

FRANCE:

**‘OUR LIVES ARE
LEFT HANGING’**

FAMILIES OF VICTIMS OF
DEATHS IN POLICE
CUSTODY WAIT FOR
JUSTICE TO BE DONE

**AMNESTY
INTERNATIONAL**



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INTRODUCTION

Amnesty International has been documenting cases of human rights abuses by law enforcement officials in France, including unlawful killings, torture and other cruel, inhuman or degrading treatment (ill-treatment), for many years. In 2005, the organization published the report *France: The Search for justice* (AI Index: EUR 21/001/2005), which concluded that law enforcement officials who committed such abuses enjoyed *de facto* impunity, in a context where police, prosecutors and judges were reluctant to thoroughly investigate and prosecute such human rights abuses.

Amnesty International recognizes that law enforcement officials in France perform a difficult and dangerous task, often at great personal risk, and that the majority of officers fulfil their duties professionally and lawfully. However, the organization believes it is necessary to recognize that mistakes and misconduct can and do take place. Failure to ensure accountability of those responsible for human rights violations, including by showing to the public that this has been done, undermines the credibility of the law enforcement agencies as a whole and damages their relationship with the public. Amnesty International's 2009 report *Public outrage: Police officers above the law in France* (AI Index: EUR 21/003/2009) confirmed the findings of its previous report and illustrated that victims of such abuses and their families continued to be denied effective, independent, thorough, impartial and prompt investigations into their allegations, as well as adequate reparation including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

The organization has continued to monitor cases of alleged human rights abuses by law enforcement officials and notes that as of November 2011, progress in the investigations has been painfully slow at best. Those followed include cases of deaths during or following arrest, where the families continue to wait for an adequate explanation for the death of their family member and an appropriate remedy in conformity with international human rights law.

This briefing follows up on Amnesty International's previous research on these issues, and focus specifically on the impact of deaths in police custody and of the lack of accountability for the victims' families. Indeed, the five cases of deaths in police custody in this briefing illustrate the systemic problems identified by Amnesty International in its previous reports with regard to excessive use of force and the lack of effective investigations despite the gravity of the situation and the evidence available. Each family member interviewed by Amnesty International described the profoundly negative impact both the death and the fact that so far they have not had access to justice, truth and reparation, have had on their family and on their ability to grieve and move on with their lives.

All five cases in this briefing concern persons from ethnic minorities: one French citizen of Senegalese origin and four foreign nationals from Mali, Tunisia, Algeria and Morocco. Although persons of different ages, social backgrounds and nationalities are victims of human rights violations by law enforcement officials, the overwhelming majority of the cases brought to Amnesty International's attention concern persons belonging to ethnic minorities. There are no official statistics on the ethnic composition of France and disaggregated data on policing despite specific recommendations by international human rights bodies for that

data, but discriminatory conduct by law enforcement officials towards persons belonging to ethnic minorities has been alleged in many cases brought to Amnesty International.

In the absence of an independent police complaints mechanism in France with the necessary powers, authority and resources to investigate allegations of human rights violations by law enforcement officials and issue binding decisions, Amnesty International has in the past recognised the valuable role played by the National Commission on Ethics in Security (*Commission Nationale de Déontologie de la Sécurité*, CNDS) in investigating such allegations.¹ The CNDS has been replaced by the new Defender of Rights (*Defenseur des droits*), an institution which merges the CNDS, the Ombudsperson (*Médiateur de la République*), the Defender of Children (*Défenseur des enfants*) and the High Authority against Discrimination and for Equality (*Haute Autorité de Lutte contre les Discriminations et pour l'Égalité*, HALDE). While Amnesty International has expressed concerns about the institution's ability to carry out its work due to its broad mandate and limited resources, the organization hopes that the Defender of Rights will make a priority of addressing the issue of human rights abuses by law enforcement officials with the seriousness and expertise that it requires.

METHODOLOGY

In September and October 2011, Amnesty International delegates visited the Paris region and interviewed relatives of persons who died in police custody, some of their lawyers, as well as representatives of some of their support committees. The aim of this briefing is to tell the story of how they experience the lack of adequate investigations into the death of their family member in some cases several years after the deaths, and of the numerous obstacles they have faced their search for truth and justice.

Amnesty International wishes to thank the children, parents, brother, sisters and uncle who shared their stories despite the deep pain it continues to cause them. Without their courage and determination to pursue the truth and seek justice and accountability, the death of their family member could have gone unnoticed. The organization extends this gratitude to the support committees which have played a key role in campaigning for justice and ensuring that Abou Bakari Tandia, Lamine Dieng, Abdelhakim Ajimi, Ali Ziri and Mohamed Boukrourou are not forgotten.

THE RIGHT TO AN EFFECTIVE REMEDY

Under international human rights law, France has an obligation to respect the right to life, the prohibition of torture and other cruel, inhuman and degrading treatment and the prohibition of discrimination. France must also provide those whose human rights have been violated with an effective remedy when the violation has been committed by agents of the state or persons acting in an official capacity (Article 13 of the European Convention on Human Rights, Article 2 of the International Covenant on Civil and Political Rights, ICCPR).

Reparation is the term for the concrete measures that should be taken to address the suffering of the victims and their family members and it should help them rebuild their lives. The aim of reparation measures is to "as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed."²

Of course, in situations where victims suffer serious harm or when family members are killed, it is impossible

to fully restore them to the situation which existed before the violation occurred. Nevertheless, the obligation to ensure that as much as possible is done to address the suffering of the victims remains.

States bear the primary responsibility for providing reparation to victims of human rights violations in their country. There is an express legal obligation on the state to provide reparation when violations are committed by agents of the state or under the state's authority.

