

## TABLE OF CONTENTS

Previous scrutiny by the UN Committee against Torture .....	1
Amnesty International's concerns .....	2
Some significant findings by inter-governmental and governmental bodies .....	5
<i>Main findings of the Council of Europe's Committee for the Prevention of Torture (CPT)</i> .....	6
<i>Findings of the European Commission against Racism and Intolerance (ECRI)</i> .....	8
<i>Findings of the UN Human Rights Committee</i> .....	9
<i>Findings of the UN Committee on the Elimination of Racial Discrimination (CERD)</i> .....	9
<i>Findings of the Italian Government Commission of Inquiry into events in Somalia</i> .....	10
Introducing measures and undertaking systematic reviews to prevent torture and ill-treatment: related concerns [See Articles 2, 11 and 16 of the UN Convention against Torture] .....	14
Prompt and impartial investigations into alleged ill-treatment: related concerns [See Articles 12, 13 and 16 of the UN Convention against Torture] .....	18
Failure to ensure all acts of torture, attempted torture and complicity or participation in torture are offences under criminal law and that they are punishable by appropriate penalties [See Article 4 of the UN Convention against Torture] .....	22
Failure to ensure redress and compensation for victims of torture [See Article 14 of the UN Convention against Torture] .....	23
Appendix <i>Illustrative examples of continuing allegations of ill-treatment by law enforcement and prison officers</i> .....	24

# ITALY

## A briefing for the UN Committee against Torture

April 1999

*In view of the examination of Italy's third periodic report<sup>1</sup> on its implementation of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN Convention against Torture) by the UN Committee against Torture, in May 1999, Amnesty International takes this opportunity to comment on some of its concerns relating to the alleged torture and ill-treatment of detainees and prisoners by law enforcement officers, prison guards and members of the armed forces.*

### Previous scrutiny by the UN Committee against Torture

Italy ratified the UN Convention against Torture in January 1989 and its initial report on its compliance with the requirements of the Convention was considered by the UN Committee against Torture in April 1992. On that occasion the Committee expressed concern about a number of allegations of ill-treatment by law enforcement and prison officers. In the Concluding Observations<sup>2</sup> which the Committee issued following its consideration, in April 1995, of Italy's second periodic report on its implementation of the Convention, concern was expressed about the persistence of ill-treatment of detainees by prison and law enforcement officers and about victims of ill-treatment coming from "foreign countries" or belonging to "minorities". The Committee emphasized its concern over "a dangerous trend towards some racism", noting -- as a factor impeding the implementation of the Convention -- "something of a tendency to discriminatory treatment by some sectors of the police force and prison warders with regard to foreigners, entailing violation of their rights."

The Committee also stated that the punishments imposed on law enforcement officers in those cases of torture and deaths in custody where trials had taken place were not "commensurate with the seriousness of these acts." In addition, the Committee expressed alarm over the continuing high level of prison overcrowding, the high number of inmates awaiting a definitive sentence and temporary legislation allowing the suspension "of humanitarian rules on the treatment of prisoners."

The Committee recommended that Italy again consider including a specific criminal offence of torture, as defined by the Convention, in its criminal law and that it monitor effective compliance with safeguards against ill-treatment during initial detention, especially access to a doctor and legal counsel. It also recommended that the government ensure that complaints of ill-treatment and torture be promptly and effectively investigated and that an appropriate and effective penalty be imposed on the persons responsible; that it improve the rights of torture victims to state compensation; that it offer them a rehabilitation program and that it establish more training programs for law enforcement officers and medical personnel.

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<sup>1</sup> UN Doc. CAT/C/44/Add.2 (1998).

<sup>2</sup> UN Doc. A/50/44, paras 146-158 (1995).

## Amnesty International's concerns

In April 1995, prior to the Committee's consideration of Italy's second periodic report, Amnesty International published a report, *Italy: Alleged torture and ill-treatment by law enforcement and prison officers*<sup>3</sup>. The report highlighted the increase in the number of allegations received by the organization during the 1990s that people held in the custody of such officers had been subjected to gratuitous and deliberate violence. Amnesty International said that in many cases the incidents described were of cruel, inhuman or degrading treatment and that in some cases they amounted to torture. It also reported that the circumstances surrounding the deaths of several detainees and prisoners had been the subject of dispute. The organization stated that it could "not always confirm the accuracy of each individual allegation" of ill-treatment reported but that "nevertheless, the number, consistency and regularity of the allegations causes the organization to believe that the scope of the problem goes far beyond a few isolated incidents."

Amnesty International reported allegations of ill-treatment relating to both Italian nationals and foreigners but stated that a high proportion of the allegations which the organization had received against law enforcement officers concerned immigrants from outside Western Europe -- most of them from Africa -- and an increasing number of Roma. It also pointed out that a number of cases concerned people suspected of or held in connection with drug-related offences, and that there had also been allegations of ill-treatment in the course of and following large street demonstrations.

Alleged ill-treatment by law enforcement officers concerned individuals stopped or detained on suspicion of having committed common criminal offences or in the course of identity checks. In the majority of cases the ill-treatment was alleged to have occurred at the moment of arrest or during the first 24 hours in custody, before the detainee had seen a lawyer or been brought before a judicial authority.

It said that law enforcement officers from the State Police (*Polizia dello Stato*), responsible to the Minister of the Interior, the Carabinieri, a paramilitary force responsible to the Minister of Defence, and the Municipal Police (*Vigili Urbani*), under the control of the local council (*comune*) had been named in these allegations

The most common forms of ill-treatment alleged were repeated slaps, kicks and punches, and beatings with truncheons, frequently accompanied by general verbal abuse and, in the case of foreigners, racial abuse. There were also isolated reports of females being subjected to sexual abuse and of detainees being threatened with guns.

Amnesty International said it was concerned that elements within some law enforcement agencies might be subjecting detainees to ill-treatment on a regular basis and that, although Italy had adopted certain legislative and administrative measures designed to combat the use of ill-treatment, in its experience these were not being fully respected in practice.

It also reported frequent claims by detainees that if they indicated an intention of lodging a complaint they were threatened with further ill-treatment or criminal counter-charges such as resisting or insulting a public officer, or calumny. Although recognizing that some complaints about ill-treatment by law enforcement officers might be exaggerated or untrue and acknowledging that, like everyone else,

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<sup>3</sup> AI Index: EUR 30/01/95

such officers are entitled to protection of their reputations and to be presumed innocent until proven guilty, Amnesty International expressed concern that the institution of legal proceedings against a high proportion of complainants might effectively dissuade victims of ill-treatment from complaining. Although noting that when formal complaints are lodged, judicial investigations are routinely opened, Amnesty International expressed concern that a number appeared to lack thoroughness and indicated that in instances known to the organization, where officers were found guilty of ill-treating detainees, the sentences imposed were frequently nominal.

In its 1995 report Amnesty International also indicated that reports of ill-treatment by prison officers -- that is, members of the penitentiary police (*polizia penitenziaria*) -- were less frequent than in the early 1990s but that they continued to be received and were often accompanied by complaints of severe overcrowding, poor sanitation and inadequate medical assistance.

