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Facing page: Official police target for firearms practice; highest scores for hits to the head and vital organs (scaled down reproduction)



# FRANCE

## @Shootings, killings and alleged ill-treatment by law enforcement officers

### INTRODUCTION

In recent years Amnesty International has noted a disturbing number of reports of shootings, killings and allegations of ill-treatment of detainees by law enforcement officers in France. The organization's investigations into these incidents suggest that in a significant number of cases the officers concerned resorted to the use of force recklessly and in a manner which was wholly disproportionate to the situation. In some cases, the degree of force used resulted in violent death or wounding by firearms. In others, it led to allegations of torture or other cruel, inhuman or degrading treatment or punishment.

Under international law, governments are obliged to ensure that law enforcement officers use force only when strictly necessary and only to the extent required for the performance of their duty. Force and firearms must be used with restraint as a last resort and their use must be proportionate to the offence and to achieve a legitimate objective. The use of torture and other forms of cruel, inhuman or degrading treatment or punishment is absolutely forbidden in any circumstances. France has ratified the relevant international treaties and these norms and standards are largely reflected in the texts of its domestic legislation. Judicial and administrative practices have, however, sometimes not conformed to international norms and standards.

Amnesty International has noted with concern that a high proportion of the victims of shootings, killings and alleged ill-treatment by law enforcement officers are of non-European ethnic origin, people whose ethnic origin lies in the Maghreb countries, the Middle East and Central and West Africa. Alleged physical and sexual abuse is often accompanied by specifically racist insults as well as general verbal abuse.

Officers have stated that they were obliged to use force in many of the incidents described in this report because they, other individuals or their property were under attack or threat of attack. Amnesty International recognizes that some of the incidents may have occurred within this context and it also recognizes that in specific circumstances French law allows the use of force. However, it requires that, where force is used, the means should be in proportion to the severity of the threat or attack. International law emphasizes especially the importance of proportionality in judging whether the use of force is legitimate and further states that intentional lethal use of firearms may only be made when strictly unavoidable, in

order to protect life. None of the victims cited below were carrying firearms and most were carrying no weapons of any description.

Amnesty International does not attempt in this report to present a comprehensive record or analysis of the excessive use of force. Its aim is to draw attention to a disturbing pattern suggested by events in recent years in France whereby excessive force leading to ill-treatment, shootings and killings has been used against people who are largely young and often of non-European ethnic origin. Other reputable non-governmental organizations and inter-governmental organizations have reached similar conclusions.

In January 1993 the Council of Europe's Committee for the Prevention of Torture (ECPT)<sup>1</sup> published a report, with the French Government's consent, on its visit to France in late 1991 and the French Government's response.<sup>2</sup> Their report concluded that "...a person deprived of his liberty by the forces of order runs a not inconsiderable risk of being ill-treated".<sup>3</sup> The Committee observed that "...foreigners and young people appeared to be a preferred target...".<sup>4</sup>

In a letter sent to the Minister of the Interior, Charles Pasqua, in August 1993 and copied to the Minister of Justice, Pierre Méhaignerie, for his comments, Amnesty International expressed its serious concern over reports of a number of deaths in custody, shootings and killings and allegations of ill-treatment by law enforcement officials in the first six months of 1993. It considered that there were grounds for concern under both international and French law. The results of Amnesty International's inquiries into these reports suggested that serious problems existed with the current practice of policing in France. Judicial inquiries had been opened into these incidents and Amnesty International requested the government to supply information on their progress.

Amnesty International welcomed the assurances given by the Minister of the Interior, in his 10 May 1993 address to police commissioners, that France stood by the international commitments it had made since the Second World War in the field of human rights and

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<sup>1</sup> A body of 10 experts elected by the States Parties to the Convention to supervise its implementation and to strengthen the safeguards against torture afforded by the Convention and other international standards by visiting the countries which have ratified the Convention.

<sup>2</sup> *Rapport au Gouvernement de la République française relatif à la visite effectuée par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) en France du 27 octobre au 8 novembre 1991 et réponse du Gouvernement de la République française - 19 January 1993 (CPT/Inf (93) 2)*

<sup>3</sup> CPT/Inf (93) 2 - p13, II A.1.11.

<sup>4</sup> *Ibid*

public liberties. Accordingly, in its letter the organization invoked several international treaties ratified by France under which France is legally bound to respect the right to life and the prohibition of torture and cruel, inhuman or degrading treatment or punishment and a range of detailed provisions adopted by the United Nations (UN) requiring member states to implement standards on law enforcement and criminal justice. It referred specifically to the UN Code of Conduct for Law Enforcement Officials, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. Amnesty International urged the full incorporation into the training of law enforcement officials of its recommendations to governments on the selection, training and monitoring of personnel to prevent racist conduct and of its 12-Point Program for the Prevention of Torture. It also referred the government to standards it had elaborated for National Human Rights Commissions. This was because of the continuing discussion over the creation in France of a body<sup>5</sup> to advise ministers of the interior on all matters relating to the professional codes of practice of the police.

No reply had been received from the French Government by the end of July 1994.

This report contains brief descriptions of some of the cases raised with the government in August 1993 and new cases that Amnesty International had investigated up until the end of June 1994.

## RELEVANT PROVISIONS IN INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

The right not be arbitrarily deprived of life and the absolute prohibition of torture or cruel, inhuman or degrading treatment or punishment are fundamental norms of international law.

These rights are proclaimed in the Universal Declaration of Human Rights and enshrined in Articles 6 and 7 respectively of the International Covenant on Civil and Political Rights (ICCPR). All States Parties to the ICCPR are legally bound to implement these rights.

The Human Rights Committee, an expert body which oversees implementation of the ICCPR, has adopted a series of General Comments which help to understand States Parties' obligations under individual articles of the ICCPR. Some of these General Comments relate directly to Amnesty International's concerns in this report.

### a) The right to life

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<sup>5</sup> *Un Haut conseil de la déontologie de la police nationale*

General Comment 6<sup>6</sup> on the right to life states that "the protection against arbitrary deprivation of life which is explicitly required [in the ICCPR] is of paramount importance". States Parties should take measures to - *inter alia* - "...prevent arbitrary killing by their own security forces". The law must "...strictly control and limit the circumstances in which a person may be deprived of his life by such authorities".

The international community has elaborated measures bearing on the rights guaranteed by the ICCPR. These measures were adopted by consensus of the UN General Assembly without dissenting vote.

The UN Code of Conduct for Law Enforcement Officials, adopted by the UN General Assembly in 1979, emphasizes the exceptional nature of the use of force, stating in Article 3 that force may be used "...only when strictly necessary and to the extent required for the performance of their duty". More detailed guidelines are set out in the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials adopted by the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders on 7 September 1990. Principle 4 states that law enforcement officials "...shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means *remain* [emphasis added] ineffective or without any promise of achieving the intended result". Whenever the lawful use of force and firearms is unavoidable officers shall, under Principle 5:

- "a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;
- "b) Minimize damage and injury, and respect and preserve human life;"

Principle 9 states that "...officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury" or to prevent "...a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger" and "only when less extreme means are insufficient to achieve these objectives". The article continues: "In any event, intentional lethal use of firearms may only be made when *strictly unavoidable in order to protect life*" [emphasis added].

In 1989 the UN General Assembly endorsed the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions<sup>7</sup> which

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<sup>6</sup> General Comment 6 on Article 6 of the ICCPR adopted by the Human Rights Committee (Sixteenth Session, 1982)

<sup>7</sup> Adopted by the UN Economic and Social Council on 24 May 1989 in resolution 1989/65

states in Article 1 that "Such executions shall not be carried out under any circumstances including...*excessive or illegal use of force by a public official* [emphasis added] or other person acting in an official capacity". The section on investigation is important in relation to France. In particular, it requires "...thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances". The Principles also stipulate that "Families of the deceased and their legal representatives shall be informed of, and *have access to* [emphasis added], any hearing as well as to all information relevant to the investigation..." and that "A written report shall be made within a reasonable period of time on the methods and findings of such investigations. The report shall be made *public immediately* [emphasis added] and shall include the scope of the inquiry, procedures and methods used to evaluate evidence as well as conclusions and recommendations based on findings of fact and on applicable law".