States must guarantee the right to obtain full reparation by including effective measures that ensure full and effective reparation of victims, including the following forms: restitution, compensation, rehabilitation, satisfaction, including restoration of dignity and reputation as well as guarantees of non-repetition.³ In some instances, state parties must implement guarantees of non-repetition by taking interim measures of protection.⁴

According to the UN Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, victims should be provided with full and effective reparation including compensation for physical or mental harm, moral damage, costs required for legal or expert assistance, medicine and medical services, and psychological and social services, as well as "an official declaration or a judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victim", public apology and judicial and administrative sanctions against the persons liable for the violations (paras 18-22).

In its Guidelines on eradicating impunity for serious human rights violations the Council of Europe has stressed that states have a duty to carry out effective investigations in cases of serious human rights violations, a duty which is absolute.⁵ An effective investigation should be adequate, thorough, impartial and independent, prompt, and subject to public scrutiny.

SUPPORT COMMITTEES

Support committees are associations of family members and friends and some also include NGOs, other associations and political parties. By organizing marches and demonstrations, and mobilising people around the issue of abuses by law enforcement officials, the following support committees have played an invaluable role both in ensuring that solidarity with the victims' families continues and in raising awareness in the general public about these abuses and the need for justice:

- Association Vérité et Justice pour Abou Bakari Tandia
- Collectif Vérité et Justice pour Lamine Dieng
- Collectif Justice pour Hakim Ajimi
- Collectif Vérité et Justice pour Ali Ziri
- Collectif Vérité et Justice pour Mohamed Boukrourou
- Collectif Vies Volées

ALI ZIRI - THE DEATH OF A "CHIBANI"

"Today still, Ali Ziri's son still says to me 'We cannot grieve. We cannot move on. There are criminals out there, and they have not been put on trial.'"

Sami Skander, lawyer of Ali Ziri's family and Arezki Kerfali

Ali Ziri, a 69 year old Algerian man, died following his arrest in Argenteuil in June 2009. As of November 2011, none of the police officers involved had been questioned. Arezki Kerfali, Ali Ziri's friend who was arrested with him the same night, was awaiting trial for insulting a police officer.



Portrait of Ali Ziri from the files of the ATMF
Argenteuil. © Amnesty International

Ali Ziri had lived in France since 1962 and was employed as a skilled worker before retiring in 2001 and moving back to Algeria. Amnesty International was told that Ali Ziri regularly returned to France to visit family and friends and that in June 2009 he had come to shop in preparation for his son's wedding in Algeria.⁶

On the evening of 9 June 2009, Ali Ziri was travelling in a car in Argenteuil with his childhood friend Arezki Kerfali, who was driving. At around 8:30pm they were stopped by three police officers who reportedly wanted to test Arezki Kerfali's level of alcohol. According to Arezki Kerfali, the police officers ordered him and Ali Ziri to get out of the car and then beat them both at the scene of the arrest and again in the police car in which the officers transferred them to Argenteuil police station. He also claimed that the police officers had racially insulted him and Ali Ziri.

They arrived at the police station at 8:46pm (as indicated by a surveillance camera). According to the opinion issued by the CNDS on the case, the recording indicated that several police officers pulled Ali Ziri out of the car and threw him on the ground, then carried him into the police station.⁷ The police officers reportedly lay Ali Ziri and Arezki Kerfali down on the floor in the police station. Both men's hands were handcuffed behind their backs. According to testimonies by police officers present at the time, the two men lay with their faces in their vomit and hardly moved for the duration of their stay at the police station. The CNDS established that both men remained in this position for between 30 minutes and one hour and 15 minutes.

Ali Ziri and Arezki Kerfali were then taken in a police van to Argenteuil hospital where they arrived a few minutes after 10:00pm. At 10:45pm, a doctor found that Ali Ziri had stopped breathing and that he was unconscious. He died at 7:30am the following morning.

"The discrepancies are that officers are asked to investigate their colleagues in the same police station. It is a bit like asking a striker to judge the offside rule himself."

Sami Skander, lawyer of Ali Ziri's family and Arezki Kerfali

In July 2009, the public prosecutor of the Pontoise court (tribunal de grande instance) opened a preliminary enquiry against unidentified perpetrators for involuntary homicide. However, the prosecutor closed the case two weeks later. He reportedly referred to the autopsy which indicated that Ali Ziri had died of heart failure.

After the prosecutor closed the case, Ali Ziri's family filed a complaint as a civil party (partie civile) and requested a new autopsy. The conclusions of this autopsy, dated 20 July 2009, indicate multiple bruises on Ali Ziri's body and signs of "mechanical asphyxia" on the lungs. The autopsy found that asphyxiation was the probable cause of death. According to Ali Ziri's doctor, Ali Ziri was in good health before his arrest and did not suffer from any respiratory problems. On 12 October 2009, the prosecutor of Pontoise issued an indictment against unidentified perpetrators for "voluntary violence which unintentionally caused death. The judge assigned to the case left the court of Pontoise and was replaced by a new investigating judge in September 2010. The new judge ordered another autopsy, which concluded that Ali Ziri had died due to a hypoxic episode related to immobilisation techniques used and repeated vomiting. According to the information received by Amnesty International, as of November 2011, the police officers involved in the arrest of Ali Ziri and removed him from the police car upon its arrival at the Argenteuil police station had not been heard or questioned. The family's lawyer was waiting for the investigating judge to qualify the facts and decide whether the case should go to trial.

The CNDS opened an investigation into the case and delivered its opinion and recommendations on 17 May 2010. It called for disciplinary proceedings to be opened against the police officers "who used disproportionate and precipitated force" to remove Ali Ziri from the police car upon its arrival at the police station, and against "those who left two men, aged 60 and 69 respectively, handcuffed behind their backs, lying on the ground, their faces in their vomit, for about an hour without reacting". However, according to information available to Amnesty International, as of November 2011 no disciplinary proceedings had been initiated against those police officers and they were still in office.

