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Russian Federation

Torture and forced "confessions" in detention

Amnesty International

Executive
Summary

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On 12 April 2006, between 9am and 4pm, Aslan Umakhanov was severely beaten by three officials. He gave the following account of his treatment: Sometimes he was beaten with fists, sometimes with plastic bottles full of water. At one point the men put a book on his head and then beat his head through the book. When he started shouting they wrapped his head in a blanket. They also electrocuted him in the heels and in the area around his kidneys. After six hours he agreed to sign a "confession". Using a rope, they tied a 32kg bodybuilding weight to his left hand which dragged his body and head down level with the table. In that position he wrote a "confession" under their dictation. Later he was made to read it out before a video camera, repeatedly, until they were satisfied. At no point during the "questioning" was he given access to a lawyer.

Torture in police custody and pre-trial detention is a fact across Russia. The country is failing both its international and national obligations to protect its citizens.

International law absolutely prohibits torture and cruel, inhuman and degrading treatment. Russia is a state party to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Russian criminal law has provisions that prohibit acts that amount to torture, under which some police officers have been convicted. And the country has brought in new safeguards aimed at preventing the practice of torturing or otherwise ill-treating detainees to extract "confessions".

In December 2001, a new Criminal Procedure Code (CPC) was adopted and is now in force. Its principles include: respect for the individual; the inviolability of the person; and a prohibition on torture and other cruel and degrading treatment. It clearly states that any evidence obtained in violation of the Code will be inadmissible in criminal proceedings.

In April 2006 the transfer of all pre-trial detention centres still under the Federal Security Service to the Ministry of Justice was finally signed into law, as required by the Council of Europe.

More visits by NGOs and ombudspersons to police custody facilities and pre-trial detention centres have been allowed, and the office of regional ombudspersons continues to develop – processing complaints and focusing attention on conditions of detention.

The country has also introduced more jury trials – improving the scrutiny of evidence and reducing the reliance on “confessions” – and has trained officials in international law and standards.

And yet, torture continues. In 2005, Russian NGOs documented more than 100 cases – backed up by medical evidence – across 11 regions in the country, not including the North Caucasus. This demonstrates the state’s failure to fully implement legislation and investigate and prosecute perpetrators of torture.

In situations of conflict, the incidence of torture appears even higher, and problems highlighted by this report are magnified. Amnesty International is particularly concerned about the practice of torture of individuals held incommunicado in unofficial and unacknowledged places of detention in Russia’s North Caucasus region. Investigations leading to prosecutions of such allegations of torture are almost non-existent, which has created a climate of impunity in the region.

Context

Russia is beset with high crime rates and levels of violence. Police earn relatively low salaries, are inadequately trained and are given poor equipment. Morale is low and staff turnover high. Promotion appears to be based on rates of conviction rather than prevention – something the UN Committee against Torture cited in 2002 as potentially encouraging the use of torture. “Confessions” too often form the basis of investigations and prosecutions of crimes.

Safeguards circumvented

Any safeguards designed to prevent torture are therefore seen by law enforcement officials as a hindrance to “solving” a case through obtaining a “confession”. Basic rights and safeguards, including the right to legal counsel, the right to medical examination by doctor of choice, and the right to relatives being notified of the fact of arrest, are seen as hampering convictions.

The letter or the spirit of national and international law are therefore frequently not followed.

Police officers and investigators have many ways of denying people access to lawyers. One strategy is to detain individuals on the pretext of violating the administrative, rather than criminal, code. This, they claim, does not require the presence of a lawyer. Lawyers are also not needed, officers and investigators are known to have claimed, when people are questioned during “investigative activities”, “operative activities”, “talks” and “chats”. In other words, if it is not an official arrest, official rules do not apply.

This appears to be what happened to Aslan Umakhanov.

One other strategy is to place detainees under “quarantine”, which can in practice last up to a week and denies the detainee access to visitors. The practice of quarantining people is badly regulated and neither the Procuracy nor the courts exercise much control over it.

Another tactic is to transfer suspects to temporary detention facilities purportedly to relieve overcrowding. On arrival they are “quarantined”. And if moved around a lot it can

become very hard for lawyers and families to keep up contact and knowledge of the detainee's whereabouts, let alone visit.

