entered the room he had a guest, Adam Saigatkhadzhev, with him. The officers are said to have immediately begun beating them; first they threw the two Chechens on the floor and then put them with faces against the wall and handcuffed them. Some of the officers reportedly began questioning the Chechens about who they were, where they came from and why were they not fighting in Chechnya. According to reports, at about 10pm a third man named Andi Vagapov visited the apartment and he was also beaten up and handcuffed. Shortly after 10pm, Saidkhamzat Abumuslimov's cousin, Adnan Abumuslimov, rang at the door, having returned from a walk. The officers allegedly dragged him into the room, handcuffed him and began to beat him as well. Reportedly, the Chechens were held constantly facing the wall, in handcuffs. They were not allowed to turn their heads and were periodically beaten and insulted.**

**On leaving, the group of OMON officers reportedly took with them 230 audio cassettes, about 50 video cassettes with recordings, computer disks, about 400 roubles, a microphone for a Dictaphone and notebooks. The group allegedly did not show any documents of identification, nor did they fill out any papers for the confiscation of belongings. Before leaving, they reportedly filmed all of the Chechens on video camera. According to an eye-witness (a passerby) he saw on the street in front of the building that some armed people had got into a dark blue RAF Mitsubishi with the number 484 KXX. Two independent medical reports documenting the effects of the beatings are available.**

**In another incident, Sultan Kurbanov, a 31-year-old Chechen resident in Moscow was**

<sup>23</sup> Interview with two of the victims in June 1996, in Moscow by Amnesty International.

On their way for the meeting with the representative of Amnesty International, the two men were detained by the police on the street and taken to the police station for a "check up of their identity". They were released after a couple of hours and this time were not physically abused by the police.

arrested on 16 January 1996 by two policemen who came to his apartment claiming he was wanted for questioning at the police headquarters and would be released after two hours. Instead, he was driven to a warehouse depot in the Kuntsevsky district of Moscow, and beaten with truncheons and sticks by about 10 police officers who got out of a bus parked nearby. He was hit repeatedly including on his legs, head and face, by what he described as metal weapons.

Later that evening a woman found Sultan Kurbanov lying "wounded and half dead" in a street in Kuntsevsky district. The local police refused to help her but allowed her to telephone his family. Sultan was then taken to Moscow City Hospital No. 1 by one of his relatives. The relative claimed he overheard nurses saying there had been a directive from the head of the hospital that no one of Chechen origin was to receive medical treatment. The relative then said that Sultan was an Ossetian (another ethnic group from the Caucasus), and he received treatment. He needed stitches for wounds to his face and head.

Two ethnic Armenians, **Ashot and Ruben**<sup>24</sup>, were arrested on the evening of 18 November 1995 in Moscow by officers from the District Department for Combatting Organized Crime (RUOP), at an office on Trifonovskaya street. The two men claimed that they were in the office to collect a debt from a business partner, Elena Ivanova.<sup>25</sup> They reported that on arrival at the office they were arrested and beaten by officers from the RUOP. They were then taken to a police station on Shablovskaya Street, where they claimed they were beaten for about two hours and told to confess to having kidnapped Elena Ivanova, and to intention to commit blackmail.

**During the time at the police station, Ashot was reportedly hung from the ceiling by handcuffs and beaten on the chest in an effort to force him to sign a confession of guilt. Ruben was also beaten when he asked for a translator and a lawyer. Allegedly, the deputy Procurator of Ostankinsky District in Moscow, Yury Meshcheryakov, did not allow Ashot's lawyer to see him until 22 November 1995, nor did he allow him access to materials on the case. The justification given for this was apparently that Ashot had signed a declaration refusing the help of a lawyer.**

**Reportedly, Ashot was transferred to prison hospital No. 20 on 21 November 1995, where he spent three days. He was sent from there to detention centre No. 157, and then to another detention centre. On 27 November 1995 he was readmitted to hospital. Ruben was said to have been in detention centre No 141 for the duration of his detention. His lawyer was allowed to see him on 26 November 1995, and reported that Ruben had been badly beaten around the head. When both men were released from detention, believed to be on 29 November 1995, Ashot was reportedly suffering from a ruptured kidney and three broken ribs.**

Elena Ivanova reportedly withdrew a statement made to police that she had been kidnapped. However, as far as Amnesty International is aware, the criminal charges against Ashot have not been dropped, although apparently no witnesses have been questioned.

Amnesty International has been informed that criminal investigations have been initiated against the officers from the RUOP into the ill-treatment of Ashot in police custody. Ruben decided not to press charges. Amnesty International is greatly concerned at reports that the investigator in this case told Ashot on 26 December that his personal safety could not be guaranteed while **investigations were under way. Ashot feared further persecution.**

<sup>24</sup> The two men requested, for their protection, that Amnesty International not use their real names.

<sup>25</sup> For protection the real name of the woman is also not mentioned here.

The program "Segodnya" on 12 July 1996 showed Mayor Luzhkov having the following conversation with a high-ranking police officer present on the site:

*"Now we have to take actions. We have to take all of them out of Moscow. Everyone. The whole diaspora." Police officer: "Well, if you only allow us -- I will certainly introduce terror on the streets." Mayor Yury Luzhkov: "Yes. The whole Chechen diaspora -- out of here." Police officer: "It's about time we did that, Yury Mikhailovich. You are right -- it's about time." Mayor Yury Luzhkov: "We have warned them many times..."*

a: "This man-made Hell"

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## 2. Statements by Moscow Mayor

Amnesty International fears that a recent statement by the mayor of Moscow further threatens the safety of the city's ethnic Chechen population.

Mayor Yury Luzhkov's remarks were made on 12 July 1996, when visiting the site of a bomb explosion that day on a Moscow bus, and were televised on 12 July on the "Segodnya" program broadcast by the NTV station.

While recognizing the right of the Russian authorities to investigate and bring to justice those responsible for criminal acts, Amnesty International is deeply concerned that the mayor's comments appear to be a verbal agreement and an instruction for action allowing law enforcement officials in Moscow to persecute and instill fear in members of the Chechen ethnic minority residing in the city, solely on the basis of their ethnic origin. The statement may be taken as encouragement of torture and ill-treatment. Given the existing pattern of persecution and the use of torture and ill-treatment of Chechens by the regular police force and the special police units (known as OMON), as well as by officers of the Department for Fighting Organized Crime (RUOP) in Moscow, the mayor appeared to be condoning and encouraging unlawful practices of law enforcement personnel against members of the Chechen ethnic minority.

Amnesty International urged the Mayor of Moscow to publicly clarify his statement regarding the persecution of the Chechen diaspora in Moscow, and to condemn unequivocally any illegal practices by law enforcement agencies toward Chechens in the

city. The organization urged the Russian authorities to ensure the safety and the well-being of all Chechens residing permanently or temporarily on the territory of Moscow or elsewhere in the Russian Federation, and that no one is subjected to persecution and ill-treatment solely on the grounds of their ethnic origin.

## 3. Torture of women, adolescents and disabled people by the police

Victims of torture in Russia are not only the "dark-skinned" members of the ethnic minorities. If this is mostly the case in the big cities such as Moscow and St. Petersburg, reports show that in the provincial towns of Russia torture methods are also used against ethnic Russians, the victims often being adolescents, women and, in some cases, disabled persons. A general feeling of impunity and state protection apparently experienced by the police officers is often the reason why innocent people, sometimes no more than passers-by, become victims of torture and ill-treatment. Reports show that virtually anyone, regardless of their age, gender, ethnicity or profession, is in danger of becoming a victim of police brutality and torture anywhere in the Russian Federation. Below are a few examples from the provinces, only some of which appear to have been investigated by the authorities.

Reports have claimed a pattern of systematic use of torture by the police in the town of Magadan and the Magadan Region. During a visit by representatives of the International Society for Human Rights to Magadan's pre-trial detention centre (hereafter SIZO) SIZO-1 in 1995, **15-year-old A. Stepankovsky** described the torture methods used against him while being questioned at the City Department of Police No. 2 (GOM-2). He was reportedly forced to wear a gas mask and to stand facing the wall, with his hands up and his legs wide open, and in this position the deputy chief of the GOM-2 had reportedly beaten him in the area of his genitals.

In early 1995 a criminal case was opened in Magadan against officials of GOM-2 who allegedly tortured in detention **14-year-old S. Baskakov**. None of the police officers have been tried or convicted to date. The police officers are said to have taken the boy from school at 9am and tortured him until 10pm, when they sent him home. The police allegedly handcuffed him, put a gas mask onto his head, and beat him with boxer's gloves. As a result S. Baskakov was hospitalized with concussion and kidney disfunction.

In August 1995 a criminal investigation was opened against several officials of Magadan's City Department of Internal Affairs (GUV) into the charges of the use of torture against **16-year-old V. Polyakov**. After being beaten at the police department, the officers allegedly took him to a location outside the town, near a swamp, handcuffed and stripped him, and left him hanging on a tree. After an hour, the officers took him to a disused factory and hung him upside down in a well. V. Polyakov has suffered from bronchial asthma since he was five, but from 6pm to 1am during his detention the police reportedly refused to allow him to take his medication.

On the night of the 28 April 1996, **eight adolescents aged 13 - 17** were detained and taken to the police department No. 2 in the city of Nahodka in Primorsky territory. They were detained on suspicion of possession of a pistol, taken on the street from a drunk and aggressive (according to witnesses) official of the local department of the Federal Security Services (FSB). The boys were arrested without a procurator's order and were not given access to a defence lawyer or to their parents during the detention, and the parents were not even informed that their children were held in police custody. The eight adolescents were subjected to torture and ill-treatment by police officers in order to extract false confessions: they were beaten with plastic clubs; kicked; strangled; a helmet was put on their heads and the officers hit them repeatedly over it; and under the threat of a loaded pistol kept pointing at their heads.

they were asked to confess to the possession of the stolen pistol. As a result of the beatings, two of the boys, Kostya Belokrinitsky and Igor Kuleshov, suffered concussion. Igor Kuleshov also suffered kidney damage. The two were questioned and ill-treated repeatedly throughout the night, and during the breaks were kept in a cell together with adult detainees.

The parents of the boys insisted on bringing the two police officers involved in the beatings, Avakyan and Ignatenko, to justice. The internal investigation into the incident concluded that Avakyan and Ignatenko only undertook "the necessary investigative actions." The city office of the procurator opened a criminal case against the two officers, but the investigation concluded that there were not enough evidence to transfer the case to the court. Following a complaint by the parents, the higher office of the procurator of Primorsky territory continued the investigation by sending the parents' complaint to the police department No. 2, where in fact the ill-treatment took place. Only after a series of publications in the press and the attention to the case raised by human rights groups, did the court hearing take place. In May 1996 the city court found Avakyan and Ignatenko guilty of exceeding their authority and undertaking unlawful actions harmful to the well-being of civilians. The court gave the two officers to three-year conditional sentences with a two-year probation period. They were also obliged to pay their victims five million roubles (about US \$1000) each in compensation for "moral and psychological damages".

Torture in police custody is also reported to be widespread in the town of Bryansk. According to official statistics for 1995 48 MVD officials were charged with perpetrating 51 crimes: Twenty-two of them had already been tried, and 8 of them were awaiting trial as of March 1996.<sup>26</sup> **They included the following:**

**According to reports, Boris Yevdokimov and another officer, officials**

<sup>26</sup> See *Komsomolskaya Pravda*, 15 March 1996.

**from the Regional Department of Internal Affairs (ROVD) kidnapped in their car three young girls from a street in the centre of Bryansk in late 1995. Two of the girls subsequently escaped. The third, 15-year-old O.D.,<sup>27</sup> was raped and tortured all night by the two officers. Later, the medical examination of O.D. listed the following injuries: "concussion; haemorrhage of the neck, back and legs; serious injuries to the right hand and the left knee; internal injuries to the soft tissue of the genitals and the rectum; an injury to the right breast; the hymen was broken." During an attempt to escape, O.D. was chased by Boris Yevdokimov, who, when he caught her, cut her breast with a piece of glass.**

In February 1996 the two officers were tried and Boris Yevdokimov was convicted under Article 117-3 of the Criminal Code (punishing the gang rape of an adolescent) and sentenced to five years' imprisonment, the shortest possible term prescribed under this article. The other officer was acquitted. The court justified its verdicts by reference to the exceptional professional record of the accused men: Boris Yevdokimov was a top, award-winning police officer; the other officer was a holder of a special award from the Russian President for his contribution in resisting the coup attempt against Soviet President Mikhail Gorbachev in 1991. He was also the only son and cover of elderly parents, and in accordance with Russian law could therefore be exempted from a prison sentence. Nevertheless, the Office of the Procurator appealed against the district court's decision and the case will be re-examined by the regional court.

In another incident in late 1995 in Pogarsky district, Bryansk region, the police were seeking to arrest the perpetrator of a series of arson attacks on the homes and the property of a number of single mothers and elderly people in the district. According to reports, the

police, desperate to identify the alleged criminal, called on the services of a local fortune-teller. Through reading her cards she had reportedly identified a middle-aged man with brown hair. Following her description the police detained a disabled man named **Vasily Pochtovoy**. He was reportedly detained by three police officers, taken to a location outside the town and severely beaten by two of them. They also threatened to kill him if he did not confess to starting the fires. Later the police officers took Vasily Pochtovoy to the local hospital. The medical certificate listed "concussion; haemorrhage of the face and the neck; injuries to the arm, to the chest and to the right thigh".

In a newspaper interview for *Komsomolskaya Pravda*, Colonel Anatoly Nikitin, the first deputy chief of the Department of Internal Affairs in Bryansk, claimed that all of the reports of torture and ill-treatment in police custody in the city were part of "a campaign to discredit the police".

Police officers in Zhukovsky district, Bryansk region, severely beat a man suspected of theft of a bicycle, according to reports in March 1996. While his hands were handcuffed behind his back they beat him with plastic clubs, wooden bars and their fists. The police officers allegedly played loud music during the beating in order to drown the victim's screams.

In another case, a police officer, Oleg Dubkov, in Bezhetsky district of Bryansk, claimed that he heard **a passer-by** verbally insult him, according to reports of March 1996. He and a colleague allegedly chased the suspect down the street. They reportedly caught someone, took him to a children's playground, handcuffed him and severely beat him.

Not only criminal suspects are victims of ill-treatment. The case of **Maria Chibiryaeva**, a Moscow attorney who was asked to become a defence lawyer for an assistant of a deputy of the City Duma in the town of Dmitrov was reported in March 1996. She arrived in the city's pre-trial detention centre (SIZO) for a meeting with her client, requesting

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<sup>27</sup>The real name of O.D. is not mentioned here for her protection.

in advance a confidential conversation with him, a right provided by the Code on Criminal Procedure. The man was detained on suspicion of stealing a car, although he claimed that he bought the car, not knowing that it had been stolen. During the meeting of the lawyer with her client, she felt that their conversation had been eavesdropped on by the authorities, and she started writing down her questions and getting back the answers written on paper. After the end of the meeting, on her way out of the SIZO, she was stopped by the investigator who ordered her to show him the notes from the meeting, which apparently proved her suspicion that the conversation with her client had been monitored. Maria Chibiryeva refused to hand over the notes and pointed out that this would be a violation of the law which provides for confidential meetings between lawyers and clients. She was threatened and then searched and in the meantime she stuffed the notes in her mouth.

The investigator and a police officer allegedly jumped on the lawyer and began strangling her. They forced their hands in her mouth and took out the pieces of the already chewed notes from the meeting with her client. During this time, the head of the City Department of Internal Affairs (GUVD) arrived in the SIZO and accused the lawyer of "violating the professional ethics", and that "she did not have the right to talk to her client through written notes"; in fact, a right provided for by the Code on Criminal Procedure. He also questioned the lawyer about the case, which is a violation of the client's confidentiality, protected by the Code on Criminal Procedure. She refused to answer and was then taken to the city's procurator, V. Andrushenko, who first ran an identity check on her and later released her.

Maria Chibiryeva complained to the head of the city criminal investigative police department, I. Demidov, and demanded that the notes of her meeting were returned to her. She did not receive an answer to her complaint, but on the third day after her client's detention he was released without any official charges against

him. Maria Chibiryeva and the Moscow Bar Association complained to the Office of the Procurator for Moscow Region. The Office of the Procurator answered that none of the events described by the lawyer took place. The same conclusion was reached by a special commission of the Ministry of Internal Affairs, which investigated the circumstances of the lawyer's ill-treatment. The commission claimed that their conclusion was based on the lack of any evidence, including the notes of the meeting with her client, which could support her claim.