Sami Skander, one of the two lawyers representing Ali Ziri's family and Arezki Kerfali, told Amnesty International that soon after being appointed to the case, he realized that many aspects of the case illustrated broader problems about the functioning of the judicial system.

He said that the fact that the police officers involved in Ali Ziri's arrest had not been questioned left him speechless. He told Amnesty International that it was not the first case of alleged ill-treatment by the police he had seen. Nevertheless, he said he was surprised by the case of Ali Ziri: "we're talking about a man who was not known to the police, an older gentleman who was probably beaten, judging by the different bruises that were found on his body. And today we have nothing, it is a real scandal".

Most of Ali Ziri's family lives in Algeria. According to Sami Skander, they are appalled and in despair. Sami Skander said he feels very uncomfortable every time one of Ali Ziri's family members calls him and asks whether the police officers are in prison. He said that in a "traditional" procedure in which a person had died, people are questioned, and often put in pre-trial detention. "In the case of Ali Ziri, no one has been questioned, there has been no preventive detention, no *mise en examen*. It is a masquerade."

"The whole population of Argenteuil has been traumatised by Ali Ziri's death. He had lived in France for 40 years and had no problems either with the judiciary, or the police, nor health problems. People liked him a lot, they called him 'Ammi' ('my uncle', in Arabic), he was very respected."

Mohamed Nemri, Association des Travailleurs Maghrébins de France (ATMF)



A memorial to Ali Ziri at the offices of the ATMF Argenteuil. © Amnesty International

Soon after Ali Ziri's death, the Association of Maghrebi Workers in France (Association des Travailleurs Maghrébins de France, ATMF), Argenteuil and other associations and individuals formed the support committee "Truth and Justice for Ali Ziri" (Collectif "Vérité et Justice pour Ali Ziri"). The committee has organized several demonstrations in memory of Ali Ziri. Mohamed Nemri, from the ATMF, told Amnesty International that upon receiving the news of Ali Ziri's death he and others from the support committee went to the residence where Ali Ziri had lived after he retired and where he stayed

when he returned to France, to deliver the news. He told Amnesty International that the residents were very shocked, "especially when they heard how he died", he said. Ali Ziri was a "Chibani" (an older person, in Arabic), a term currently used to refer to retired immigrants who went to work in France in the 1960s and 1970s.

Mohamed Nemri said the support committee had never been received by the prefect of the Val d'Oise department (in which the Argenteuil arrondissement is located), despite several requests for a meeting. They also requested a meeting with the deputy prefect of Argenteuil, but they were only received by his secretary who listened without asking any questions, and there was no follow-up to the meeting. In June 2011, the support committee organized a demonstration before the Ministry of Justice to mark the second anniversary of Ali Ziri's death, but they were not received by anyone from the ministry despite requesting a meeting. Mohamed Nemri said the Algerian consulate had appointed a lawyer to the case, but that he had never contacted the two lawyers already working on the case, and never met with the support committee.

The support committee tried to obtain a visa for Ali Ziri's son to come to France and meet with the people who had campaigned on his father's case, but were unsuccessful in doing so. Amnesty International is not aware of the reasons why the visa was refused.

Arezki Kerfali was held in police custody at the Argenteuil police station for 24 hours once he left the hospital. As a result of his injuries, he was declared unfit for work for eight days. A few days after the events, Arezki Kerfali, accompanied by Mohamed Nemri from the ATMF, tried to file a complaint against the police officers involved. He tried at the local gendarmerie but they refused to register the complaint. He then went to the police station in Bezons, a town near Argenteuil, but the chief of the police station reportedly replied that one cannot be a judge and a party, that his colleagues were involved in the case and he refused to register it. Arezki Kerfali's lawyer Sami Skander filed a complaint at the prosecutor's office where it was registered. But in September 2011 Sami Skander informed Amnesty International that the complaint had not been followed by an investigation.

In September 2009 Arezki Kerfali was charged with insulting a police officer (*outrage*) during his arrest on 9 June 2009, a charge he denies. His trial, initially set for June 2010, was postponed until March 2011, and it has been postponed again until March 2012.

Arezki Kerfali told Amnesty International that his life had not been the same since Ali Ziri's death. He said he had been having nightmares about that night and was receiving psychiatric treatment. Arezki Kerfali's wife said their family was traumatised.

POSITIONAL ASPHYXIA

According to experts⁸, positional asphyxia arises from use of neck-holds which restrict breathing or when a person is laid on their stomach during restraint and/or transportation: this position compromises a person's ability to breathe. Additionally handcuffing a person behind their back also restricts their ability to breathe. Any weight applied to the back in this position (such as pressure by a law enforcement officer, including an attempt to keep a person still) increases breathing difficulty further. A "natural reaction" to oxygen deficiency is increased physical struggle. In the face of such a struggle a law enforcement official is likely to apply additional pressure/compression to subdue the restrained person, yet further compromising the restrained person's ability to breathe. In 2007, the European Court of Human Rights strongly criticized French authorities for failing to issue any specific instructions to law enforcement officials on the use of this restraint technique, in its ruling in the case of Mohamed Saoud, who died on 20 November 1998 after a violent arrest. Medical experts said that Mohamed Saoud died from cardio-respiratory failure, caused by slow asphyxiation as a result of the restraint technique used against him. Two police officers held him by the (handcuffed) wrists and ankles and another knelt on his back while pressing his hands against Mohamed Saoud's shoulders, as he lay on his stomach on the ground. The Court concluded that France had violated Article 2 (right to life) of the European Convention on Human Rights (ECHR).

In October 2008 the General Inspectorate of the National Police (Inspection Generale de la Police Nationale, IGPN) issued a note to police directorates on the use of force. It includes a paragraph which states that when it is necessary to restrain someone, pressure, in particular on the chest and abdomen, must be as quick as possible, and that restraint in the ventral position must be as limited as possible. Amnesty International is not aware of any detailed instructions on the use of the *ventral decubitus* technique, despite repeatedly requesting a copy of any such instruction from the Ministry of the interior.

