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Rough Justice: The law and human rights in the Russian Federation -- summary

Amnesty International is releasing today its third report in the year-long campaign on human rights in the Russian Federation. The report, *Rough Justice: The law and human rights in the Russian Federation* focuses on the legal changes that the Russian Federation has introduced since it became a sovereign state in December 1991 and their impact on the human rights situation of ordinary people.

Over the past 12 years the Russian Federation has passed laws to reorganise its court system and strengthen the independence of judges. In 1998 the parliament elected a Federal Human Rights Commissioner -- or ombudsman, to scrutinise the performance of the government.

The law has extended its reach in the Russian Federation, but flaws in the way it is applied mean that it still offers little protection to many people. This is a general problem for anyone living in the Russian Federation, but some people are especially far from the protection of the law, including members of ethnic minorities, some foreigners, prisoners, women and children.

INTERNATIONAL SYSTEMS OF REDRESS

The Russian Federation is a member of the UN, the Organization for Security and Co-operation in Europe (OSCE) and the Council of Europe, and has undertaken to respect, protect and ensure international norms guaranteeing a wide range of human rights. Although people living on Russian Federation territory should benefit in three ways from belonging to the international human rights community, the report describes the strict limits that the Russian Federation has set on its cooperation with the international human rights community.

For example, the Russian Federation has regularly extradited people to countries without first seeking assurances that they will not be tortured or sentenced to death. These extraditions have usually involved people from the Commonwealth of Independent States -- at first from the Caucasus but now increasingly from the Central Asian states. (The report lists cases relating to extradition to Tajikistan and Turkmenistan.) On average Amnesty International has learned of up to five cases a year, but believes the true figure may be higher. **The extradition of someone to a place where they may be at risk of torture or the death penalty violates the Russian Federation's obligations under Article 3 of the ECHR, and runs counter to principles and policies of the Council of Europe.**

Since the second war in the Chechen Republic began in 1999, civilians in Chechnya have

suffered relentless and massive attacks by Russian federal forces, and armed attacks by Chechen fighters. Some 178,000 people have fled their homes to live in inadequate shelters in neighbouring Ingushetia. Amnesty International has researched numerous, consistent and credible reports that Russian forces have been responsible for widespread human rights violations such as mass killings of civilians, “disappearances” and torture, including rape.

Civilians in the Chechen Republic have been stripped of their basic fundamental rights, including the rights to life, liberty, security, respect for private and family life, protection of property and freedom of expression. They have had no protection against discrimination and torture, and have been denied the right to a fair trial and an effective remedy at national level.

International remedies

By April 2003 20 complaints from the Russian Federation had been registered with the European Court of Human Rights in Strasbourg and judgment passed in the first three. Six cases relating to alleged human rights violations in the context of the conflict in Chechnya were registered and declared admissible by the European Court of Human Rights in January 2003. All six applicants allege that Russian federal troops violated their rights or the rights of their relatives in Chechnya in 1999-2000. Since 1992, 21 individual complaints have been lodged with the (UN) Human Rights Committee, alleging that rights under the ICCPR have been violated by the authorities in the Russian Federation. To date, the Committee has upheld the complaints in two of these cases.

International monitoring

Since the attacks in the USA on 11 September 2001, the Russian Federation’s portrayal of the conflict in Chechnya as part of the international “war on terrorism” has found resonance among some members of the international community. While committing gross violations there, the Russian Federation has remained formally committed to its commitments under the ICCPR and ECHR. In these circumstances, Amnesty International regrets that the UN Security Council has remained silent on the war. It also regrets that member states of the Council of Europe have not yet lodged an inter-state complaint against the Russian Federation at the European Court of Human Rights, to bring it to account for gross violations committed in the context of the conflict in Chechnya.

On the evidence of the past 12 years, the Russian Federation’s acceptance of international human rights standards has not meant overall protection for the human rights of people within its jurisdiction. It has, however, opened up the prospect of new remedies -- at local and international level -- when those rights were violated. These remedies have been effective only when they were scrupulously monitored and enforced by the international community and respected by the Russian Federation.

DISCREPANCIES IN THE NEW CRIMINAL PROCEDURE CODE

International standards

When the Russian Federation ratified the European Convention on Human Rights (ECHR) in May 1998, it accepted specific standards for what constitutes an arrest that is lawful and a trial that is fair. The Russian Federation excepted itself from some of its criminal justice obligations until it had made legal reforms.

Pending reform, the Russian Federation therefore closed off important parts of its criminal justice system from the scrutiny of the European Court of Human Rights. In 2001 it adopted a new Code of Criminal Procedure (CPC).