#### 4. Other cases of police brutality and deaths in custody

On 29 February 1996 **Evgeny Lisitsky**, a veteran from the war in Afghanistan, was detained on his way home by the police in Volgograd, together with two other colleagues from the factory he worked in. The police reportedly asked to see their passports and because the men did not carry them, the officers took them to police station No. 7 of the Regional Department of Internal Affairs (ROVD). The two colleagues were released and only Evgeny Lisitsky remained detained. He was handcuffed and beaten by the ROVD officers for two hours and as a result he died in the police station. He was reportedly hit in the chest, while handcuffed behind his back, which is allegedly a special police method of ill-treatment. The cause of death was registered as a "heart failure." In addition, his head was broken and he had heavy bruises on his face and head.

After his death several local organizations of Afghan veterans and soldiers' mothers requested a meeting with the heads of the ROVD to protest the circumstances of Evgeny Lisitsky's death. They claimed that during a meeting with the deputy head of ROVD he threatened that his officers would use "power" against the activists if they gave statements to the press or complained to the higher authorities. The regional Office of the Procurator opened a criminal case against



officials from ROVD and initiated a second expert examination.

The worker **V. N. Ishenko** was detained on 9 February 1996 in Moscow police department No. 42 and kept in custody for three days, during which time allegedly he was beaten and ill-treated repeatedly by the police officers. During the ill-treatment he was asked to confess to a number of crimes, including fraud. After complaints by his wife and lawyer, V. N. Ishenko was released.

On 13 October 1995 in the labour colony UG-42/7 in the Arkhangelsk Region officials of the Department of Internal Affairs reportedly beat the prisoner **Pavel Fedorov** severely. As a result of the ill-treatment several of his ribs were broken. Nevertheless, he was not provided with the necessary medical care. In December 1995 the Arkhangelsk regional Office of the Procurator officially admitted that Pavel Fedorov had been subjected to ill-treatment by prison officials. However, the Procurator claimed that "no serious injuries occurred" and that "based on the circumstances of the incident, the procuracy refuses to open a criminal case."

On 17 February 1996 the younger brother of Pavel Fedorov, **Oleg Fedorov**, fell from the fourth floor of the Arkhangelsk ROVD and died. Oleg Fedorov had been detained by two high-ranking, drunk ROVD officials on the street in Arkhangelsk. He had been interrogated by the two officials for two hours and during questioning had allegedly been severely beaten by them. Oleg Fedorov, reportedly, asked to go to the toilet and threw himself out through the window.

After the incident a criminal investigation was opened against the two law enforcement officials and they were charged under Article 171(2) of the Criminal Code for "exceeding of power." In March 1996 the Department of Internal Affairs (UVD) reportedly announced publicly the dismissal of the two officers for "serious violations of the professional discipline". In May 1996 the

regional Office of the Procurator decided to close the criminal investigation into the case for lack of evidence.

5. Torture methods *slonik* (elephant), *lastochka* (swallow) and *konvert* (envelope)

Yury Dikhtyarenko claimed: "I was handcuffed and beaten from behind on the head and the neck, then they turned me around and I was beaten on the face and the chest and all over the body. Then they took off my clothes and tried to force a chair leg in my rectum. They forced a gas mask onto my head and cut off the air supply until I was suffocating. "

*Torture in Russia: "This man-made Hell"*

The torture method *slonik*<sup>28</sup> is widely practised by police to force confessions, according to reports. A gas mask is put on the suspect. The flow of oxygen is restricted or cut off repeatedly until the suspect suffocates and agrees to confess. There are reports that in some cases tear-gas has been forced through the pipe of the gas mask until the suspect vomits inside the mask. In these cases the officers allegedly often took off the mask and showed the suspect his face in order to humiliate him.

The office of the procurator in Saransk's Leninsky district instituted criminal proceedings for premeditated murder against a police officer in the case of the death of 19-year-old Oleg Igonin, who had a heart attack and died while being subjected to *slonik* in July 1995.

On 6 October 1995 police detained three warehouse guards in Magadan, **Oleg Kovalenko, Konstantin Yunak and Yury Dikhtyarenko**, without an explanation and later accused them of resisting arrest. They were taken to the City Police Department No. 1 (GOM-1) and allegedly tortured by police officers. At the court hearing, the judge gave each man five days' administrative arrest on charges of hooliganism, despite witness accounts which claimed their innocence. Each day they were about involvement in theft, during which they were reportedly tortured.

**Oleg Kovalenko** described how he was beaten, had his hands handcuffed behind his back and then a gas mask forced onto his head by four or five police officers. Then they cut the air supply in the gas mask and watched while he had convulsions and lost consciousness. He was subjected to *slonik* for one and a half hours.

**Konstantin Yunak** was badly beaten. A medical report of 12 October 1995, after his release, referred to "injuries caused by torture".

The three men were tortured repeatedly for several days. Then the regional court ordered a new investigation into their case and ordered their release. A criminal case was opened against several police officers (two of them went into hiding) regarding their involvement in the alleged torture of Oleg Kovalenko, Konstantin Yunak and Yury Dikhtyarenko.

The torture method *lastochka*<sup>29</sup> is often used in combination with *slonik*. The suspect's hands are handcuffed behind the back, above the level of the head, whereby the victim's back is arched painfully and he is secured in this position. Often the suspect is hung from the ceiling by handcuffs and beaten in this position. In the torture method *konvert* the victim's legs are pulled up to his head and he is secured in this position. All three torture methods have been reportedly used on detainees by the police officers in the Republic of Mordovia.

## 6. Torture in Mordovia: an official policy

In the Republic of Mordovia a pattern of torture and ill-treatment in police custody has occurred. In a number of cases detainees have reportedly died as a result of torture.

Amnesty International has approached the Russian authorities repeatedly regarding reports that law-enforcement agencies in the Republic of Mordovia have systematically subjected people detained under investigation to torture or cruel, inhuman or degrading treatment.

For example, five staff members of the "Gepard" company were arrested in August 1994. To obtain confessions of criminal acts from them they were allegedly subjected to torture by members of the Criminal Investigation Department (CID) of the Ministry of Internal Affairs. **Aleksandr Voevodin**, for instance, was

<sup>28</sup>This torture method is called "elephant" because of the resemblance of the suspect's position while wearing a gas mask to the animal.

<sup>29</sup>The term "swallow" was created by association of the suspect's position with a flying swallow.

said to have been beaten on his genitals and to have been subjected to *slonik*: he was forced to put on a gas mask, the air supply of which was then shut off. Reports also said that he was taken to a forest where CID officers threatened to hang him.

**Nikolay Andreevich Abramov**, who was arrested on 11 April 1994 on charges of stealing a tractor, was also reportedly subjected to torture and ill-treatment by members of the CID. They are said to have beaten him and to have subjected him to the *konvert* and *lastochka* methods. In connection with his case other people were arrested, allegedly in order to force them to testify against Nikolay Abramov. One of these men, **Aleksandr Derkayev**, was reportedly beaten with truncheons and as a result sustained a broken rib.

**Andrey Evgenyevich Arekhin, aged 16**, was arrested on 14 November 1994 on charges of arson. He was taken to the Department of the Interior Ministry of the Leningrad district in Saransk, where he claims he was forced to confess to a crime he did not commit. He was beaten on his legs, his chest and in the area of his kidneys. Members of the Department of the Interior Ministry of the Leningrad district are also said to have forced him to put on a gas mask and then shut off the air supply.

**Dmitry Bogdankevich and Vladimir Firsov, both 16 years old**, were arrested on 24 November 1994 on suspicion of murdering a class mate. They were both taken to the Leningrad district Department of the Interior Ministry where they claim they were subjected to torture and ill-treatment during questioning. Dmitry Bogdankevich was released after 16 days. Vladimir Firsov was taken to hospital where a doctor is said to have found contusions of the spine and left hip joint which were officially ascribed to a fall from the second floor.

On 22 August 1994 **Aleksandr Vladimirovich Ashenkov** was arrested and taken to the Leningrad district Department of the

Interior Ministry. There he claimed to have been punched in the face by the procurator of Saransk who broke one of his upper teeth. During questioning he reports that he was beaten, kicked and otherwise ill-treated by two militiamen and was forced to write a confession.

Duma deputy Gleb Yakunin officially asked the Procurator General of the Russian Federation for a reaction to these allegations. In his reply the Procurator General wrote that criminal proceedings had been instituted under Article 171, part 2, of the Criminal Code against five Interior Ministry staff members in the case of Nikolay Abramov and Aleksandr Derkayev. Criminal procedures had also been instituted under Article 171, part 2, in the case of Dmitry Bogdankevich and Vladimir Firsov. The Procurator General stated that this case was being investigated by the district procurator's office and that the Procurator's Office of the Republic of Mordovia had taken over from the Lyambirsky district Procurator's Office the case of the staff members of the "Gepard" company and that the allegations of torture and ill-treatment, made by the relatives of the suspects, were being dealt with during the investigation.

In addition, the Procurator General wrote that in the case of Andrey Arekhin the Procurator's Office in the Leningrad district of Saransk in December 1994 had not found any confirmation of the fact that he was ill-treated. Moreover, Andrey Arekhin withdrew his allegations during the investigation. Regarding the case of Aleksandr Ashenkov, the Procurator General wrote that the Republic of Mordovia's Procurator's Office did not institute criminal proceedings because of lack of *corpus delicti*. In April 1995 Amnesty International asked the Procurator General whether he was satisfied that these investigations had been exhaustive and impartial.

In July 1995 Amnesty International received a reply. The Procurator General stated that on 13 January 1995 the Office of the Procurator of the Republic of Mordovia had

opened a criminal investigation into the allegations of ill-treatment of Vladimir Firsov in police custody. The investigation was later closed for the lack of evidence. The Procurator General claimed that the decision to close the criminal proceedings in this case was correct. In addition, he claimed that the decision taken by the Office of the Procurator of the Republic of Mordovia to refuse to open a criminal case regarding the alleged ill-treatment of Aleksandr Ashenkov was correct. He also wrote that the Procurator of the Republic of Mordovia had been asked to prepare a special report to the MVD in connection with "the violations of legality by police officers in the republic and in connection with the fact that the leadership of the MVD of the Republic of Mordovia has failed to undertake urgent measures in this respect."

Nevertheless, reports of torture of detainees in Mordovia continued. On the night of 26 July 1995 19 year old **Oleg Igonin**, died in custody as a result of alleged torture by officials of the Leninsky District ROVD in Saransk. Oleg Igonin was reportedly detained and questioned for about an hour. He was allegedly subjected to *slonik*. The medical examination concluded that Oleg Igonin was strangled by hands, and did not die as a result of the *slonik* torture. On the same day the Office of the Procurator detained four ROVD officials on charges of participation in the murder of Oleg Igonin. Two of the officers were reportedly released during the investigations. In December 1995 it was reported that the criminal investigation into the case had been completed and two of the officials were awaiting trial. The two police officers charged with Oleg Igonin's murder had been reportedly charged previously in criminal cases concerning alleged torture and ill-treatment of detainees.

On 23 October 1995 Aleksandr Kosov, Mordovia's Minister of Internal Affairs, was dismissed and transferred to another position, after the Procurator General and the Minister of Internal Affairs of the Russian Federation admitted the existence of "criminal acts by

police officers" in the republic and the inaction of the leadership of the MVD in Mordovia to eliminate these acts. However, the Procurator General publicly stated in November 1995, that "the murder of Oleg Igonin in the offices of Leninsky ROVD in Saransk is an extraordinary incident," and not part of a pattern of torture and ill-treatment.

## V. TORTURE AND ILL-TREATMENT IN PRE-TRIAL DETENTION. PRISON CONDITIONS: "HELL ON EARTH"

### 1. Conditions of detention amounting to torture

The conditions in many prisons, particularly for those awaiting trial remain appalling and amount to cruel, inhuman or degrading treatment. Some prisoners have waited years in such conditions for their cases to come to court. Speaking of two such prisons in Moscow the UN Special Rapporteur on Torture, who visited in July 1994, said: "The senses of smell, touch, taste and sight are repulsively assailed. The conditions are cruel, inhuman and degrading; they are torturous".<sup>30</sup> **The UN Special Rapporteur recommended in paragraph 77 of his "Recommendations for immediate action" that:**

"the Government of the Russian Federation...remove from confinement in centres of detention on remand (isolators) all 71,000 detained in excess of the officially proclaimed capacity of existing institutions."

Further, in paragraph 78, he recommended that:

See "Report of the Special Rapporteur, Mr. Nigel S. Rodley, submitted pursuant to Commission on Human Rights resolution 1994/37," Commission on Human Rights, 51st session, 16 November 1994. UN Doc. E/CN.4/1995/34/Add.1, para.71.

An inmate of Butyrka Prison, in Moscow, wrote in a letter in 1995: *“Several times I felt so bad that I prayed to God to let me die. I somehow believe that hell cannot be as terrible as this man-made one. God, after all, is merciful, unlike people...”*

: *“This man-made Hell”*

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“this recommendation should be put into effect by Presidential Decree if necessary. It could probably be achieved by ordering the release pending trial of all non-violent first-time offenders, any remaining overcrowding could be eliminated by opening up, on a temporary basis, indoor stadiums or other comparable public places, and transferring the excess population to such places.”

In paragraph 79, the Special Rapporteur recommended that:

“much greater use should be made of existing provisions in the law for release of suspects on bail or on recognizance (signature), especially as regards suspected first-time non-violent offenders. Instructions or guidelines to this effect should be given by the Minister of the Interior to investigators from the Ministry; by the Procurator General to State, regional and local procuratorial investigators and supervisory prosecutors, and by the Minister of Justice and the Supreme Court of the Russian Federation to all judges handling criminal cases.”

Nevertheless, prisons continue to be grossly overcrowded and thousands of prisoners have no individual bed and have to sleep in two or three shifts, often without bedding. Many cells are filthy and pest-ridden, with inadequate light and ventilation. Food and medical supplies are frequently inadequate. The insanitary conditions mean that illness spreads rapidly; lung, circulatory and skin diseases, especially tuberculosis and scabies, are widespread. Mental illness is also common. In the pre-trial detention<sup>31</sup> of

centre SIZO “Matrosskaya Tishina” in August 1995, 140 prisoners were crammed into 70 square metres in a cell designed to hold 35 inmates. Such inhumane overcrowding is the norm in Russian prisons.

For example, in July 1995, **11 prisoners** died of heat-stroke in an overcrowded prison in Novokuznetsk, Kemerovo region. Up to 25 people were being held in cells meant for 10 and the air temperature rose as high as 48° to 51°C. An attempted mass suicide had occurred at the jail in the previous year in response to fierce beatings taking place there.

However, the most severe problems exist in pre-trial detention. In October 1995 as many as 274,700 people were being held in remand centres throughout Russia. The system was designed to hold only 173,885. In March 1995 some 39,070 people (15,6% of all persons detained) were kept in SIZO in violation of the procedure stipulated by law. Women were 4.8% of the SIZO inmates and 6.6% were juveniles.<sup>31</sup>

<sup>31</sup> Official MVD sources of information: statement of Yu. Kalinin, head of the MVD’s Central Directorate for the Execution of Punishment (GUIN), 20 March 1995.

Grossly overcrowded and insanitary conditions, as here at the pre-trial detention centre SIZO "Matrosskaya Tishina" near Moscow, where 140 prisoners occupy a cell designed for 35, are a feature of many Russian prisons.

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**In September 1994 a member of the President's legal advisory board estimated that several thousand people had been arrested illegally over the previous two years, that one out of every three persons arrested was denied the right to legal services, and that 70% of detainees were held for terms three to five times longer than necessary while awaiting sentencing. For example, the Moscow Center for Prison Reform reported a case of a woman detained and accused of stealing three cucumbers. She was kept in SIZO awaiting her trial. This case was also brought to the attention of the Council of Europe's expert group. In addition, the Moscow Center for Prison Reform has collected hundreds of cases of people detained for allegedly attempting to steal items such as 10,000 rubles (\$2); three bananas; a stick of sausage; kitchen rowdy; an antique watch; four jars of cucumbers; two jars of jam; etc. Such people spend on the average 10 months in pre-trial detention.**

overcrowded and insanitary conditions, as here at the pre-trial detention centre SIZO "Matrosskaya Tishina" near Moscow, where 140 prisoners occupy a cell designed for 35, are a feature of many Russian prisons.