MOHAMED BOUKROUROU – “MY MOTHER CANNOT GRIEVE”

“It is as if our life has been left hanging for two years. As long as this case does not go to trial, as long as there is no decision, we will be waiting. And that makes me furious”.

Abdelkader Boukrourou, brother of Mohamed Boukrourou

Mohamed Boukrourou, a 41-year-old Moroccan man, died during his arrest in November 2009 in Valentigney (Doubs). As part of the investigation reconstruction of the events took place in April 2011 but as of November 2011 no decision had been taken as to whether the case would go to trial.



Mohamed Boukrourou, with his daughter. © Private

On Thursday 12 November 2009, at around 4:45 pm, Mohamed Boukrourou went to the Favre pharmacy in the centre of Valentigney, where he was a regular customer, and complained about some medicine he had bought a few days earlier. According to the pharmacist Mohamed Boukrourou was extremely agitated, and the pharmacist called the police at Mohamed Boukrourou’s request. According to witnesses he subsequently sat and waited calmly for the police. When four police officers arrived they reportedly tried to handcuff him but he refused to co-operate. According to the information received by Amnesty

International, the four police officers restrained Mohamed Boukrourou on the ground outside the pharmacy, before carrying him into a police van. A witness said she could see inside the van from where she stood, and that she saw the police stamping on Mohamed Boukrourou, and kicking and beating him. Medical staff of the fire brigade and another police brigade subsequently arrived at the scene.

At 6:05pm, a doctor declared Mohamed Boukrourou dead.

At 8pm that evening, around 10 people including the mayor of Valentigney, his deputy and the police commissioner went to Mohamed Boukrourou’s home and told his wife that he had had “a serious accident”. She and Mohamed Boukrourou’s parents and brother went to the police station. They waited there for over two hours, while the police officers and firemen who were present during the arrest were in a meeting. At 10:30pm the police told them that Mohamed Boukrourou had died of a heart attack following an accident.

When Mohamed Boukrourou’s family was informed of his death, his body had already been sent for an autopsy in Besançon and they were not able to see it until two days later.

Abdelkader Boukrourou and Samira Mehigueni, Mohamed's brother and sister, said that when they saw the body one of his cheeks was lacerated, his brow was cut, his lip was split and that there were bruises on his face.

"It will always follow him: 'he died in a police van'. They have tarnished my brother's reputation, because people think there is no smoke without fire, if he died in a police van then something must have happened."

Samira Mehigueni, Mohamed Boukrourou's sister



Placards at a memorial march for Mohamed Boukrourou, Montbéliard, 14 November 2010. © Private

In November 2009, the prosecutor of Montbéliard opened an inquiry into the cause of Mohamed Boukrourou's death, and in December an investigation against unidentified perpetrators for involuntary homicide. In November 2009, the family filed a complaint as a civil party before the investigating judge of Montbéliard.

As part of the judicial investigation a toxicological report established in January 2010 that the medication Mohamed Boukrourou had been taking did not explain his death. A second autopsy was carried out at the request of the Boukrourou family in June 2010. The first autopsy noted injuries which could have been caused by third parties, and stated heart failure as the probable cause of death and a second autopsy requested by the family did not add any new findings.

A reconstruction of the events took place on 8 April 2011, but the family was not invited to attend. As of November 2011 they were waiting for the investigating judge to qualify the facts and decide whether the case would go for trial.

In a separate procedure, the case was referred by a senator to the CNDS in November 2009 and the file was transferred to the Defender of Rights. As of November 2011 the Boukrourou family was waiting for the new institution's opinion.

Samira Mehigueni told Amnesty International that if her brother had died a natural death, she would have been able to accept it. "Death is a part of life", she said. "But we know he died after being beaten by the police, and in addition to that the story is being covered-up so that the police officers get away with it, as if nothing had happened. And that is appalling". "My mother cannot grieve because for her, the police officers who killed her son are free as if nothing happened."



Family and friends of Mohamed Boukrourou during a memorial march in Montbéliard, 14 November 2010. © Private

said that throughout the proceedings they felt that his illness was given as an explanation of why he died. "It always comes down to 'he took medicine, he was ill, he had a disability pension'". She said the family had also been told that Mohamed had heart problems, which they do not accept. "Imagine he really did have heart disease. Why did he die at that moment, during the police's intervention?" Samira asked. She said it was also important for her niece to know the truth about how her father had died. This echoes statements by family members of other victims who told Amnesty International that they felt their relative's reputation had been called into question, being portrayed as someone ill, violent or who took drugs, which they have experienced as a way for the authorities to deflect responsibility.

In April 2010, Mohamed Boukrourou's family and friends created the association "Justice and Truth for Mohamed Boukrourou" ("Justice et Vérité pour Mohamed Boukrourou"). They organise memorial marches to mark the anniversary of Mohamed Boukrourou's death and to demand justice.

Abdelkader Boukrourou and Samira Mehigueni

told Amnesty International that Mohamed had been following a treatment for a mental illness, but that he had been on that treatment for over 10 years and that his state was stable. They

LAMINE DIENG – “WE FEEL DISPOSSESSED, TREATED LIKE LESS THAN NOTHING”

“At the beginning we were sad, we couldn’t talk about it without crying. But today, we feel a deep anger, hate for those who are responsible and against a system that sees things clearly and does nothing to punish those people.”

Fatou Dieng, Lamine Dieng’s sister

Lamine Dieng, a 25-year-old French man of Senegalese origin, died during arrest in June 2007 in Paris. The investigation into his death is ongoing.