#### b) Prohibition of torture and cruel, inhuman or degrading treatment or punishment

The Human Rights Committee's General Comment 20<sup>8</sup> states that the aim of Article 7 of the ICCPR is "...to protect both the dignity and the physical and mental integrity of the individual". The Covenant does not contain any definition of the acts covered by Article 7, and the Human Rights Committee does not "...consider it necessary to draw up a list of prohibited acts or to establish sharp distinctions between the different kinds of punishment or treatment; the distinctions depend on the nature, purpose and severity of the treatment applied". The prohibition under this article relates "...not only to acts that cause physical pain but also to acts that cause *mental suffering* [emphasis added] to the victim". This is important where people may suffer mentally because they feel degraded by the use of racial and general verbal abuse; many of the cases in this report contain allegations of such abuse. Special mention is also made of the importance of disseminating information covering the ban on torture for the education and training of the population at large and law enforcement personnel.

As a State Party to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment France is obliged to ensure that "...its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed" and that any individual "...has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities".

#### RELEVANT PROVISIONS IN FRENCH LAW

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<sup>8</sup> General Comment 20 on Article 7 of the ICCPR adopted by the Human Rights Committee (Forty-fourth session, 1992) replacing General Comment 7

Acts of force causing injury or death are punishable under the relevant articles of the Penal Code. Two sections of the Penal Code are relevant to the cases in this report. These are Penal Responsibility (*De la responsabilité pénale*) and Attacks on a Human Being (*Des atteintes à la personne humaine*).

#### **a) Penal Responsibility**

This section of the code is divided into two chapters: the first contains the general provisions and the second covers the grounds on which no penal responsibility may exist even though an offence has been committed. The decision as to whether a person who causes injury or death bears penal responsibility is based on this chapter. Articles 122-1 to 122-8 of this chapter define the circumstances under which there may be "no responsibility or a diminished responsibility" (*"Des causes d'irresponsabilité ou d'atténuation de la responsabilité"*).

The Ministry of Justice issued a circular<sup>9</sup> after the new Penal Code was introduced in March 1994. Two of the articles in the chapter interpreting the provisions of the code regarding Penal Responsibility are particularly relevant.

Article 122-5 lays down the circumstances in which injuries caused through defence of the person are lawful. This enshrines the jurisprudential principle of *proportionality* between the act of defence and the gravity of the attack. The second paragraph of this article deals with the defence of property; the scope allowed by the law for the use of force to defend property is more restricted than to defend the person. A major consideration is that no act in defence of property, however serious the attack, can be considered lawful if it consists of the murder of the person responsible for the attack.

Article 122-7 refers to the state of necessity. This recognizes and systematizes different judicial decisions made over many years and establishes three criteria which, if met, mean that there is no penal responsibility:

- the existence of an actual or imminent danger threatening a person or property;
- the need to break the law in order to safeguard the person or property;
- that a proportion exists between the means used and the seriousness of the threat.

#### **b) Attacks on a Human Being**

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<sup>9</sup> *Circulaire générale présentant les dispositions du nouveau Code Pénal - Commentaire de la direction des affaires criminelles et des grâces*

This section of the Penal Code deals with all the offences relevant to this report. Chapter one begins with attacks on human life such as murder and manslaughter; successive chapters cover attacks on the physical and mental integrity of the person, including offences of torture, sexual assault and attacks on the dignity of the person.

## OFFENCES BY LAW ENFORCEMENT OFFICERS

There has been public concern in France for many years over the excessive use of force and the abusive use of firearms by law enforcement officers. At the centre of this concern is a debate over the role of law enforcement in society and the treatment by the judicial system of its officers when compared with other groups.

The object of this report is to demonstrate, through specific cases, how, in Amnesty International's view, France is overlooking or violating its obligations under international law.

Public concern over the excessive use of force and firearms reached a peak in April 1993 when, in separate incidents, the police shot and killed three unarmed youths in their custody, two of them minors, in the space of three days. Widespread public disorder followed these deaths. Many allegations of ill-treatment by the police resulted from this disorder. The recently appointed Minister of the Interior, Charles Pasqua, sought to allay public concern in a television interview of 9 April 1993. After presenting the government's apologies to the families of the three dead youths he stated that "I will be merciless with those who make mistakes" and reminded the police that "...the nation gives arms [to the police] so that it can defend the citizen and not so that it can attack them". On 11 April 1993 a French newspaper, *Journal du Dimanche*, estimated that 27 people had been shot and killed by law enforcement officers since 1988.

This report will examine 12 individual shootings by law enforcement officers, of which 11 occurred in the 18 months up to June 1994. It will describe the circumstances and the action taken by the judicial system. The victims in seven of these 11 cases were of non-European ethnic origin, all were in their teens or twenties and three were minors.

The policy of the government, faced with these killings, has not substantially changed despite repeated expressions of concern from bodies representing the legal profession, magistrates and law enforcement officers. This last group has been especially forceful in demanding reforms to the system of training officers. The government has acknowledged structural failings in the training and management of law enforcement officers but, in Amnesty International's view, it has failed to respond to problems which have been recognized for many years, thereby contributing to the continuation of the problems.

The Minister of the Interior stated in the television interview of 9 April 1993 that he had found a "demoralized police force" where "...the hierarchy did not properly fulfil its role".

In reply to a question about recent events, most notably the widespread public disorder which followed the killings at the beginning of April 1993, he said that "I believe we are paying the price of having a police force that is badly supported and badly led".

Over the years governments have played an active role in cases where there is a possibility of the prosecution of law enforcement officers. In 1988 the press<sup>10</sup> reported that an internal circular from the Minister of Justice apparently enjoined the prosecuting authorities to contact the Minister's office before opening any judicial inquiry that might lead to the prosecution of police officers. On 19 July 1994 the Ministry of Justice issued an internal circular to all Attorney-Generals (*Procureurs généraux*) asking them to inform all Prosecutors of the Republic that it wished to be informed of the possible prosecution of any official.

## TRAINING OF LAW ENFORCEMENT OFFICERS

The unease at the lack of appropriate training which would meet international norms and standards (see above) can clearly be detected in two important statements by police officers. In June 1993 Pierre Lascombe of the National Union of Police Superintendents (*Syndicat national des commissaires - Fédération autonome des syndicats de police, SNC-FASP*) stated, in connection with the application of controversial new legislation on the control of foreigners and illegal immigrants and in the light of the provisions for human rights in the Code of Police Conduct, that "Not one hour is reserved for classes in ethics in the schools for police officers"<sup>11</sup> and pointed to the need for training.

Following the fatal shooting in December 1993 of a 19-year-old youth (see below), the National Union of Uniformed Police Officers (*Syndicat national des policiers en tenue - Fédération autonome des syndicats de police, SNPT-FASP*) wrote to the Minister of the Interior regretting the unsuitability of current police training in the use of arms and asking for better training in controlling delinquents. It criticized - *inter alia* - the system whereby officers were only trained to shoot at a human torso and received excellent marks if they hit one of the vital organs. It asked the Minister to decide "...finally to change this bad practice which consists of teaching police officers to kill before teaching them to handle their weapons and to control the person they were stopping".<sup>12</sup>

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<sup>10</sup> *Le Monde*, 6 February 1988

<sup>11</sup> *Le Monde*, 23 June 1993

<sup>12</sup> *Le Monde*, 2-3 January 1994

The current police training manual<sup>13</sup> deals with the use of firearms in the section on the operation of the law on legitimate defence (Articles 122-5 and 122-6 of the Penal Code). In the section on legitimate defence and the police officer it states categorically "The use of a firearm is a serious act, extreme, whose **only object** [emphasis added] is the neutralization of an unjustified and dangerous attack on him (or to defend the life of another) but **not the elimination of the individual** [emphasis added] whom the officer is responsible for putting at the disposal of justice".