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*"The conditions in our pre-trial detention centres can be classified as torture under international standards. That is, the deprivation of sleep, air, and space."*

*"...I have to confess that sometimes official reports on prisoners' deaths do not convey the real facts. In reality, prisoners die from overcrowding, lack of oxygen and poor prison conditions. Cases of death from lack of oxygen took place in almost all large pre-trial detention centres in Russia..."*

Yury Kalinin, head of GUIN, 1995

*"If we do not take urgent measures, the situation could provoke a social explosion."*

Yury Skuratov, Procurator General of the Russian Federation, 3 March 1997

Reports from SIZO in the city of Irkutsk revealed the following cases: **Elena Voronina**, mother of two small children and without a previous criminal record, was detained and charged with stealing five kilos of biscuits; **Andrey Rycher**, aged 15, was charged with attempting to steal 23 loaves of bread; **Lesha Zelenkov**, aged 14, was arrested in April 1996 for stealing a bicycle; **Borya Bratchikov**, aged 16, was convicted and received two and a half years' imprisonment for stealing three hamsters from a pet shop.

General Yury Kalinin, head of GUIN said in an interview for Radio Liberty, that 65% of SIZO prisoners do not get to correctional institutions because the sentences they receive turn out to be a bit shorter or a bit longer than the time they spent in pre-trial detention.

In July 1995 the Human Rights Committee in its Comments to the Fourth Periodic Report of the Russian Federation under Article 40 of the ICCPR,<sup>32</sup> in paragraph 16 expressed its deep concern:

**"...over the practice of pre-trial detention and over this fact that temporary detention has been**

<sup>32</sup>See *Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant, Comments of the Human Rights Committee, Russian Federation*, UN Doc. CCPR/C/79/Add.54, 26 July 1995.

extended from 10 to 30 days in certain cases. It is concerned by the extent of the Procurator competence to decide on matters relating to arrest or detention which cannot be challenged by the person concerned before a court. Under article 9, paragraph 3, of the Covenant, the detention of persons before they are granted a trial should not be the norm and, when it occurs, persons so detained should be granted a trial within a reasonable time or be released. The Committee is concerned that pre-trial detention is practised, not only in cases of serious criminal charges but more so on misdemeanour charges and frequently for unreasonably long periods of time, and that no effective mechanism exists for monitoring such detention."

In addition, in paragraph 17, the Human Rights Committee expressed its grave concern:

**"over the lack of a monitoring mechanism for penitentiary facilities to ensure humane treatment of detainees and prisoners. In this regard, it deplores the cruel, inhuman and degrading conditions that persist in many detention centres and penitentiary facilities and condemns the use of food deprivation as punishment."**

Furthermore, the Human Rights Committee in paragraph 35, recommended to the Russian Government that:

“the treatment of persons deprived of their liberty, whether in detention centres or in penitentiary facilities be effectively monitored. In this connection, it strongly recommends the adoption of new rules and regulations that comply fully with articles 7, 9, 10 and 14 of the Covenant and the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and that the texts of all prison rules and orders and international norms on prison administration be made public and accessible. The Committee further recommends that priority be given to the establishment of the Visitors’ Committee for the correctional institutions of the Federation and that legislation on the judicial review of arrest and detention be urgently passed in compliance with article 9, paragraph 3, of the Covenant, and article 22, paragraph 2, of the Constitution. It urges that the Government should refrain from placing first-time, non-violent and petty offenders in detention centres, and give consideration to various other practical measures designed to reduce the overcrowding of pre-trial detention centres, particularly the greater use of release pending trial. It also calls for an immediate end to the practice of food deprivation as punishment in prisons and encourages the Government’s

initiatives to institute alternative forms of punishment.”

Nevertheless, to Amnesty International’s knowledge, no effective measures have been taken by the Russian authorities to follow the recommendations of either the Special Rapporteur on Torture or the Human Rights Committee. On 28 October 1996 representatives of the Russian human rights organization “Novy Dom” (New Home) announced at a press-conference in Moscow that 280 people died in the Moscow pre-trial detention centres during the first nine months of the year.

Statistics are very closely held on the number of detainees and prisoners who were killed or died. According to Russian human rights groups, between 10,000 and 20,000 detainees and prison inmates died in penitentiary facilities throughout Russia, some due to beatings, but most as a result of overcrowding, inferior sanitary conditions, or lack of medical care. During 1996 the Moscow Center for Prison Reform reported that according to official MVD statistics over 3,000 detainees died in IVSs (temporary holding isolators) and SIZOs and over 9,000 convicts died in prisons and penal colonies. According to reports many detainees were transferred to hospitals just before dying so as to deflate the official mortality rate.

It was reported that the Procurator General Yury Skuratov stated on 3 March 1997 that the appalling conditions in Russian prisons could provoke a “social explosion” among inmates. In an unprecedented move, Yury Skuratov reportedly painted a picture of misery and tension in the prison system at a meeting of security officials which decided to send a report on the situation to President Boris Yeltsin, the parliament and the government. Skuratov reportedly told the meeting: “It is clear that those who have been convicted have every reason for discontent.” Interfax news agency quoted Yury Skuratov



as saying the situation at detention centres, where people are held before trial, was also dire. According to the Procurator General, it was unacceptable that some people stayed in these centres for two to three years, longer than the law permits, while courts considered their cases.

He reportedly said more than one million people were held in Russian detention centres and corrective camps and he was worried about overcrowding. The reports stated that he expressed particular concern at the rising incidence of illness. About 2,000 people died of tuberculosis in prisons in 1996 and the death rate from the disease was 10 times higher than the average rate in Russia, stated the Procurator General. The meeting was attended by officials from the government, the Supreme Court, the MVD and the FSB.

Yury Skuratov had allegedly demanded that procurators ensure a more balanced approach to choosing means of punishment when jailing offenders and urged them to ensure red tape is reduced to a minimum in investigating criminal cases. News reports quoted the Deputy Minister of Internal Affairs, Pyotr Mishchenkov, as telling the meeting that 100 people employed in the criminal justice system had committed suicide in 1996. The main reasons for falling standards and disillusionment included delays in wage payments to people employed

in prisons and the difficulties they face with housing.

The critical statements of the Procurator General came shortly after the Presidential Commission on Human Rights held a special meeting on 25 February 1997 to address the situation in the

Russian SIZOs and penitentiary institutions. The Commission had prepared a special report on the appalling conditions of detention in Russia, based largely on findings by Russian groups dealing with the issue, such as the Moscow Center for Prison Reform. As a result of the meeting the Presidential Commission came up with a list of decisions for recommendations to the government on improvement of the situation.

Among those are: to recommend that the parliament include in the draft Code of Criminal Procedure provisions aiming to limit the period of pre-trial detention of suspects to one year or 18 months; to recommend to the President abolition of Article 1(4) of the Presidential decree No. 1226; to prepare a draft law on amending the Criminal Code to include provisions criminalizing torture; to discuss with the Procurator General ways to increase the use of release on bail for suspects of non-violent crimes; to recommend to the parliament an amnesty for elderly detainees, women with children and adolescents, who were convicted of non-serious crimes; to recommend to the Office of the Procurator General, MVD and Ministry of Justice amendment of all institutional instructions, acts and rules to reflect the provisions of the Universal Declaration of Human Rights and the Convention against Torture; and to inform

all detainees of the documents prohibiting the use of torture; to call on MVD to take steps to improve the standard of living for the personnel of the penitentiary institutions; to recommend that the Office of the Procurator General, MVD and the Ministry of Justice consider measures for decentralizing the management of the penitentiary institutions.

While Amnesty International recognizes the recommendations of the Presidential Commission on Human Rights and the recent statements of the Procurator General to be a major step in the right direction, the organization continue to urge the Russian Government and the State Duma to establish a National Action Plan for the Eradication of Torture in the Russian Federation, to include effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction. (See part X of this report, Amnesty International's proposals and recommendations for the prevention of torture).

## 2. Torture of prisoners by prison officials and deaths in custody

Reports of torture and ill-treatment of prisoners by the prison guards and the special purpose detachments of MVD, *spetsnaz*, and the special

special purpose detachments, *spetsnaz*, have been established at the regional department of corrections since 1989. They were formed to settle conflict situations in prisons. The prisoners of the special prison OMON". In 1992 by MVD order No. 267 these detachments were assigned an additional task: to carry out preventive measures. For more details see "\_\_\_\_\_".

report of the Moscow Center for Prison Reform, Moscow, 1996.

police units, OMON, continued.<sup>33</sup> In a July 1994 report on human rights observance, the Chairman of the presidential Human Rights Committee condemned the penitentiary system for allowing regular and gross violations, and said beatings were widespread. Lack of effective supervision, he reported, meant that many violations were not investigated and that the guilty were not brought to justice.

In one instance that came to light, prisoner Sergey Osintsev alleged that he and other prisoners in solitary confinement cells at corrective labour colony YaP 17/1 in Stavropol Territory were assaulted on 12 April 1994 by special troops brought in to search the premises.

Prisoners were forced to take off their clothes, he reported, and then were severely beaten and kicked by the troops, who were said to have wound elastic bandages round their hands in order not to leave visible marks. Sergey Osintsev further alleged that the troops threatened to return and kill him if he lodged an official complaint (as he had done following a similar incident in September 1993).

According to information from Russian human rights groups, a secret instruction of the Minister of Internal Affairs recommends and orders that the heads of regional Departments of Internal Affairs (UVD) facilitate the theoretical and practical training of the special purpose detachments of MVD and OMON on the premises of the SIZO and the correctional labour colonies. The instruction reportedly allowed *spetsnaz* to perfect their skills on prisoners in order to prepare them to react in situations of emergency and civil disobedience. To achieve this goal, the instruction reportedly recommended that once every few months the special detachments enter the prison camps and

Witnesses to the events in ITK-4 claimed: “*Spetsnaz officers wore masks. Most of them were drunk. Armed with ‘landing knives’ they started to beat and torment prisoners. They beat inmates with their feet and clubs, strangled some with towels and then poured cold water on them. They also applied a ‘Chinese torture’: beat prisoners with clubs on their heels. Spetsnaz officers forced some prisoners to spread their legs and then beat them in this position. They knocked a prisoner down to the floor, some officers held apart his arms and legs and one officer jumped repeatedly on his chest or back. They stripped prisoners of their clothes and beat them. Officers stood up on a table and beat inmates with their feet in the face. As a result three prisoners were hospitalized in the intensive care unit.*”

“Hell”

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practise on prisoners, without any advanced warning of such planned actions.

Statements of high-ranking officials confirmed the existence of the “secret instruction”. For example, Vladimir Indiryakov, an official at the Office of the Procurator in the town of Samara, responsible for observance of the law in correctional labour institutions, stated in an interview: “...They [officers of the regional departments of internal affairs] call it training. You see, if there is a *spetsnaz*, it means it has to perfect its skills in order to control the situation in cases of emergencies. All these training activities are carried out in accordance with a schedule, approved by the MVD order.”<sup>34</sup>

**The planned character of *spetsnaz* actions was also reportedly confirmed by N.M. Skripnikov, head of the Security Department of the Chief Department for Enforcement of Punishments (GUIN), who stated in a letter of 17 November 1994 to the Moscow Center for Prison Reform that the special purpose detachment was brought into ITK-3 (a hospital penal institution) in Chelyabinsk region in accordance with a “plan of activities.”**

**In such a way in January and February 1993 the special purpose units had been trained on the prisoners of the correctional labour colony ITK- 4 in the Nizhny Novgorod region, and the “skills” they had obtained were later used during the**

**October 1993 events in Moscow and also in Chechnya in 1994-1996, according to reports.**

**The regional Procurator of the Nizhny Novgorod region brought a criminal case in connection with the allegations of *spetsnaz* actions. Later the case was closed and none of the officers responsible for the abuses were brought to justice or sanctioned in any way.**

Amnesty International is not aware of any effective, prompt and impartial investigations of *spetsnaz* actions. Two criminal investigations were opened, one of them was closed and the other eventually led nearly two years later to a conviction.

In a separate incident, on 10 July 1994 in ITU-5 (correctional labour institution, where those who receive prison sentences serve their terms) in Nizhny Novgorod, an MVD official, Captain Sechkin, severely beat a prisoner, **Terekhov**. The captain asked the prisoner to put on his hand the special sign of an officer on duty and to go and deliver something to another quarter of the prison colony. Terekhov agreed to be a messenger but refused to wear the sign of an officer, because the other prisoners would suspect that he was collaborating with the authorities. For his refusal Terekhov was badly beaten and suffered severe injuries.

Following a complaint by the prisoner, in October 1994 a criminal investigation was opened into the incident. During the long investigation, the alleged victim, Terekhov, and one of the witnesses, **Harlamov**, were threatened and persecuted by the prison authorities. After the beating a court ruled that Terekhov and Harlamov should be subjected to a special punishment prison regime; later the regional court ruled against this decision. One other prisoner, **Petrov**, who was also allegedly beaten by the prison authorities, was tried after the ill-treatment and received a sentence of one year’s imprisonment under a special punishment prison regime. He was charged and convicted under Article 188 (3) of the Criminal Code,

<sup>34</sup> See “Torture in Russia. It existed in the past, and is carried out today. Will it exist tomorrow?” -- *Sobesedyk*, No. 10, February 1996

"refusal to comply with the orders of the prison authorities."

In 1996 Captain Sechkin was detained and charged under Article 171 (2) of the Criminal Code with "exceeding his official and professional powers in aggravated circumstances." On 15 May 1996 the district court sentenced Sechkin to one year in prison. This was the first case in Nizhny Novgorod where a perpetrator of torture and ill-treatment was brought to justice. All of the earlier investigations into individual complaints were closed for the lack of evidence and have not been transferred to the courts. The local human rights groups reported that in 1994 only, 98 incidents of ill-treatment of prisoners by the authorities of ITU-5 were registered.

### 3. Participation of medical personnel in torture. Denial of medical care for prisoners

Prison doctors and medical personnel in some penitentiary institutions participate in such actions of ill-treatment by *spetznaz*, according to reports, in violation of national and international professional standards. The Russian Constitution stipulates that "no one may be subjected to medical, scientific or other experiments without voluntary consent" (Article 21). The 1993 Russian law on psychiatric care also contains provisions to prevent "the use of psychiatry for non-medical purposes". In its Second Periodic Report the Russian Government stated in paragraph 109:<sup>35</sup>

**"Some provisions of the Convention against Torture, and also the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against**

**torture and other cruel, inhuman or degrading treatment or punishment (General Assembly resolution 37/194 of 18 December 1982) have been included, on the initiative of the V.P Serbsky State Centre for Research in Social and Forensic Psychiatry, in the draft law of the Russian Federation on expert examinations currently being prepared."**

**International standards prohibit acts of torture and ill-treatment by medical professionals. For example, the World Medical Association adopted the Declaration of Tokyo in 1975. In Article 1 it states that:**

**"The doctor shall not countenance, condone or participate in the practice of torture or other forms of cruel, inhuman or degrading procedures, whatever the offence of which the victim of such procedures is suspected, accused or guilty, and whatever the victim's beliefs or motives, and in all situations, including armed conflict and civil strife."<sup>36</sup>**

**Further, in its International Code of Medical Ethics, the World Medical Association established that "A physician shall... be dedicated to providing competent medical services in full technical and moral independence, with compassion and respect for human dignity."**

**The practice in Russia indicates the contrary. For example, doctors and medical personnel sometimes allegedly warn the prison administration that a particular prisoner should not be beaten on the head because he**

<sup>35</sup>See Committee against Torture, *Consideration of Reports Submitted by States Parties*

*Under Article 19 of the Convention, Russian Federation: Second periodic reports of States*

*parties due in 1992*, UN Doc.: CAT/C/17/Add.15, 7 February 1996.

<sup>36</sup>WMA Declaration of Tokyo. Article 1.

suffers from a cranial trauma. In other incidents, doctors are said to have regularly checked the pulse of the victim during the ill-treatment in order to find out whether he could bear more beatings.

During a visit to SIZO No. 60-1 in Ryazan in July 1996, Amnesty International's representative interviewed Ivan Ivanovich Senkin, an elderly detainee, who claimed that he suffers from tuberculosis but had not received medical care and was placed in a cell with 52 other healthy prisoners. The prison doctor at first refused to look into the medical records of Ivan Senkin and later denied that the prisoner needed special medical care.

The Special Rapporteur on Torture recommended in paragraph 85 of his report that "medical facilities and medicines should be sufficient to meet the needs of inmates, even after the present situation (in which the State effectively subjects inmates to disease by placing them in health-damaging conditions) has been remedied." Amnesty International is not aware of any effective measures by the authorities in view of this recommendation.