The organization noted that, although Italy had ratified the principal international instruments prohibiting torture and cruel, inhuman or degrading treatment or punishment, independent experts appointed by the United Nations and the Council of Europe to supervise the implementation of the provisions of these instruments had expressed concern over the use of ill-treatment by law enforcement and prison officers in Italy and had recommended that the authorities take more effective steps to safeguard detainees from ill-treatment.

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Amnesty International's concerns, as outlined above, remain largely unchanged in 1999. It continues to receive allegations of ill-treatment at the moment of arrest, in establishments of the law enforcement agencies, during demonstrations and in prisons, which concern both Italian nationals and foreigners, with an increasing number of women appearing as alleged victims. (See *Appendix* for illustrative examples of alleged ill-treatment by law enforcement and prison officers). There have also been sporadic reports of deaths of detainees in disputed circumstances.

A high proportion of the allegations the organization receives against law enforcement officers continue to concern foreign nationals, many from Africa and a number of Roma. The domestic press has also reported numerous such episodes in recent years. The findings of a study<sup>4</sup> commissioned by the Green Party and carried out by the Sociology Department of the Faculty of Communication Sciences of La Sapienza University in Rome, were presented publicly on 11 June 1997, in the presence of the Minister of the Interior. A survey of 20 Italian newspapers was carried out during 1996, recording all reports of acts of violence perpetrated against foreigners in Italy. Out of 374 reported cases of violence against foreigners, the aggressors in 61 of the cases were said to be law enforcement officers.

In its third periodic report to the UN Committee against Torture, the Italian government argues that the allegations of ill-treatment made by foreigners are in fact a small proportion of the total number of such allegations, based on official figures emerging from surveys conducted by at least one law enforcement agency (the Carabinieri) of "all the complaints presented against the carabinieri on grounds

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<sup>4</sup>*Più di uno al giorno. Atti di violenza contro gli stranieri nel corso del 1996: analisi di 20 quotidiani italiani.*

of alleged ill-treatment”<sup>5</sup> in the 1994-1997 period. At the same time, the government’s report goes on to state that “... foreign citizens, especially those from outside the Community who are less familiar with the guarantees offered by the Italian legal order and who sometimes find themselves in Italian territory only for a very brief time, are inclined to turn to NGOs to complain about alleged ill-treatment rather than avail themselves of the ordinary juridical channels.” Thus, the authorities appear to recognize that the official statistics at their disposal are not a true reflection of the full extent of the phenomenon.

In this context, it is also relevant to note that in Amnesty International’s experience, and that of the Council of Europe’s Committee for the Prevention of Torture (CPT),<sup>6</sup> as pointed out in its report on its second periodic visit to Italy, published in 1997,<sup>7</sup> when it called on the Italian authorities “to examine appropriate measures to prevent people from being dissuaded from making complaints”, many people detained by law enforcement officers in Italy are reluctant to make complaints to the authorities. This includes reluctance to explain the cause of their injuries to prison doctors on their transfer to prison “out of fear of subsequent reprisals or of prejudicing their cases in the criminal proceedings against them”<sup>8</sup> or because they fear, or are warned by their lawyers, that if they lodge a criminal complaint of ill-treatment, they risk counter-charges such as calumny, insulting the honour or prestige of a public officer, or using violence or threats to resist a public officer.<sup>9</sup> On occasions, counter-charges by law enforcement officers have proved to be demonstrably unfounded (see *Appendix* - case of Andrea C).

During 1997 and 1998 Amnesty International also received allegations of ill-treatment by prison guards from around 10 Italian prisons, some concerning individual prisoners, others concerning larger groups (see *Appendix* for examples).

The reports of chronic prison overcrowding have also continued in recent years. In the first half of 1998 there was an estimated prison population of between 48-50,000 detainees against a maximum capacity for between 30,000 and 35,000. Statistics suggested that overcrowding and a high level of drug addiction (some 15,000 -- or around one in three -- of the prison population are defined as drug-addicts), with resulting tensions, had generated further connected problems, in addition to poor sanitation and inadequate medical assistance. In recent years there have been on average - reports of approximately 50 suicides, 500 attempted suicides and up to 5,000 self-inflicted injuries annually.

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<sup>5</sup> UN Doc. CAT/C/44/Add.2 (1998), para. 66.

<sup>6</sup> This committee consists of a body of experts, elected by states parties to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, to strengthen the safeguards against torture and other ill-treatment afforded by the European Convention for the Protection of Human Rights and Fundamental Freedoms and other international standards, by making periodic visits to the countries which have ratified the convention and making recommendations to the governments in question.

<sup>7</sup> CPT/Inf (97) 12.

<sup>8</sup> *Ibid.*

<sup>9</sup> Articles 368, 341, 612, 337 respectively of the Penal Code.

Such reports have been accompanied by further efforts by the authorities to address the problem of overcrowding. In June 1998 the so-called Simeone-Saraceni Law, reforming article 656 of the Code of Penal Procedure came into force, providing greater possibilities for those definitively sentenced by the courts to apply for alternatives to prison detention - such as semi-detention, house arrest and release into the supervision of social services. The Director of Prison Administration indicated that it would lead to a steady decrease in the prison population.

Amnesty International has also expressed concern about increasingly lengthy delays in a number of criminal proceedings relating to alleged ill-treatment by law enforcement officers and prison guards. For further details - see below: *Prompt and impartial investigations into alleged ill-treatment: related concerns*.

Finally, in the interval between 1995 and 1999 a new area of concern arose following the allegations emerging from 1997 onwards, that members of the Italian armed forces ill-treated, tortured and unlawfully killed Somalis in 1993 and 1994, while participating in a UN-authorized multinational peace-keeping operation. For further details - see below: *Findings of the Italian Government Commission of Inquiry into events in Somalia*.

### **Some significant findings by inter-governmental and governmental bodies**

In the period since the publication of Amnesty International's 1995 report and the UN Committee against Torture's examination of Italy's second periodic report, concerns about torture and ill-treatment by law enforcement officers, prison guards and also members of the armed forces have been raised with the Italian authorities by various inter-governmental bodies, including the UN-based Human Rights Committee<sup>10</sup>, the UN Special Rapporteur on Torture, the UN Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, the UN Committee on the Elimination of Racial Discrimination (CERD), the UN Special Rapporteur on Somalia, the Council of Europe's Committee for the Prevention of Torture (CPT) and the Council of Europe's Commission against Racism and Intolerance (ECRI), as well as by individuals and domestic and international non-governmental organizations (NGOs), including Amnesty International, the Geneva-based Association for the Prevention of Torture (APT)<sup>11</sup> and the European Roma Rights Center (ERRC).<sup>12</sup>

### **Main findings of the Council of Europe's Committee for the Prevention of Torture (CPT)**

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<sup>10</sup> A body of experts which monitors states parties' implementation of the International Covenant on Civil and Political Rights.

<sup>11</sup> Formerly known as the Swiss Committee against Torture, founded in 1977, it regularly submits reports to the Council of Europe's Committee for the Prevention of Torture regarding conditions of detention in countries being visited by the Committee.

<sup>12</sup> An international public interest law organization, which monitors the human rights situation of Roma in Europe and provides legal defence in cases of abuse.