Lamine Dieng. © Private

At around 4am on 17 June 2007, three police officers arrived at rue de la Bidassoa in the 20th arrondissement in Paris in response to a phone call claiming that an altercation was taking place in a hotel on that street. According to the opinion issued by the CNDS on the case in April 2008, the three police officers found Lamine Dieng barefoot, lying under a car.⁹ The police officers claimed that Lamine Dieng was very agitated and started to climb out from under the car and they tried to restrain him. They said he resisted and shoved all three of them, and they called for reinforcements. Two other police officers arrived within minutes, followed later by a further two (a captain and a lieutenant). Lamine Dieng was restrained face down by five police officers, his hands handcuffed behind his back (his right arm over his shoulder) and a strap placed around his feet. He was then transferred into a police van

where he was placed in the same position. According to the opinion of the CNDS he was restrained by four police officers who held him down by his shoulders, chest and legs. The captain realized that Lamine Dieng had stopped moving, and then the firemen and emergency medical services arrived. They tried in vain to resuscitate him, and at 5:15am Lamine Dieng was declared dead. One of Lamine Dieng’s sisters described how it was only 36 hours later, at 5:30pm on 18 June 2007, that her younger sister received a phonecall from an officer of the General Inspectorate of Services [(*Inspection Generale des Services*, IGS) while she was alone in the family home.¹⁰ The officer informed her that her brother had died in an accident. She asked for more information but he replied that she and her family should go to the IGS the following morning and that they would receive more details then. Lamine Dieng’s father and brother went to the IGS anyway as soon as they heard the news, but they were told to come back the next day.

When Lamine Dieng's family went to their appointment at the IGS, they describe how they were told by the police superintendent (Commissaire Principal) that Lamine had been drinking and taking drugs and that he died naturally from a heart attack in a police van.

When the family went to the Medico Legal Institute (*Institut Medico Legal*, forensic institute) to see the body, they could only see it in another room and through a window, and they could only see his face as there was a bandage on his head and his body was covered by a sheet. Lamine's sister, Ramata, told Amnesty International she remembered seeing bruises on his face and lips.

On 22 June 2007 Lamine Dieng's family filed a complaint as a civil party at the Tribunal de Grande Instance de Paris.

The original autopsy conducted on 18 June had concluded that Lamine Dieng's death was due to intoxication, and a toxicology report conducted two days later found cannabis and cocaine in his body.

However, a second autopsy conducted in July 2007 at the family's request concluded that Lamine Dieng had died of asphyxiation due to aspiration of gastric contents in the entire respiratory tract while the face was against the ground with pressure on the top of the head; while he was in a state of intoxication.

In addition another toxicology report, conducted on 25 October 2007, concluded that his death could have been due to multiple factors and that while the strong dose of cocaine and cannabis were not the first cause of death, they "greatly facilitated" it.

In April 2008 the CNDS issued an opinion on the case. It stated that the "inadequate restraint" had caused Lamine Dieng's death. However, according to information received by Amnesty International no disciplinary proceedings have been initiated against the police officers who restrained Lamine Dieng and they are still in office.

"The whole family has been in the same state of mind for four years. We are in pain, we are waiting, waiting for justice, simply, because as long as there is no justice we cannot grieve."
Ramata Dieng, Lamine Dieng's sister.

Lamine Dieng's sisters told Amnesty International that the family had requested to practice a ritual cleaning of the body (*toilette mortuaire*), but that they were not authorized to do so. "For my father, it was the last thing he could do for Lamine, as his father", said Ramata. "Frustration, anger, impotence. We really felt dispossessed, treated like we were less than nothing. Lamine was not respected while he was alive, and his body was not respected either. And neither were we. Our pain was met with inhuman contempt."



Fatou Dieng (L) and Ramata Dieng (R), Lamine Dieng's sisters, hold up a collage made in memory of their brother. © Amnesty International

Ramata said her parents were shattered. "The whole family has been in the same state of mind for four years. We are in pain, we are waiting, waiting for justice, simply, because as long as there is no justice we cannot grieve", she said. "Our lives are suspended", said Fatou.

Ramata told Amnesty International that she tried to keep her faith in the French judicial system, but that she does not feel safe with the police. "I used to believe what we were told, that the police are there to protect the people (...). Now when I see my brother's death and the death of tens of other people every year I say that yes, there is a danger. When you meet the police you are in danger."

Fatou said she hoped that those involved in her brother's death would go to prison and no longer work as police officers. Ramata's wish is that they receive an appropriate sanction.

ABOU BAKARI TANDIA - "THE LONGER IT TAKES, THE MORE OUTRAGEOUS IT IS"

"It has been seven years and we still have no answer. But even if it takes 20 years, as long as I am alive I will continue to seek justice for Abou Bakari."

Souaibou Doucouré, Abou Bakari Tandia's uncle

Abou Bakari Tandia, a 38-year-old Malian man, died in police custody in January 2005 in Courbevoie. A reconstruction of the events took place in April 2011 and in June 2011 a medical report established that Abou Bakari Tandia had died due to bodily restraint.



Demonstration calling for justice for Abou Bakari Tandia, Paris, 24 January 2009. © Amnesty International

On the night of 5 December 2004, Abou Bakari Tandia was taken to Courbevoie police station (in the Paris region) by police officers following an identity check. While in the police station, he fell into a coma and was transferred to hospital on the night of 5-6 December 2004.

When his family went to the hospital on 9 December they were not allowed to enter his room which was guarded by two police officers, because he was still in pre-charge detention (*garde à vue*). They were only able to see him the next day but he was still in a coma. He never woke up and eventually died on 24 January 2005.

When his uncle, Souaibou Doucouré, went to Courbevoie police station to ask what had happened, he was just given a little piece of paper with the phone number of the IGS.

Abou Bakari Tandia's family received contradictory information from the police as to how he died. One version was that he threw himself out of a window at the police station. Another was that he was washing his hands after they took his fingerprints and he refused to clean the tap as he was told. They said Abou Bakari

Tandia reportedly got angry, and once he was back in his cell he threw himself against the wall.



