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DEADLY SECRETS: A HERITAGE FROM THE SOVIET UNION

After the collapse of the Soviet Union in 1991 the 15 independent republics inherited the secrecy surrounding the application of the death penalty from the Soviet system. Neither the death row prisoner nor his or her relatives were given any advance notice of the date of execution, or an opportunity for a last visit. After the prisoner was shot dead his body was removed and buried in secret, with relatives having no right to attend the burial or carry out the burial themselves. They were not even informed where their loved one was buried.

This secrecy continues to accompany the application of the death penalty in **Belarus** and **Uzbekistan**, the last executioners in the former Soviet space. The general lack of transparency of the criminal justice systems in both countries together with the secrecy inevitably lead to immense suffering.

In his February 2003 report following a visit to **Uzbekistan**, Theo van Boven, the UN Special Rapporteur on torture, stated that the *"complete secrecy surrounding the date of execution, the absence of any formal notification prior to and after the execution and the refusal to hand over the body for burial are believed to be intentional acts, fully mindful of causing family members turmoil, fear and anguish over the fate of their loved one(s)." He described the treatment of family members as "malicious and amounting to cruel and inhuman treatment".*

When considering two death penalty cases from **Belarus** that had been submitted under the individual complaint procedure, the United Nations (UN) Human Rights Committee ruled that the secrecy surrounding the application of the death penalty *"[has] the effect of intimidating or punishing families by intentionally leaving them in a state of uncertainty and mental distress...[and that the] authorities' initial failure to notify the author of the scheduled date for the execution of her son, and their subsequent persistent failure to notify her of the location of her son's grave amounts to inhuman treatment of the author, in violation of article 7 of the Covenant [prohibiting torture or cruel, inhuman or degrading treatment or punishment]."*

In addition, Amnesty International (AI) is concerned that in most countries in the region that do not execute anymore, relatives of death row prisoners -- who had been executed before the country abolished or put a moratorium in place -- have still not been able to find out where their loved ones were buried. In **Kyrgyzstan** and **Tajikistan**, for example, the Criminal-Execution Codes still stipulate that the place of burial is not disclosed.

SECRECY: CRUEL, INHUMAN AND DEGRADING TREATMENT

Failure to inform relatives about the date of execution

One of the worst experiences of relatives of death row prisoners in **Belarus** and **Uzbekistan** is the constant fear that their relative could be executed at any time. According to domestic legislation in both countries, executions are carried out after the clemency commission has considered the case and the respective President has refused to grant clemency. However, in both countries death row prisoners, their lawyers and relatives are not informed when their case is under review. Many families in **Uzbekistan** told AI that they had never been informed of the outcome of the review.

AI has documented many cases in which the authorities gave official permission for the next monthly visit, only for the family to arrive at the prison to be told that their relative was

already dead. Even when the execution has already been carried out, family members are often not told the truth.

Shura Tulyaganova, for example, the mother of 21-year-old Refat Tulyaganov, had obtained official permission to see her son in Tashkent prison on 24 January 2002. However, prison personnel told her she could not visit him as the prisoners were bathing that day and she should come back the next day. When she returned the next day prison guards told her that he had been executed. "I went and complained to various authorities for three weeks. Eventually I was handed the death certificate on 12 February," said Shura Tulyaganova. According to the death certificate, Refat Tulyaganov died on 18 January, six days before his mother had come to visit him.

The refusal by prison guards to grant relatives access to a death row prisoner despite an official permission obtained by them earlier has in many cases indicated that the prisoner has already been executed. As a result, a refusal of access despite official permission can be traumatic for the relatives.

When prison guards refused to give Shukhrat Aripov's relatives access to their son on 14 October 2004 although they had obtained official permission to visit him that day they thought he was already dead. "His parents were in a state of shock. Shukhrat's father fell ill and couldn't leave the house for several days", said Mayra Rakhmanova, a member of the Uzbekistan-based human rights group Mothers against the Death Penalty and Torture. However, when they went to the prison again on 21 October to try to ascertain whether their son was dead or alive, they were immediately granted access to him. It was not explained to his parents why they had not been allowed to see him the previous week.

Even after the execution relatives have in many cases not been informed of the execution for weeks or longer. Current legislation in **Uzbekistan** requires the Ministry of the Interior, which is responsible for carrying out the execution, to inform the court, which passed the death sentence, within three days of execution. It is then the responsibility of the court to notify the close relatives. Upon request, family members are entitled to receive a death certificate. However, no publicly accessible legal document sets out a time limit within which families have to be approached by the court and there is no time frame for death certificates to be issued.