The government authorized publication, in December 1997, of the findings of a two-week visit of inspection carried out by the CPT in 1995, together with its own interim response<sup>13</sup>. A previous visit had taken place in 1992. The various places of detention visited by the CPT between 22 October and 6 November 1995 included six police stations and posts located in Catania, Naples, Rome and Milan, five carabinieri posts located in Catania, Naples and Rome, five prisons for adults located in Catania, Milan, Naples, Rome and Spoleto and one penal institution for minors in Naples.

The CPT repeated the conclusion of its 1992 visit of inspection - that people detained by law enforcement officers "and particularly foreigners and/or people arrested in connection with drugs-related offences, run a not inconsiderable risk of being ill-treated"<sup>14</sup>. The ill-treatment alleged related to the moment of arrest and the hours immediately following. The CPT also reiterated its main recommendations on safeguards against ill-treatment by law enforcement officers. (For further details - see below: ***Introducing measures and undertaking systematic reviews to prevent torture and ill-treatment***).

The CPT stated that a "considerable number"<sup>15</sup> of detainees in Milan and "a certain number"<sup>16</sup> in Rome had alleged ill-treatment by law enforcement officers, particularly police officers and, to a lesser extent, *carabinieri* officers. Further allegations had been heard in Naples and Catania. The CPT expressed particular concern about the situation in Milan which had deteriorated since its first visit in 1992, stating that, in the four weeks preceding its visit, 35 prisoners (or "approximately one new arrival in 15") admitted to San Vittore central prison had alleged being ill-treated on or shortly after arrest, and that more than half displayed physical injuries or other medical symptoms compatible with their allegations (these included injuries such as head trauma, a broken nose, broken rib, and multiple cuts and bruises). It called on the government to establish an independent inquiry into the treatment of detainees by Milan police.

In its interim response the Ministry of the Interior stated that between 30 September and 28 October 1995, 23 detainees admitted to San Vittore prison had alleged police ill-treatment at the time of arrest. The prison medical service had recorded no injuries on 11 but had recorded injuries on the other 12. The Ministry said that, according to the official records, all the detainees in question had violently resisted arrest, sometimes injuring police officers. The Ministry gave no indication that an independent inquiry had been carried out or was planned.

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<sup>13</sup> CPT/Inf (97) 12.

<sup>14</sup> "... et surtout des personnes de nationalité étrangère et/ou arrêtées pour des infractions liées aux stupéfiants, courant un risque non négligeable d'être maltraitées". CPT/Inf (97) 12 - para. 186.

<sup>15</sup> "un nombre considerable" *Ibid* - para. 15.

<sup>16</sup> "un certain nombre" *Ibid* - para. 15.

The CPT said that the number of prisoners arriving at Regina Coeli Prison (Rome) alleging ill-treatment was also “not inconsiderable”<sup>17</sup>. In the three weeks preceding its visit, 11 detainees had made such allegations on arrival and displayed injuries compatible with them.

The CPT said that, as on its 1992 visit, it had heard, from various sources, that on their transfer to prison, many detainees were reluctant to tell the duty doctor the cause of their injuries, out of fear of subsequent reprisals or of prejudicing their cases in the criminal proceedings against them and that it also appeared that in the event of lodging a criminal complaint of ill-treatment, the complainant risked being prosecuted for defamation. The CPT asked the authorities to examine appropriate measures to prevent people from being dissuaded from making complaints.

The CPT also stated that a “large number”<sup>18</sup> of Poggioreale Prison (Naples) inmates -- particularly the young, drug-addicts and others held in connection with drugs-related offences -- had alleged ill-treatment by prison officers and that it was struck by the prison’s “oppressive atmosphere”<sup>19</sup>.

At Nisida Penal Institution for Minors in Naples, a boy had told the delegation that a few weeks before the visit several prison guards had beaten him, after attaching his hands to metal bars. The CPT also noted “a strange attitude”<sup>20</sup> displayed by the detainees interviewed. They had offered spontaneous, unsolicited, statements that they had no knowledge of any violent incidents between staff and detainees or amongst the detainees themselves, or had deliberately avoided speaking about their relations with the prison staff and co-detainees. Members of the prison personnel informed the CPT that some guards believed in, and administered, slaps to inmates, considering them of “educational” value<sup>21</sup>. In February 1996 the Italian authorities informed the CPT that information they had collected did not reveal any indication of ill-treatment but said that the relevant judge of surveillance had been asked to carry out an inquiry into the question. In a communication dated June 1997 the prison authorities indicated that neither the judge of surveillance’s investigation nor the prison administration’s own inquiries had found evidence of a climate of institutionalized violence or of ill-treatment. It said that allegations of ill-treatment made to the committee by a boy had been established to be without foundation. No text of the report of these investigations was included in the government’s reply to the CPT, as published in December 1997.

The CPT expressed particular concern about the persistence of severe prison overcrowding and stated that overcrowding in San Vittore Prison had worsened since 1992, when it had described it as “outrageously overcrowded” and with overall conditions of detention already amounting to “inhuman and degrading treatment”.<sup>22</sup> (The findings of a further -- four-day -- visit which the CPT made to the prison

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<sup>17</sup> “*non négligéable*” *Ibid* - para. 19.

<sup>18</sup> “*un grand nombre*” - CPT/Inf (97) 12, para 70.

<sup>19</sup> “*l’atmosphère opprimente*” *Ibid*, para 72.

<sup>20</sup> “*une attitude singulière*” *Ibid*, para 160.

<sup>21</sup> “*gifle pédagogique*” *Ibid*, para 159.

<sup>22</sup> “*outrageusement surpeuplé*” ... “*un traitement inhumain et dégradant*” - CPT/Inf (95) 1.

in November 1996 had not been published by March 1999). The government's interim reply of 1997 indicated that there had been some reduction in the prison population.

The CPT described the so-called "Article 41-bis" penitentiary regime, as observed in Spoleto prison, and applied to certain prisoners held in connection with organized crime, as one of the "toughest"<sup>23</sup> it had ever encountered. It expressed concern that under the regime, the prisoners' extreme degree of isolation from the outside world, combined with frequent transfers, could cause irreversible mental damage and that one of the regime's "undeclared aims"<sup>24</sup> might be to induce collaboration with the judicial authorities through psychological pressure.<sup>25</sup>

### **Findings of the European Commission against Racism and Intolerance (ECRI)**

In June 1998 ECRI issued a report on Italy<sup>26</sup> which stated that recent years had seen an increase in the phenomenon of racist incidents and that it was "vital that a range of measures be taken to avoid the problems of racism and intolerance from spiralling out of control." It identified "the need for a prompt and adequate response on the part of the judicial authorities in cases of violent manifestations of racism and xenophobia, especially by law enforcement officers" as a key area meriting particular attention in Italy.

The report also recorded that "Italian prisons are often overcrowded and lacking in facilities, and there have been reports of ill-treatment by police, prison guards or other prisoners towards immigrants and non-EU citizen detainees, especially North Africans".

### **Findings of the UN Human Rights Committee**

In August 1998, following its consideration of Italy's fourth periodic report on implementation of the International Covenant on Civil and Political Rights, the UN-based Human Rights Committee, in its official Concluding Observations,<sup>27</sup> listed among its principal subjects of concern, continued delay in introducing a criminal offence of torture, "as defined in international law". It also stated that it remained concerned at "the inadequacy of sanctions" against law enforcement and prison officers "who abuse their powers"

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<sup>23</sup>"*les plus durs*" CPT/Inf (97), para 91.