Souaibou Doucouré, uncle of Abou Bakari Tandia, shows Amnesty International the paper he was given at the police station.
© Amnesty International

The prosecutor of Nanterre opened an investigation immediately on Abou Bakari Tandia's admission to hospital, but closed it in March 2005. In April 2005, Abou Bakari Tandia's family filed a complaint for "torture and ill-treatment resulting in death" and were represented by the lawyer Yassine Bouzrou. The case was reopened but the investigation has been extremely slow and faced considerable obstacles: police CCTV footage of the cell are reportedly missing (the police claimed that the cables had been pulled out by another detainee, but this was later contradicted by the reconstruction which established that a detainee could not have reached them) and items of Abou Bakari Tandia's clothing from the night of his arrest have still not been returned to the family. The prosecutor's office and hospital both claimed that medical records relating to Abou Bakari Tandia's death had been "misfiled" and only provided them in August 2008 and January 2009 respectively, following a formal complaint by the family's lawyer for "destruction of evidence".

A forensic report by the Paris Medico-Legal Institute (IML) concluded in July 2009 that Abou Bakari Tandia's brain injury was caused by "the violent shaking of the brain within the skull", and contradicted the police's version of the events that he had died from throwing himself against the wall: there was no brain injury caused by a collision of the skull against a hard surface.

A reconstruction took place in April 2011 and in June 2011 the IML issued another report concluding that Abou Bakari Tandia had died of oxygen deficiency (anoxia) due to repeated restraints while he was very agitated and resisted restraint. The report found that the firm compression of the chest by a police officer had caused a terminal anoxia. The prosecutor of Nanterre requested the questioning of the police officer who restrained Abou Bakari Tandia but as of October 2011 this had not taken place and he was still in office.

Souaibou Doucouré, who has lived in France for 38 years, told Amnesty International that not knowing the cause of his nephew's death had made it very difficult to tell his sister, Abou Bakari's mother. "When someone dies there is a reason, and I wanted to know that reason. (...) I am his uncle, I was here in France, and what was I supposed to tell his mother? 'Your son is dead and I am sending you his body?'" Abou Bakari Tandia's mother died two years later, without knowing how her son had died.

"At our level we can't do anything against them. But we still want to know the truth, name the cause of his death, and it has been seven years. [...] They say they respect human rights. But this man who died, wasn't he human?" asked Souaibou Doucouré.



Souaibou Doucouré, (L) uncle of Abou Bakari Tandia, and Joëlle Paris (R), Secretary of the Association Vérité et Justice pour Abou Bakari Tandia, Paris, October 2011. © Amnesty International

Abou Bakari Tandia's family did not receive any support from the French authorities. On the contrary, they described being treated with contempt throughout the judicial proceedings. The family's lawyer requested that the clothes he had been wearing on the night of his arrest be found [the family were only given a sleeveless jacket, although it was December and night at the time], but they were never returned to them.

"There are two justice systems in France. One for the rich and one for the poor. If I had hit a police officer, would it take eight years to find proof that I hit him? I would already be in prison."

Souaibou Doucouré, Abou Bakari Tandia's uncle

"The problem is that the magistrates work every day with police officers they ask to conduct investigations, so it is very difficult for them to work hand in hand and treat the police officers as colleagues, and a few minutes later treat them like they are under questioning, like they are potential offenders", said Yassine Bouzrou.

In France, the prosecutor and investigating judge are structurally independent from the law enforcement agencies, but work in close collaboration with them daily. Although it is the prosecutor or investigating judge who has overall responsibility for the investigation, in practice they rely heavily on the assistance of police officers from the national police force, gendarmerie or municipal police forces (known as "judicial police") who act on behalf of the prosecutor or judge in collecting evidence and interviewing witnesses. In cases relating to alleged misconduct by law enforcement officials, there is no prohibition on prosecutors or judges instructing judicial police from the same force as the alleged perpetrator to assist with the investigation. In the light of this, questions have been raised about the level of independence of investigations.

"It has been seven years and we still have no answer. But even if it takes 20 years, as long as I am alive I will continue to seek justice for Abou Bakari", said Souaibou Doucouré. "The longer it takes, the more outrageous it is."

ABDELHAKIM AJIMI – “I HAVE LOST EVERYTHING. I HAVE LOST MY SON”

“Every time there is a trial, an appeal, we relive it [Hakim’s death] and it’s so hard. Really it’s so hard. I wouldn’t wish it on anyone.”

Boubaker Ajimi, Abdelhakim Ajimi’s father

Abdelhakim Ajimi, a 22-year-old Tunisian man, died during arrest in Grasse, in May 2008. In October 2011, the trial of seven police officers involved in his arrest and transportation was set for 16 to 20 January 2012.



Abdelhakim Ajimi © Private

Known as Hakim to his friends and family, he had applied for French citizenship, and had been waiting for the outcome when he died. Hakim Ajimi had trained as a cook. His friends describe him as a quiet, shy young man who was very well integrated in France and did well in his traineeship.

On the afternoon of 9 May 2008, Hakim Ajimi went to his bank in Grasse and tried to withdraw money from his account. When his request was rejected, he reportedly grew angry and aggressive and refused to leave the bank. The director of the bank called the police. Hakim Ajimi then left the bank and was on his way home when he was stopped by two police officers of the Anti-Criminality Brigade (brigade anti-criminalité, BAC). It is alleged that Hakim Ajimi violently resisted arrest and one of the police officers was injured.

Nine municipal police officers came to the scene and assisted the two BAC officers in restraining Hakim Ajimi. Witnesses who gathered around them said that after the police officers handcuffed Hakim, they held him face down on the ground. One of the police officers reportedly punched him twice in the face. One of the police officers sat on Hakim Ajimi’s back, another held him in a stranglehold with his arm around his neck and another held his feet to the ground. Witnesses said Hakim’s face had turned purple. However, when the medical staff of the fire brigade arrived to attend to the injured police officer, one of the other police officers reportedly told them that they had the situation under control, and the medical staff did not attend to Hakim.