#### 4. Confessions by prisoners extracted under torture are used as evidence, sometimes leading to the death penalty

Under Russian law evidence obtained through violation of legal proceedings has no legal force.

It is also a criminal offence for investigators and others to force a person to give testimony and provide evidence by use of threats or other illegal actions, where such actions are combined with the use of force or personal humiliation of

the detainee.<sup>37</sup> Nevertheless it has been alleged by some prisoners that testimony obtained from them under duress was not excluded as evidence at their trial, although they repudiated it in court, and that their allegations were not investigated by the court.

Furthermore, Amnesty International continues to receive reports of torture and ill-treatment of detainees in order to obtain false confessions, in some cases leading to the death penalty. These reports are particularly worrying in the light of continuing executions in the Russian Federation despite the moratorium on executions agreed by Russia when it became a member of the Council of Europe in February 1996. Recent official statements by the head of the Presidential Clemency Commission claimed that in 30% of the death penalty cases a judicial mistake had been made, and that innocent people were sentenced to death and some later executed<sup>38</sup>.

For example, in 1995 Mikhail Yurochko and Yevgeny Mednikov were in detention, under investigation for murder, facing possible death sentences. Dmitry Elsakov was also in detention, under investigation for aiding and abetting the crime. Relatives, friends and lawyers maintained that they were innocent, and that they were tortured into making false confessions. Amnesty International called on the authorities to conduct a full and impartial investigation into these allegations, to make the findings public, and to bring to justice anyone found responsible for committing acts of torture in this case.

According to reports,<sup>39</sup> **Mikhail Yurochko and Yevgeny Mednikov were**

<sup>37</sup> Article 171 of the old Criminal Code and article 302 of the new Code. Such actions are punishable by from two to eight years' imprisonment.

<sup>38</sup> At a press conference in Moscow on 24 September, Anatoly Pristavkin, the chairman of the Presidential Clemency Commission and Valery Borschev, Duma deputy and a representative of the Chamber of Human Rights under the President, reported that 53 executions had been carried out in 1996.

<sup>39</sup> See an article in the Russian newspaper *Izvestiya* of 17 November 1995

**sentenced to death by the Regional Court of Arkhangelsk (date not known). The two men were sentenced under Article 102 of the Criminal Code of the Russian Federation for premeditated aggravated murder. They were found guilty of murdering Mikhail Yurochko's two nieces on 24 September 1993. A third codefendant, Dmitry Elsakov, was sentenced to 15 years' imprisonment, charged with handling goods stolen from the flat where the girls were found dead.**

All three men protested their innocence during the trial, and alleged that they were forced by both physical and psychological pressure to incriminate themselves and to "confess" to the crime. They are all said to have alibis.

Reportedly, the mother of the dead children confided to the police that she had consulted a fortune-teller who told her that the killer of her children was a close relative. A few days later, her brother, Mikhail Yurochko, was arrested by the police for "hooliganism". His family were told that he had no need of a lawyer as the charges were not serious.

Ten days after his arrest, it was announced that Mikhail Yurochko had "confessed" to killing the two children, and named Yevgeny Mednikov as helping him in the murders. The alleged motive for the murder was that Mikhail Yurochko had a debt of half a million roubles to pay. Mikhail Yurochko also reportedly named Dmitry Elsakov as the person who had taken the stolen goods to sell them. The children's father does not believe that his brother-in-law and friends are guilty. None of the three men have any previous convictions. They are all 20 years old.

Mikhail Yurochko was only allowed to see his lawyer three weeks after his arrest. While in detention, he is reported to have suffered severe beatings and food deprivation 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.

Yevgeny Mednikov claimed he was similarly ill-treated in detention, and both he and Mikhail Yurochko submitted written complaints to the Procurator of Arkhangelsk Region before the trial, on 27 October and 5 November 1993, but apparently these were dismissed and they were only told that people like them should be shot.

There were reports that Dmitry Elsakov had boiling water poured over him while in detention, and this was apparently confirmed by medical experts. The brother of Dmitry Elsakov was also apparently forced to testify against him. He was interrogated over seven days and deprived of sleep during this time.

According to reports there are serious discrepancies between the "confessions" of the three men and the evidence found at the scene of the crime. One example of this is that the knife which Mikhail Yurochko confessed he had thrown away after using it to murder one of the girls was later found in the kitchen. A member of the Regional Procuracy is reported as having commented during the trial that the men must be guilty because " *we beat a lot of people, and only Yurochko, Mednikov and Elsakov confessed*".

In November 1995 the Supreme Court of the Russian Federation overturned the death sentences, and sent the case back to the court of first instance to the stage of preliminary investigation. As far as Amnesty International is aware, the three men are still in pre-trial detention awaiting the results of these investigations. Amnesty International has been unable to obtain any details of these investigations from the authorities.

The failure of the authorities and the court to conduct prompt and impartial investigations of the complaints of torture is a clear violation of Article 13 of the Convention against Torture. The use of the "confessions" of the three men also appears to be a violation of Article 15 of the Convention against Torture which provides that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings (except against a person accused of using torture, as evidence that the statement has been made).

##### 5. Torture methods "Press-camera" and "The Crucifixion of Christ"

According to reports, the old GULAG (name given to the system of penal camps under Stalin from its abbreviation in Russian) practice of "press-camera" continues to be common in a number of prisons and detention centres. The "press-camera"<sup>40</sup> is a method whereby prison officials and guards use some prisoners to control and ill-treat other prisoners. *Pressovshchiki* are common criminal prisoners - often those who have been charged with or convicted of the most serious crimes - who cooperate with prison officials and are entrusted by them to supervise other prisoners. They can freely torture and abuse other prisoners at will with the connivance of prison warders and officials, and carry out the officials' instructions to "deal with" resistant prisoners, which invariably means ill-treating them. "Press-camera" is used widely for obtaining a confession or in cases of political prisoners, or simply "difficult" prisoners, who file complaints.

The *pressovshchiki* are usually rewarded for their cooperation by being given special privileges. According to former prisoners and human rights groups interviewed by Amnesty International in 1995 and 1996, the system of "press-camera" provides a convenient means for prison officials to devolve control and responsibility: should an incident happen as a result of the

*pressovshchiki* actions, such as the death of a prisoner or serious injury, prison officials can deny any responsibility; they often attribute the incident to a fight between prisoners or support the perpetrators' claims that the victim's injuries were self-inflicted.

One example is the case of Vladimir Telitsin, who died in 1994 in correctional labour institution No. Ush 349/5 of the city of Nizhny Tagil, under circumstances which to date have not been investigated. The official version of his death was "suicide", although the injuries on his body pointed to torture and ill-treatment as the cause of death. The active attempt by the prison administration to stop any further investigations of the case, suggests possible use of *pressovshchiki* with the consent of the prison officials.<sup>41</sup> (More details of the case are provided later in this report, in the section "Inadequacy of the investigations and impunity.")

In 1994 the Moscow Center for Prison Reform publicized "the case of Myachikov" from the Khabarovsk region, in the Far East. In this case, one of the persons under investigation died from beatings in pre-trial detention, and another was reportedly killed by *pressovshchiki*. Myachikov, who was allegedly tortured in detention himself, miraculously survived. Despite the fact that a criminal case was opened into the allegations of torture and deaths in custody, none of the officials responsible were brought to justice.

In an interview with ex-prisoners in St. Petersburg in July 1996, a few of them described the torture method "*Crucifixion of Christ*"<sup>42</sup> which, they claimed is used by the prison authorities in some places. In essence, it is a torture by inflicting pain through an electric shock. The prisoner is tied to his bed and his hands (far apart) and legs are handcuffed to the metal bars of the bed and to the metal bars of the prison cell; the

<sup>40</sup> Interview with Karinna Moskalenko, Director of the "International Protection Centre", a Moscow-based NGO, which has submitted this case to the UN Human Rights Committee for consideration under the Optional Protocol to the ICCPR, October 1996.

<sup>41</sup> The name of one young man, who claimed he was subjected to the "crucifixion" torture, is not mentioned in the document. At present he is in hiding in St. Petersburg to avoid being forcefully returned to a psychiatric hospital, from which he escaped earlier this year.

position of the prisoner resembles a crucifixion. Electricity is then introduced through a wire and the result is an electric shock to the victim.

## VI. TORTURE AND ILL-TREATMENT IN THE ARMY AND ILL-TREATMENT OF CONSCIENTIOUS OBJECTORS

Officers of the armed forces continue to permit, encourage and often participate in "dedovshchina",<sup>43</sup> the violent and cruel hazing of young recruits which, at best, involves forcing recruits to perform menial tasks, often outside official duties, and, at worst, leads to beatings, torture, murder, and suicide. Many observers believe that the Russian army today is a prison-like, GULAG-style institution, where the treatment of soldiers is not much different from the treatment of prisoners, and in many cases much worse. Torture methods such as "torture by hunger", rape, beatings, and other humiliating and degrading punishments continue to be practised in the army. The criminal investigation unit of the Ministry of Defence reported that 423 soldiers committed suicide in the Russian army in 1994 and that an additional 2,500 died as a result of "criminal incidents". The Mothers' Rights Foundation estimated that approximately 4,000 to 5,000 soldiers died from abuse or committed suicide in 1995.

The Organization of Soldiers' Mothers of St. Petersburg and the Soldiers' Mothers Committee believes that many of those who committed suicide were driven to do so by torture and abuse. In October 1996

The Organization of Soldiers' Mothers of St. Petersburg submitted a report on torture in the armed forces to the UN Committee against Torture.<sup>44</sup> In this report, the organization stated that in 1996 alone they had been approached by 601 servicemen who had deserted their army units because they were subjected to torture and ill-treatment there. Further the report states that "221 of these 601 soldiers were tortured; 34 were forcibly drafted to the army and 30 applied to the Soldiers' Mothers because they were either sent or feared to be sent to Chechnya. ... 57 servicemen were released from serving in the army by a court's decision based on their poor state of health as a result of torture."

For example, there have been some reported cases of soldiers who died of starvation. In March 1996 in the town of Khabarovsk in two separate incidents soldiers Mikhail Kubarsky and Nikolay Mikheyev, died of starvation. After the death of Mikhail Kubarsky on 20 March, 55 more soldiers were hospitalized due to traumas caused by starvation. One of them, Nikolay Mikheyev, died in hospital. In connection with the deaths, the commander of the unit was dismissed and nine other commanding officers were disciplined. Amnesty International is not aware of any criminal investigation or prosecution in this case.

In a separate incident, in December 1995 military doctors in the town of Vyborg fought for nearly three weeks to save the life of 19-year-old private Dmitry Zhukov, who was dying of starvation, as reported by the Organization of Soldiers' Mothers of St. Petersburg. He also suffered from multiple injuries to his head and back, allegedly as a result of ill-treatment and abuse by a commanding senior soldier. He was stationed on the island of Severny Berezovy in the Finnish Gulf, together with a corporal and four other

<sup>43</sup> Soldiers' Mothers groups all over Russia insist on limiting the use of the term "dedovshchina" to cases of violent abuse, torture and ill-treatment of soldiers in the army, often

with the consent or active participation of the army officers. They claim that military officials

avoid responsibility by hiding behind the term "dedovshchina", a practice of "abusiveness" comments to the report submitted to the UN Committee against Torture, <sup>44</sup> See also: "Comments to the report submitted to the UN Committee against Torture," Soldiers' Mothers of St. Petersburg, Index in SMSP: EUR 2/10/96/CAT, October 1996.



soldiers. In a letter to his mother Dmitry Zhukov claimed that a fellow soldier, who was effectively the commander of the base, deprived him of his food rations to punish him for his "slowness". One of the other soldiers later admitted that he had seen Dmitry Zhukov eating from a dog-bowl. In addition, he was allegedly severely beaten and was hospitalized with physical injuries, stomatitis (inflammation of the mouth) and early stages of kidney failure. A criminal case was opened against the commanding soldier on charges of torture and brutality. The results of these investigations are not known.

The national military leadership has made no moves to implement training and education programs systematically to combat torture and abuse in the army, nor has the concept of a military police force advanced much past the discussion phase. The military leadership has yet to address the worsening problems of dangerous sanitary conditions, poor food rations, and the use of conscript labour for personal or private gain.<sup>45</sup> **The inhumane treatment of soldiers, including lack of suitable housing, poor nutrition, and unsanitary conditions, has resulted in**

**outbreaks of disease, such as hepatitis and dysentery. In addition, officers have subjected soldiers to inhuman and cruel punishment. In September 1994 one incident came to light, in which the**

**commander of the Northern Fleet cruiser "Admiral Gorshkov" allegedly punished soldiers who violated discipline by locking them into a metal pit, some for as long as 370 days. Seven sailors, who had been incarcerated in a room measuring four square metres, were killed when a steam pipe burst. Amnesty International is not aware of any investigation of this incident. In a number of cases military officers tortured and ill-treated soldiers themselves. In May 1996 the office of the Military Procurator of the Sertolovsky garrison in the St Petersburg military district, decided not to open a criminal case against two officers who reportedly had tortured and ill-treated private Denis Andreyev in December 1995. The Military Procurator confirmed the facts of the alleged ill-treatment, but explained his refusal to open a criminal case by the "exemplary otherwise record and positive references of the two officers". On the night of 27 December 1995 Denis Andreyev, who had broken his leg and had just returned to his unit from the hospital, was awakened and attacked by the two officers, allegedly drunk at the time. There are several written statements by fellow soldiers who witnessed the incident. Denis Andreyev reportedly was then handcuffed behind his back and severely beaten by the two officers, until he lost consciousness. Then the officers ordered him to be locked for 35 days in a cell for disciplinary punishment ("gauptvahta"). The head of the medical army unit reportedly refused**

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<sup>45</sup> There were reports of soldiers being "sold" as slaves by their superior officers and local inhabitants to use them for forced labour. The U.S. State Department reported in 1995 about the case of **Mikhail Fedotov**, a Russian soldier serving in the Russian army in Uzbekistan, who was allegedly "sold" by a superior officer to local Uzbeks and forced to work from December 1993 to April 1993, after which he was hospitalized for psychiatric reasons. Amnesty International is not aware of any investigation of this incident.

to provide any medical care to Denis Andreyev. Another officer reportedly came to Denis Andreyev's cell and advised him to hang himself in order to put an end to his suffering.

Military service is compulsory in Russia for men aged between 18 and 27. There is no law on a civilian alternative to military service, which places any conscientious objector under the threat of imprisonment.

Conscientious objection to military service is recognized by the United Nations Commission on Human Rights (Resolution 1989/59, and reaffirmed in Resolution 1993/84 of 10 March 1993) as a legitimate exercise of the right to freedom of thought, conscience and religion, a right guaranteed under Article 18 of the ICCPR.

This right is also recognized in the Russian Constitution, where it has been enshrined since April 1992. Article 59 states "A citizen of the Russian Federation whose convictions or faith preclude the performance of military service...has the right to substitute it for an alternative civilian service". However, four years later parliament has still not introduced the necessary enabling legislation, or amended the Criminal Code to reflect this constitutional provision, and young men continue to risk imprisonment for refusing military service on conscientious grounds. An attempt on 8 December 1995 to pass a law on alternative service resulted in the majority of deputies in the State Duma voting against it. However, a law could be implemented by Presidential decree. The accession of Russia to the Council of Europe in February 1996 means that Russia should be working towards that body's Recommendation No. R (87) 8 Regarding Conscientious Objection to Compulsory Military Service. This recommends that the governments of member states, insofar as they have not already done so, bring their national law and practice into line with the basic principle.<sup>46</sup>

**One instance in which a conscientious objector has reportedly been ill-treated is that of Uvanchaa Dozur-ool Mongushevich**, a 22-year-old novice monk at the Religious Buddhist community "Kuntsechoinei Datsan" at the Gelugpa Buddhist Church in St Petersburg.

Uvanchaa Dozur-ool Mongushevich, from the Republic of Tuva, was drafted in the army in 1995, despite the fact that he was preparing to be initiated as a monk. He was sent to serve in the military unit in the village of Pereyaslavka, Khabarovsk region. There he was allegedly ill-treated by his fellow soldiers, and as a result of severe beatings, he was reportedly hospitalized with both legs broken. After treatment he was taken home by his parents. Soon afterwards he returned to the Buddhist monastery, where he was arrested on 26 May 1996 by the military authorities. He was charged on 13 June 1996 under Article 246 of the Russian Criminal Code with "voluntary desertion of his army unit" and was held in a pre-trial detention centre (SIZO) in St Petersburg.