The manual makes no reference to the treaties and international standards which are of particular relevance to law enforcement officers, such as the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Amnesty International is not aware that the government has reacted by introducing any changes in the practical training in the use of force or firearms in order to meet the need for a higher standard of policing using minimum force or that the relevant human rights norms and standards have been explicitly placed in the police training program.

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<sup>13</sup> *Gestes et techniques professionnels d'intervention - Direction du personnel et de la formation de la police, Ministère de l'intérieur et de l'aménagement du territoire*

## INVESTIGATION AND PROSECUTION OF OFFENCES

The responsibility for prosecuting offences under the Penal Code lies with the magistrates who make up the department of the Public Prosecutor attached to the relevant court. The examining magistrates cannot initiate the action themselves but must await a request from the competent source.<sup>14</sup> The hierarchical superiors of the prosecuting magistrates (under the Minister of Justice) may order them to initiate an action to investigate but, with one exception, they are free as a body to decide whether to act or not. This exception is the injured party. Any person who has been injured by an offence can, by making a judicial complaint to the court in the proper form, establish themselves as a *civil party*. The Prosecutor will then request the examining magistrate to undertake an investigation into the complaint.<sup>15</sup> As a civil party, they have access to the inquiry into the offence of which they have complained and have a right to be heard by the competent judge during the judicial investigation. After examination, the magistrate may request the referral of the case to the court for trial.

If the identity and whereabouts of the possible guilty person are known to the injured party they can serve a summons<sup>16</sup> against that person which would then be heard by the criminal court.

Internal inquiries into the police may be conducted by the General Inspectorate of the National Police (*Inspection générale de la Police nationale, IGPN*), except where police from the Paris Prefecture are concerned. In those cases the General Inspectorate of Services (*Inspection générale des services, IGS*) is responsible.

The normal practice when a person is killed by a law enforcement officer is for the Prosecutor to open an investigation under the control of an examining magistrate to establish the essential facts of the case and to consider whether any penal responsibility exists. He/she will usually request an internal investigation where law enforcement officers are involved.

The Prosecutor has a choice in the type of investigation to be opened and this choice can be highly relevant to Amnesty International's concerns. In all the cases cited below, the cause of death was known and was never in contention. The identity of the officers who had shot and killed the person was equally known. A judicial investigation could, therefore, have been promptly opened in all these cases to establish the circumstances in which the death

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<sup>14</sup> Article 80 of the Code of Penal Procedure

<sup>15</sup> Articles 85 and 86 of the Code of Penal Procedure

<sup>16</sup> Article 388 of the Code of Penal Procedure

took place and whether there was any possible penal responsibility which should be the subject of a prosecution.

However, in certain significant cases, the Prosecutor did not use this procedure -with serious consequences for the victims' families. Under Article 74 of the Code of Penal Procedure, whenever a dead body is found, regardless of whether violence is suspected or not, the Prosecutor will initiate an investigation. Under the last paragraph of Article 74 the Prosecutor can request an investigation into the causes of death. The civil party is excluded by law from any investigation based on this request until it has closed. Effectively this could mean that the victim's family would not be heard or have access to the investigation of the death. This judicial device has the effect of shielding the officer responsible for the killing.

If the victim's family wishes to have access to the investigation under these circumstances it must first establish itself as a civil party and request an investigation on specific charges. This will then oblige the Prosecutor to request an investigation under an examining magistrate to which the civil party will have access. However, in this second investigation, the civil party is not allowed access to crucial material in the first investigation established under Article 74. This exclusion will last until the first investigation has been concluded. The wilful and unnecessary exclusion from the investigation of the victim's family by the Prosecutor is frequently a cause of great concern to them and to the cause of equity before the law.

## SHOOTINGS AND KILLINGS BY LAW ENFORCEMENT OFFICERS

The 11 cases of shootings and killings by law enforcement officers described below took place in the 18 months up until June 1994. Amnesty International stated, in its August 1993 letter to the Minister of the Interior (see above), that it believed that the force used had not conformed to the minimum standards of international law. All the cases described in the letter were under judicial investigation. However, an earlier case, where all the stages of investigation and judgment have been completed, illustrates Amnesty International's concerns in the 11 cases.

On 2 February 1988 a plainclothes police officer shot dead a 26-year-old man, whom he had mistaken for a car thief, in a Marseilles car park. **Christian Dovéro** was with his father in his father's taxi near a stolen car which was being staked out by the police. Christian Dovéro had earlier shown an interest in the stolen car; after briefly looking at it he joined his father in the front seat of the taxi. A police officer approached them, wrenched open the passenger door and shot Christian Dovéro through the head at point blank range. He died in his father's arms.<sup>17</sup> Christian Dovéro had a clean judicial record and was unarmed. The officer later claimed that he had made a threatening gesture towards him.

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<sup>17</sup> *Le Provençal*, 3 February 1988

The Prosecutor in Marseilles reportedly intended to request the indictment for manslaughter of the officer and to request that he be freed under judicial control. However, the Minister of Justice intervened and, against the Prosecutor's wishes, insisted that a limited inquiry be opened, under Article 74, into the causes of death; these were known and never in dispute but this meant that the victim's family had no access to the inquiry (see above) and the police officer was released without appearing before a court.<sup>18</sup>

Intense controversy followed the decision only to request an investigation into the causes of death. Numerous public statements were made criticizing the intervention of the Minister who was seen to be responsible for the decision. The Magistrates' Union (*Syndicat de la Magistrature*) said that the Minister, through his intervention, had given "...further proof of his will to remove certain citizens from the normal course of justice".<sup>19</sup> On 4 February 1988 Christian Dovéro's father brought an individual complaint of murder in order to obtain access to the investigation of his son's death. The father's complaint obliged the Prosecutor to open a second inquiry into a possible charge of "deliberate assault and battery causing death unintentionally". The officer was indicted and remanded in custody.

In June 1989 the officer was found guilty of manslaughter through recklessness and given a two-year suspended sentence. He was freed and returned to serve in the police force. The officer's lawyer later attributed Christian Dovéro's death to a lack of training in the police and said that he had "...obeyed a State who had armed him, badly armed him and badly trained him" and that a verdict of guilty was a betrayal of the police who were "a necessary evil".<sup>20</sup>

The investigation, prosecution and judgment of the police officer responsible for killing Christian Dovéro clearly illustrated a number of issues which are of direct relevance to Amnesty International's concerns in the 11 cases cited below.

The officer approached a parked car with a cocked weapon and immediately opened fire at point blank range on an unarmed man who presented no threat to him. The use of force was not "strictly necessary", and the officer had not attempted to use "non-violent means before resorting to force". His action could not conceivably be interpreted as an action in "proportion to the seriousness of the offence and the legitimate objective to be achieved". Amnesty International considers this to be "an excessive or illegal use of force by a public official" and an extrajudicial execution.

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<sup>18</sup> *Le Provençal*, 5 February 1988

<sup>19</sup> *Le Monde*, 6 February 1988

<sup>20</sup> *Le Provençal*, 17 June 1989

The initial investigation into the death could not be called prompt or thorough. The Prosecutor did not place the officer responsible for the death at the disposal of the court for examination immediately following the killing. The Minister of Justice intervened and ordered a wholly unsatisfactory form of limited inquiry to establish something which was already known and not in contention. It was reported that the Minister intervened, against the advice of the Prosecutor, to protect the officer for political reasons. The victim's family were denied access to the investigation by a judicial device, forcing them to act on their own behalf to obtain access to the investigation. Their action obliged the Prosecutor to instigate the thorough investigation which should have been opened immediately following the killing.

The case took over one year to be heard and resulted in a nominal sentence for a serious offence.

