

EXTERNAL

16 April 1997

Duyshenbek and Ishenbek Medetbekov
_____ (in Russian)
Oleg and Vladimir Prokhorets
_____ (in Russian)
Rustam Valimukhamedov
_____ (in Russian)
Emilbek Chakiyev
_____ (in Russian)
Shezyr Sushanlo
_____ (in Russian)
Viktor Klochikhin
_____ (in Russian)
Adyl Nurayev
_____ (in Russian)
and
Oktyabr Orozbayev
_____ (in Russian)

Kyrgyzstan

Amnesty International is concerned that the 10 men named above were sentenced to death in Kyrgyzstan in 1996 for premeditated, aggravated murder. In all 10 cases the Supreme Court of the Kyrgyz Republic has turned down the appeals lodged by these men against their sentences. Their last hope of avoiding execution is a petition for clemency to the President of the Kyrgyz Republic.

There are few details available on these cases.

Duyshenbek and Ishenbek Medetbekov are brothers. Their elderly parents live in Bishkek, the capital of Kyrgyzstan. They were sentenced to death by Chuy Regional Court on 10 September 1996 for premeditated aggravated murder under Article 94 of the Kyrgyz Criminal Code. An appeal against their death sentences was turned down by the Supreme Court of Kyrgyzstan on 12 November 1996. Their petitions for clemency are believed to be still pending with the President's Office. They were known to be alive as of 17 February 1997.

According to their parents, who attended the trial, Duyshenbek and Ishenbek retracted their confessions in the first court session, claiming that they had been subjected to regular beatings while in pre-trial detention and had been forced to admit to a murder they had not committed. Following this retraction the trial was postponed for two days and when it resumed the brothers reportedly confessed their guilt again. Their parents reported that their sons behaved oddly in court and readily pleaded guilty to all charges put to them.

Duyshenbek Medetbekov was born in 1959 and has three children. His wife is said to be ill.

Oleg and Vladimir Prokhorets, also brothers, born 1969 and 1973 respectively, were sentenced to death by Osh Regional Court on 28 August 1996 for premeditated aggravated murder, under Article 94 of the Kyrgyz Criminal Code. Their appeals against their death sentences were turned down by the Supreme Court, exact date not known. Vladimir Prokhorets claims that he was forced to confess to the murder and denied access to a lawyer. He has one previous conviction.

Rustam Valimukhamedov, born in 1973, was sentenced to death by Bishkek City Court on 29 October 1996 for premeditated aggravated murder under Article 94 of the Kyrgyz Criminal Code. The Supreme Court upheld the death sentence on 3 December 1996. He reportedly made a written statement alleging torture during interrogation. He was known to be alive as of 22 January 1997.

Emilbek Chakiyev, born in 1964, was sentenced to death by Chuy Regional Court on 25 June 1996 for premeditated aggravated murder under Article 94 of the Kyrgyz Criminal Code. The Supreme Court upheld his death sentence, exact date not known. He alleges that he was tortured into making the confession that led to his being sentenced to death. He was known to be alive as of 22 January 1997.

Shezyr Sushanlo, born in 1948, was sentenced to death by Chuy Regional Court on 19 August 1996 for premeditated aggravated murder under Article 94 of the Kyrgyz Criminal Code. The Supreme Court upheld his death sentence on 8 October 1996. He reportedly denies his guilt and claims that he was tortured during interrogation, leaving him permanently disabled and confined to bed. He was known to be alive as of 22 January 1997.

Viktor Klochikhin, born in 1942, was sentenced to death for premeditated aggravated murder under Article 94 of the Kyrgyz Criminal Code probably by Chuy Regional Court in the second half of 1996. It is believed that the Supreme Court may have upheld his death sentence. According to reports he claims that he witnessed the murder he was charged with, but did not commit it and that the case against him was a fabrication.

Adyl Nurayev, born in 1967, was sentenced by Bishkek City Court in May 1995 to 14 years' in a strict regime labour colony for grievous bodily harm. The case was reviewed within a year and new charges were added and he was sentenced to death for premeditated aggravated murder under Article 94 of the Kyrgyz Criminal Code probably again by Bishkek City Court. The Supreme Court turned down his appeal against his death sentence, exact date not known.

Oktyabr Orozbayev, born in 1960, was sentenced to death by Chuy Regional Court on 21 October 1996 for premeditated aggravated murder under Article 94 of the Kyrgyz Criminal Code. The Supreme Court upheld his death sentence on 5 January 1997. According to reports he alleges that he was wrongly convicted for a murder committed by someone he knows. He has two previous convictions.

