

ITALY

@Torture and ill-treatment: a summary of Amnesty International's concerns

Amnesty International has received allegations over a number of years that people held in the custody of law enforcement agents and prison guards in Italy are sometimes subjected to unwarranted and deliberate physical violence. In some cases the incidents described have amounted to torture. Many of the allegations are supported by substantive medical and testimonial evidence and most are or have been the subject of judicial investigation. However, Amnesty International has noted that a number of these judicial inquiries have frequently lacked thoroughness or have been marked by excessive delays and a lack of cooperation on the part of the relevant law enforcement and prison officers; many of the inquiries have ended inconclusively.

Amnesty International has been concerned that the Italian authorities should respond to allegations of torture and ill-treatment in a manner consistent with international standards, including the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the UN Convention against Torture), by thoroughly, promptly and impartially investigating all such allegations, making public the findings and bringing to justice those responsible.

The cases of alleged ill-treatment which have come to Amnesty International's attention since the mid-1980s have almost exclusively concerned criminal suspects and convicted criminals in prisons and criminal suspects in the custody of law enforcement agencies, including the police, the *carabinieri* and the *guardia di finanza* (customs and excise agency). In the majority of cases involving law enforcement agents the ill-treatment is alleged to have occurred within the first 24 hours in custody, before the individual has been brought before a judicial authority or transferred to prison.

The most common forms of ill-treatment alleged are repeated kicks and punches and prolonged beatings with batons but it has also been alleged that detainees and prisoners have been burned with lighted cigarettes, have had objects inserted in the anus and have been forced to swallow large quantities of salt water.

Descriptions of some of the cases of alleged ill-treatment received by the organization are contained in the attached extracts from information which Amnesty International has published on ill-treatment in Italy in recent years.

Italy has ratified the major international instruments prohibiting torture and cruel, inhuman or degrading treatment or punishment. In December 1988 Italy ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and in January 1989 ratified the UN Convention against Torture.

The Constitution of the Republic of Italy stipulates in Article 13.4 that "physical or moral violence against persons placed under any form of detention shall be punished". Article 27 states that "...punishments of convicted persons shall not consist of inhumane treatment...". Although the crime of torture, as such, does not exist in Italian law, criminal proceedings for crimes ranging from coercion and assault to murder, which are committed against prisoners or detainees by state officials, may be brought under the Penal Code and the Code of Criminal Procedure. Penitentiary legislation and regulations also contain provisions protecting prisoners from inhumane treatment.

Amnesty International has continued to receive allegations of ill-treatment since Italy ratified the UN Convention against Torture in January 1989 and has regularly notified its concern to the appropriate Italian governmental and judicial authorities.

Other national and international bodies have also expressed concern about allegations of ill-treatment in Italy. In April 1989 the Justice Committee of the Italian Chamber of Deputies approved in principle the establishment of an all-party parliamentary committee of inquiry into allegations of torture and ill-treatment and complaints about their investigation (see Appendix 5). In July 1989, during the UN Human Rights Committee's consideration of Italy's Second Periodic Report on its implementation of the provisions of the International Covenant on Civil and Political Rights, several experts expressed concern about an increase in reported cases of police brutality.

In October 1991 Amnesty International presented a memorandum to the Italian Government which contained a selection of cases of alleged torture and ill-treatment arising between 1986 and early 1991 where there had been no news of progress in judicial inquiries opened into alleged ill-treatment for a considerable period of time, and where the organization had been particularly concerned by the persistent failure of the Italian authorities to reply to its requests for information. Amnesty International's October 1991 memorandum and an interim reply sent by the Ministry of Justice in February 1992 are described in Appendices 1 and 2.

In some cases where formal complaints of ill-treatment have been made to the courts following detention in the custody of law enforcement agents, there has been no apparent indication that the judicial authorities have undertaken a thorough investigation into the complaint, even in cases where there is substantive supporting medical evidence, as in the case of Domenico Garzon whose formal complaint of ill-treatment was archived in January 1989 (see Appendix 5).

A number of judicial investigations opened into allegations of ill-treatment have ended inconclusively. A judicial inquiry opened into the alleged ill-treatment of Francesco Badano (see Appendix 4) concluded in April 1990 that it was "reasonably proven" that he had been ill-treated while in police custody but ruled that the accused police officers could not be committed for trial because it had been impossible to collect sufficient evidence to prove that they were, in fact, the officers who had actually carried out the ill-treatment. The investigating magistrate in his ruling commented on the lack of cooperation shown by the police officers interviewed in the police station in question and the commanding officers were not apparently held accountable for the ill-treatment committed by police officers under their command. Furthermore, no administrative inquiry appears to have been carried out.