The officer concerned was inadequately trained and improperly armed. No steps have been taken to remedy the situation by introducing suitable training programs and equipment.

The violations of international norms and standards which were illustrated by the Christian Dovéro case can be seen in the 11 cases cited below. Five years have passed and there is still no evidence that the government has taken appropriate action to ensure that its judicial system and law enforcement personnel comply with its commitments under international norms and standards.

#### **The case of Eric Simonté**

On 15 December 1993, the court in Chambéry (Savoie) found a junior police officer guilty of manslaughter. On 4 April 1993 the officer, who was part of a patrol, discovered three youths stealing car tyres. Two of the boys were taken into custody without difficulty and the officer went to handcuff 18-year-old Eric Simonté. The officer, for reasons he was unable to explain, had already drawn his police weapon, a .357 Magnum revolver, and had his finger on the trigger. He shot Eric Simonté through the head while putting on the handcuffs. Eric Simonté died in hospital a few hours later. Four days after the incident the Minister of the Interior suspended the officer.

During the trial, the Prosecutor described the events as "serious misconduct" and an "inadmissible error in the technique of challenging a person". Following his request, the court gave the officer a suspended sentence of one year's imprisonment for manslaughter.

#### **The case of Makomé M'Bowole**

On 6 April 1993 police in the 18th *arrondissement* of Paris arrested three youths, two of them minors, who were reportedly stealing cigarettes. There is a large immigrant population in this area and the inhabitants complain of incessant police identity checks and generally insensitive policing.

One of the youths arrested was 17-year-old Makomé M'Bowole, born in Zaire. He was taken to the Grandes-Carières police station where he was interviewed by a detective constable. After two hours Makomé M'Bowole was placed in custody (*garde à vue*) and the Prosecutor was informed in accordance with the standard procedure. At around noon, the Prosecutor ordered the lifting of the custody for the two minors. One was released shortly after noon after his parents had been contacted; apparently, Makomé M'Bowole's parents could not be contacted. The officer continued his interrogation and at around 5pm shot and killed the minor. According to statements he and other officers made to members of the IGS, who conducted an internal inquiry, Makomé M'Bowole had verbally threatened the officer who then took his handgun from a drawer and placed it against Makomé M'Bowole's temple; the gun went off. After the shooting the officer was reported as saying, "I wanted to frighten him".<sup>21</sup> He was immediately committed to prison and an investigation into a charge of murder was opened. The investigation is still in progress.

#### The case of Rachid Ardjouni

On 7 April 1993, a police patrol was called to investigate a group of youths who were reportedly joy riding on a housing estate in Wattrelos (Nord).

Rachid Ardjouni, a 17-year-old of Algerian descent, was in the group. He ran away when the police arrived and a junior police officer chased after him. When the officer caught up with him he had his handcuffs in one hand and his weapon in the other. Rachid Ardjouni was unarmed and reportedly did not resist arrest. The officer, who was slightly drunk at the time, grabbed Rachid Ardjouni and pushed him face downwards on to the ground. He knelt with one knee on his back to handcuff him and then shot him through the head. Rachid Ardjouni died two days later in hospital without regaining consciousness.

After the shooting the officer was examined on charges of violent use of a weapon causing a permanent injury. Against the wishes of the Prosecutor the judge released the officer under judicial control.

Following Rachid Ardjouni's death on 9 April 1993 the Prosecutor requested an investigation on the cause of death under Article 74 (see above). This was despite the fact that the cause of death was already known and not in contention. The victim's family, as a

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<sup>21</sup> *Le Monde*, 8 April 1993

civil party, entered a complaint of deliberate "assault and battery leading to death unintentionally". The Prosecutor also appealed against the release of the police officer. The President of the Court of Appeal in Douai upheld their appeal commenting that "...the police officer was doubly in error regarding the propriety of the intervention since he acted with a gun in his hand and in a state of drunkenness".<sup>22</sup> The investigation is still in progress.

### **The case of Fabrice Omont**

On 14 April 1993, two motorcycle police officers pursued a stolen car in Cherbourg (Manche) which was being driven by Fabrice Omont, a 15-year-old apprentice mechanic. They drove out of town on to the road to Beaumont-Hague. A newspaper article<sup>23</sup> reported the police as stating that the car was being driven dangerously and that the driver had repeatedly attempted to bump into the pursuing officers or to knock them over. Once on the road outside the town one of the police officers claimed he fired a warning shot in the air which was apparently ignored. The other officer claimed he rode up alongside the vehicle to shoot at the front left tyre. Instead, owing to a combination of a possible swerve of the vehicle and the loss of speed of his motorbike, he missed the tyre and shot the driver in the back.<sup>24</sup>

The officer was placed in custody (*garde à vue*) and an administrative inquiry into charges of accidental wounding was opened by the IGPN. He was released the following day but suspended from duties pending the outcome of the investigation.

The Prosecutor commented that "He should not have made use of his weapon except in the case of self-defence".<sup>25</sup> The police training manual states that "If there is the slightest possibility of the police officer avoiding, without serious consequences for himself or others...an illegal attack...he must opt for that solution rather than use his weapon. For example, if a vehicle is driven intentionally at the officer and he has the time and is physically able to move aside...he should do so rather than use his weapon. Once the vehicle has passed, the criteria for legitimate defence no longer existing, the use of the weapon by the officer is forbidden".

### **The case of Maftah Belkham**

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<sup>22</sup> *Libération*, 5 May 1993

<sup>23</sup> *L'Humanité*, 15 April 1993

<sup>24</sup> *Libération*, 15 April 1993

<sup>25</sup> *Libération*, 15 April 1993

On the night of 8 June 1993 four youths burgled a sports shop in Firminy, near St Etienne. Two police officers were watching the front of the shop. According to press reports<sup>26</sup>, three of the youths ran away but an officer went to apprehend the fourth, 19-year-old Maftah Belkham, of Algerian origin, who was coming out from under a broken metal screen with an armful of stolen clothes. As he stood up, Maftah Belkham stabbed the officer in the upper thigh with a screw driver. The officer had drawn his gun and had his hand on the youth's shoulder: a shot went off at point blank range and hit Maftah Belkham in the head. He later died in hospital. The officer sought medical treatment for the 10.5cm-deep wound in his thigh and was discharged from hospital immediately.

The St Etienne Prosecutor called in the IGP to conduct an internal inquiry. The day after the killing the Prosecutor was quoted in the press<sup>27</sup> as saying that even though it was too soon to make a decision it seemed established that they were not dealing with a case of "bavure" (euphemism for a severe muddle possibly resulting in death). "The police officer opened fire because he felt his life was in danger and while it was impossible for him to appreciate the nature of the attack on him". After studying the IGP report the Prosecutor concluded that the officer had acted in lawful self-defence. He told Amnesty International that he considered it perfectly understandable to approach a place at night where a crime was in progress with a gun in the hand. He denied that there was any element of disproportion in the reaction of the officer. No further action was taken.

Amnesty International noted that the officer drew his weapon even though there was no imminent threat to life and that he fired at point blank range when unable to assess the threat. Amnesty International considered that there was a disproportion in his reaction to the attack and noted that he had apparently made no effort to neutralize his assailant, by physically tackling him, but instead shot him through the head.

### The case of Franck Moret

At dawn on 25 July 1993 Franck Moret, a 29-year-old engineer, was shot and killed by an officer of the *gendarmerie* on the outskirts of Saint-Barthélemy-de-Vals (Drôme) as he was driving home from a party with a companion. His car had been chased by the *gendarmes*. All the details of the incident have yet to be established. It appears that at the end of the chase the officers approached Franck Moret's car, which was stationary, and that the car suddenly started, knocking one of the officers to the ground. The officers claimed the car ran over his legs. However, reports of the medical examination of his injuries do not seem to support this claim; he reportedly suffered a twisted left ankle and various grazes to the

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<sup>26</sup> *Le Progrès*, 10 June 1993; *Libération*, 10 June 1993

<sup>27</sup> *Libération*, 10 June 1993

body.<sup>28</sup> The officer who had been knocked to the ground claimed that he got to his feet and fired nine shots at Franck Moret in self-defence, finally killing him with a shot through the head. Another officer injured his hand trying to smash a car window.

