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Case studies: France: The Search for Justice

Ahmed Selmouni

Moroccan and Netherlands national Ahmed Selmouni was arrested by judicial police for a drug trafficking offence in November 1991 and held in police custody for three days at Bobigny (Seine-Saint-Denis). Ahmed Selmouni was subject to repeated punchings, kickings, beatings with a baseball bat and truncheon and hair-pulling. He was also urinated on and threatened with a syringe and a blow lamp.

It took more than six years and seven months for the case to come to court. The five officers involved in the case were not placed under investigation by a judge until 1997 and did not appear before the Correctional Court of Versailles (Yvelines) until February 1999 only about six weeks before the case was heard by the European Court in Strasbourg.

The officers denied charges of committing violent acts and sexual assault. In March 1999 the court convicted all five officers. Concluding that they had committed acts of organized and particularly severe violence which strike deeply at public order and contravene the most basic principles of the rule of law. The court sentenced one officer to an exemplary four-year prison term and three other officers were sentenced to three years' imprisonment and the fifth officer to two years' imprisonment. The verdicts were met with a series of angry protests and demonstrations by members of all the police unions in France, and the officers immediately appealed.

In June 1999, The Court of Appeal of Versailles drastically cut the exemplary four-year prison term to one of 18 months, of which 15 were suspended, allowing for the officer's immediate release. The sentences of the other four officers were reduced to suspended prison terms of 15, 12 and 10 months. The prosecutor attached to the appeal court even requested that the officers be returned their honour and declared not guilty of the offence of sexual assault and that, if they were to remain convicted of violent acts, they should benefit from an amnesty.

The European Court of Human Rights found that Ahmed Selmouni had endured repeated and sustained assaults over a number of days of questioning and stated that the physical and mental violence, considered as a whole, committed against the applicant's person caused 'severe' pain and suffering and was particularly serious and cruel. Such conduct must be regarded as acts of torture. *Selmouni v. France*, Judgment of 28 July 1999, Reports 1999-V. These rights are provided for in Articles 3 and 6. 1 of the ECHR, respectively. On 28 July 1999 the European Court found that France had violated the prohibition of torture, as well as the right to a fair and public hearing within a reasonable time in this case.

In March 2002, Amnesty International received reports that the officers had not yet been subject to any internal disciplinary procedures, despite the fact that the Court of Cassation had stated that the officers had carried out acts of an exceptional gravity which clearly violated their code of conduct.

Karim Latifi

On 22 February 2002 a French IT consultant, Karim Latifi, was reportedly involved in an altercation with police officers in Paris, in which he was severely assaulted and racially abused by police officers.

According to the complaint he lodged with the Inspection Générale des Services (IGS), Karim Latifi had got out of his car after finding the road blocked by several police vehicles. He approached some officers who were questioning a group of youths, two of whom he recognized, and asked what was happening. He was asked for identification. Karim Latifi claimed that one officer then pushed him onto a flight of steps. Describing what happened, he said: I'm feeling off-balance; he [the police officer] gets out his baton and hits me on the head, then pounces on me, strike my face, this time with his leg. I'm terrified, I can feel the ground vibrating my head and my shoulder. I shout for help. I drag myself away. A dozen policemen throw themselves at me. It's a deluge of blows, kicks, insults 'dirty Arab', 'son of a bitch'. Je suis déséquilibré; il sort sa matraque et me frappe à la tête, puis se rue sur moi, me tape au visage, cette-fois-ci avec sa jambe. Je suis terrifié, je sens presque le sol vibrer entre ma tête et mon épaule. Je crie au secours. Je me traîne plus loin. Une dizaine de policiers se ruent sur moi. C'est un déluge de coups de poing, de pied, de matraque et d'insultes, 'sale Arabe', 'fils de pute'. (Quoted in Libération, 9-10 March 2002. AI delegates on a visit to France obtained the same information.) His head began to swell and his nose was broken. He claimed that he was forced to lick the wall. During the car journey to the police station he was allegedly subjected to continued racial abuse. He was held in the police station for 15 minutes, after which a police lieutenant, who had not been involved in the incident, told him no charges were being brought against him and he was released.