Uvanchaa Dozur-ool Mongushevich has reportedly stated his conscientious objection to compulsory military service, based on his religious beliefs and religious affiliation, all along - when he was drafted into the army; when he left the army unit after his alleged ill-treatment; at the time of his arrest and during the investigation concerning his current criminal charges.

However, in a letter of 12 September 1996 sent to Amnesty International by the Office of the Military Procurator of the Russian Federation, V. G. Kasyanchik, a military procurator, stated that the "criminal charges against Uvanchaa Dozur-ool Mongushevich have been dropped in view of his religious beliefs." The letter claimed that "a decision has been taken to release him from detention and the order for his release has been sent to the relevant

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right to be released from the obligation to perform such service... Such persons may be liable to perform alternative service."

<sup>46</sup>The Basic Principle states: "That anyone liable to conscription for military service who, for compelling reasons of conscience, refuses to be involved in the use of arms, shall have the

authorities." There was no mention in the letters that Uvanchaa Dozur-ool Mongushevich's conscientious objection to military service would be acknowledged by the authorities and that he would be dismissed from serving in the army.

The Human Rights Committee in July 1995 urged the Russian government in paragraph 39 of its Comments that "stringent measures be adopted to ensure an immediate end to mistreatment and abuse of army recruits by their officers and fellow soldiers. It further recommends that every effort be made to ensure that reasonable alternatives to military service be made available that are not punitive in nature or in length of service. It urges that all charges brought against conscientious objectors to military service be dropped."<sup>47</sup>

## VII. DEPORTATION OF ASYLUM-SEEKERS TO COUNTRIES WHERE THEY MAY FACE TORTURE AND ILL-TREATMENT

The Russian Constitution provides for the right of a person to be granted political asylum in the Russian Federation in order to avoid further persecution at home.<sup>48</sup> **In practice, provisions for refugees and asylum-seekers are inadequate. A pattern is emerging where many are at risk of forcible return to**

**countries where they would be in danger of grave violations of their human rights.**

**In September 1995, for example, Lee Yen Sen** was returned to his native North Korea, where he faced ill-treatment by the police. **Elgudzha Khutayevich Meskhia**, an opponent of the Government of Georgia, sought political asylum in Russia, but was forcibly repatriated on 19 March 1996 after being arrested in Russia at the request of the Georgian authorities. Amnesty International feared he would be at risk of torture or ill-treatment if returned to Georgia. The Deputy Procurator General of the Russian Federation, Mikhail Katyshev, stated during the review of Russia's Second Periodic Report by the Committee against Torture on 12 November 1996 that: "In Meskhia's case there was no evidence that he would be tortured - we have no data on this and we sent a special request to the Georgian authorities on this matter and no such data was forthcoming. We therefore consider the decision on whether or not to sanction extradition is taken in accordance with the legislation of the Russian Federation. In this particular case we do not believe that there has been any violation of the law".

**Rahim Qaziyev**, the former Minister of Defence of Azerbaijan, was detained in Moscow on 14 April and was forcibly repatriated to Azerbaijan on 16 April 1996. Amnesty International feared that he would suffer serious human rights violations in Azerbaijan, specifically ill-treatment and the death penalty. Rahim Qaziyev's wife was unable to obtain access to the central police station Petrovka 38 in Moscow in which he was reportedly still detained in the afternoon of 16 April. Amnesty International has not been able to obtain information from the authorities concerning what procedures, if any, were available to Rahim Qaziyev to appeal against his forcible repatriation.

In these cases the Russian authorities have justified the violation of the *non-refoulement* principle by referring to other obligations under treaties which fail to provide

<sup>47</sup> See *Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant, Comments of the Human Rights Committee, Russian Federation*, UN Doc. CCPR/C/79/Add.54, 26 July 1995.

<sup>48</sup> Article 63 (1) of the Constitution states: "The Russian Federation shall grant political asylum to foreign citizens and stateless persons in accordance with the universally recognized norms of international law."

Article 63 (2) of the Constitution states: "In the Russian Federation persons who are persecuted for their political convictions or for actions (or inaction) not recognized as a crime in the Russian Federation may not be extradited to other states. The extradition of persons accused of a crime, as well as the surrender of convicts to serve sentence in other states, shall be carried out on the basis of federal law or an international treaty of the Russian Federation."

adequate safeguards for asylum seekers or others against *refoulement* to places where they were at risk of serious human rights violations.

Even though Russia is a party to the international Model Treaty on Extradition,<sup>49</sup> **the Russian Government referred to an extradition treaty with North Korea in order to proceed with the extradition of Lee Yen Sen. Similarly, the Russian authorities referred to a treaty on legal assistance with Azerbaijan to justify the extradition of Rahim Qaziyeu, which was requested by the Azerbaijani Government.**

**In a separate incident, in August 1996 three African asylum-seekers held at Sheremetevo-2 Airport, Moscow, were at imminent risk of forcible return to their country of origin. N. O. and O. O. both claimed to be members of the government opposition in their country, and feared that they would be at risk of serious human rights violations, including torture and ill-treatment, if forcibly returned back to Africa. A. O. also claimed to be a member of the opposition and also feared for his safety if forcibly returned back. The three men were forcibly deported back to their country of origin on 22 August 1996 by the Russian authorities.**

Amnesty International is also aware that in August 1996 there were **20 people** in the Transit Zone of Sheremetevo Airport who wished to seek asylum in the Russian Federation, but who have had no access to an asylum procedure. Amnesty International was particularly concerned at reports that some of these asylum seekers were from Liberia, where recent intensification of the civil war which started in 1989 had led to thousands of refugees fleeing the country. If returned to Liberia they would have been at risk of grave human rights

abuses, including deliberate and arbitrary killing, torture and ill-treatment.

In addition, Amnesty International was concerned about the arrest of Azerbaijani citizen **Mamed Quliyev**, a former member of the Azerbaijani parliament and former Baku City Procurator, who was detained in Moscow on 28 January 1997.

According to reports Mamed Quliyev was arrested by Moscow police officers at the Institute of Organ Transplants, at the bedside of his wife who was undergoing treatment there, and was subsequently taken to the "Matrosskaya Tishina" investigation-isolation prison. It was alleged by unofficial sources in February 1997 that since his arrest neither Mamed Quliyev's relatives nor a lawyer had been granted access to him. Amnesty International learned in February 1997 that the Office of the Procurator General was studying materials presented by the Azerbaijani authorities requesting that Mamed Quliyev be returned to Azerbaijan, a case against him having been opened under Article 220 of the Azerbaijani Criminal Code (illegal possession of weapons). Mamed Quliyev was said to have lived in Moscow for some three years. Amnesty International does not know whether or not he had lodged an appeal for asylum during that time. The organization was concerned that, should he be returned to Azerbaijan, Mamed Quliyev may face torture or ill-treatment at the hands of Azerbaijani law enforcement officials.

Amnesty International has called repeatedly on the authorities to ensure that no asylum-seekers were returned to countries where they could face human rights violations, and to ensure the effective protection of asylum-seekers by establishing fair and satisfactory asylum procedures which meet international standards. In October 1994 the Foreign Ministry replied that the establishment of procedures on determining refugee status had begun, although they were progressing slowly. The Ministry also reported that President Yeltsin had ordered a review of instructions to officials governing

<sup>49</sup> Adopted without a vote on 14 December 1990 by the UN General Assembly in resolution 45/116, the Model Treaty on Extradition provides that "if the person whose extradition is requested has been or would be subjected in the requesting state to torture or cruel, inhuman or degrading treatment or punishment or if that person has not received or would not receive the minimum guarantees in criminal proceedings, as contained in Article 14 of the International Covenant on Civil and Political Rights, then the person may not be extradited."

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the return of asylum-seekers but little progress had been made at that time.

Amnesty International believes that the practice of forcible repatriation by the Russian authorities of asylum-seekers to countries where they may face torture and ill-treatment is contrary to the Russian Federation's obligation under international law, in particular the principle of *non-refoulement*. One fundamental principle of customary international law states that: "No-one shall be returned to a country where his life and freedom might be endangered". This principle is enshrined in Article 33 of the 1951 Geneva Convention relating to the Status of Refugees, to which the Russian Federation acceded in March 1993. *Refoulement* is also a clear violation of Article 3 of the Convention against Torture.<sup>50</sup>

**In its conclusions following consideration in November 1996 of Russia's Second periodic report under the Convention against Torture, the Committee against Torture expressed its concern at "the lack of appropriate measures to give comprehensive effect to provisions of Article 3 of the Convention and its applicability in all circumstances, including extradition".**

**Amnesty International is not aware of any immediate steps taken by the Russian authorities to address the concern expressed by the Committee against Torture.**

## VIII. THE DEATH PENALTY: EXECUTIONS CONTINUE

Amnesty International regards the death penalty as the ultimate cruel, inhuman and degrading punishment and a denial of the right to life. Like

torture, an execution constitutes an extreme physical and mental assault on a person already rendered helpless by government authorities.

Russia undertook to impose a moratorium on executions upon becoming a member of the Council of Europe in February 1996. Nevertheless, despite this solemn commitment executions in Russia continue and no effective steps have been taken to inform relevant personnel of the moratorium on executions. The executions continued even after the adoption on 28 June 1996 of the Council of Europe's Parliamentary Assembly resolution 1097 (1996) calling on Russia to honour its commitments to introduce a moratorium on executions. Reports indicate that a large number of the prison governors and personnel, local officials and procurators have not yet been informed of the existence of the moratorium and Russia's commitments in this respect given to the Council of Europe on becoming a member state<sup>51</sup>.

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<sup>50</sup>"No State Party shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture."

<sup>51</sup>Amnesty International interviewed a number of governors during a visit to Russia in June-July 1996 and had a meeting with a delegation of prison governors to the United Kingdom in July 1996. Letters from relatives of prisoners on death row often refer to statements by prison governors of the regions they had not been given special instructions in regard to the moratorium on executions.

In addition, a top Russian official from the Presidential administration stated publicly in front of Amnesty International's representative that he did not know about the existence of a moratorium on executions.<sup>52</sup> However, officials from the Ministry of Foreign Affairs (MID) claimed that all prison governors were informed about the moratorium and the implications of Russia's membership of the Council of Europe on the question of the death penalty.<sup>53</sup>

Anatoly Pristavkin, head of the Presidential Clemency Commission, told Amnesty International in October 1996 that even if the Commission should recommend clemency, the President most often does not grant it. President Yeltsin reportedly turned down 46 petitions for clemency in February and April 1996 and since then the Clemency Commission has not passed any cases on to the President.

In violation of the law, the Presidential Administration reportedly sent clemency petitions directly to the President, without informing the Clemency Commission. In May 1996, President Yeltsin reportedly refused to grant clemency to 22 or 23 prisoners. None of these petitions for clemency had been previously reviewed by the Clemency Commission.

According to the information available to Amnesty International, as of the beginning of 1996 about 700 people were under sentence of death in the Russian Federation. Some of them are still awaiting the outcome of their appeals through the courts and have not yet submitted petitions for clemency. Amnesty International's information indicates that at least 140 prisoners were executed in 1996, 103 of them after the country joined the Council of

Europe. There is strong evidence to suggest that those executed include people who were innocent of the crimes for which they were convicted. Amnesty International has documented cases casting serious doubt on the convictions of some prisoners sentenced to death.

A resolution by the Parliamentary Assembly of the Council of Europe on 29 January 1997 strongly condemned the continuing executions in Russia. Point 5 of Resolution 1111 (1997) clearly warns the Russian Government of the consequences should they continue to violate their obligations to the Council of Europe in the matter of the death penalty. This includes possible expulsion of the Russian parliamentary delegation from the Parliamentary Assembly at its next session.

It was reported that on 28 February 1997, exactly one year after Russia became a member of the Council of Europe, President Boris Yeltsin instructed the Russian Government to take steps toward abolishing the death penalty. President Yeltsin reportedly ordered the Foreign Ministry to sign Protocol No. 6 of the European Convention on Human Rights. The proposal had been made reportedly by Russia's Supreme Court. According to reports, President Yeltsin ordered the Justice Ministry and the federal agencies concerned to work out measures to gradually solve problems facing ratification of the Protocol.

## IX.

### FACTORS FACILITATING TORTURE AND ILL-TREATMENT: WHY DOES TORTURE CONTINUE?

<sup>52</sup>The statement was made on 3 July 1996 in Moscow.

<sup>53</sup>Stated during a meeting with Timuraz Ramishvili, head of the Directorate on Human Rights at MID, 4 October 1996.

1. Failure to make all acts of torture offences with appropriate penalties

Under the Convention against Torture, Russia is legally bound to make all acts of torture and ill-treatment offences under national law. The Convention also requires that punishments for torture should reflect "their grave nature" (Article 4). However, Russian law fails to meet these requirements. Russia's Second Periodic Report to the United Nations Committee against Torture states in point 22 "The Russian Federation directly providing for (Parliamentary Assembly Opinion 190, 1995). Neither

Russian Federation nor legislation provide a definition of the term "torture." However, the new Russian Criminal Code, <sup>54</sup> **takes a step in**

**the right direction by introducing, for the first time, the term "torture" as a characteristic of the crime for two offences punishable by law: ill-treatment (Article 117) and coercion to give evidence (Article 302). Nevertheless, the new Criminal Code provides for a more lenient punishment for the offence of "coercion to give evidence" than those provided in the old Criminal Code.<sup>55</sup> In addition, the lack of a new Code**

<sup>55</sup> Article 179 (2) of the old Code prescribes a punishment from three to 10 years' imprisonment, whereas Article 302 (2) of the new Code provides a punishment for the same offences, with the addition of torture, from two to eight years' imprisonment.

<sup>54</sup> The Criminal Code of the Russian Federation was adopted by the State Duma on 24 May 1996. A special federal law to this effect provided for its entry into force from 1 January 1997.

The Russian Federation committed, on joining the Council of Europe on 28 February 1996, **"to sign within one year and ratify within three years from the time of accession Protocol No. 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms on the abolition of the death penalty, and put into place, with immediate effect from the day of accession, a moratorium on executions"**

(Parliamentary Assembly Opinion 190, 1995).

Duma on 24 May 1996, force from 1

The Russian Federation committed, on joining the Council of Europe on 28 February 1996, "to sign within one year and ratify within three years from the time of accession Protocol No. 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms on the abolition of the death penalty, and put into place, with immediate effect from the day of accession, a moratorium on executions"

(Parliamentary Assembly Opinion 190, 1995).

of Criminal Procedure is likely to impede the application of the amendments to the new Criminal Code regarding the crime of torture.

The failure to include any definition of torture in the Russian Constitution or national legislation has hampered the courts in their efforts to apply the Constitutional provisions directly in cases of human rights violations, including cases of torture and ill-treatment, because they have not been able to rely on Article 1 of the Convention against Torture.

The provisions of Article 15 (4) of the Constitution allow for direct application of the norms of international law if national law conflicts with them, or if laws have not been established. This constitutional principle of international instruments taking precedence over the rules of internal laws, is in practice, rarely exercised by the courts of general jurisdiction. In general, the authorities, especially the law enforcement officials, often lack knowledge and understanding of this principle and continue to refer to local laws, executive decrees and internal orders in their day-to-day practice.

The Deputy Head of the State Duma's Committee on Law and Judicial and Legal Reform, Yury Ivanov, told the Committee against Torture on 12 November 1996: "Maybe you are not sufficiently aware of the difficult and acrimonious situation in the Russian parliament as regards the implementation of international standards in Russian legislation. You were all very categorical in your concern - very understandable concern - to ensure that international standards stand over and above domestic legislation. This is a position which not everyone in Russia shares and I think that it would be a very good idea if this were

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taken into account, in particular as regards certain amendments to specific pieces of Russian legislation. Unfortunately I cannot cite any cases of a particular court applying international standards - within the context of domestic legislation yes, but directly no, not so far".