Impact of the new Criminal Procedure Code

The implementation of the new Criminal Procedure Code started on 1 July 2002 with the introduction of judicial review of arrests within 48 hours, and is due to finish on 1 January 2007 with the introduction of jury trials in the Chechen Republic. Statistics on the first three months of this reform show it has had striking

impact. Courts released so many people from detention after deciding there were no grounds for arresting them, that the population in pre-trial prisons fell to its lowest number since the late 1980s. While the first impact of the new reform is undoubtedly positive, Amnesty International believes it should be assessed over a longer period: it is too early to know if the right to appear before a judge within 48 hours of arrest, for instance, has protected detainees from ill-treatment in police cells.

Amnesty International is concerned that:

-- **resistance to the change may emerge from powerful agencies such as the procuracy, the State Security Service, and the Ministry of Internal Affairs, unhappy with the new powers of the courts;**

-- **it is possible too that all the agencies involved in this new procedure have been performing according to the letter of the law for the first three months because of the scrutiny they were subject to. If the courts become less vigilant over time, the new procedure will offer suspects no real protection against wrongful arrest or ill-treatment.**

'PROPISKA': ILLEGAL BUT STILL IN PRACTICE

For a national legal system to work effectively and fairly, it must be applied and upheld consistently throughout the country. The Russian Federation fails this test because some authorities continue to use a system of registration - or *propiska* - that violates national and international law, and federal authorities have failed to hold them to account.

The USSR Committee of Constitutional Supervision first ruled the *propiska* system illegal in October 1991. Since 1995 the current Constitutional Court has ruled it illegal on at least eight separate occasions. However, these rulings were persistently ignored by the Moscow authorities. When the Mayor of Moscow, Yury Luzhkov, was campaigning for re-election in 2000, he told journalists who asked him about the *propiska* system that "the Russian Constitution does not apply in Moscow".

Amnesty International urges the Russian President to order the Mayor of Moscow to bring the *propiska* system into line with the rulings of the Constitutional Court without delay, with a view to enforcing respect by all authorities in the Russian Federation for the rule of law and international human rights norms.

In the context of war in Chechnya and a perceived "terrorist threat", the *propiska* has enabled the Moscow authorities to target and collectively expel specific ethnic groups on the grounds of their identity. Foreign nationals have also been summarily expelled amid scenes of racial abuse and violence.

Discriminatory justice

The report gives examples of representatives of ethnic minorities (Roma, Tajiks), who had fallen victim to racial stereotyping by the justice system, and Moscow's unconstitutional rules of registration.

Chechens living in Moscow are among those who have suffered longest from the punitive effects of the registration regime, especially since residential buildings in Moscow were bombed in September 1999, killing 300 people. Although no one admitted responsibility for the bombs or was arrested for planting them, Mayor Luzhkov stated publicly that he believed Islamist groups from Chechnya were responsible.

IMPUNITY UNDER 'ANTI-TERRORIST' LAW

In October 2002 dozens of armed men and women, all believed to be Chechens, took hostage more than 800 people in a theatre in Moscow - an act which Amnesty International immediately and unequivocally

condemned (See AI Index: EUR 46/052/2002) and during the three-day siege killed three of their captives. In the course of the rescue operation, 50 of the hostage-takers and at least 129 hostages died – some as a result of bullet wounds; most as a result of a gas released by the security forces into the theatre.

The rescue attempt and its aftermath threw a harsh light on the authorities' attitude to the life and welfare of the civilians who were hostages. It also raised serious questions about the impunity enjoyed by officials under the 1998 Law to Combat Terrorism.

In a landmark case, 61 people attempted to sue Moscow City Government for damages under the Law to Combat Terrorism in connection with the way the authorities ended the siege. On 23 January 2003 Tverskoi District Court rejected the first three suits.

The report gives examples of cases brought before the court.

Fight for compensation

At the heart of the case was the authorities' use of an unnamed gas to end the siege. This combined with inadequate rescue arrangements, suggest that many hostages suffered unnecessary and irreparable damage to their health before they could receive hospital treatment. Relatives of hostages also claimed moral damages for the way the authorities kept them in the dark about what had happened to their loved ones.

Court's impartiality at stake

Like many other local governments in the Russian Federation, the Moscow City Government gives direct grants to its local courts. Since the Moscow City Government was the sole respondent in this case, many relatives feared that their claims for compensation would not get a fair hearing as a result.

Amnesty International is concerned that direct local authority subsidies of this sort can compromise the independence of the courts. Courts that are independent and impartial -- and seen to be so -- are requirements for a fair trial under Article 6 of the ECHR and Article 14 of the ICCPR.