This version of events was disputed in that Franck Moret's companion claimed that he panicked because one of the officers pointed his gun at him in the car and that he accidentally knocked the officer over. She denied that the car ran over the officer's legs.

A judicial investigation was opened and the family brought a complaint of murder against the *gendarme*. The victim's companion, Géraldine Plénet, brought a complaint of attempted murder. By June 1994 the investigation was still unfinished and Amnesty International noted the slowness of the procedure. Although Franck Moret was killed in July 1993, it was reportedly not until September 1993 that the examining judge interviewed the officer who had fired the shots.

Amnesty International considers that the officer did not attempt to control the situation using a minimum of force as required by law. Neither of the occupants of the car was armed and it is difficult to believe that the officer's reaction in firing nine shots at two seated people was proportionate to any possible danger to him.

### **The case of Romuald Duriez**

Just before midnight on 5 October 1993 the police received an anonymous telephone call informing them that a burglary was in progress in a store in Trébon, a suburb north of Arles.

When the police patrol car arrived one of the burglars escaped, but 21-year-old Romuald Duriez was shot and killed by one of the officers. Romuald Duriez was reportedly unarmed but was allegedly carrying a pair of wire cutters and a tear gas cylinder.<sup>29</sup>

Statements from witnesses and officers as to the exact circumstances of the shooting differ and they are currently the subject of investigation. However, certain details appear to be quite clear. The police officer claimed that he shot Romuald Duriez when he was charged by him with his head down. The bullet reportedly entered through the left eye and lodged in the stomach.<sup>30</sup>

The Prosecutor in Tarascon opened an investigation of the police officer on a charge of manslaughter which was still under way at the time of writing. However, Amnesty

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<sup>28</sup> *Le Dauphiné Libéré*, 29 July 1993

<sup>29</sup> *Le Méridional*, 9 October 1993

<sup>30</sup> *Libération*, 8 October 1993

International is concerned that an officer appears to have used a firearm against an unarmed person in a situation where there was no clear danger to his life. The action was disproportionate to the end desired and the organization is concerned that no attempt was made to use other means to control the situation.

### The case of Mourad Tchier

At approximately 10pm on 27 December 1993 a police patrol car chased a stolen car with four people in it to Saint-Fons, on the outskirts of Lyons. The car stopped and the four occupants escaped on foot. Mourad Tchier, a 19-year-old of Algerian descent, and two others ran to climb a rocky unlit slope. Mourad Tchier was wearing a bright mustard yellow jacket and was unarmed.

A sergeant gave chase. According to press accounts<sup>31</sup> the police claimed that the sergeant saw Mourad Tchier climbing a rocky hillock and that when he was four to five metres away he believed that Mourad Tchier was brandishing something in the air. The sergeant took his gun out and shot him dead. He later reportedly told the investigating officers of the IGPN that "I felt threatened". Mourad Tchier was shot in the *back* through the shoulder blade. At the foot of the rocky hillock the police claimed to have discovered a wooden leg of a bed.

In a surprising move the Lyons Prosecutor requested an investigation, under Article 74 of the Code of Penal Procedure (see above), to identify the cause of death. This action was widely interpreted as a move by the authorities to protect the police officer. On 2 February 1994 the victim's family, who were excluded from the investigation, made an official complaint of murder, thereby obliging the Prosecutor to open a new investigation, based on the civil party's complaint. This allowed the victim's family access to the investigation.

In August 1994 the result of the inquiry carried out by investigating officers of the IGPN was still unknown. However, the police officer who fired the shot was not indicted until after the complaint was made by the civil party. Amnesty International was informed that the officer had not been placed under judicial control or placed in detention.

All the facts of the killing will not be known until the closure of the case and at the time of writing the investigation was protected by rules designed to guarantee the secrecy of the instruction. However, on the basis of what is known, it is difficult to believe that the police officer's life was in danger or that he used his firearm as an extreme measure of last resort, as required by the law. The principle of proportionality between the act of defence and the gravity of the attack also appeared to be violated. The action of the judicial

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<sup>31</sup> *Le Progrès*, 29 December 1993; *Libération*, 29 December 1993

authorities to investigate the circumstances of the killing was not prompt due to the use of Article 74. The procedure used initially was also clearly in violation of international standards stipulating that the family of the deceased and their legal counsel should have access to all information relevant to the investigation.

### **The case of Ibrahim Sy**

On the night of 26 to 27 January 1994 a patrol car carrying two *gendarmes* was called to a hotel parking lot in Val-de-Reuil, near Rouen. The caller complained that cars were being broken into. According to the press<sup>32</sup> the officers claimed that they surprised three youths engaged in stealing from cars. The youths managed to return to their vehicle which they drove towards the *gendarmes* stationed at the entrance of the parking lot. The officers drew their firearms and, according to their account, gave the customary warning before one officer fired two shots at the car which, nevertheless, managed to escape. At approximately 2am the dead body of one of the passengers, Ibrahim Sy, was recovered outside the Oissel *gendarmerie* station; he had been left there by his companions. An inquiry was subsequently opened. According to a statement from the district headquarters of the *gendarmerie* (*Direction régionale de la gendarmerie*) reported in the press<sup>33</sup> "...there is no doubt at all that the legal conditions for the use of service weapons were met".

Ibrahim Sy, an 18-year-old of Senegalese descent, lived in the Sapins district of Rouen. The news of his death provoked civil disturbances lasting three days. The Prosecutor in Evreux opened a judicial inquiry on a charge of assault leading to unintentional death. On 31 January 1994 Ibrahim Sy's family, acting as a civil party, made a complaint against persons unknown for murder.

On 31 January 1994 Ibrahim Sy's two companions gave themselves up to the authorities. On 1 February 1994 the newspaper *Paris Normandie* published a previously recorded interview with them. The driver of the car claimed that the officers' car stopped at the entrance and an officer got out and knelt on the ground with a gun in his hand. He decided to drive slowly through the exit at an estimated speed of 20 to 30 kms per hour so that the officer would not fire. He accelerated only when the officer was no longer in front of his car. The officer then opened fire, killing Ibrahim Sy and shattering the rear windows.

In August 1994 the investigation was still unfinished but Amnesty International notes certain points which are of concern. The law allows an argument of self-defence providing there is no disproportion between the means of defence and the gravity of the attack. Under

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<sup>32</sup> *Paris-Normandie*, 28 January 1994

<sup>33</sup> *Agence France Presse*, 27 January 1994

either version of events described above, the officers could have avoided the oncoming car by stepping aside or behind their own car. Furthermore, it is difficult to see how shooting and killing the *passenger* would stop an oncoming car. The guidelines on the use of weapons makes it clear that, if the possibility of avoiding a car exists, then it should be taken and that once the vehicle has passed the weapon must not be used.

### The cases of Joël Nebor and Frédéric Adom

On 2 June 1994 an off-duty police officer was in a shop in Paris examining a display of rare coins; a small section of the shop was given over to currency exchange. According to press accounts<sup>34</sup> two men burst into the small shop and started smashing the windows of the display cases. They then jumped over the counter and assaulted the proprietor who was with a companion. One of the assailants threw a chair at the officer who fell down some stairs. The proprietor reacted to the attack by using an electric prod and when this proved ineffective he took out a pistol firing rubber bullets and fired two shots. According to the statements later made to the officers of the IGS this also proved ineffective. The police officer took out his service weapon and fired six shots from the other side of the counter at the two assailants. He killed both of the assailants and wounded the owner's companion in the leg.

Neither Joël Nebor or Frédéric Adom, both aged 25, were visibly carrying weapons. Amnesty International has been informed that one of them was in possession of a knife and a tear gas cylinder but neither weapon was apparently used in the attempted robbery and the officer was reportedly unaware of their existence.