Secret graves

After the execution the state refuses to reveal where the body of the executed prisoner is buried. Like hundreds of other relatives of death row prisoners in **Uzbekistan**, Tamara Chikunova has never been told where her son was buried following his execution in July 2000. *"It is one of the worst things for me, that I do not know where Dmitry is buried. If I knew I would at least have a place where I can go with my grief and where I can talk to him."* She put up a grave stone with a picture of her son next to the grave of her father on a cemetery in Tashkent and symbolically buried a small heap of earth that a Russian Orthodox priest had blessed for her.

Colonel Oleg Alkayev, former director of the investigation-isolation prison in Minsk (SIZO No. 1), **Belarus**, and head of the execution squad, told AI on 30 July 2004: *"The relatives have often tried to find out about the site of burial but [the authorities] have especially disseminated false information. I cannot disclose the location because it is secret. Otherwise, if I give a hint then the mothers and sisters and brothers go out with shovels and start digging and this has to be prevented."*

In 2003 the (UN) Human Rights Committee requested the **Belarus** authorities to inform the mother of executed death row prisoner Anton Bondarenko about *"the location where her son is buried, and [to grant] compensation for the anguish suffered. The State party is also under an obligation to prevent similar violations in the future."* However, up to this date Anton Bondarenko's mother still does not know where her son is buried and the Criminal-Execution Code of Belarus has not been amended to comply with the Committee's ruling.

While AI welcomes that the other countries in the former Soviet space do not execute anymore, AI is concerned that elements of the secrecy continue to cause suffering to the relatives of death row prisoners. **Kyrgyzstan** and **Tajikistan**, for example, still refuse to

reveal the location of the burial sites of prisoners executed before the moratoria came into force in December 1998 and April 2004 respectively.

Constant fear on death row

Despite the strict monitoring of communication between death row prisoners, their lawyers and their relatives by the prison authorities both in **Belarus** and in **Uzbekistan**, AI was able to obtain some information on the effect of the secrecy on death row prisoners.

According to information received by AI, death row prisoners are not informed of the date of the execution in advance. As a result they live in constant fear that they could be executed at any time. Polina Braunerg, a lawyer working on death penalty cases in **Uzbekistan**, told AI that death row prisoners are often unsettled and frightened when they are taken for a meeting with their lawyer or family because they are frequently not told that they have a visitor and fear that they are being taken for execution.

When Abror Isayev's mother visited her son in Tashkent prison on 3 April 2003, he was extremely disturbed and reportedly said that he had been told he was being led to his execution. His mother reported that when she saw him, "he had a fresh red mark on his neck and I understand he wanted to strangle himself."

Several death row prisoners in **Uzbekistan** have told their families that their cell mate had been led out of the cell without advance notice and had been executed.

As head of SIZO No. 1 in **Belarus** and head of the execution squad from December 1996 to May 2001, Colonel Alkayev was personally responsible for informing death row prisoners of their execution immediately before they were taken to be shot. He gave the following account of the procedure: *"The death row prisoner is taken to a separate room. The prison director is present, the procurator and a representative of the Interior Ministry... I give the order that his death sentence will be executed. Then the person still doesn't know when it will be carried out. It could be tomorrow. I don't say the time. Then the prisoner is blindfolded and taken to the next room. A man is waiting for him there and the prisoner is shot in the back of his head."*

Many prisoners currently on death row in territories in the former Soviet space that have moratoria in place but continue to hand down death sentences may have been waiting years in a state of continued uncertainty as to their ultimate fate. AI believes that such a situation amounts to cruel, inhuman and degrading treatment. **Kyrgyzstan**, for example, continued to pass death sentences after the moratorium on executions came into force in 1998. Since then at least 140 prisoners have accumulated on death row.

SECRET STATISTICS AND THE PREVENTION OF AN INFORMED PUBLIC DEBATE

President Islam Karimov said at a press conference in Tashkent, **Uzbekistan**, on 2 December 2004 that between 50 and 60 people had been sentenced to death in 2004. On 19 November 2004 the **Belarusian** Minister of Interior, Viktor Naumov, stated in an interview that up to that date in 2004 five people had been sentenced to death and executed.