## 2. Inadequacy of the procedure for complaints

**Dysfunctional court system:** Traditionally, people who considered themselves victims of torture and ill-treatment have sought remedy through avenues other than the regular courts. The lack of true independence of the judiciary from other institutions of state authority discouraged many from filing complaints with the courts. Article 46 of the Constitution provides that "decisions and actions (or inactions) by bodies of state power may be contested in court". Procedures to take such actions were introduced into the Russian legislation through the 1993 Federal Law on Citizens' Appeals, followed by a Supreme Court direction from December 1993 "On the court review of complaints about violations of the rights and freedoms of citizens".<sup>56</sup> **After the adoption of this law a massive wave of individual complaints on human rights violations were filed with the courts: there were reportedly 20,000 such complaints in 1994. In addition, Article 17 (7) of the 1995 federal law on detention of persons suspected or accused of having committed offences entitles detainees to submit complaints concerning the legality of their detention and acts prejudicial to their legal rights and interests. Article 18 of this law<sup>57</sup> sets out in detail the procedure for submission of complaints by suspects or accused persons in detention.**

However, in the majority of the cases of complaint the courts reportedly remained unable to provide judicial protection to victims of torture and ill-treatment. Often

judges refused to review an individual complaint by a victim of ill-treatment. To pursue an individual complaint through the court can in some cases take years because of the bureaucratic red tape and the courts' general overload with cases.

The detainees' right to request a court evaluation of the legality of detention is in practice rarely exercised, due to the lack of knowledge among the people about their rights. In addition, police often detain people without judicial permission beyond the 48-hour time period and the constitutional right to judicial review of the detention within 48 hours of arrest is ignored by the law enforcement officials in most cases. According to reports, some detainees who had expressed the desire to exercise their right to complain to the court while in detention, were subjected to further ill-treatment by law enforcement officials.

However, as noted by the Presidential Commission on Human Rights, unfortunately, the new Russian Constitution has narrowed the function of the Constitutional Court with respect to human rights matters. The report stated that, "the Constitution (Article 125-4) calls for adoption of a federal law to regulate the procedure for appealing to the courts with complaints and questions regarding the citizens' constitutional rights and freedoms: however, the passage of such a law is not even included in the legislative schedule."

Furthermore, the impetus for legal reform has weakened. Judicial reform has not advanced very far, and the judiciary, in practice, remains subject to executive and military influence. Jury trials in 1995 were only available in nine of 89 regions. The procedure of appointing judges has not been fully worked out and in some regions, like Kaluga region, peoples' assessors were called upon to perform the duties of a judge. A large case backlog, trial delays, and lengthy

<sup>56</sup> The law came into force on 27 April 1993. The law stipulates that any actions or decisions taken by any state organization or body or by any official without exception may be complained against to a court. It was amended in December 1995.

<sup>57</sup> Article 18 of the law also prohibits "any kind of persecution of suspects or accused persons for complaining about infringements of their rights and lawful interests. Officials of detention centres guilty of such persecution bear responsibility under the law."

pretrial detention continues to be a major problem.

The Presidential Commission on Human Rights noted in its 1996 report "the deepening crisis of the judicial system. Outmoded judicial procedures cannot guarantee the independence of courts: they lead to red tape, and they cripple the defence of the lawful interests and rights of citizens. The actual operating conditions of the courts continue to deteriorate." The Commission further noted, that the judges' caseloads have increased, as well as delays in hearing cases. "Now there is a queue for justice and citizens cannot enjoy their right to adjudication of their cases without unreasonable delay," the report concluded.

In addition, access to a defence lawyer of one's own choice has been limited in practice by the worsening economic conditions. Legal assistance has been less and less accessible for most Russians because the attorney's services are extremely expensive. As the Presidential Commission on Human Rights noted in its report, "about 80% of all cases, mainly civil suits, are heard by the courts without the participation of lawyers."

The decision of the Presidential Council on Judicial Reform of 10 October 1995, and the resolution of the Council of Judges of 20 October 1995, contained alarming findings that the judicial system is threatened with collapse, and the administration of justice in Russia may come to a standstill, according to reports.

The Presidential Commission on Human Rights noted as well the recurrences of the "attitude toward the courts of the bad old days", when government documents and statements by high-ranking officials, "including those at the very top", have criticized the courts for handing down unwarranted not-guilty verdicts; releasing detainees from custody; and dispensing excessively lenient sentences. Officials have also denounced courts and judges for "being too independent", and have proposed closer

contact between the courts and the law enforcement agencies in the war on crime.

Although legally empowered by the Constitution itself to apply its provisions directly<sup>58</sup>, without having to resort to implementing legislation (in some cases in contradiction to the Constitution) to execute the constitutional norms, the courts are often vulnerable to executive orders and authoritative influences, especially outside the big cities. The fragile independence of the judges is further threatened by the fact that the Constitution also grants the President the power to appoint all judges.

Therefore, often judges restrain themselves from making decisions which might conflict with the presidential directives. This often is the case when the courts have to deal with complaints by people who have been detained under the provisions of Presidential Decree No. 1226 on fighting organized crime. Outside the big cities, in violation of the Constitution, the power to appoint judges is, according to reports, often still in the hands of the local authorities. Under these circumstances, judges are often unable to apply constitutional norms directly to protect the human rights of victims of ill-treatment. The provincial courts often fear to dispute the constitutionality of local decrees and directives (especially those concerning the *propiska* system or the fight against crime), which might jeopardize their relations with the local executive authorities. In sum, judges generally feel uncomfortable with the idea of having the duty and responsibility to declare as unconstitutional actions (such as the ones facilitating torture and ill-treatment) taken by the executive branch and regional authorities.

It was reported that in June 1996 the All-Russian Council of Judges adopted a resolution expressing lack of confidence in Justice Minister Valentin Kovalyov because

<sup>58</sup> Article 15 (1) of the Constitution provides that "the Constitution of the Russian Federation has supreme legal force and is directly applicable."

courts had received less than one-fifth the sums required to cover administrative costs and other expenses. Some courts stopped hearing cases. In October 1996 the support staff in 17 of 19 St Petersburg courts went on strike because they had received no salary for over two months and only about one-quarter of their pay for the preceding eight months. Reportedly, justice officials are also at risk physically; two were killed in 1996, and court personnel are allegedly routinely threatened. Court security is minimal due to a lack of funds.

**The Constitutional Court:** After a long battle<sup>59</sup> for its existence, the Russian Constitutional Court is in place and functioning. However, under the provisions of the 1994 Law on the Constitutional Court, it was stripped of its right to receive individual complaints regarding the constitutionality of law application practices, and, therefore, victims of ill-treatment, among others, were deprived of one important domestic remedy.

Article 96 of the law provides for the right of individuals to complain only about laws which "have been applied or might be applied in a specific case". It is also not clear under the present definition of "laws" whether citizens are allowed in all circumstances to challenge presidential decrees and directives, such as Decree No. 1226 or Decree No. 1025, before the Court.

As reported in the beginning of 1997, Valery Shchelukhin, who was held in a pre-trial detention centre, contested the constitutionality of several provisions in the decree No. 1226 and on 27 May 1996 the Constitutional Court allegedly began

reviewing the legality of the 1994 decree's provision that suspects can be held for 30 days without being charged.

**The Dual Role of the Procuracy:** The ineffectiveness of the courts to address human rights complaints and their limited independence have turned individuals to lodge their complaints more often with the Office of the Procurator. In the absence of alternative non-judicial complaint mechanisms, it is still widely believed in Russia that the procuracy has the power and the influence to ensure that justice has been done; as well as the fact that its services cost much less than those of the courts.

However, the Presidential Commission on Human Rights has noted that "the federal Law on the Procuracy, passed despite its incompatibility with the conception of the judicial reform in the Russian Federation, preserves that institution in its Soviet form." The Law on the Procuracy, which was adopted and signed by the President in November 1995, was, according to reports, based on a draft prepared by the Office of the Procurator General.

The procurator's office is still based on the Soviet model, and preserves conflicting responsibilities: on the one hand it has a supervisory function over the local executive and legislative organs in ensuring that legality is observed (for example by investigating alleged

<sup>59</sup>The Constitutional Court was created in 1991 and soon after that was dissolved by a 1993 Presidential Decree. In July 1994 a new law on the Constitutional Court was adopted, but only in February 1995 was the last judge to the Court appointed. For more details see *Justice Delayed: The Russian Constitutional Court and Human Rights*, Lawyers Committee for Human Rights, March 1995

police abuses), and, on the other it is the public prosecution service, working with the police in sanctioning arrest, presiding over the criminal investigations, which are usually conducted by the MVD, and representing the state against the individual in court.

The Code of Criminal Procedure currently in force gives prosecutors, not the judges, the authority to order arrest of a suspect. Although the Constitution provides for transferring that power to judicial authorities, according to reports, the President first approved and then later vetoed draft legislation for a new Code of Criminal Procedure implementing this provision.

In carrying out this task, the prosecutors cooperate closely with the police and other specialized law enforcement agencies and have the same vested interest in seeing cases through to trial once they have approved formal arrest. Thus, they often allegedly close their eyes if a police officer uses force against detainees to obtain "results".

Apart from regions where adversarial jury trials have been introduced, procurators remain very influential in the conduct of court proceedings; criminal procedures are still weighted heavily in favour of the prosecution.<sup>60</sup> **For example, according to reports, the constitutionally guaranteed presumption of innocence is often disregarded, and defendants are expected to prove their innocence rather than the prosecutors proving their guilt. In addition, judges, fearing that an outright acquittal will result in a prosecutorial appeal, frequently send cases back to the prosecutor for "additional investigations", thus increasing the time the defendant spends in pretrial detention.**

#### **The Ombudsman on Human Rights and the Presidential Commission on Human Rights:**

Although the Constitution provides for an Ombudsman for Human Rights, with powers to

investigate complaints of human rights violations, and parliament appointed former prisoner of conscience Sergey Kovalyov to this position in January 1994, the parliament did not pass a law governing the status and powers of the post until 25 December 1996. In February 1997 the Federation Council passed the law as well. On 26 February 1997 the law was signed by President Yeltsin.

In August 1994 Sergey Kovalyov issued his first annual report, highly critical of the Russian Government's human rights record. Among the issues it singled out were reported beatings and torture of detainees by law enforcement officials; the failure by military officers to discipline those who engaged in the violent hazing of conscripts, which led to numerous deaths and injuries; and the apparent inability of prison officials to correct life-threatening situations, including cases of torture and ill-treatment, in SIZO.

Officials within the presidential administration attempted to classify the report and restrict its public dissemination. Neither the President nor any of his aides ever responded officially to the findings and recommendations of the report.

Sergey Kovalyov, however, was removed as Ombudsman by a vote in parliament on 10 March 1995. The primary motive for his removal appeared to have been his vigorous opposition to what he termed the use of disproportionate and indiscriminate force by the Russian federal forces in the Chechen Republic.

In late 1993 the President established a Presidential Commission on Human Rights, with powers to monitor and report on the observance of human rights in Russia, but swiftly became critical of its work. In August 1995 aides to the President reportedly prepared a decree dismissing Sergey Kovalyov as a chairman of the Presidential Commission on Human Rights and transforming the unit into a "complaint letter department". President Yeltsin did not sign the

<sup>60</sup>See U.S. Department of State's report on the Russian Federation, *Country Reports on Human Rights Practices for 1994*, February 1995

decree.<sup>61</sup> On 23 January 1996 Sergey Kovalyov resigned as Chairman of the Presidential Commission on Human Rights. Most other members of the Commission also resigned on or before 5 February 1996. At the time of the members' resignations, the Commission published its second report on observance of human rights in Russia, covering 1994 and 1995. Very little, if anything, has been done to address human rights complaints by the Commission in the period since new members were appointed, including its new chairman, Vladimir Kartashkin.

The first major initiative of the Commission was organizing a special meeting, with the participation of human rights groups, on 25 February 1997 to address the situation in the Russian SIZOs and penitentiary institutions. As a result of the meeting the Presidential Commission came up with a list of decisions for recommendations to the government on improvement of the situation. The Commission stated that:

**“the analysis of citizens’ complaints conducted in February 1997 by the Commission on Human Rights,**

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<sup>61</sup>See U.S. Department of State’s report on the Russian Federation, *Country Reports on Human Rights Practices for 1995*, March 1996.

indicated that among all individual complaints relating to the functioning of the procuracy and the departments of internal affairs, every fourth complaint pointed out serious violations of the rights of persons held in the penitentiary institutions."

In addition, the Commission noted the large number of violations of human rights of persons detained under the provisions of Presidential decree No. 1226 of 1994 on fighting organized crime and further admitted that this decree violates the Russian Constitution.

**International Remedies:** Finally, mechanisms exist at the international level to which individuals, victims of torture and ill-treatment or other human rights violations, can resort in filing a complaint. The right of individual petition is secured in Article 46 (3) of the Constitution, which provides that an individual can, after exhausting local remedies, appeal to international bodies "in accordance with international treaties." At present, the most important mechanism to which this provision in the Russian Constitution applies is that established under the first Optional Protocol of the ICCPR. If the Russian Federation fulfils its commitment to accede to or ratify the European Convention for the Protection of Human Rights and Fundamental Freedoms by February 1997, in the near future individuals within the Russian Federation's jurisdiction will also be able to resort to the human rights mechanisms of the Council of Europe, namely, will be able to address their cases to the European Commission on Human Rights.<sup>62</sup>

Unfortunately, this route has proved to be extremely burdensome, even in those rare cases where the victims of ill-treatment or other human rights violations are familiar with international human rights standards and procedures. Since January 1992 dozens of Russians have appealed to the Human Rights Committee.<sup>63</sup> By November 1994 none of these complaints had yet reached the registration stage. Some observers conclude that now that domestic forces no longer prevent Russians from complaining to the Human Rights Committee, it is the understaffed UN that provides the impediment. In addition the Committee lacks Russian-speaking staff.<sup>64</sup> In any case, these international remedies will remain no more than supplemental to the domestic avenues and procedures for complaint and, in conformity with decisions of the European Commission on Human Rights and the European Court of Human Rights, the views of the Human Rights Committee are recommendations, not legally binding.

The inefficiency of the procedure for complaints is illustrated by the case of two sisters from Moscow.<sup>65</sup> On the night of 13 September 1994 Yelena Smirnova and Irina Smirnova, twin sisters, were reportedly severely beaten by officers of Moscow Department of Police No. 7. Several officers had allegedly broken the door of the sisters' apartment and had forced themselves in after the two women

<sup>62</sup> Although Russia has been a member of the Council of Europe since February 1996, this avenue for individual complaints will be only possible after Russia ratifies the European Convention for the Protection of Human Rights and Fundamental Freedoms in the first half of 1997.

<sup>63</sup> See U.S. Department of State, *Russia Human Rights Practices, 1995*, March 1996.

<sup>64</sup> See *A Modern Day Czar?*, Lawyers Committee for Human Rights, March 1995.

<sup>65</sup> In June 1996 Karinna Moskalkenko, the defence lawyer of Yelena Smirnova and a representative of the Centre of Assistance to International Protection in Moscow, submitted the case to the Human Rights Committee for consideration under the Optional Protocol to the ICCPR, after all domestic remedies for complaint had been exhausted. During a visit to Moscow in June-July 1996, a representative of Amnesty International interviewed Irina Smirnova, and reviewed the case and the case of her twin sister, Yelena Smirnova. Amnesty International representative was present when Irina Smirnova made two visits to Tverskoy District Court and Appeal, when she attempted to file again a complaint regarding her ill-treatment by the police, during the detention of her sister.

Irina Smirnova. Her twin sister Yelena is currently in detention pending trial. The sisters claimed they were ill-treated by the police.

refused to open the door in the middle of the night. During the alleged beating the two sisters learned for the first time that there were criminal charges pending against them. However, they were not officially charged at that time. They were then detained for approximately 36 hours and later released.

Medical certificates were issued on 15 September 1994 by Trauma Station No. 56, attesting to the injuries of the sisters after the beatings. The certificate of Yelena Smirnova reads: "injuries to the soft tissues of the right arm and left ribs; injury to the rib cage. On 13 September the patient was beaten and spent the night at a police station. She had complaints of sharp pain intensifying when breathing." In addition, there is a conclusion of a psychotherapist: "psychological trauma; sharp reaction to stress."

Criminal proceedings against the sisters were initiated on 5 February 1993, under Article 93-1 of the Criminal Code (misappropriation of state property). At that time the women were not informed about the charges against them. The charges against Irina Smirnova were later dropped.

Yelena Smirnova was arrested on 26 August 1995. She had insisted upon her innocence and had claimed that her arrest and detention were illegal, since she was taken into custody after the expiration of the designated

period for preliminary investigation of the case. Since her arrest Yelena Smirnova has been held in the SIZO of Moscow's Butyrka prison.

According to the Russian Code of Criminal Procedure, a suspect can be arrested only pursuant to an official investigation. The period of investigation, which began in Yelena Smirnova's case in February 1993, expired in April 1993. The investigation had been then extended until May 1993, when it expired. The preliminary investigation in this case was suspended and resumed several times and the investigation was extended six times, of which three were acknowledged as illegal by the municipal procurator.