Amnesty International opposes the death penalty in all cases and without reservation, on the grounds that it is a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment as proclaimed in the Universal Declaration of Human Rights. Amnesty International is appealing to the authorities in the Kyrgyz Republic to commute the death sentences passed on the above-named ten men.

Background information

Amnesty International is calling on authorities in Kyrgyzstan to consider, as a matter of priority, ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR). Adopted by a resolution of the United Nations General Assembly in December 1989, the Second Optional Protocol is the first international treaty of worldwide scope aimed at abolition of the death penalty.

In 1992, shortly after Kyrgyzstan became independent, a delegation from Amnesty International visited Bishkek and had the opportunity to discuss the death penalty and other issues with officials in the government and judiciary. The delegation heard positive statements from many officials about the desirability of abolishing the death penalty in Kyrgyzstan. The subsequent news that clemency had been granted to a number of people under sentence of death whose cases had been raised by Amnesty International encouraged hopes of a serious commitment to abolition of the death penalty in Kyrgyzstan.

These hopes were misplaced, and Amnesty International has been disturbed by reports of much wider use of the death penalty in the past three years. Authorities in Kyrgyzstan appear to take the view that use of the death penalty is necessary to fight crime effectively. Arguments about its deterrent effect are frequently put forward as a justification for retaining the death penalty, but Amnesty International rejects them. Scientific studies have consistently failed to find convincing evidence that the death penalty deters crime more effectively than other punishments. A survey of research findings on the relation between the death penalty and homicide rates, conducted for the United Nations in 1988, concluded that:

"This research has failed to provide scientific proof that executions have a greater deterrent effect than life imprisonment. Such proof is unlikely to be forthcoming. The evidence as a whole still gives no positive support to the deterrent hypothesis".

Similarly, the South African Constitutional Court, whose judges were appointed by President Nelson Mandela, in a ruling in June 1995 (State v. MaKwanyane and Mchunu, case No. CCT/3/94), expressly rejected the contention that the death penalty was an effective specific deterrent.

Amnesty International also maintains that the wrong message is given when a government itself violates human rights in the process of seeking to enforce law and order. Executing people to punish serious violent crime only serves to perpetuate a cycle of violence.

Kyrgyzstan retains the death penalty for 15 peacetime and two wartime offences. As crime rates have increased in recent years, Kyrgyzstan has increased its use of the death penalty. Justice Ministry officials made available to Amnesty International in April 1992 statistics for the number of death sentences passed and carried out between 1987 and 1991. These showed that on average eight death sentences had been passed annually between 1987 and 1990, and that all of these had been carried out. In 1991 the number of death sentences rose sharply to 21. Statistics for the number of death sentences passed annually since then have not been made available.

In February 1993 the head of the Department for Citizenship and Clemency Questions at the President's Office informed Amnesty International that three death sentences passed in 1991 had recently been commuted to 20 years' imprisonment. A fourth death sentence was commuted in October 1993. Amnesty International had taken up these cases (as it does all death penalty cases brought to its attention), and unofficial sources in Kyrgyzstan reported that the organization's campaign had made a decisive contribution to their positive resolution. At least one execution was carried out in 1993, however. In 1994 three cases brought to Amnesty International's attention ended in commutation, but in a fourth the death sentence was carried out. In 1995 at least 30 people were executed, including one man, 21-year-old Vasily Skvortsov, whose case Amnesty International had taken up by calling for commutation of his death sentence.

In 1996 two of the death sentences which Amnesty International appealed against, those of Nikolay Sokolov (see UA 151/96, EUR 58/07/96, 25 June 1996 and follow-ups) and Lyubov Sirotkina, were commuted to 15-year prison sentences.

Cases where the defendants are charged with offences carrying a possible death sentence are heard at first instance in regional courts, the Bishkek City Court or the Supreme Court. A defence lawyer must assist in capital cases. Prisoners can appeal against the verdict or sentence to the next highest court within seven days of receiving a written copy of the judgment. Since their cases are heard at a higher level at first instance, however, prisoners under sentence of death have fewer opportunities to appeal than many other prisoners.

Death sentences may also be reduced by a judicial review. Under this procedure a higher court re-examines the case after it has received a protest against the judgment of the court of first instance or the court of appeal. If all other remedies fail, prisoners under sentence of death can petition for clemency, which may be granted by the President of the Kyrgyz Republic. Following the break-up of the USSR such prisoners no longer have the opportunity for a judicial review or petition to be considered by the federal USSR authorities, and have thereby lost a possible final avenue for commutation. Prior to this, legal authorities estimated that it could take some two years

for a death penalty case to reach resolution.