The police officer was indicted on 4 June 1994 on charges of using violence with a weapon unintentionally causing death. He was remanded in custody. On 24 June 1994 the court ordered his release and in August 1994 the investigation was still in progress.

Amnesty International is concerned that the officer, who claimed that he acted lawfully in defence of others, apparently made no effort to neutralize the assailants in order to protect the proprietor and his companion, but instead resorted immediately to lethal force. This is contrary to the provisions of international law and police rules. The officer was not in danger of his life and it is questionable whether the owner and his companion were either.

## ALLEGED ILL-TREATMENT BY LAW ENFORCEMENT OFFICERS

The French legal system provides many alternative ways of investigating and prosecuting offences of ill-treatment. An essential element in the system is that the individual judge who

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<sup>34</sup> *Le Monde*, 4 June 1994; *Libération*, 4 June 1994

carries out the judicial investigation cannot brief himself and cannot, therefore, open an investigation on his own authority. In penal law, the Prosecutor has the monopoly of action and must request the opening of an investigation. The two most common means to open the investigation are when the Prosecutor, on his own initiative, having become aware of a possible offence, requests an investigation. The other is when the victim or family make an individual complaint as a civil party. The latter, if made in the proper form, obliges the Prosecutor to request a judicial investigation.

However, the history of prosecutions against the police is not an encouraging one for the victim. They are invariably lengthy, time consuming, expensive and frequently end in failure for lack of proof. In the very few cases where a conviction is obtained the penalties are derisory.

For example, in December 1986 **Malik Ousseki**, a 22-year-old student of Algerian descent, died after police in Paris had severely kicked him and beaten him with truncheons. The investigation established a link between the cause of death and the severe assault he had suffered. In January 1990 two police officers, charged with deliberate fatal assault, were sentenced to suspended sentences of two to five years' imprisonment respectively. They did not spend one day in prison awaiting the trial and, by decision of the court, the conviction of the younger officer was not recorded in the police record; the older officer had already retired.

In April 1993 widespread protests and arrests in Paris followed the shooting of Makomé M'Bowole (see above) in the Grandes-Carrières police station. Violent incidents occurred during the protests, but the arrested people cited below categorically denied using violence. All of them have claimed to have been physically ill-treated by the police in the street and in the Grandes-Carrières, Mont-Cenis and Goutte d'Or police stations. In some of the cases the ill-treatment was allegedly accompanied by racist abuse.

**Philippe Gibes**, a 25-year-old messenger, and **Salim Hadjadj**, a 19-year-old student, claimed that they witnessed a large demonstration on 7 April 1993 in the 18th *arrondissement*, but did not participate. Philippe Gibes was seized by four or five plainclothes police and alleged that he was handcuffed, punched, kicked and beaten with a truncheon by one of them. Salim Hadjadj claimed that he was hit repeatedly until he lost consciousness and that the police subjected him to racist, and particularly anti-semitic, insults. In the Mont-Cenis police station they were forced to kneel handcuffed facing a wall for one and a half hours. They were later transferred to the Goutte d'Or police station where the ill-treatment continued. A duty doctor ordered Salim Hadjadj to be taken to the emergency services for medical treatment.

**Yves Zaparucha**, a 24-year-old student, who had earlier taken part in the 7 April 1993 demonstration, claimed that he had left the demonstration to return home with three others

when he was stopped by uniformed officers and dragged to Mont-Cenis police station. He was kicked, punched and beaten with truncheons en route. In the police station he was handcuffed and made to kneel facing the wall. Later that day he was transferred to the Grandes-Carières police station where he noticed that he was urinating blood. He was taken to hospital where he remained until 13 April 1993.

**Philippe Lescaffette**, a 40-year-old civil servant, took part in the demonstration. He claimed that police officers, armed with clubs, charged him, threw him to the ground and beat him. He had to spend four hours in a cell without medical attention and later received 24 stitches for facial injuries.

**Thomas Darnal**, a 29-year-old musician, was arrested on 8 April 1993 by plainclothes officers on his way to work. He claimed he was thrown to the ground, punched, kicked and repeatedly hit with truncheons. He was taken to the Mont-Cenis police station where officers hit him and made threatening and racist remarks. He was then transferred to Goutte d'Or police station where a plainclothes officer punched him in the testicles. He was later taken, while still in police custody, for hospital treatment and a medical certificate was issued recording - *inter alia* - four stitches to his eyebrow and a serious injury to his left hand.

The criminal court in Paris heard the cases of 23 people charged with various offences, including assault and battery, resisting authority and insulting behaviour. In every case the court accepted the police version of events and all the defendants were given suspended sentences of two to three months' imprisonment. Ten of the defendants, including those cited above, deposited individual complaints which, in August 1994, were still under judicial investigation. On 10 December 1993 the judge investigating Philippe Lescaffette's complaint indicted two police officers on charges of unlawful use of violence. Complaints in other cases were still under investigation.

In 1994 there were numerous demonstrations throughout France against economic pressures and job creation measures allowing reduced minimum wages.

On 17 March 1994 a large and mostly peaceful demonstration took place in Bordeaux protesting at a decree concerning minimum wage rates for young professionals (*Contrat d'insertion professionnelle*, CIP). The following cases were reported in the newspaper *Sud-Ouest* on 21 March 1994. **David Ledormeur** claimed that he was apprehended by plainclothes officers after they had chased him into a shop. They handcuffed him and an officer pointed his gun at his face. He was thrown into a car and hit in the face. **Jean Fuchs** stated that he was arrested by two plainclothes officers with red arm bands. He was handcuffed, grabbed by the hair, kicked and punched in the mouth. He reportedly suffered injuries to his nose and a broken tooth.

**Didier Laroche** claimed that he was stopped by two plainclothes officers who handed him over to officers from the "intervention squads" (*brigades d'intervention*) who had arrived in a van. They punched, kicked and beat him with a truncheon. He was put in a van and further ill-treated. He was then taken to a police station, examined by a duty doctor and sent for medical treatment and x-rays. A medical certificate was issued recording a broken nose and various injuries to his eyes, face, chest, knees and thighs. All of those arrested were sentenced to from 40 to 80 hours' community service. At the time of writing Didier Laroche's complaint of ill-treatment was under judicial investigation.

"Anti-CIP" demonstrations also took place in Paris on 25 March 1994. Amnesty International received a complaint about the treatment of a young pacifist, **Philippe Dennilauler**, who was seated with a group of approximately 100 other pacifists in the Place de la Nation, where the march ended. He alleged that officers from the *Brigade anti-criminalité* (BAC) and the *Compagnie républicaine de sécurité* (CRS) surrounded their group and arrested him and other people at random. He stated that the officers verbally humiliated them and spat in their faces. Philippe Dennilauler, who is of Rastafarian appearance and of Caribbean descent on his mother's side, claimed that he was also racially insulted: "We're going to see to the rasta...you're just a little shit... You queer...if I were your father I'd smash your head in and throw you out the window...If we see you again you won't have a face left...". He claimed that officers pulled his testicles.

Allegations of insults or ill-treatment leaving no physical traces are almost impossible to substantiate in court. However, Philippe Dennilauler's account of the use of such insults and humiliations was coincidentally supported in a judicial complaint on the experience of another student arrested at the same time at the same place. **Max Blechman**, a 22-year-old philosophy student from New York visiting Paris, was arrested while talking to and filming the pacifists seated in the Place de la Nation. In the police station he managed secretly to tape part of his interview by the police: "This isn't the United States...You can't throw stones at the police with impunity...Instead of making your film you should learn French...Stupid bastard...Generation of degenerates...Shit country...It's only good for eating hamburgers...". Max Blechman was accused of throwing stones at the police, was held for 48 hours and then remanded in prison for four days, before being released on bail.<sup>35</sup>

Amnesty International has received numerous complaints of ill-treatment in cases associated with identity checks. Under the law, individuals are required to prove their identity and may be detained until they have done so. Strict legislation was introduced in 1993 allowing tighter controls on identity in order to combat illegal immigration.