These temporary facilities are housed in prisons. AI has received corroborated testimonies that convicted prisoners have been used to speed up "confessions" from detainees, in exchange for special privileges. Some prisoners were allowed free access to suspects while in solitary confinement in the punishment block. The testimonies say detainees were beaten by groups of up to six convicts – including with truncheons and poles. Some testimonies describe a special room fitted with a metal table and wrist restraints, used for rape.

Another safeguard easily circumvented is the requirement to inform relatives of detention. The CPC fails to explicitly state that the relatives must also be informed of the whereabouts of the detainee, however. Nor does it give a maximum timeframe for notification in all cases – the UN Special Rapporteur on torture says this should be 18 hours.

Although Russian law provides for routine medical examinations by doctors in pre-trial detention centres, it does not provide for the detainee to choose the doctor. "Duty" doctors often do not provide a prompt and thorough examination allowing for signs of torture to be recorded. And complaints, therefore, have not led to formal investigations as there is no medical evidence.

Little effective investigation

Formal investigations are a key area where the state fails in its responsibility to the individual. The General Procuracy is meant to investigate allegations of torture and other ill-treatment in police custody, working in coordination with police officers from the Special Service Internal Security Department.

But a large body of research by human rights groups has shown that the Procuracy routinely fails to ensure an effective remedy against torture or ill-treatment.

The Procuracy has been known to refuse to examine serious allegations or abuse, or to do so only half-heartedly. According to Russian NGOs, in 2005, official investigations found evidence of torture in only 33 out of 114 cases brought before the Procuracy. And in the year before, only 47 out of 199.

There is also much testimony of intimidation, obstruction, and a real fear of reprisal, by people who seek redress. Sometimes lawyers have been removed from cases by the Procuracy after being called in for questioning about the complaint of their client. The reason given being that the lawyer had been questioned as a "witness" and could not now represent the accused.

The situation is complicated by the fact that the Procuracy is also responsible for the investigation and prosecution of serious crimes. In other words it is investigating its own people. This does not meet requirements for independence and impartiality.

The European Court of Human Rights has pointed to serious deficiencies in the Procuracy's response to allegations of torture. In January 2006 it ruled in favour of Aleksei Mikheyev who had jumped out of a window and broken his spine in an effort to evade his torturers, but whose case had been opened and closed by the Procuracy more than 20 times before reaching the European Court.

Weak or obstructed monitoring mechanisms

There is no fully effective, independent and nationally enforced mechanism for unannounced visits to all places of detention, able to act as a deterrent to torture. Officials from local Procuracy offices are supposed to visit police custody and pre-trial detention centres every week but their visits are pro forma and the Procurator's response "subservient" to the needs of the investigation. Ombudspersons have fewer formal powers, making visits that they undertake less than fully effective.

By ratifying the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Russian authorities committed themselves to providing officials of the CPT access to any place in its jurisdiction where people are held in detention.

In general it has done this. But its cooperation has not been total. For example, during its most recent visit in May 2006, the CPT was initially denied access to the village of Tsenteroi in the Chechen Republic.

Russia is also the only country in the Council of Europe which has not regularly authorized publication of the CPT's reports. To date, 12 out of 13 reports on the country remain confidential.

In 2000, the UN Special Rapporteur on torture lodged a request for an invitation to visit the Republic of Chechnya. The first visit since then, in October 2006, was postponed at the last minute because the Russian authorities refused to agree to the terms of reference of the Special Rapporteur.

Key recommendations to the Russian authorities

Amnesty International calls on the Russian government to take immediate and decisive action to demonstrate to the police that torture and ill-treatment will not be tolerated.

The Russian authorities should sign and ratify the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, facilitate the visit of the UN Special Rapporteur on torture as soon as possible and immediately authorize publication of CPT reports.

The government should set up a mechanism for unannounced inspections of all places of detention, including police custody and pre-trial detention centres, by credible impartial investigators, whose findings should be made public.

Police officers should be provided with the necessary technical resources and professional skills to carry out their duties, and their training should involve a compulsory human rights component.

The Office of the General Procurator should develop standards for ensuring investigations are independent, effective, thorough, prompt and in line with international obligations, and ensure procurators are trained in how to investigate allegations of torture.

KEYWORDS:

This report summarizes a 26-page document (11,189 words): Russian Federation: Torture and forced "confessions" in detention (AI Index: EUR 46/056/2006) issued by Amnesty International in November 2006. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other

subjects is available at <http://www.amnesty.org> and Amnesty International news releases can be received by email:

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