<sup>24</sup>"*un objectif non déclaré du système*" - CPT (97)12, para 93.

<sup>25</sup> In February 1998 significant amendments to the 41-bis regime were introduced, increasing possibility of contact with relatives outside the prison and with fellow prisoners. The Ministry of Justice said that the aim of the reform was to "humanize the detention" and indicated that frequent transfers of prisoners to attend court hearings in judicial proceedings in various towns would end when plans to allow prisoners to remain in their cells and participate in court hearings via direct video-conferencing links were implemented. However, these reforms were apparently under review by June 1998.

<sup>26</sup>CRI (8) 54: Volume III - *Country by Country Approach* (June 1998).

<sup>27</sup> UN Doc. CCPCR/C/79/Add.94. (1998).

and recommended that “due vigilance be maintained over the outcome of complaints” made against such officers. It recommended that “further measures be taken to increase the efficiency and promptness of the entire system of justice”. The Committee recommended that “the maximum period during which a person may be held in custody following arrest on a criminal charge be reduced, even in exceptional circumstances, to less than the present five days<sup>28</sup> and that the arrested person should be entitled to access to legal advice as soon as he or she is arrested”. The Committee noted that changes to the Code of Criminal Procedure had resulted in some reduction in numbers of persons held in ‘preventive detention’ but expressed its concern, however, that prison overcrowding remained “a serious problem” and recommended urgent remedial action.

### ***Findings of the UN Committee on the Elimination of Racial Discrimination (CERD)***

Following its consideration, in March 1999, of Italy’s tenth and eleventh periodic reports on its implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, the UN Committee on the Elimination of Racial Discrimination issued its Concluding Observations.<sup>29</sup> Among other issues, including concern about “the continuation of incidents of racial intolerance, including attacks against foreigners of African origin and against Roma people, which are sometimes not recognized by the authorities as having a racial motivation and are not prosecuted”, it expressed concern about “reports of acts of violence and bad treatment by police and prison guards against foreigners and members of minorities in detention” and about “the apparent lack of appropriate training for law enforcement officials and other public officials regarding the provisions of the Convention”. It recommended that Italy strengthen its efforts for preventing and prosecuting “incidents of racial intolerance and discrimination against some foreigners and Roma people”, as well as of “bad treatment of foreigners and Roma in detention.”

### ***Findings of the Italian Government Commission of Inquiry into events in Somalia***

Between June and August 1997, a number of former Italian paratroopers made public allegations, sometimes supported by photographic evidence, that in 1993 and 1994, while serving as part of a UN peace-keeping operation in Somalia, they had witnessed colleagues torturing and ill-treating Somalis. In some cases the treatment was said to have resulted in death. Similar allegations were made by Somalis and by Somali human rights monitors. In early June 1997 the government announced that the army had opened an internal administrative investigation into the conduct of the armed forces in Somalia, overseen by army General Vannucchi, and that the military prosecutor’s office in Rome had opened judicial

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<sup>28</sup> Under Article 104.3 of the Code of Penal Procedure, on the request of a Public Prosecutor, a magistrate of Preliminary Examination (*giudice degli indagini preliminari*) may authorize delaying a detainee’s right of access to a lawyer for up to a maximum of **five** days after arrest, during the preliminary investigation, if there are “specific and exceptional reasons for caution” (“*specifiche ed eccezionali ragioni di cautela*”).

<sup>29</sup> UN Doc. CERD/54/Misc.32/Rev3 - unedited version of 18 March 1999.

investigations into specific alleged human rights violations. A number of cases were subsequently transferred to civilian prosecutors for further investigation. In mid-June 1997 a Ministry of Defence decree established a five-member Government Commission of Inquiry into the conduct of the Italian troops, composed of military and civilians members and led by Ettore Gallo, a former Constitutional Court president. Before submitting what was intended as its conclusive report to the government in August 1997,<sup>30</sup> the so-called Gallo Commission, accompanied by members of the magistracy, gathered information in Italy, Ethiopia and Kenya. It interviewed 141 people, including a small number of Somalis, but did not visit Somalia.

The Commission concluded that the overall conduct of the Italian troops in Somalia had been good; that specific violations had been carried out at the level of the ranks, that lower-ranking officers had sometimes participated actively or passively and had failed to exercise proper discipline. It concluded that senior professional officers were apparently not “directly involved” in the violations and that a “stretched” line of command had made failure to report violations to them inevitable. The Commission urged the military authorities to upgrade human rights training for conscripts. It recommended that in future, peace-keeping troops should be accompanied by magistrates and experts on international and national human rights standards. It also examined some specific episodes of alleged human rights violations (see below).

Within days of the report being lodged, new information came to light about further human rights violations by Italian troops in Somalia, accompanied by claims that high-ranking army officers had been aware of them and had not intervened to prevent them. The Minister of Defence asked the Gallo Commission to reopen its inquiry.

In May 1998 the Commission submitted its second report<sup>31</sup> which indicated that it had interviewed 11 Somalis flown to Italy in January 1998 but had not carried out on-site investigations in Somalia. The Commission acknowledged that it had not had access to important documents forming the central body of the new evidence which had triggered the reopening of its investigations. These were already under investigation by the judicial authorities and so were subject to judicial secrecy, as was part of the testimony of several witnesses relevant to the Commission’s investigations.

The Commission concluded that “episodes of violence were sporadic and localized, not widespread and general” but said that this did “not attenuate the gravity of having accepted or tolerated, as ‘student’ pranks, gross behaviour which is the expression of a subculture that the armed forces must reject on principle ... Examples of such behaviour are the frequent racist taunting of Somalis and the display of Nazi and Fascist symbols and slogans by certain units”. It found that ordinary soldiers in the ranks were responsible for the worst acts of abuse “with the active participation of, or in the complacent or amused presence of, young officers and non-commissioned officers”. Some middle-ranking officers were blamed for not having known what men in their charge were doing. “At the highest level”, which the Commission did not define, “there was an inability to foresee that certain events might occur and a

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<sup>30</sup> *Relazione conclusiva sui fatti di Somalia* (8 August 1997).

<sup>31</sup> *Relazione conclusiva* (26 May 1998).

failure to make checks which might have ensured that repeatedly given orders and instructions were properly applied”.

The Commission recalled the recommendations of its first report and emphasised the need for citizens to be better educated in ethics and democratic principles from the earliest age, as well as in military training establishments. It advised that, in future, all similar overseas missions should include an adequate number of military police, experienced in investigative police work and be accompanied by a magistrate to oversee relevant investigations.

The second report looked further into some of the specific episodes of torture and ill-treatment described in its first report and examined some additional allegations.

### *Specific episodes of alleged human rights violations by the armed forces in Somalia*

#### **The Gallo Commission considered it credible that**

- soldiers had subjected a detained Somali man to electric shocks in Johar camp in April 1993. It identified the man photographed while apparently being subjected to electric shocks as Aden Abukar Ali but pointed out that he had failed to recognize the main alleged torturer, when brought face to face with him in Italy in 1998.