The Law to Combat Terrorism

The 1998 Law to Combat to Terrorism makes it virtually impossible for someone with a grievance arising from an "anti-terrorist" operation to gain redress. It exempts from liability those participating in such an operation, even if they violate human rights. Article 21 absolves people fighting "terrorism" of "responsibility for damage caused", even if they violate human rights. The Law ascribes no liability to the federal decision-makers who organise "counter-terrorist" operations and recognizes only limited liability of the local government where the "anti-terrorist" operation happens to take place.

Amnesty International deplores the level of impunity allowed by the Law to Combat Terrorism.

CONFINEMENT OF CHILDREN WITH MENTAL DISABILITY

Around 29,000 children live in 155 state orphanages in the Russian Federation. A further 19,400 children up to the age of four are living in children's homes. A significant number of these children were born with mental disabilities and taken away from their parents. The care for such children in state institutions is inadequate and mortality is high. In diagnosing mental disabilities doctors in the Russian Federation use terms that are not recognised by the World Health Organization. There is no law protecting the interests of children who are diagnosed in this way. They can be put into an institution through a relatively simple procedure that is regulated by a ministerial directive that has barely changed since it was adopted in the Soviet era in 1978. Their confinement is for life and there is no system for reviewing it. This procedure has typically been applied to babies with Down's Syndrome. The report gives examples of such children kept in a state

institution outside Moscow.

Because their future is regarded as hopeless in the Russian Federation, many human rights are automatically taken away from children with mental disability. Amnesty International questions the legality of the procedures used for institutionalizing these children, which breach many international standards:

- The decision to institutionalize such children is taken without reference to any law;
- Nobody represents the child's best interests;
- Children caught up in this situation have no legal means of reversing it.

Amnesty International is concerned that children with mental disabilities in the Russian Federation are being deprived of their right to liberty in unfair procedures. They are losing their right to an education and their right to a family life, and living in institutional conditions that do not respect their inherent dignity.

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

PRISONERS UNPROTECTED

This chapter of the report focuses on prisoners whose rights were violated by riot squads deployed in the penitentiary system, and on prisoners serving life sentences.

Abuse by riot squads

Since 1998 the Ministry of Justice has been responsible for administering the penitentiary system in the Russian Federation. Nevertheless, it has left the control of prison disorders in the hands of riot squads frequently deployed in Chechnya, who are outside the prison system and not subordinate to it. The chapter examines the ill-treatment of prisoners by a riot squad in a men's ordinary regime corrective labour colony in the Ural mountains. Masked members of the Special Purpose Police, OMON, harassed and beat prisoners inflicting serious injuries. Prisoners were unable to get their complaints investigated by the authorities, until the Perm regional ombudsman intervened on their behalf. At a subsequent trial, the charge of "illegal use of special techniques" against OMON was dropped because the prisoners could not identify the officers concerned.

Amnesty International urges the Ministry of Justice to take full operational responsibility for maintaining order in the prison system, using staff specially trained in assessing risk and containing disorder with minimum use of force. It is concerned that prisoners at Chepets colony were ill-treated by OMON troops and have had no effective redress and compensation.

Life imprisonment

Although obliged to abolish the death penalty since the Russian Federation joined the Council of Europe in 1996, the State Duma has failed to do so. In 1996 it adopted a Criminal Code that introduced new and harsher alternatives to the death penalty: 25 years' imprisonment, or life imprisonment. This means imprisonment for the duration of a prisoner's natural life, with no possibility of periodic review. Contrary to international standards for the treatment of people in custody, in the Russian Federation life imprisonment is organized around the prisoner's almost total isolation, both from fellow prisoners and from relatives. Very many prisoners serving life sentences were convicted under old criminal justice procedures, that have now been discredited and replaced.

In Amnesty International's view, the conditions in which life sentence prisoners are held violate their right to be treated with humanity and not to be subjected to torture or other cruel, inhuman or degrading treatment.

Imprisonment of Chechen prisoners

The chapter examines the circumstances surrounding the deaths in custody of two Chechen fighters - **Salman Raduev** and **Turpal-Ali Atgeriev** - only months after they had been convicted of 'terrorist acts' and sent to a special regime camp in Perm. No independent autopsy was carried out following their deaths, and they were buried without relatives present.

Amnesty International urges the authorities to initiate an independent investigation into the circumstances in which these two men died. It should be conducted by people chosen for their recognized competence, expertise and independence, who would command authority and inspire confidence, and its findings should be made public.

Amnesty International ends its report *Rough Justice: The law and human rights in the Russian Federation* with a list of recommendations, which the organization believes would radically improve the protection of human rights in the Russian Federation.

(See also *Updates on selected events covering the period from April to October 2003*, AI Index: EUR 46/083/2003)

Public Document

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