After Yelena Smirnova's arrest serious violations of her rights reportedly continued. For the first five days of her detention she was not informed of the charges against her, as required by national and international law, including Articles 9 (2) and 14 (3) (a) of the ICCPR, and she was not able to exercise the right to respond to the charges against her, as required by law. She was also not given access to a defence lawyer of her choice, which is a violation of Article 48 (2) of the Russian Constitution, Article 14 (3) (b) and (d) of the ICCPR, and a number of international human rights standards, including Principles 5, 6, 7 and 8 of the UN Basic Principles on the Role of Lawyers and Principles 15, 17 and 18 of the Body of Principles. Later neither Yelena Smirnova nor her defence lawyer were provided with documentation on the legality of her detention, in violation of Articles 46 and 51 of the Code of Criminal Procedure. In addition, she was denied exercise of her right to have a court review of the legality and grounds of her arrest. The denial of access to the documentation was inconsistent with the obligations of the authorities under Principle 21 of the UN Basic Principles on the Role of Lawyers and the denial of the right to a prompt judicial decision on the legality of her detention (Article 9(4) of the ICCPR).

In September 1995, more than two years later, Judge E.V. Stashina of the Tverskoy

Municipal Court in Moscow had issued a decision to dismiss Yelena Smirnova's complaint for a court review of the legality of her arrest, without the participation of the defendant, the defence lawyer, or the procurator.

Article 220 (2) of the Russian Code of Criminal Procedure does not, in theory, allow a judge to refuse review of a complaint of the legality of detention. The Plenary Decision of the Supreme Court of 23 April 1993 "Regarding the Practice of Judicial Review of the Legality and Grounds of Arrest or Extension of the Term of Preliminary Detention," clarifies that grounds for judicial review of the legality of an arrest can be found lacking in only two cases: if the defendant has already been released, or if the defendant renounces his or her request for review.

Thus, the dismissal of Yelena Smirnova's complaint for judicial review was a violation of Russian legal norms and the Russian Federation's obligations under international human rights standards. In October 1995 the Ministry of Justice issued a statement in which it acknowledged that Judge Stashina's decision was erroneous, but was unable to take any action in the absence of proof of criminal misconduct on the part of the judge.

Furthermore, Yelena Smirnova reportedly suffers from a serious illness of the skin - haemorrhoidal vasculitis - with complication of the joints. She is reportedly held in a cell designed for 24 persons but holding more than 60. Among her cell-mates reportedly are women suffering from various infectious diseases. The food and medications are reportedly inadequate. In March 1996 she was transferred to the hospital ward of SIZO No. 1 in Moscow's Matrosskaya Tishina prison. She was held there until 17 May 1996, when she was transferred back to the SIZO in Butyrka prison where she is awaiting trial. The planned court hearings of the case on 23 September and 19 December 1996 did not happen and no new date has been set up yet. According to reports the new judge dealing with the case announced in

January 1997 that the court hearing will take place not before July 1997.

Her sister, Irina Smirnova, submitted a number of times individual complaints to the court requesting a criminal investigation into the circumstances of the sisters alleged ill-treatment by police officers during the search in their apartment. The court repeatedly over three years has refused to open a criminal case into the allegations of ill-treatment. The failure to do so violates the Russian Federation's treaty obligations under Article 2 of the ICCPR and Article 13 of the Convention against Torture.

### Inadequacy of investigations and impunity

The provisions of Article 12 of the Convention against Torture for a "prompt and impartial investigation" whenever there is reasonable ground to believe that torture and ill-treatment may have occurred, even if there has been no formal complaint, are inadequately implemented in Russian law.<sup>66</sup>

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<sup>66</sup> Article 2 of the Code of Criminal Procedure provides that the aim of the criminal proceedings is "speedy and complete detection of offences, conviction of the offenders and correct application of the law so that every person who has committed an offence is justly punished and every person is prosecuted or convicted." Article 3 of the Code of Criminal Procedure provides that it is the duty of a court, procurator, investigator or inquiry agency, within the limits of their competence, to institute criminal proceedings whenever indications of an offence are discovered and to take all measures provided for by law to ascertain the occurrence of the offence, identify the offenders and ensure their punishment.



As mentioned above, in practice the ineffectiveness of the courts to address human rights complaints and their limited independence, have turned individuals, victims of torture and ill-treatment, to lodge more often their complaints with the Office of the Procurator, which still preserves conflicting responsibilities.

The loyalty to colleagues, the importance of local connections, political pressure from local officials and the "back door justice" practices in Russia are factors which often influence whether investigations into torture allegations are carried out, and when they are, with what result. The procurator's office often refuses to open a criminal case and an investigation into allegations of torture and ill-treatment in custody. As a rule, the procurator does not give any explanation of his or her decision to refuse initiation of a criminal investigation. In the rare cases when perpetrators are prosecuted, the punishments are less than the maximum provided by law.<sup>67</sup> **Moreover, in the cases where investigations of complaints of torture or ill-treatment have occurred, the investigations have not been prompt, impartial or thorough. Medical examinations have failed to satisfy internationally accepted standards of professionalism.<sup>68</sup> An example of this is the following case:**

**On 13 February 1994 Vladimir Telitsin died in correctional labour institution No. Ush 349/5 of the city of Nizhny Tagil, under circumstances which to date have not been investigated. His mother, Yuliya Telitsina, after seeing the body claimed that Vladimir Telitsin "was inhumanly beaten, hung by a wire, and left hanging on the territory of the camp."**

**In her complaint Yuliya Telitsina attached a written statement by 11 witnesses, obtained at the funeral. She approached the Nizhny Tagil municipal procuracy with a request for an examination of the circumstances surrounding the death of her son. In the request the mother insisted on the exhumation of the body of her son and on the initiation of a second expert examination, since none of the injuries on the body of Vladimir Telitsin had been reflected in the conclusions of the original expert examination.**

**The request for exhumation of the body was later refused (in April and October 1994) by the procurator under the pretext that such a procedure was allowed only when a criminal case had been opened (in accordance with the Code of Criminal Procedure), and at that time the authorities had refused to open a criminal case. The decision of the Nizhny Tagil procuracy regarding their refusal to open a criminal case was appealed by Yuliya Telitsina several times in 1994 to the regional procuracy of Sverdlovsk region, which also found no grounds for opening a criminal case. The decisions of the Nizhny Tagil and Sverdlovsk procurators were appealed several times to the Office of the Procurator General of the Russian Federation. In October 1994 it issued a decision demanding a second investigation into the circumstances of the death which were "not fully investigated", to be carried out by the Sverdlovsk regional office of the procurator. However, during the course of**

<sup>67</sup> While giving statistics in paragraph 64 about employees of internal affairs agencies who were disciplined for violating the law, the Second Periodic Report of the Russian Federation to the Committee against Torture does not provide a clear indication of how many law enforcement officials have been investigated and prosecuted for the use of torture and ill-treatment toward detainees. The report states: "... in 1994, upon representations of procurators, 23,800 employees of internal affairs agencies were disciplined for infringements in the examination of statements and reports on offences or in the conduct of investigations or enquiries, and 1,400 persons were prosecuted for various service-related crimes. In cases brought to court, 290 internal affairs agency employees were prosecuted for criminal offences relating to the conduct of investigations and enquiries, 98 of them being tried for use of illegal methods of investigation."

<sup>68</sup> See Amnesty International, *Prescription for Change: Health professionals and the exposure of human rights violations* (AI Index: ACT 75/01/96, May 1996) for a description of what is required in a proper medical examination of a case of torture or ill-treatment.

*“The Nizhny Tagil procuracy and the Correctional-Labour Administration (ITU) classified him as a suicide case. They and in March 1996 deliberately hid all the facts of violence against him in the expert examination. ... In the camp they took from us a healthy young man and threw us back a mutilated corpse. His nose was broken and ripped off, it was falling off his face; a chunk of flesh was ripped off the right side of his forehead; there was a stream of blood from his right ear. The whole palm of his right hand was one blackish-purple abrasion. His spine was stripped bare, his whole back was torn up -- it was one black mess terrible to look at. I couldn't find the tongue in his mouth. There was grass stuck in his teeth, even though it was during the winter. There may also have been broken bones. It was as if he had been put through a meat-grinder.”*

From a letter by Yuliya Telitsina to the International Protection Centre in Moscow

the supplementary investigation, once again a criminal case was not opened, by a decision issued in November 1994. Once again no exhumation was ordered, without any explanation of the reasons for the refusals (of August and November 1995) by the Sverdlovsk regional procuracy. The mother was informed again that her son's death had occurred as a result of suicide, that no bodily injuries were discovered on the corpse and that the cause of suicide was “mental deviations.”

Following a new complaint by Yuliya Telitsina to the Office of the Procurator General, she received an answer that “examination of the circumstances of Telitsin's death have been carried out...with adequate thoroughness.”

By October 1996 Yuliya Telitsina had gone a fourth time around the same institutional cycle with similar results. She has exhausted all accessible means of redress through domestic remedies. The investigation failed to satisfy the requirements of a prompt and impartial investigation mandated by Article 13 of the Convention against Torture or of a “thorough, prompt and impartial investigation” mandated by the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

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Another example of inadequacy of the investigations is the apparent pattern of forced “disappearances” in the Republic of Tatarstan. According to witnesses, on 21 October 1994 in the city of Kazan two young men, Andrey Mavrin and his friend Konstantin Shirshov, was detained by a group of armed men who wore OMON uniforms. The two men were handcuffed and taken in a car to an unknown destination. In January 1995 the Office of the Procurator of Republic of Tatarstan reportedly opened a criminal case into the “disappearances”. In July 1995 the mother of Andrey Mavrin, G.K. Hadieva, learned that the criminal case had been closed by the procuracy of Tatarstan and she was not given any explanation for the decision to close the case. In August 1995 the criminal investigation into the case was reopened in view of newly found evidence. In mid-1996 the mother had still not been informed of any details or findings of the criminal investigation into the “disappearance” of her son. In July 1996 the Office of the Procurator of Tatarstan stated in a letter that the participation of law enforcement officers in the detention of the two men had not been confirmed by the investigation.

It was reported that on 2 March 1996 two more men had “disappeared” in Kazan, A. Grudinin and M. Zaripov. According to one of the witnesses, Rashid Gafarov, the two men were detained around 2pm by several police officers who had taken them away in a police car. On 3 June 1996 Rashid Gafarov made a witness statement on the television program “Fantom” about the circumstances in which A. Grudinin and M. Zaripov were taken into custody. He was detained on 24 June 1996 by the Regional Department of Internal Affairs in Kazan allegedly in connection with his television appearance. On 26 June he was released.

A letter by the Office of the Procurator of Tatarstan stated that Rashid Gafarov had been detained as a suspect under the provisions of the Presidential Decree on fighting organized crime. Local human rights advocates reported in August 1996 that the body of one (name unknown) of the four "disappeared" men was found in the river Volga. It was alleged that there were clear signs of torture and beatings on the body, such as bruises and cuts by a knife.

#### 4. Redress and compensation for victims of torture is rarely provided

Under Article 14 of the Convention against Torture all States Parties are required to ensure in their legal systems that a victim of torture is able to obtain redress and that he or she has an enforceable right to fair and adequate compensation, including the means for as full a rehabilitation as possible. The Russian Constitution incorporates only some aspects of this obligation. It provides for full compensation for damage inflicted by the state,<sup>69</sup> **but there is no specific mention of torture as a form of damage inflicted, nor of a requirement of rehabilitation. Furthermore, there is not yet in place any enabling legislation to regulate such compensation or a mechanism to effect it. The conditions and procedure for awarding compensation for damage caused by improper actions of officials, inquiry or preliminary investigation agencies, a procurator's office or a court are still enforced by an old Soviet decree of the Supreme Soviet of the USSR of 18 May 1981,**

**which significantly predates the 1993 Constitution.**

**In practice, according to reports, the legislative norms providing for a monetary compensation to victims of crimes ceased to be applied after several law suits were successful in court. Sociological surveys assessed that the activities of the law enforcement bodies in compensating damages were positively estimated by less than 10 per cent of the population.<sup>70</sup>**

**There are no cases known to Amnesty International of compensation being awarded to a victim of torture or ill-treatment in the Russian Federation. In spite of repeated requests the authorities have failed to provide Russian human rights groups and Amnesty International with information on redress and compensation awarded to torture victims.**

#### 5. Lack of training and knowledge regarding prohibition of torture among police officers and prison officials

In addition to the inadequate implementation of standards and legislation against torture, the situation is aggravated by the fact that personnel of the penitentiary system and the law enforcement agencies are in practice not acquainted with international standards such as the United Nations Standard Minimum Rules on the Treatment of Prisoners. There is also no specific program of education and training regarding the prohibition against torture for all law enforcement officials or others involved in the penitentiary system, as required by Article 10 of the Convention against Torture.<sup>71</sup>

<sup>69</sup> Article 52 of the Constitution states: "The rights of victims of crimes committed by the state shall be protected by law. The state shall provide the victims with access to justice and compensation for damage sustained." Article 53 of the Constitution provides that "everyone shall have the right to state compensation for damage caused by unlawful actions (or inaction) of state government bodies or their officials."

<sup>70</sup> Moscow Center for Prison Reform, Independent Submission to the Human Rights Committee, 1995.

<sup>71</sup> Article 10 provides: "Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be

Most importantly, the authorities have failed to make known to law enforcement officials and to personnel of the penitentiary system that international norms, such as the Convention against Torture, take precedence over internal laws, decrees (including presidential decrees), institutional instructions and orders. The failure to make information regarding the prohibition of torture available and to ensure its implementation in practice violates Article 10 of the Convention against Torture. In July 1995 the United Nations Human Rights Committee noted in its Comments in paragraph 24 that: "The Committee deeply regrets the lack of familiarity of law enforcement and prison officers with the guarantees provided in the new Constitution, with international human rights standards under the Covenant." The Committee further recommended in paragraph 36 that "efforts be made to make the Covenant and other international human rights norms as widely known as possible, particularly among the authorities invested with the administration of justice, law enforcement and prison officers but also among the general public."

In addition, the Russian authorities often fail to train law enforcement officials and prison system personnel adequately or at all regarding the rules and provisions of national legislation concerning ill-treatment, such as the federal law, "On the Detention of Persons Suspected or Accused of Having Committed Offences".<sup>72</sup> Reports received in October 1995 pointed out that the law enforcement officials and especially those of the temporary detention centres (IVS) at the police stations were not acquainted with the provisions of the law. In fact, most police

officers did not know about the existence of the law.<sup>73</sup>

Three months after the law came into force, high-ranking officials of the MVD had vague and incomplete information about its provisions, as reported by the Russian media. Copies of the law were not available to the courts and to the lawyers' collectives; the regional Departments of Internal Affairs (UVD) and the offices of the procurator did not know about the existence of the law. The text of the law was not made available to detainees in SIZO. In October 1995, in response to a request from a human rights group to be acquainted with the text of the law, officials from the parliamentary commission dealing specifically with the problems of the penitentiary institutions reportedly answered that this law had not yet been signed by the President.

During visits to SIZO and prison colonies and meetings with prison governors and staff, Amnesty International noted the treatment of prison staff in the institutions under GUIN supervision. In 1995 and 1996, SIZO and prison colonies personnel were paid their salaries with a delay of three to five months, and had not received the additional funding due to them for food, uniforms, etc. The prison administration often explained the delay in payments with the lack of financing from the MVD and the conflict in Chechnya, to which substantial funds were allocated. According to General Yury Kalinin, head of GUIN, in October 1995 prison personnel in 30 regions were about to go on strike.<sup>74</sup> The Moscow Center for Prison Reform reported in 1996 that "many penitentiary workers are unable to support their families, more and more cases are recorded when they and their families get infected with tuberculosis." In addition,

involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment."<sup>73</sup> Moscow Center for Prison Reform conducted a special monitoring of the implementation of this Law and published its findings in the report "Poysky Vyihoda" in 1996.

<sup>72</sup>The Law was adopted by the State Duma on 21 June 1995 and signed by the President on 15 July 1995. It officially came into force on 20 July 1995. <sup>74</sup>Statement by Yu. Kalinin made at the parliamentary hearings in Moscow on 24 October 1995.

an official MVD report, submitted to the Council of Europe expert group in 1995, claimed an increase in the suicide rate among prison staff. In 1995 the number of suicides reached 41. In 1995 Vladimir Prilepin, a prison warden from the village of Krivoborye, in Voronezh Region, reportedly shot himself in the stomach with a hunting gun. Before he committed suicide, he reportedly left a note in which he wrote: "Do not blame anyone for my death. I can't go on living like this: to work and receive no money. How am I supposed to support my family?"