- four soldiers had gang-raped a 20-year-old Somali woman (Fatima - or Fatuma - Abdi Sahad) in June 1993, near the 'Porto' entry to Mogadishu, after one of them had beaten her semi-conscious.

- a group of soldiers had raped another (unidentified) young Somali woman with a pistol flare at the 'Demonio' check-point, North of Mogadishu, in November 1993. It pointed out, however, that a girl (Dahira Salad Osman) flown to Italy for interview and claiming to be the victim, was not the girl photographed at the time of the incident.

#### **The Commission considered it probably true that**

- members of a tank division had attempted to rape a young Somali woman with a pistol flare at the 'Demonio' check point in August 1993.

- three Somali men, including Abdullhai Sheik Abdulkadir, had been beaten by members of the armed forces in July 1993, although the Commission believed their allegations to be probably somewhat exaggerated. The Commission had acquired film footage of the men, recorded by the Italian TV company Tg1 at the time of their arrest, and further footage of the men recorded by the US TV company CNN a few days later, showing them in a hospital in the United Arab Emirates, to which they had apparently been transferred by the Italian armed forces, and now displaying obvious injuries.

The Commission also indicated that members of the armed forces had presented false documentation to investigators to try to cover up their involvement in the ill-treatment of the men.

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**The Commission appeared undecided as to the veracity of**

- the alleged torture, on 6 May 1993, of a garage proprietor, Moha Mohamed, blind in one eye, who claimed that it was the result of his treatment by carabinieri attached to the military police (Tuscania Division). His allegations included being hooded, tied to a lorry and dragged along the ground, and then, while tied to a tree, being subjected to cigarette burns on his body, and being beaten with iron pipes, kicked and punched. A medical certificate of 8 May 1993 recorded traumatic injuries to his head and left eye, which Moha Mohamed claimed had been caused by a kick to his eye and resulted in his lack of vision.

- the claims of two men, both Muslims, Abdulle Mao Afrah and Ibrahim Ahmed Mahamud, that during Ramadan in June-July 1993, they were hooded, bound hand and foot, beaten and given pork to eat while in the custody of Italian soldiers.

**The Commission did not consider as credible**

- the allegations made by Abdi Hassan Abdo (an ex-employee of the army in the compound of the former Italian Embassy in Mogadishu) about four specific episodes of alleged torture, ill-treatment and illegal killing, including the alleged rape and murder of a 13-year-old Somali boy by an army major inside the former Italian Embassy in Mogadishu in March 1994.

- the allegations of Hashi Omar Hassan<sup>32</sup> that in September 1993 he had been hooded, bound hand and foot, tortured and together with some 20 other male prisoners, all bound and hooded, thrown into the sea where all but he drowned.

In June 1997 Amnesty International urged the establishment of an effective complaints mechanism for Somalis alleging human rights violations by Italian soldiers, given that there was no central or recognized government in the collapsed state of Somalia, or any consistent or effective criminal justice system, or a properly functioning communications system. In July 1997 it recommended that those investigating the human rights violations carry out on-site investigations and collect witness testimony in Somalia as soon as possible: Somali human rights monitors also urged such visits. However, Amnesty International was concerned to note that the Gallo Commission did not carry out such visits during its investigations. It also considered the response of the Minister of Justice (contained in a letter dated 17 September 1997) to Amnesty International's call for an effective complaints mechanism for Somalis as inadequate: "in the

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<sup>32</sup> Hashi Omar Hassan was arrested shortly after being flown to Italy for interview by the Gallo Commission. His trial, on charges of participation in the murders of an Italian TV journalist and her accompanying cameraman in Mogadishu in March 1994, opened before Rome Second Court of Assizes in January 1999.

Italian system anyone, whether a citizen or a foreigner, is allowed access to the justice system in order to protect their own interests whether in the civil or criminal area.”<sup>33</sup>

### *News of criminal and disciplinary proceedings relating to events in Somalia*

In a letter dated 17 September 1997 the Minister of Justice informed Amnesty International that Public Prosecutors attached to first instance criminal courts in Livorno and Pescara (*Le Procure della Repubblica presso il Tribunale di Livorno e presso il Pretura di Pescara*) had initiated five proceedings in connection with Italian soldiers accused of various alleged offences, including sexual assault of Somali women (the Minister did not specify the number of women involved); deliberate infliction of injuries leading unintentionally to the death of Somali citizens (the Minister did not specify the number of citizens involved); the infliction of ill-treatment and physical injuries (again, the Minister did not specify the number of Somali citizens involved), and theft with violence from a Somali woman.<sup>34</sup>

In July 1998 Italian government representatives informed the UN Human Rights Committee that: “... All the reported cases of ill-treatment or torture have been deferred to our judges and thorough and complete investigations are currently being carried out by various Italian judiciary authorities. The investigations are taking place both in Livorno and in Milan.”

Italy’s third periodic report to the UN Committee against Torture indicates that as of July 1998 “various Italian judicial authorities” were carrying out investigations into “acts of violence committed by Italian soldiers in Somalia.” Four such investigations were in progress at the Public Prosecutor’s office attached to the Livorno Court. These appeared to include “alleged torture suffered by a Somali man arrested at Johar and the alleged rape of a Somali woman by soldiers at a road block in Mogadishu.” The Public Prosecutor’s office attached to Milan Tribunal was continuing investigations regarding “an alleged case of carnal violence committed by an Italian soldier in Mogadishu.”

Italy’s third periodic report also indicates that in February 1997 the Preliminary Examination Judge (*giudice degli indagini preliminari*) of Livorno Tribunal had ordered that “the case based on the facts denounced by Abdu Hasn Addo be filed. Addo had accused Italian soldiers of having shot and killed three Somalis in a car on June 1993 but the investigations showed that on the day in question the soldiers had

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<sup>33</sup> “Per quanto attiene alla possibilità di adottare meccanismi per consentire ai cittadini Somali di disporre di strumenti legali, Le rappresento che nell’ordinamento italiano è consentito a chiunque, cittadino o straniero, l’accesso alla giurisdizione per la tutela dei propri interessi in ambito sia civile che penale.”

<sup>34</sup> - atti di libidine violenta ed atti osceni in luogo pubblico (artt 521, 527, e 582 cp) in danno di donne somale  
- omicidio preterintenzionale in danno di cittadini Somali (artt 575, 582 e 584 cp)  
- maltrattamenti, lesioni personali e violenza privata (artt 572, 582, 585, 576 e 610 cp)  
- furto aggravato (artt 624 e 625 cp) in danno di cittadina somala.”

been engaged in a military operation ... that was taking place in another part of Somalia from that indicated by Addò.”

When the Gallo Commission lodged its second report with the Italian government on 22 May 1998, the Ministry of Defence announced that by that date some five disciplinary sanctions had been issued at ministry level (*sanzioni di Stato*) and seven had been issued at army command level (*sanzioni di Corpo*). These sanctions apparently entailed punishments ranging from formal reprimands to temporary suspension from service and confinement to barracks.

In March 1999 Amnesty International sought clarification from the Italian government regarding the number, nature and current status of criminal and disciplinary proceedings relating to the alleged human rights violations committed by members of the armed forces in Somalia and is currently awaiting a response.