However, both countries have persistently failed to publish comprehensive statistics about the number of death sentences and executions carried out including the names and case details of those sentenced to death, in contravention of their commitment as members of the Organization for Security and Co-operation in Europe (OSCE) to *"make available to the public information regarding the use of the death penalty"*. **Uzbekistan** has repeatedly refused to submit such information to UN bodies including the (UN) Human Rights Committee, the UN Special Rapporteur on torture and the (UN) Committee against Torture. During the review of **Belarus** in November 2000 by the (UN) Committee against Torture the head of the Belarusian delegation, Alyaksandr Ivanovsky, stated that in 1998 and 1999 respectively there were 45 and 13 executions. However, the figure given for 1999 contradicted a statement made in August 1999 by the then Chairman of the Supreme Court, Valyantsin Sukala, who said that 29 people had been executed in the first seven months of 1999.

The publication of comprehensive statistics is an important element to enable an informed public debate about the death penalty. The secrecy and lack of transparency surrounding the application of the death penalty in **Belarus** and **Uzbekistan** further prevent such a debate from taking place. In addition, the authorities of both countries have on many occasions taken steps to limit the right to freedom of expression of journalists and activists working on the death penalty. In **Uzbekistan** anti-death penalty activists have on many occasions been harassed and intimidated by the authorities. In some instances relatives of human rights defenders have been targeted to put pressure on the activists.

*In December 2004 General Prosecutor's officials in **Belarus** reportedly summoned Irina Khalip, a journalist for the Russian newspaper Novaya Gazeta for publishing "Drunken Executioners", an article about the application of the death penalty in Belarus. The article included a reference to the start of AI's campaign Make Europe and Central Asia a Death Penalty - Free Zone in October 2004. She was allegedly told that the death penalty was a choice made by the Belarusian people and to cast doubt on its morality meant an infringement on one of the state's values.*

*The authorities of **Uzbekistan** stopped the conference "Death Penalty: Analysis, Tendencies and Realities" organized by the NGO Mothers against the Death Penalty and Torture scheduled to take place in Tashkent on 5 December 2003, on the grounds that the group was not registered. The group had repeatedly been denied registration. The conference was aimed at initiating a public debate about the death penalty and at creating a platform for dialogue with the authorities. The group had invited representatives of the authorities, foreign diplomats, representatives of intergovernmental organizations as well as local and international human rights activists to speak at the conference. While preparing the conference, the group found it was almost impossible to get material for the conference printed, including the group's latest bulletin and AI's November 2003 report 'Justice only in heaven' – the death penalty in Uzbekistan. Several printing houses refused to publish, fearing repercussions by the authorities.*

On 2 December 2004, the President Islam Karimov stated at a press conference in Tashkent: "We should stop handing out death sentences. This is my personal opinion... [However,] if you hold a survey today, the absolute majority of people would be in favour of keeping the death penalty."

AI believes that governments should lead public opinion in matters of human rights and criminal policy. Historically it has almost always been the case that the death penalty has been abolished even though the majority of the public favoured its retention. Yet when the death penalty is abolished there has often been little public outcry, and it almost always remains abolished.

At the same time it is important that human rights issues including the death penalty can be openly discussed and that the authorities disclose information about its application to enable an informed debate.

Please write politely worded letters to the Presidents of the countries mentioned below, urging that the respective President:

- take immediate steps towards abolition of the death penalty by promptly imposing a moratorium on all death sentences and executions; [**Belarus** and **Uzbekistan**]
- commute all pending death sentences and any death sentences that come before him; [**Belarus** and **Uzbekistan**]
- does all within his remit to end the cruel and inhuman treatment that family members are subjected to due to the secrecy surrounding the application of the death penalty; [**Belarus** and **Uzbekistan**]
- ensure that death row prisoners and their families are kept fully informed of the progress of appeals and petitions for clemency; reports presented to the Clemency Commission and the reasoning behind the Commission's recommendation to support or reject the petitions; the date and time of executions; [**Belarus** and **Uzbekistan**]
- ensure that all directives, legislation and annual statistics relevant to the death penalty are published, as well as the names and case details of those already executed; [**Belarus** and **Uzbekistan**]

- ensure that the death penalty can be openly discussed and that anti-death penalty activists can go about their human rights work without hindrance; **[Belarus and Uzbekistan]**
- ensure that relatives of prisoners already executed receive full access to information including the dates and places of execution and burial, and allow them to collect the prisoner's remains and any personal effects. **[Belarus, Uzbekistan, Kyrgyzstan and Tajikistan]**

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PLEASE SEND ANY REPLIES FROM THE AUTHORITIES AS SOON AS POSSIBLE TO THE INTERNATIONAL SECRETARIAT OF AMNESTY INTERNATIONAL. (Europe and Central Asia Program; Amnesty International; 1 Easton Street; London WC1X 0DW; United Kingdom)