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<sup>35</sup> *Libération*, 28 April 1994

**Tameem Taqi**, a 27-year-old businessman, is the son of a former Bahraini diplomat and is of French nationality. On the evening of 29 June 1993 he was with a group of friends in a restaurant. During a disagreement over the bill the police were called and examined the group's identity papers. The disagreement was settled. Tameem Taqi claimed he was stopped outside by the same police officers, handcuffed and pushed on to the floor of their van. The police then assaulted him in front of witnesses, kicking and punching him and beating him with truncheons. Another member of the group was also detained. The van took both men to hospital where they continued to be ill-treated by the officers and were subjected to racist insults.

On 30 June 1993 he was seen by the Prosecutor who extended his custody (*garde à vue*), despite his physical injuries. The Prosecutor took no action to investigate the origin of the injuries apart from asking for an internal police report from the IGS. Tameem Taqi was charged with assault and battery on the police, insulting behaviour and refusal to obey. The following day Tameem Taqi deposited a civil complaint against the officers for torture and insulting behaviour and against the Prosecutor for illegal arrest. Four police officers have been indicted and a sergeant was remanded in custody for assault and battery. The investigation into the two complaints were still open in August 1994.

On 15 July 1993 **Moufida Ksouri**, a 24-year-old French citizen of Tunisian origin, was returning to France from Italy with three friends. At the Menton-Ventimiglia border the Italian police checked their identities. Moufida Ksouri was not carrying her identity papers and was taken into the frontier post where two Italian police officers stripped her and then raped her. They then took her to the French border post which was manned by two border police officers (*Police de l'air et des frontières*, PAF). A police corporal allegedly assaulted her in the toilets of the post forcing her to have sexual relations with him. The other officer reportedly did not participate. On 19 July 1993 Moufida Ksouri made a formal complaint at the police station in Cannes. She also stated that the police had made racist insults. According to press reports<sup>36</sup> the IGPN were ordered to investigate and a French magistrate indicted both police officers on charges of indecent behaviour. One officer was remanded in custody, the other was freed under judicial control. The detained officer acknowledged that he had had oral sexual relations with her, but asserted that she had provoked him. The two Italian officers were also detained and indicted on 6 August 1993. On 14 July 1994 a court in San Remo sentenced them to five years and eight months' imprisonment. In August 1994 the investigation in France was still unfinished.

On the evening of 10 December 1993 **Rachid Harfouche**, a 20-year-old French national of Algerian descent, was returning home when he saw a police car stop outside the apartments where he lived with his family in Noisy-le-Sec, a suburb east of Paris. He

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<sup>36</sup> *Nice-Matin*, 5 August 1993

claimed three police officers got out of the car and ran towards him. He took fright and turned to run up the stairs towards his parents' apartment. Rachid Harfouche was allegedly stopped by the police at a neighbour's door for what the police claimed was an identity check. He was handcuffed behind his back and members of his family and neighbours saw two officers beat him with truncheons. Rachid Harfouche was taken downstairs followed by members of his family and neighbours. The police continued to beat him and he started to vomit following a severe blow to the thorax. Various attempts were made to stop this assault and the police cleared the hallway with tear gas. Rachid Harfouche was dragged outside and, according to his father, beaten and kicked while lying handcuffed face downward on the ground. He was taken to Noisy-le-Sec police station where he was accused of insulting behaviour and was examined by a duty doctor. A medical certificate, issued the next day after treatment in hospital, described a fracture to his nose and multiple injuries to his throat, chest, back and wrists. The numerous injuries to his wrists were said to have been caused by particularly tight handcuffs. On 13 December 1993 Rachid Harfouche was examined and x-rays were taken by the forensic unit of a local hospital. A detailed medical certificate, for presentation in evidence, noted - *inter alia* - that a "...blunt instrument, such as a truncheon" had caused some of the injuries.

When his brother, Idris Harfouche, and a friend went to the station on the night of 10 December 1993 they were searched and had their identity papers checked. When Idris Harfouche refused to leave without seeing his brother he was taken into custody. On 21 December 1993 the two brothers made a complaint about their treatment by the police to the court in Bobigny.

In the afternoon of 15 February 1994 **Pierre Kongo**, a 41-year-old gynaecologist from the Central African Republic, went to the Gare du Nord railway station in Paris to meet a friend. He was stopped by two railway officers (*Brigade de contrôle de Saint-Denis de la SNCF*) who reportedly asked to see his ticket. He stated that he did not have a ticket and was waiting for a friend. A police officer asked for his identity papers and he showed his Central African Republic passport. Statements made later to the authorities differ as to the subsequent course of events. However, it can be established that at just after 5am the following day Pierre Kongo, still in police custody, was treated in hospital. A medical certificate was issued recording - *inter alia* - a fracture to his right eye-socket which would require three weeks to heal. After treatment he was returned to the police station.

Pierre Kongo claimed that, after detaining him, officers pushed him down some stairs leading to the SNCF offices in the railway station where he was handcuffed behind his back and knocked to the ground. He claimed that another officer punched him while he was lying on the ground. When a police officer lifted him up by the neck he noticed that he was bleeding from his face on to his raincoat. The railway police and the border police (PAF) who were called to the scene gave differing explanations. Among the versions offered were that Pierre Kongo had injured himself by accidentally falling down, that he had fallen over a

bench trying to strike one of the officers with his arm, and that he had not been handcuffed at the time, that he had tried to head-butt an officer because he was handcuffed, and that he had resisted a body search by an officer, causing them both to fall over a bench. An internal police inquiry was opened.

Pierre Kongo served a summons against one of the officers alleging intentional assault and battery which will be heard by the court in October 1994.

There have been many reports of ill-treatment concerning detainees who were arrested in connection with suspected minor offences relating to drugs, drunkenness and petty incidents on the street.

**David Creygolles**, a 19-year-old drug addict, was arrested in Carcassonne early on 10 February 1993 on suspicion of involvement in a drugs ring. He was held in preventive detention by the Judiciary Police (*Police judiciaire*) until he appeared before the examining magistrate on 13 February 1993. During these hours he made a statement to the Prosecutor alleging that he had been humiliated, kept completely naked for long periods, threatened sexually, beaten around the ears and punched in the stomach. He claimed that one officer had hit him in the genitals with the wooden stem of a pipe used for smoking drugs ("*une baguette de bambou*"). A medical examination confirmed the existence of injuries consistent with his complaint.<sup>37</sup> The Carcassonne Prosecutor sent David Creygolles' dossier to the *Chambre d'accusation* of the Court of Appeal in Montpellier, which has a joint responsibility under Articles 13 and 224 of the Code of Penal Procedure for the Judiciary Police.

On 10 February 1994 the *Chambre d'accusation* in Montpellier ordered that two officers of the Judiciary Police who had interrogated David Creygolles be suspended from the service as a disciplinary measure.

On the night of 21 June 1993, **José Etienne**, a 23-year-old holiday camp manager was with a female companion in Paris. It is alleged that he was intoxicated and that at 2am on 22 June 1993 he attempted to cross a main thoroughfare without due care and attention. A group of uniformed officers stopped in their car. According to José Etienne's official complaint, as the officers were about to drive off one of them made a racist remark to which he took offence.<sup>38</sup> He was then arrested, handcuffed and placed in the police vehicle where the officer who had earlier insulted him pulled his hair and slapped him. While in custody José Etienne was taken to hospital for a blood test. He claimed that on the way back to the police station the same officer punched him while his hands were handcuffed behind his

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<sup>37</sup> *L'Indépendant*, 11 February 1994

<sup>38</sup> José Etienne's father is originally from Guadeloupe

back and that later in the police cell the officer placed the barrel of his gun against his temple and said, "If you move, I'll smash your filthy nigger face". José Etienne has placed on record the apparent disapproval of other officers who witnessed this scene. He was released from police custody the next morning and sought medical attention later that day. He complained of pain to his face, legs and stomach. An examination found evidence of multiple contusions on his left shoulder blade, his right wrist, his arms and elbows.