### **Introducing measures and undertaking systematic reviews to prevent torture and ill-treatment: related concerns**

**Articles 2, 11 and 16 of the UN Convention against Torture** require each state party to take effective legislative, administrative, judicial or other measures to prevent torture and ill-treatment and to keep under systematic review interrogation rules and practices and other arrangements for overseeing the custody and treatment of detainees, in order to prevent acts of torture and other cruel, inhuman or degrading treatment.

Amnesty International noted in its 1995 report that in January 1995, in the context of a press conference and report relating to illegal acts committed by Bologna Police, including ill-treatment of detainees, the then Minister of Interior indicated that amongst the Ministry's recommendations aimed at preventing the recurrence of such problems in the State Police was a proposal to create a professional code of ethics (*codice deontologico*) for the police. Amnesty International has received no information on the progress of this proposal.

Amnesty International has also noted that the CPT, in its report on its second periodic visit to Italy, published in 1997, commented that judges of surveillance (magistrates responsible for the treatment of inmates of prisons within their jurisdiction) were not all carrying out their inspection functions as laid down by law and that, although most visited the prisons under their jurisdiction, visits to the actual quarters in which prisoners were detained were “rare” and in some cases “non-existent”.<sup>35</sup>

As already indicated, Italy has ratified the principal international instruments prohibiting torture and cruel, inhuman or degrading treatment or punishment and has submitted periodic reports to the relevant UN bodies and sent official representatives to respond to the questions raised by these bodies. The government has also allowed publication of the reports of the CPT on its periodic visits of 1992 (published in January 1995) and of 1995 (published in December 1997), although it does not appear to have yet authorized any report on a third visit made by the CPT to San Vittore Prison, Milan, in 1996. These reports, published together with the responses supplied by the government to the questions and

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<sup>35</sup> “... rare (et dans certains cas inexistantes)” CPT/Inf (97) 12 - para 155.

recommendations put forward by the CPT, shed light on Italy's implementation of some of these recommendations.

The CPT said that the information collected during its periodic visit had confirmed that it was the period immediately following deprivation of liberty which was the period during which the risk of intimidation and ill-treatment was greatest. It explained that, in the matter of fundamental guarantees against ill-treatment, it attaches particular importance to three rights which should be available to the detainee from the start of the custody period:

- the right of access to a lawyer;
- the right to inform a relative or third party of the arrest;
- the right to be examined by a doctor of one's own choice.

- right of access to a lawyer - and in private

Under the Code of Penal Procedure, detainees in the custody of law enforcement officers have the right to communicate (*conferire*) with their lawyer from the beginning of their detention (Articles 104.2 and 386). The detaining officers should also inform detainees that they may name a lawyer of their own choice or be assigned a duty lawyer *de officio*. The officers also have a duty to inform the relevant lawyer of the detention (Article 386 Code of Penal Procedure). However, in its report on its second periodic visit to Italy, the CPT stated that, on the evidence of the information collected during its visit, **“it is clear ... that in practice the presence of a lawyer in a police or carabinieri establishment remains a rare thing”**.<sup>36</sup> [*Emphasis added*]

The CPT invited the Italian authorities to examine the ways and means necessary to allow everyone deprived of liberty by law enforcement officers to be in a position to exercise effectively their right of access to a lawyer from the beginning of the detention period.

In view of information from the authorities indicating that, with regard to detainees in the custody of carabinieri, detainees were able to speak to their lawyer in private - but only if the infrastructure of the post allowed this possibility - the CPT asked the authorities to take the appropriate measure to guarantee that detainees could speak to their lawyers in private, in all circumstances.

Under Article 104.3 of the Code of Penal Procedure, on the request of a Public Prosecutor, a Judge of Preliminary Examination (*Giudice degli indagini preliminari*) may authorize delaying a detainee's right of access to a lawyer (whether the detainee's private lawyer or one appointed *de officio*) for up to a maximum of **five** days after arrest, during the preliminary investigation, if there are “specific and exceptional reasons for caution” (“*specifiche ed eccezionali ragioni di cautela*”). Such delays appear to occur most usually in the context of defendants accused of serious offences relating to organized crime and public corruption. Amnesty International has not received allegations of physical assault relating to detainees to whom this article of the Code of Penal Procedure has been applied but

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<sup>36</sup> “il est clair qu'en pratique la présence d'un avocat dans un établissement de police/carabinieri reste chose rare.” *Ibid* - para 53.

there have been claims that some prisoners have been subjected to heavy psychological pressure during this period.

Under the provisions of Article 566.2 of the Code of Penal Procedure, detention in establishments of the law enforcement agencies may not exceed 48 hours, after which the detainee must be released or remanded in custody to prison or another form of detention. Therefore, detainees whose access to a lawyer is delayed for up to five days will be held in prison for the bulk of this period.

- the right to inform relatives or a third party of arrest

Under Article 387 of the Code of Penal Procedure, law enforcement officers should, with the detainee's consent, inform their relatives of the detention without delay. Most detainees interviewed by the CPT during its second periodic visit had been told of this possibility. However, the Italian authorities indicated that such notification of detention may be delayed in certain cases, when there are "circumstances linked to the development of the inquiry".<sup>37</sup> The CPT recommended that any possibility of exceptionally delaying notification of the arrest should be clearly defined and circumscribed by law.

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<sup>37</sup> "Circonstances liées à des développements de l'enquête" - CPT /Inf (97) 12, para 49.

- the right to be examined by a doctor of detainee's own choice

The Code of Penal Procedure contains no specific provisions covering detainees' access to medical assistance while in the custody of law enforcement officers but the Italian authorities have stated that the provisions of the Constitution (including Article 32, guaranteeing protection of health and a right to free medical treatment in case of indigence) and Article 277 of the Code of Penal Procedure (which guarantees the "rights" of any detainee) provide sufficient guarantee of access to medical assistance. The CPT reiterated the recommendation made in its report on its first visit to Italy in 1992 that detainees in the custody of law enforcement officers should be allowed the right to be examined, on their request, by a doctor of their own choice, in addition to any examination carried out by a doctor called in by the law enforcement agencies.

Chris Jackson, a UK citizen and a graphic designer, with no previous criminal record, alleged he was beaten while in the custody of Rome police in October 1997, that his requests to see a lawyer and to telephone the British Embassy were refused and that, despite incurring injuries while in police custody, he did not receive any medical assistance until after he had been transferred to prison.

The day after the World Cup qualifying match between the English and Italian football teams in Rome on 11 October 1997, he and two friends were in central Rome, about to get a taxi to the airport for their return flight. However, one of the friends was knocked down by a man on a scooter. Neither was apparently hurt, but there was an animated exchange as to who was at fault. A police car arrived and the two friends were detained and taken away. He waited a few moments and then left for his flight but was detained by police waiting further down the road. After his return to the United Kingdom he claimed that "They grabbed me, threw me on the floor, handcuffed my hands behind my back and threw me in the back of a van and it sped off. We stopped, the door was opened and I was dragged by my legs out of the van - I landed on my head. Then I was dragged up three steps - I remember each one as my body bounced up them. Then they started raining blows on me, with batons, with their boots. Because my hands were tied behind, I couldn't protect my head...".