The Moscow Center for Prison Reform gives the following statistics:

"In 1994, 9,300 staff members were held responsible for 'discrediting actions,' of whom 2,900 were brought to trial. Out of those brought to trial, every eight is accused of bribery and every fifth of exceeding one's power or office. In 1995, 48,000 new staff members were hired, and 24,000 were sacked, including 5,489 (or 23%) who were sacked for poor performance. The number of cases of violations of the law increased by 22.1% and the number of crimes committed by prison staff increased by 35.9% in comparison with previous years."

Some of the prison governors interviewed by Amnesty International claimed that the poor conditions of work and the lack of means to support their families are often pre-conditions for acts of torture and ill-treatment performed by the prison personnel on the prisoners. The penitentiary institutions are not attractive places of

employment and they allegedly attract poorly educated people with no high expectations and no desire to develop professionally or be trained. In some cases, reportedly, people with sadistic inclinations were hired as prison wardens. According to Russian human rights monitors, the mandatory psychological tests and evaluation to determine which applicant is suitable for the job, have not been recently updated and allegedly are not in line with modern standards.

Amnesty International is not aware of any concrete plans by the authorities to remedy this situation.

X.  
**AMNESTY INTERNATIONAL'S PROPOSALS AND RECOMMENDATIONS FOR THE  
 PREVENTION OF TORTURE**

Torture and ill-treatment of persons under any circumstances are expressly prohibited under international agreements to which Russia is party, such as the Convention against Torture, and the ICCPR. Amnesty International recognizes the problems that may exist within the prison system, for example those caused by lack of funding for professional staff, training and infrastructure. The organization also recognizes the problems which exist concerning the growing level of crime in the society, and the need to protect citizens' safety. However, these problems can never be used as an excuse for torture and deliberate ill-treatment. Amnesty International believes that it is clearly within the power of the Russian authorities to take immediate measures to eliminate these illegal practices within its detention and prison system, including during situations of armed conflict, and in the armed forces. Amnesty International calls on the authorities to establish a National Action Plan for the Eradication of Torture in the Russian Federation, to include effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

Amnesty International recommends that the authorities as a matter of priority:

- criminalize torture as a distinct crime with appropriate punishments under the national law, as defined in the Convention against Torture;
- rescind Presidential Decrees No. 1815 of 2 November 1993, No. 1226 of 14 June 1994 and No. 1025 of 10 July 1996 on the grounds that they violate the Russian Constitution and international standards, and facilitate the occurrence of acts of torture and ill-treatment of detainees, while held incommunicado; and abolish all federal, local or institutional acts, rules and regulations allowing detention for longer than 48 hours without judicial authorization and access to counsel;
- inform all detainees of their rights, including the right to complain to the authorities against ill-treatment;
- ensure that detainees under interrogation are informed promptly of the charge or charges against them, and that they are allowed prompt and regular access to a lawyer of their own choice, as well as to relatives and an independent medical practitioner;
- implement prompt and impartial investigations of all complaints of torture or ill-treatment of detainees, as well as when there are reasonable grounds to believe that torture or ill-treatment has occurred even if no complaint has been made;
- as part of such investigations, ensure prompt, impartial and professional medical examinations of people alleging torture or who may have been tortured;
- bring those responsible for torture or ill-treatment of detainees to justice in the courts;
- ensure that every victim of torture has access to the means of obtaining redress and an enforceable right to fair and adequate compensation, including the means for as full a rehabilitation as possible;
- ensure that information regarding the absolute prohibition against the use of torture and ill-treatment is fully included in the training of law enforcement personnel, members of the armed forces and other persons who may be involved in the custody, interrogation and treatment of any individual subjected to any form of arrest, detention or imprisonment; and
- establish an effective system of independent inspection of all places of detention.
- take immediate steps to address the concerns and the recommendations of the UN Special Rapporteur on Torture and the Committee against Torture;

By addressing separately the authorities in the Chechen Republic, Amnesty International is not taking a position on Chechnya's legal status. Regardless of its current legal status it remains bound by the international human rights obligations of the Russian Federation, including the ICCPR and the Convention against Torture. The organization does not promote or oppose any particular system of justice, urging only that it conforms to internationally accepted standards. Amnesty International urges the authorities of the Chechen Republic to:

- abolish officially all acts, decrees, laws, orders and directives currently enforced in the republic which allow for the use of torture and ill-treatment and other cruel or degrading treatment or punishment, notably the provisions of the Chechen Criminal Code; and
- amend all articles in the Criminal Code which provide for corporal punishment, such as caning and amputations, and for the death penalty, and replace them with punishments which do not violate international human rights standards;
- respect and scrupulously abide by the norms of international standards, especially the Universal Declaration of Human Rights, the ICCPR and the Convention against Torture, which prohibit torture in any circumstances;
- abolish the death penalty and grant clemency to all death row prisoners;
- ensure equality of all people before the law and respect for the human rights of every individual in the Chechen Republic, regardless of their ethnic origin, religious or political beliefs, or their gender, age, race or sexual orientation.

others with portraits of soldiers who died as a result of  
 A Chechen man receives 40 lashes as a punishment  
 © Under the Open Media Research  
 © Komsomolskaya Pravda

- ensure effective protection of all asylum seekers and stop the practice of *refoulement* of people to countries

where they risk serious human rights violations on return, including torture and ill-treatment;

- take urgent measures to stop the practice of torture and ill-treatment in the army, known as *dedovshchina*, and conduct prompt, impartial and effective investigations into all individual complaints by conscripts and their families;
- take immediate steps to improve conditions of pre-trial detention, including limiting the period of detention pending trial and making effective use of the system of release on bail for suspects charged with non-violent crimes, notably women and adolescents;

With regard to the death penalty, Amnesty International urges the Russian authorities to:

- commute all pending death sentences and institute an immediate moratorium on executions; and
- take immediate and concrete steps toward abolition of the death penalty in law, in accordance with the requirements of the Council of Europe.

## APPENDIX 1 RECOMMENDATIONS OF THE UN COMMITTEE AGAINST TORTURE (NOVEMBER 1996)







APPENDIX 2  
TEXT OF THE CONVENTION AGAINST TORTURE

**Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

Adopted and opened for signature, ratification and accession  
by General Assembly Resolution 39/46  
of 10 December 1984

Entry into force: +26 June 1987,  
in accordance with Article 27

The States Parties to this Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that those rights derive from the inherent dignity of the human person,

Considering the obligation of States under the Charter, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to Article 5 of the Universal Declaration of Human Rights and Article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Having regard also to the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 9 December 1975,

Desiring to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world,

Have agreed as follows:

## **PART I**

### *Article 1*

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

2. This Article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

### *Article 2*

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

### *Article 3*

1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

#### *Article 4*

1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.
2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

#### *Article 5*

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in Article 4 in the following cases:
  - a. when the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;
  - b. when the alleged offender is a national of that State;
  - c. when the victim is a national of that State if that State considers it appropriate.
2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.
3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

#### *Article 6*

1. Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in Article 4 is present shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.
2. Such State shall immediately make a preliminary inquiry into the facts.
3. Any person in custody pursuant to paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national, or, if he is a stateless person, with the representative of the State where he usually resides.
4. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the States referred to in Article 5, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

*Article 7*

1. The State Party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in Article 4 is found shall in the cases contemplated in Article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution.
2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State. In the cases referred to in Article 5, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in Article 5, paragraph 1.
3. Any person regarding whom proceedings are brought in connection with any of the offences referred to in Article 4 shall be guaranteed fair treatment at all stages of the proceedings.

*Article 8*

1. The offences referred to in Article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.
2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of such offences. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with Article 5, paragraph 1.

*Article 9*

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of any of the offences referred to in Article 4, including the supply of all evidence at their disposal necessary for the proceedings.
2. States Parties shall carry out their obligations under paragraph 1 of this Article in conformity with any treaties on mutual judicial assistance that may exist between them.

*Article 10*

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person.

*Article 11*

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

*Article 12*

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

*Article 13*

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

*Article 14*

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.

2. Nothing in this Article shall affect any right of the victim or other persons to compensation which may exist under national law.

*Article 15*

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

*Article 16*

1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in Article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in Articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibits cruel, inhuman or degrading treatment or punishment or which relates to extradition or expulsion.

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## **PART II**

### *Article 17*

1. There shall be established a Committee against Torture (hereinafter referred to as the Committee) which shall carry out the functions hereinafter provided. The Committee shall consist of ten experts of high moral standing and recognized competence in the field of human rights, who shall serve in their personal capacity. The experts shall be elected by the States Parties, consideration being given to equitable geographical distribution and to the usefulness of the participation of some persons having legal experience.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals. States Parties shall bear in mind the usefulness of nominating persons who are also members of the Human Rights Committee established under the International Covenant on Civil and Political Rights and who are willing to serve on the Committee against Torture.

3. Elections of the members of the Committee shall be held at biennial meetings of States Parties convened by the Secretary General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

4. The initial election shall be held no later than six months after the date of the entry into force of this Convention. At least four months before the date of each election, the Secretary General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

5. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these five members shall be chosen by lot by the chairman of the meeting referred to in paragraph 3 of this Article.

6. If a member of the Committee dies or resigns or for any other cause can no longer perform his Committee duties, the State Party which nominated him shall appoint another expert from among its nationals to serve for the remainder of his term, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary General of the United Nations of the proposed appointment.

7. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

### *Article 18*

1. The Committee shall elect its officers for a term of two years. They may be re-elected.

2. The Committee shall establish its own rules of procedure, but these rules shall provide, *inter alia*, that:

a. six members shall constitute a quorum;

b. decisions of the Committee shall be made by a majority vote of the members present.

3. The Secretary General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under this Convention.
4. The Secretary General of the United Nations shall convene the initial meeting of the Committee. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.
5. The States Parties shall be responsible for expenses incurred in connection with the holding of meetings of the States Parties and of the Committee, including reimbursement to the United Nations for any expenses, such as the cost of staff and facilities, incurred by the United Nations pursuant to paragraph 3 of this Article.

#### *Article 19*

1. The States Parties shall submit to the Committee, through the Secretary General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.
2. The Secretary General of the United Nations shall transmit the reports to all States Parties.
3. Each report shall be considered by the Committee which may make such general comments on the report as it may consider appropriate, and shall forward these to the State Party concerned. That State Party may respond with any observations it chooses to the Committee.
4. The Committee may, at its discretion, decide to include any comments made by it in accordance with paragraph 3 of this Article, together with the observations thereon received from the State Party concerned, in its annual report made in accordance with Article 24. If so requested by the State Party concerned, the Committee may also include a copy of the report submitted under paragraph 1 of this Article.

#### *Article 20*

1. If the Committee receives reliable information which appears to it to contain well-founded indications that torture is being systematically practised in the territory of a State Party, the Committee shall invite that State Party to co-operate in the examination of the information and to this end to submit observations with regard to the information concerned.
2. Taking into account any observations which may have been submitted by the State Party concerned, as well as any other relevant information available to it, the Committee may, if it decides that this is warranted, designate one or more of its members to make a confidential inquiry and to report to the Committee urgently.
3. If an inquiry is made in accordance with paragraph 2 of this Article, the Committee shall seek the co-operation of the State Party concerned. In agreement with that State Party, such an inquiry may include a visit to its territory.
4. After examining the findings of its member or members submitted in accordance with paragraph 2 of this Article, the Committee shall transmit these findings to the State Party concerned together with any comments or suggestions which seem appropriate in view of the situation.
5. All the proceedings of the Committee referred to in paragraphs 1 to 4 of this Article shall be confidential, and at all stages of the proceedings the co-operation of the State Party shall be sought. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2, the Committee may, after consultations



with the State Party concerned, decide to include a summary account of the results of the proceedings in its annual report made in accordance with Article 24.

*Article 21*

1. A State Party to this Convention may at any time declare under this Article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention. Such communications may be received and considered according to the procedures laid down in this Article only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be dealt with by the Committee under this Article if it concerns a State Party which has not made such a declaration. Communications received under this Article shall be dealt with in accordance with the following procedure:

a. If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;

b. If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

c. The Committee shall deal with a matter referred to it under this Article only after it has ascertained that all domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention;

d. The Committee shall hold closed meetings when examining communications under this Article;

e. Subject to the provisions of subparagraph c, the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for the obligations provided for in this Convention. For this purpose, the Committee may, when appropriate, set up an ad hoc conciliation commission;

f. In any matter referred to it under this Article, the Committee may call upon the States Parties concerned, referred to in subparagraph b, to supply any relevant information;

g. The States Parties concerned, referred to in subparagraph b, shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;

h. The Committee shall, within twelve months after the date of receipt of notice under subparagraph b, submit a report:

i. If a solution within the terms of subparagraph e is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

ii. If a solution within the terms of subparagraph e is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made

by the States Parties concerned shall be attached to the report. In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this Article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this Article. Such declarations shall be deposited by the States Parties with the Secretary General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this Article; no further communication by any State Party shall be received under this Article after the notification of withdrawal of the declaration has been received by the Secretary General, unless the State Party concerned has made a new declaration.

#### *Article 22*

1. A State Party to this Convention may at any time declare under this Article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.

2. The Committee shall consider inadmissible any communication under this Article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of this Convention.

3. Subject to the provisions of paragraph 2, the Committee shall bring any communications submitted to it under this Article to the attention of the State Party to this Convention which has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

4. The Committee shall consider communications received under this Article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned.

5. The Committee shall not consider any communications from an individual under this Article unless it has ascertained that:

a. The same matter has not been, and is not being, examined under another procedure of international investigation or settlement;

b. The individual has exhausted all available domestic remedies; this shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention.

6. The Committee shall hold closed meetings when examining communications under this Article.

7. The Committee shall forward its views to the State Party concerned and to the individual.

8. The provisions of this Article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this Article. Such declarations shall be deposited by the States Parties with the Secretary General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this Article; no

further communication by or on behalf of an individual shall be received under this Article after the notification of withdrawal of the declaration has been received by the Secretary General, unless the State Party has made a new declaration.

*Article 23*

The members of the Committee and of the ad hoc conciliation commissions which may be appointed under Article 21, paragraph 1 e, shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

*Article 24*

The Committee shall submit an annual report on its activities under this Convention to the States Parties and to the General Assembly of the United Nations.

**PART III**

*Article 25*

1. This Convention is open for signature by all States.
2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary General of the United Nations.

*Article 26*

This Convention is open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary General of the United Nations.

*Article 27*

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying this Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

*Article 28*

1. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not recognize the competence of the Committee provided for in Article 20.
2. Any State Party having made a reservation in accordance with paragraph 1 of this Article may, at any time, withdraw this reservation by notification to the Secretary General of the United Nations.

*Article 29*

1. Any State Party to this Convention may propose an amendment and file it with the Secretary General of the United Nations. The Secretary General shall thereupon communicate the proposed amendment to the States Parties with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favours such a conference, the Secretary General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted by the Secretary General to all the States Parties for acceptance.
2. An amendment adopted in accordance with paragraph 1 of this Article shall enter into force when two thirds of the States Parties to this Convention have notified the Secretary General of the United Nations that they have accepted it in accordance with their respective constitutional processes.
3. When amendments enter into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of this Convention and any earlier amendments which they have accepted.

#### *Article 30*

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of this Article. The other States Parties shall not be bound by paragraph 1 of this Article with respect to any State Party having made such a reservation.
3. Any State Party having made a reservation in accordance with paragraph 2 of this Article may at any time withdraw this reservation by notification to the Secretary General of the United Nations.

#### *Article 31*

1. A State Party may denounce this Convention by written notification to the Secretary General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary General.
2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under this Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective, nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.
3. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

#### *Article 32*

The Secretary General of the United Nations shall inform all States Members of the United Nations and all States which have signed this Convention or acceded to it of the following:

- a. signatures, ratifications and accessions under Articles 25 and 26;

b. the date of entry into force of this Convention under Article 27 and the date of the entry into force of any amendments under Article 29;

c. denunciations under Article 31.

*Article 33*

1. This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary General of the United Nations.

2. The Secretary General of the United Nations shall transmit certified copies of this Convention to all States.

g before the Committee as a successor state of the USSR, which ratified the UN Convention against Torture on 26 June 1987. The initial report of the USSR to the Committee was submitted on 15 November 1989, at the Committee's third session.