Hakim Ajimi was then taken to a police car where he was placed on the floor of the car with his legs up towards the backseat. According to testimonies of the police officers involved in his transportation, he did not speak at all during the journey to the police station, and was declared dead there on arrival.

Boubaker Ajimi, Hakim Ajimi’s father, told Amnesty International that he received a phone call from the police at around 6pm that afternoon. He went to the police station, not knowing

why he had been called. He said a police officer told him that there had been an argument and that a policeman had been injured. Then he told him his son had died of a heart attack. Boubaker Ajimi told Amnesty International that his lawyer told him to go to the hospital in Nice where Hakim's body was kept on 13 May, but that when he went he was not allowed to see him, and had to go back two days later.

On 13 May 2008, the public prosecutor in Grasse opened an investigation into "involuntary homicide". In November 2008, an expert medical report concluded that Hakim Ajimi had died from "slow mechanical asphyxia", with a "prolonged deprivation of oxygen" due to pressure on his chest and neck. In January and February 2009, five police officers were questioned on charges of non-assistance to a person in danger.

In June 2009, the prosecutor of Grasse requested the questioning of the two BAC police officers on charges of involuntary homicide and one of them also for non-assistance to a person in danger. However, the investigating judge refused to do so. The prosecutor appealed this decision and in October 2009 the Court of Appeal of Aix-en-Provence ordered the questioning of the two BAC police officers.

In February 2010, the investigating judge questioned the two police officers of the BAC on suspicion of "involuntary homicide" but closed the case against them in May 2010. The prosecutor and Hakim Ajimi's family lawyer appealed this decision and in September 2010 the Court of Appeal of Aix-en-Provence quashed the decision to close the case. In October 2011, the trial of the two BAC police officers for "involuntary homicide" and five other police officers for non-assistance to a person in danger was set for January 2012.

In April 2010, the CNDS called for disciplinary proceedings against the two BAC police officers for using disproportionate and unnecessary force against Hakim Ajimi, and against five other police officers for not taking the necessary steps to realize the state he was in.¹¹ The CNDS was "outraged" that the police officers transporting Hakim Ajimi's did not react to his position in the car and the fact that he was not responding.

"I don't have anything to win anymore. I have lost everything, I have lost my son. But I want justice to be done, for myself and other people. So that it doesn't encourage others to do the same"

Boubaker Ajimi., Abdelhakim Ajimi's father

Walid Klai, a friend and former neighbour of the Ajimi family, said people in their neighbourhood were very shocked when they heard the news of Hakim's death, in particular as he was handcuffed and did not represent a danger. "They thought 'it could have been my son'", he said.

Boubaker Ajimi told Amnesty International how, three and a half years later, he and his family are still suffering from their loss. "We can't stop thinking about it. It is as if something has been taken away from us, and our lives have completely changed. For my children, myself, my wife, it's not as it was before. I hope this never happens to any other father", he said.

He said that while he used to trust the judicial system in France completely, that changed following his son's death. "They [the police] can do whatever they want, they will never be

convicted", he said. Boubaker Ajimi said that whether the police officers were convicted or not, he would continue suffering for the rest of his life. But "at least it would make me feel a bit better. I will know that we didn't fight for nothing. (...) We will do everything we can, at least my conscience will be clear".

Not only have the proceedings been psychologically difficult for the family, they have placed a heavy financial burden on them as they have been covering the cost of a lawyer and of travel to the courts.

Following their son's death, they decided to move as the place where he was arrested was only 150m from their home. Boubaker Ajimi told Amnesty International that he and his wife could not bear to walk past the place of their son's death everyday.

"The hardest part is that the policemen still work in Grasse, as if they had done nothing", he said.



Memorial for Abdelhakim Ajimi. © Private

CONCLUSIONS AND RECOMMENDATIONS

For years Amnesty International has been documenting serious human rights abuses by law enforcement officials, including unlawful killings, torture and other ill-treatment, in France. The European Court of Human Rights has condemned France for such abuses and the UN Committee against Torture has expressed concerns on the same issues.¹² And yet allegations of ill-treatment by law enforcement officials persist, and dangerous restraining techniques continue to be used during arrest. Amnesty International recognises the difficulties police officers face in their work and that human rights abuses by law enforcement officials in France remain exceptional. However, abuses do occur and it is essential that police officers are trained to use only the necessary amount of force during arrest, to be aware of the possible reactions to restraint, to be attentive to the medical state of the person in their custody and to provide emergency assistance when needed. It is also essential that allegations of serious abuses by law enforcement officials are followed by effective investigations and that those responsible are brought to justice. Any sanctions imposed on them must reflect the gravity of the crime they have committed.

Losing a parent, a child or a brother causes immense suffering. But for the families interviewed by Amnesty International, the pain is not limited to their loss: they have been denied their right to know what happened, to see justice being done. Indeed Amnesty International's research has revealed that where law enforcement officials are involved, investigations, if they happen at all, do not comply with international human rights standards of promptness, independence, impartiality and effectiveness. This comes as a result of the strong co-operative spirit amongst police officers, and the fact that magistrates who rely on police officers in their daily work are reluctant to question them as criminal suspects.

But the pain does not stop here: the families interviewed by Amnesty International said they feel they have often been treated with contempt and disrespect during the proceedings. The organization has also noted that their perception of the police and of the judicial system had been greatly affected by this experience, and that many no longer believe in the institutions they used to trust.

The concerns raised and recommendations made by Amnesty International to the French authorities in its 2005 and 2009 reports still remain highly relevant. In addition to those, the following recommendations which focus specifically on the issue of deaths in custody must be implemented without delay.