He said that he was then put in a cell and that his request for a lawyer or a telephone to call the British Embassy were unsuccessful. Some hours later he was transferred to prison but before leaving the station the police took photographs. He alleged that they "made me stand and stood either side of me. One motioned for me to make growling noises at the camera - it was just obscene, humiliating".

The prison apparently refused to admit him before he had been examined at a hospital. He was then accompanied to hospital by the police, examined and X-rayed: a medical certificate was issued. However, he alleged that on the journey back to the prison he was again kicked and beaten by the police. On his arrival at the prison, he was immediately admitted to the prison hospital, but claimed that his appeals for help, addressed to the medical personnel, to make a call to the embassy, a lawyer or his family, were unsuccessful. Two days later, he was taken to court and was reunited with his two friends. He said they were still unaware of the charges they faced and that none of them had seen a lawyer. Chris Jackson was accused of assaulting police, stealing a pistol and launching a racist attack on the man on the scooter. He claimed that he "had never even seen a pistol or hit anybody, I was just in a state of complete and utter disbelief - on top of it all, these trumped up, fabricated charges. I was terrified."

He and his friends were informed, via a translator, that they could plead guilty in return for a suspended sentence and a swift return to England or deny the charges and remain in prison until trial. He said that "We felt we had to accept the plea bargain just to get away. We would deal with the consequences later". He received an 18-month suspended prison sentence and his friends eight months each. All were then allowed to leave the country.

(See also **Appendix** - cases of Marco Ferrer Proietti and cases of ML and MC)

**Othersafeguards against ill-treatment in the custody of law enforcement officers recommended by the CPT included - in addition to provision of further relevant training:**

- providing detainees with information about their rights at the start of their detention

The CPT stated that the information collected during its 1995 visit suggested that most people it met had been informed of the possibility of informing a third party of their arrest and at least some had been informed of the possibility of access to a lawyer. However, the CPT delegation was unable to verify if people in the detention of law enforcement officers were systematically informed of their rights. The Italian authorities informed the CPT that “every detainee is informed of his/her rights at the moment of admission to prison”.<sup>38</sup> However, the CPT found that this was not always the case and stated that in any case the provision of such a document at that stage was too late. It reiterated the recommendation made in its first report -- that a document describing their rights be distributed to all detainees arrested by law enforcement agencies at the beginning of the detention period. It should be available in several languages and, in addition, detainees should certify that they have been informed of their rights in a language they understand.

- introducing a specific code of conduct for interrogations

In its report on its first periodic visit in 1992 the CPT had called the attention of the Italian authorities to information which its delegation had received from various sources, according to which “informal interrogations” of people in detention, carried out by police and carabinieri, without a lawyer and/or the prosecutor being present, was “a common practice” and that it was notably on such occasions that pressure had been exerted and/or ill-treatment inflicted. The CPT recommended that the Italian authorities draw up a code of conduct for interrogations, to supplement the relevant provisions of the Code of Penal Procedure and it reiterated this recommendation in its second report.

- improved monitoring by judicial authorities

In its report on its first periodic visit in 1992 the CPT stated that it considered regular visits to places of detention by relevant judicial authorities could have a significant effect in preventing ill-treatment. In its second report -- on its 1995 visit -- the CPT recalled that recommendation, commenting that it had received no response on this point from the Italian authorities and that during its second visit it had not gathered any indication that such checks by judicial authorities had actually taken place.

## **Prompt and impartial investigations into alleged ill-treatment: related concerns**

**Articles 12, 13 and 16 of the UN Convention against Torture** require that each state party shall ensure that there is a prompt and impartial investigation, whenever there is reasonable ground to believe that an act of torture or other cruel, inhuman or degrading treatment has been committed. Article 12 makes it clear that this duty is not dependent on a formal complaint by a detainee.

Amnesty International recognizes that, like anyone else, police officers are entitled to protection of their reputation and believes that prompt, thorough and impartial investigations, with the methods and findings made public, serve to protect the reputations of law enforcement officers who may be the subject

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<sup>38</sup> “*Chaque détenu est informé de ses droits au moment d’entrée en prison*”.

of unfounded accusations of ill-treatment, as well as to safeguard the interests of genuine victims of ill-treatment.

In recent years Amnesty International has become increasingly concerned that a number of criminal proceedings concerning alleged ill-treatment by law enforcement and prison officers have been subjected to frequent and lengthy delays. In some instances a lack of resources in the criminal justice system may be a factor in the delay.

In July 1998 the UN Human Rights Committee said that although, it noted that the Italian government had drawn attention to "steps taken to speed up both criminal and civil trials," it was concerned that "so far, no results have become apparent" and recommended that "further measures be taken to increase the efficiency and promptness of the entire system of justice" (see above: *Findings of the UN Human Rights Committee*).

Criminal proceedings opened in 1993 with regard to the alleged ill-treatment of **Secondigliano prison inmates** are still under way before first instance courts six years after they commenced.

From late 1992 onwards lawyers, newspapers, parliamentary deputies and a parliamentary committee for prison affairs reported receiving allegations of ill-treatment from inmates of Secondigliano Prison, Naples. It was claimed that they were subjected to "systematic beatings and gratuitous ill-treatment" by prison guards. Judicial investigations were opened into the alleged ill-treatment and in April 1993 five prison officers and their commanding officer were suspended from duty in connection with various criminal charges. The commanding officer was suspected of instigating the beating of inmates by other prison guards, opening prisoners' outgoing letters and threatening them with further violence if they failed to remove passages referring to ill-treatment. By June 1993 over 100 guards were under investigation in connection with the alleged ill-treatment.

Subsequently a chief inspector of the penitentiary police, a chief superintendent, three superintendents and one assistant were committed for trial in 1996 on various charges including abuse of authority, falsifying records, instigating others to commit offences. In a separate criminal proceeding over 60 prison officers were committed for trial in 1995 in connection with beating and causing bodily harm to Secondigliano prison inmates.

In February 1999 the Public Prosecutor's office in Naples informed Amnesty International that the first instance court hearings in the proceedings against the six prison guards had not yet concluded. It was indicated that "because of the huge workload and backlog faced by Naples Tribunal, the interval of time between one court hearing and another is, unfortunately, considerable" and that "precedence is given to trials where the defendants are detained", - the defendants are all at liberty in this instance.

The same month the Public Prosecutor's Office also informed Amnesty International that the first instance court trial against "some 65 members" of the Penitentiary Police of Secondigliano Prison had not yet concluded but that "probably it will next summer".

In 1997, there were claims that some of the Secondigliano Prison guards involved in the above proceedings had been transferred to Bicocca Prison (Sicily) from which allegations of ill-treatment by prison guards were emerging (see **Appendix** for further details).

Judicial proceedings relating to the death of **Salvatore Marino** in a Palermo police station in 1985, while being interrogated about the murder of a police officer, were still continuing 12 years after his death. A forensic report had established that he had been forced to swallow large quantities of salt water through a plastic tube and had sustained numerous injuries to his body: it concluded that he had died from "respiratory constriction which had led to heart arrest".