On 25 June 1993 he made an official complaint against persons unknown for racist insults, defamation, illegal arrest and assault and battery. An investigation was opened.

**Benoit Fustier**, an 18-year-old Corsican who is a member of the nationalist youth group, *A Conculta Ghjuventù*, was arrested in Bastia on the night of 20 January 1994 and taken to the Bastia police station where he was charged with insulting an officer of the CRS. He claimed that he was arrested for no reason apart from his involvement in this political group. He alleged that he was slapped and punched and that the arresting officer had punched him hard in the region of the liver. He was transferred to hospital after he began vomiting blood. Following the abdominal injury blood appeared in his stool. He further suffered from intense stomach pain, nausea, vertigo, headaches and a broken tooth; he spent three days in hospital recovering. On 31 January 1994 he made a judicial complaint alleging assault and battery and an investigation was opened by the Public Prosecutor attached to the court in Bastia.

At approximately 6pm on 16 May 1994 **Abdelkader Slimani**, a 16-year-old French citizen of Algerian descent, was stopped by two police officers on motorbikes while riding his scooter near his home in Torcy, near Paris. The officers asked him to produce the insurance papers. According to his complaint of 20 May 1994, he admitted that he did not have them in his possession but offered to go home and fetch them. This offer was refused and he was ordered to accompany them to the police station. However, he took fright and attempted to escape on his scooter with the police in pursuit. He fell off, but did not injure himself seriously as he was able to get to his feet and attempted to escape on foot.

When the police caught up with him they threw him to the ground and allegedly beat him severely before handcuffing him. According to his complaint, when a crowd gathered the police stopped beating him. He began to vomit and the police called an ambulance to take him to hospital. Abdelkader Slimani was immediately taken to the casualty department. He claims the police informed the medical personnel that he had been involved in a road traffic accident.

On the afternoon of 17 May 1994 Abdelkader Slimani received an operation to his peritoneum following a rupture of the small intestine.

Abdelkader Slimani's parents made an official complaint of assault and battery to the court.

## CONCLUSIONS AND RECOMMENDATIONS

### 1. Prosecutorial inertia

Public Prosecutors are answerable to the Minister of Justice. The Prosecutor is responsible for applying the law. Amnesty International believes that the Prosecutor should take the initiative in applying the law and investigating possible offences rather than waiting to receive a formal complaint from an injured party. Currently the burden of ensuring that thorough judicial investigations are opened too often falls on victims or their families. In many cases, the injured parties feel obliged to make a complaint as a civil party in order to ensure that there is a thorough investigation; that they have access to its results and that their right to be heard is respected.

**Amnesty International recommends the Minister of Justice to direct the departments of Public Prosecutors to play a more active role by requesting judicial investigations on their own authority in the significant number of alleged human rights violations which come to their attention through the daily operation of the courts. Too many of these are currently ignored by Prosecutors in default of formal complaints from injured parties.**

### 2. Access to inquiries

In certain instances Prosecutors are choosing to use the procedure under the last paragraph of Article 74 of the Code of Criminal Procedure (see page 11) to identify the causes of death. This has happened even in cases where the person responsible for causing the death is available to the authorities, has admitted involvement in the death and the causes of death are known. In these cases, the procedures under Article 74 are judicially unsuited to fulfilling the need for a thorough investigation. The exclusion of the civil party from the investigation under this article, and the delays arising from its application are not in conformity with international law or the interests of equity.

**Amnesty International recommends the Minister of Justice to review thoroughly the use by Prosecutors of the procedures under Article 74 of the Code of Penal Procedure.**

### 3. Delays in investigation and prosecution

International law lays great emphasis on the need for prompt action in investigating complaints and possible human rights violations. It likewise requires that judicial proceedings should not last for an unreasonable time. Cases cited in this report and evidence supplied by magistrates themselves indicate that such problems exist because there is a lack of personnel and an inadequate infrastructure in the judicial system to fulfil existing needs.

Amnesty International recommends that the government takes steps to deal with the delays and unreasonably lengthy proceedings by increasing the resources available to the criminal justice system.

#### 4. The prevention of offences

The use of excessive and unlawful force will result in violations of the right to life and the prohibition of torture and cruel, inhuman or degrading treatment or punishment. These are serious offences which Prosecutors should treat with due regard at all stages of the judicial process.

Amnesty International recommends that the Minister of Justice should emphasize the gravity of these offences by directing Prosecutors to pay closer attention to the provisions of the law on legitimate defence and in particular to apply more strictly the need to observe the principle of proportionality when examining the lawfulness of acts of force by officers. Prosecutors should also ensure that the seriousness of these offences is reflected in their sentencing pleas to the court.

#### 5. Training of law enforcement officers

The current training programs on the use of firearms and the control of offenders are, and have been, the subject of complaint for many years. The officers themselves have been prominent in proposing changes. The law emphasizes both the need for proportionality in reaction and the extreme nature of the act of using firearms. Current training texts emphasize the need to neutralize, not kill, assailants or persons who may endanger the lives of others or their property. It is, therefore, essential that proper practical training is given in the use of force and firearms, with especial emphasis on the requirement in the law to control possible delinquents with the minimum use of force.

Amnesty International recommends that the Ministers of Interior and Defence immediately initiate a review of training courses in order to improve the professional competence of officers in neutralizing assailants using minimum force.

## 6. Awareness of international human rights instruments

Education in and awareness of the international norms and standards on human rights are essential in preventing arbitrary and abusive behaviour by law enforcement officers.

Amnesty International recommends that the Ministers responsible for the professional education of magistrates, advocates and law enforcement officers, including public servants in other relevant fields, should be made aware of the relevant provisions of international human rights instruments. Specific time should be allocated on training courses and explicit reference to the international norms and standards made, where appropriate, in the rules and procedures of the different services.

## 7. Complaints regarding law enforcement officers

The government announced last year the creation of a body to advise Ministers on all matters relating to the professional codes of practice of the police (*un Haut conseil de la déontologie de la police nationale*).

Amnesty International commends to the government standards it has elaborated for National Human Rights Commissions.<sup>39</sup> It especially recommends the government to consider adopting the standards on communications, the referral of the results of investigations, the accountability of senior officers and the power to ensure effective remedies.

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<sup>39</sup> Proposed Standards for National Human Rights Commissions, January 1993 (AI Index: IOR 40/01/93)

**APPENDIX ONE****INTERNATIONAL HUMAN RIGHTS TREATIES RATIFIED BY FRANCE**

The list below indicates certain relevant international human rights treaties to which France is a State Party, together with the dates of ratification (R) or accession (A).

- International Covenant on Civil and Political Rights (ICCPR) - 4 November 1980 (A)
- First Optional Protocol to the ICCPR - 17 February 1984 (A)
- United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - 18 February 1986 (R)
- International Convention on the Elimination of All Forms of Racial Discrimination - 28 July 1971 (A)
- United Nations Convention on the Rights of the Child - 7 August 1990 (R)
- European Convention for the Protection of Human Rights and Fundamental Freedoms - 3 May 1974 (R)
- European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment - 9 January 1989 (R)

## APPENDIX TWO

### PHOTOGRAPHS

Philippe Lescaffette, a 40-year-old civil servant, received 24 stitches for facial injuries after arrest, Paris, April 1993 (see page 23)

Didier Laroche, a 26-year-old student, with a broken nose and injuries to his eyes and face, after arrest, Bordeaux, March 1994 (see page 23)

Beating of  
"anti-CIP"  
demonstrator in  
Paris, March 1994  
(see page 24)

Abdelkader Slimani, a 16-year-old student,  
suffered a ruptured small intestine following  
a police assault, May 1994 (see page 28)