Amnesty International calls on the French government to:

- Provide families of victims of deaths in police custody who qualify as victims themselves with full and effective remedy and reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, in accordance with the UN Basic Principles on the Right to Remedy for victims of human rights violations;

- Publish data, disaggregated by ethnicity, on the number of complaints received

containing allegations of deaths in custody, torture or other ill-treatment, as well as the corresponding number of investigations, prosecutions and convictions for such acts, as recommended by the UN Committee against Torture ;

- Implement the recommendation by the UN Committee for the Elimination of Racial Discrimination (CERD) to take a census of the population in France based on anonymous and voluntary ethnic and racial self-identification by individuals.

Amnesty International calls on the Minister of the Interior to:

- Prohibit the use of dangerous restraint techniques and develop and effectively implement, through initial and ongoing training, protocols and guidelines on the appropriate use of force and restraint techniques which are fully consistent with international human rights standards including the European Convention on Human Rights, the International Covenant on Civil and Political Rights, the UN Convention Against Torture, 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;
- Ensure that police officers receive detailed training on human rights and in particular the prohibition of torture and other ill-treatment and the prohibition of discrimination;
- Ensure police officers receive guidance on how to inform a person's relatives about his or her death in custody with respect and sensitivity to their situation, that they inform the relatives of the available mechanisms to file a complaint if they wish to do so. The Ministry of the Interior should also take concrete steps to ensure that this guidance is followed and respected by the police and that forensic medical staff are aware of it;
- Establish and extend video and audio surveillance in all areas of police stations where detainees may be present, except where this would violate the detainee's right to privacy or to confidential communications with their counsel or a doctor. Recordings should be kept in a secure facility for a reasonable period of time. Measures should be taken to ensure that they are available for viewing by investigators, individuals who have made a complaint including, in the case of death, the families of such persons, and their representatives;
- Ensure that internal disciplinary proceedings are initiated against law enforcement officials where there is reasonable ground to believe they may have committed a human rights violation;
- Suspend police officers who are under investigation for serious human rights violations pending the outcome of the investigation.

Amnesty International calls on public prosecutors and investigating judges to:

- Ensure that prompt, thorough, impartial and genuinely independent investigations are carried out wherever there is reasonable ground to believe that a law enforcement official may have committed a human rights violation;
- Take steps to ensure that witnesses are protected from any kind of intimidation, harassment, coercion or threat in relation to their testimony or potential testimony during the proceedings, and address allegations of such harassment with appropriate seriousness;

- Take concrete steps to ensure that the victims' next of kin are kept informed of the developments in the proceedings and that they are treated with respect at all times;
- Ensure that charges of 'outrage' and 'rebellion' are not used for intimidation or reprisal against victims of human rights violations committed by law enforcement officials or to deter them from making a complaint, and protect complainants from any other form of intimidation or reprisal as well.

Amnesty International calls on the Defender of Rights to:

- Conduct thorough and independent investigations into all allegations of serious human rights abuses by law enforcement officials, including deaths in police custody, and make the findings of these investigations public;
- Address detailed recommendations to the relevant authorities on human rights abuses by law enforcement officials, and take steps to follow-up on these recommendations if they are not implemented;
- Issue a thematic report on the treatment of family members in cases of deaths in custody.

1 Amnesty International, "France: An effective mandate for the defender of rights", EUR 21/002/2009, January 2009.

2 Permanent Court of Arbitration: Chorzow Factory Case (Germany v. Poland), 1928.

3 These five forms are well established and defined in international instruments. See UN Basic Principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and international humanitarian law (Van Boven-Bassiouni Principles), UN Comm'n Hum. Rts Res. E/C.N.4/2005/35, 13 April 2005; GA Res. A/RES/60/147, 16 Dec. 2005 (<http://www2.ohchr.org/english/law/remedy.htm>); UN Updated set of principles for the protection and promotion of human rights through action to combat impunity (Joinet-Orentlicher Principles), UN Comm'n Hum. Rts Res. E/C.N.4/2005/81, 15 April 2005 (<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G05/109/00/PDF/G0510900.pdf?OpenElement>).

4 "19. The Committee further takes the view that the right to an effective remedy may in certain circumstances require States parties to provide for and implement provisional or interim measures to avoid continuing violations and to endeavour to repair at the earliest possible opportunity any harm that may have been caused by such violations. HRI/GEN/1/Rev.8 page 238".

5 Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations, March 2011.

6 In September 2009 Amnesty International wrote to the then Minister of the Interior, Brice Hortefeux, about the cases of Ali Ziri and Arezki Kerfali, but as of November 2011 the organization has received no reply.

7 CNDS case 2009-105, 17 May 2010.

8 Amnesty International, "Switzerland – Death during forcible deportation : an exchange of correspondence following the death of Samson Chukwu", EUR 43/005/2001, May 2001.

9 CNDS case 2007-83, 14 April 2008.

10 The National police force has one internal inspectorate for forces based in Paris (the Inspection Générale des Services, IGS) and one for the rest of France (the Inspection Générale de la Police Nationale, IGP). The National Gendarmerie inspectorate is known as the Inspection de la Gendarmerie

Nationale (IGN). These inspectorates investigate possible misconduct by law enforcement officials within their force, ranging from minor disciplinary matters to incidents of suspected torture or unlawful killing. When a judicial investigation is underway concerning a possible criminal act by a law enforcement official, the prosecutor or judge can ask the relevant inspectorate to conduct an internal investigation and submit its findings for use in the judicial investigation.

11 CNDS case 2008-109, 12 April 2010.

12 See for example European Court of Human Rights *Selmouni v. France*, application no. 25803/94, 28 July 1999 (violation of Article 3 of the ECHR: prohibition of torture and other ill-treatment), and *Saoud v. France*, application n. 9375/02, 9 October 2007 (violation of Article 2 of the ECHR: right to life); Concluding observations of the Committee against Torture CAT/C/FRA/CO/3, April 2006 and CAT/C/FRA/CO/4-6 May 2010.

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