After examining the judicial complaint and medical reports Amnesty International brought the case to the attention of the Interior Minister and asked for prompt, thorough and impartial police and judicial investigations. The Minister replied, in October 2002, that the case had been closed (classé sans suite) by the public prosecutor on 10 July 2002. In a letter to Amnesty International dated 24 July 2003, the prosecutor attached to the court of Paris stated that the case had been investigated by the IGS, as a result of which his predecessor had decided to close the case. He did not explain why, but stated that, through the IGS, he had reprimanded three police officers for (unspecified) infringements of legal regulations in the course of the inquiry.

After his complaint had been archived Karim Latifi expressed the intention to use the citation directe procedure, but when the prosecutor informed Amnesty International that he was not aware that any such procedure had been invoked, Karim Latifi wrote, in September 2003, to the president of the bar (bâtonnier) of Paris to bring the matter to his attention. At the time of writing the inquiry was ongoing.

Omar Baha

On 23 December 2002 Omar Baha, a 34-year-old French actor of Algerian origin, witnessed the ill-treatment of Sebastien de Freitas at the hands of a group of police officers who had used tear gas to disperse a large crowd outside the Château d'Eau Metro station on the Boulevard de Strasbourg in Paris. Sebastian de Freitas was reportedly Christmas shopping with relatives, including his four-year-old brother. Angry at the effect of the gas on the little boy, who was distressed, Sebastian de Freitas had reportedly insulted the officers, who demanded to see his identity papers, threw him to the ground and beat him. Omar Baha approached the officers and declared his intention to denounce their actions to the Minister of the Interior. He reminded them of a recent statement made by the then Minister, that he would not tolerate any police abuses or excesses. The then Minister of the Interior, Nicolas Sarkozy, had announced in a speech to directors of the Police Nationale on 26 June 2002 that, while promising the police more powers and greater support in the fight against crime, he would not tolerate any infringement of republican rules or any leniency towards police brutality. Je ne tolérerai aucune entorse aux règles républicaines justement parce qu'elles remettent en cause votre autorité je vous demande aucune complaisance envers quelque dérive que ce soit.

As Omar Baha then turned to go into the Metro station he was reportedly approached by the officer using the tear gas and struck hard on the face with the end of the gas canister. He was then further beaten by a number of officers. This account was reportedly supported by various eye-witnesses. The crowd reportedly shouted to the police to stop. Omar Baha was taken to the police station on the rue de Nancy. He was charged with insulting officers, with resisting arrest and with incitement to riot, an invented charge (see below). A duty doctor found that his nose was fractured but he was not allowed to receive the hospital treatment advised by the doctor while being held in police custody.

Omar Baha remained in police custody until 25 December when he was provisionally released until a court hearing on 7 February at the Correctional Court of Paris. He submitted a complaint about ill-treatment which the prosecutor asked the IGS to examine.

On 17 January 2003 the Minister of the Interior announced that two judicial inquiries had been opened, one into the charges against Omar Baha, the other into Omar Baha's complaint. Two officers suspected of involvement in the ill-treatment of Omar Baha were provisionally suspended from duty.

At the hearing on 7 February 2003, attended by Amnesty International representatives, the court dismissed all charges against Omar Baha. The prosecutor demonstrated sympathy for the police officers, suggesting that the invented charge of incitement to riot was a pure mistake. However, the court found in favour of the argument, advanced principally by the defence lawyer for Omar Baha, that the charge brought by the police officers as grounds for extending police custody incitement to riot did not exist in the French Penal Code.

Although the court threw out the charges brought by the police officers against Omar Baha in 2003, the hearing of the charge brought by Omar Baha against the police officers has not still taken place. Amnesty International is particularly concerned at the two-speed justice which this case illustrates. It had also been concerned that the prosecutor had shown no diligence in overlooking the situation of Omar Baha while in police custody.

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