In a number of instances Amnesty International has also noted excessive delays in carrying out and concluding judicial investigations opened into allegations of ill-treatment. For example, in 1986 the Naples Procurator General opened a judicial investigation into the alleged ill-treatment of over 30 detainees in the Naples area, which had been submitted to his office by various lawyers attached to the Penal Chamber of Naples Tribunal. The lawyers stated that they were concerned by an increase in the use of torture and ill-treatment in order to extract confessions. Over five years later it is still unclear what steps the judicial inquiry took to investigate the allegations; the only information so far received from the Italian judicial authorities in response to Amnesty International's inquiries regarding the outcome of the judicial investigation is that criminal proceedings were opened against two of the alleged victims on charges of calumny against law enforcement agents.

There have also been excessive delays in bringing those persons responsible for ill-treatment to justice. For example, the judicial inquiry and first instance court hearing in the case of 15 law enforcement agents prosecuted in connection with the death of Salvatore Marino while in police custody in 1985 took nearly five years to complete (see Appendix 4).

Amnesty International has noted that proceedings against law enforcement agents and prison guards charged with serious offences up to and including deaths in custody, carrying heavy penalties under the Penal Code, have frequently resulted in defendants being convicted of lesser offences carrying lesser penalties. This, in turn, has allowed them to benefit from the provisions of an amnesty law or conditional and/or suspended sentences.

(See, for example, the cases of Salvatore Marino - Appendix 4 and Salvatore Vianelli - Appendix 3).

Allegations of ill-treatment have been received from a number of prisons in recent years. A description of alleged ill-treatment in Regina Coeli Prison during 1992 is given in Appendix 1 (see case of Alessandro Ruver), in Sollicciano prison during 1991 in Appendices 1 and 2, in Fuorni Prison during 1990 in Appendices 1 and 3 and in Rebibbia prison during 1988 in Appendix 3 (see case of Salvatore Vianelli).

Amnesty International has also received claims from the inmates of some prisons, such as Sollicciano prison, that the system of monitoring the treatment of prisoners is ineffectual. It is alleged that judges of surveillance (that is, magistrates with specific responsibility for ensuring that the treatment of convicted prisoners and detainees is in conformity with the law) and district inspectors from the Prison Service Inspectorate of the Ministry of Justice as well as prison directors, often fail to offer prison inmates the possibility of regular direct contact with them, via regular individual interviews or frequent visits to the prison. In consequence they may not be aware of complaints and cannot take the necessary action, as required under penitentiary legislation.

An increasing number of cases of alleged ill-treatment in both police custody and prisons concern immigrants from outside Europe. See, for example, the alleged ill-treatment of Daud Addawe in March 1992 (Appendix 1), the allegations of ill-treatment in Sollicciano prison during 1991 (Appendices 1 and 2) and the alleged ill-treatment of 30 or more immigrants in Rome in January 1991 (Appendix 3).

Reports concerning the alleged ill-treatment of immigrants from outside Europe often appear in the national press or are publicized by immigrant support groups and members of the regional and national parliaments. However, at the same time it is also frequently claimed that many such individuals fail to make judicial complaints of ill-treatment to the courts because they fear harassment, further ill-treatment or being charged with criminal counter-charges such as calumny or defamation against a state officer, insulting a state officer or resisting arrest; others are apparently unaware of the correct procedures to be followed in order to lodge a judicial complaint. However, international standards require that the judicial authorities should make every effort to investigate promptly and thoroughly such publicly-made allegations that a crime has been committed, even if they have not been made the subject of a formal complaint to the courts by the individual detainees.

APPENDICES

Appendix 1 - Ill-treatment in Italy: November 1991 - March 1992

[AI Index: EUR 30/03/92]; Update to *Amnesty International's Concerns in Europe: May - October 1991*

Appendix 2 - Extracts from *Amnesty International's Concerns in Europe: May - October 1991* [AI Index: EUR 01/02/91]

Appendix 3 - Extracts from *Amnesty International's Concerns in Europe: November 1990 - April 1991* [AI Index: EUR 01/01/91]

Appendix 4 - Extracts from *Amnesty International's Concerns in Western Europe: May - October 1990* [AI Index: EUR 03/02/90]

Appendix 5 - Extracts from *Amnesty International's Concerns in Western Europe: March - September 1989* [AI Index: EUR 03/02/89]