Eleven police officers and four carabinieri officers have been tried in connection with his death. In May 1990 a first instance court sentenced 10 officers who participated in his interrogation to suspended terms of 'two years' imprisonment and 'two years' prohibition from holding state employment for unintentionally causing his death by subjecting him to physical coercion (*omicidio colposo conseguente a violenza privata*). Two other officers were found guilty of a lesser charge of "causing involuntary bodily harm" (*lesioni colpose*), qualifying them for an amnesty. Three defendants were fully acquitted.

In May 1994 Catania appeal court sentenced eight of the officers to three years' imprisonment for deliberately inflicting injuries leading to the death (*omicidio preterintenzionale*) of Salvatore Marino, acquitted three others and ruled that there were no grounds to proceed against four officers who had not actually inflicted the torture personally, including the head of the Palermo Flying Squad. However, the Court of Cassation subsequently annulled the decision in these four cases and referred them for retrial before the court of appeal, ruling that the officers in question had either stood by while torture took place, or were senior officers, responsible for the conduct of their subordinates, and, therefore, they had all participated in the crime.

In May 1996 a new section of Catania appeal court sentenced the head of the Palermo Flying Squad to three years' suspended imprisonment and the other three to suspended sentences of two years, 11 months' imprisonment. In February 1997 the Court of Cassation annulled the suspended sentences and ordered the retrial of the officers. Apparently it also rejected an appeal by a carabinieri captain (the commandant of the Palermo carabinieri operations team), against a sentence of five months' suspended imprisonment for submitting a false report on the circumstances of Salvatore Marino's death. In January 1999 Amnesty International wrote to the judicial authorities seeking information on the current status or outcome of proceedings but had received no reply at the time of writing.

Details of internal investigations by law enforcement agencies are seldom made public, with the lack of transparency undermining public confidence in the complaints and disciplinary process and leading to accusations of a lack of thoroughness. The impartiality of a number of criminal investigations into alleged ill-treatment has also been questioned, with claims that prosecuting authorities frequently view the evidence presented in favour of the suspected law enforcement officer(s) as more credible than that supporting the victim's allegations, and claims that local prosecutors are too dependent upon the cooperation of law enforcement officers in other proceedings to pursue cases against them vigorously.

In March 1996, **Edward Adjei Loundens**, a Ghanaian citizen with permanent residency in Denmark, alleged that he had been detained overnight and subjected to an unprovoked physical assault by around seven police officers at Rome Fiumicino International Airport, while in transit between Denmark and Ghana on 30-31 December 1995. In a written account of the incident which he lodged with Italian diplomatic authorities in Denmark, he stated that one police officer had head-butted him and others beaten him, some using their guns, in the stomach and on his side. He claimed that other travellers witnessed the assault and were threatened with a gun when they tried to intervene. Medical examinations carried out in Ghana and Denmark during and subsequent to January 1996 established that he was suffering from various injuries, including the dislocation of a facial bone, which resulted in disfigurement and reduced hearing in his right ear, affecting his career as a professional musician. His allegations were supported by a medical certificate issued in Ghana on 28 January 1996 and by several photographs, showing marked facial swelling, apparently taken at the airport by a Polish traveller who had witnessed the assault.

In June 1996, the Public Security Department of the Ministry of Interior stated that, as his name was very similar to that of a Ghanaian citizen who was the subject of an expulsion order from Italy, the police had detained Edward Adjei Loundens in order to carry out a full identity check. This confirmed that he possessed a valid transit visa. The Department said that the attitude of the police had been "marked by the utmost institutional propriety, thus necessarily ruling out any racial prejudice or violent and oppressive behaviour".

However, the Department failed to explain how it had investigated the allegations of ill-treatment and gave no indication that any steps had been taken to obtain evidence from the Polish traveller, whose name and address was available, or from the five other people in whose company Edward Adjei Loundens was travelling from Denmark and saw him immediately before and after his detention, or to obtain further forensic evidence from doctors who examined him in Ghana and Denmark, where he continued to receive medical treatment.

In a letter to the Italian Embassy in Denmark in October 1996 Edward Adjei Loundens' Danish lawyer stated that he could not reconcile the Department's response with "the fact that the physical violence to which my client was exposed by the authorities was witnessed by several people and that there are photographs of my client taken immediately after the end of the violence. Those photographs are in my possession as well as the identity of the photographer who was also a witness."

In a letter sent to Amnesty International in November 1996, one of the friends who travelled from Denmark to Ghana with Edward Adjei Loundens said that, after being separated from him overnight in Rome he had returned to the airport - "the following day, yes we did see him but in a very horrible state, we could not recognize his face - this was in the international transit hall".

In October 1996 the Ministry of Justice informed Amnesty International that it had referred the organization's inquiries about the steps taken to investigate the allegations in the case to the Public Prosecutor's Office attached to Rome Tribunal.

However, a communication from the Ministry of Justice sent to Amnesty International in September 1997 stated that the Public Prosecutor had requested the relevant Judge of Preliminary Examination to dismiss the complaint.

In his report to the 1998 session of the UN Commission on Human Rights, the UN Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance<sup>39</sup> stated that in a communication of November 1997 the Italian government had said that: "... its inquiries failed to confirm that the Ghanaian concerned had been beaten by the police. The photograph reproduced by Amnesty International had allegedly not been taken at Fiumicino Airport and bears neither the names of a witness nor the address of the Pole who took it. The Italian government considers that the complainant had rather been beaten up in his own country in January 1997 [sic] and as a result received medical care in February 1997 [sic]."

Amnesty International notes that in July 1998, when the Italian government submitted its third periodic report to the UN Committee against Torture, it indicated that the decision of the Judge of Preliminary Examination, apparently pending since at least September 1997, was still awaited: "The complaint lodged by Edward Adjei Loundens has been transmitted to the preliminary examination judge with a request for filing (dismissal). The judge's decision is now awaited"<sup>40</sup>.

On 1 September 1994 **Massimo Bergnesi** was detained by the Railway Branch of the State Police (*Polfer*) while travelling on a train near Viareggio. He had committed no offence but a verbal altercation had arisen after the police who, according to their version of events, found his appearance suspicious, asked him for proof of identity. He produced his driving licence and refused to answer further personal questions on the grounds that the police had all the necessary identity details they required in the driving licence and indicated that he did not wish to discuss personal details in front of other passengers. The police forced him to leave the train and escorted him to Viareggio Railway Police Station.

Some hours later, after signing a document recording the fact that he was being accused of threatening, insulting and violently resisting a public official inside the police station, an ambulance was called to the police station and he was transferred to a local hospital for treatment to injuries incurred while inside the police station. Doctors recorded abrasions to the front of his neck.

Later that day, Massimo Bergnesi lodged a criminal complaint against the police accusing them of hitting him across the face and seizing him so tightly around the throat that he felt he was losing consciousness. The Public Prosecutor's office attached to Lucca *Pretura* (a first instance court hearing lesser offences) opened an investigation into both the complaint lodged by the police and that lodged by Massimo Bergnesi.

On 22 October 1997 Massimo Bergnesi submitted a formal request to the Prosecutor's office asking to be notified - under the provisions of Article 408 of the Code of Penal Procedure - of any proposal submitted by the Prosecutor to the relevant magistrate (Judge of Preliminary Examination) to archive his complaint (that is, close the investigation without further action) so that he could enter an appeal against the proposal before the Judge of Preliminary Examination took a final decision.

On 19 February 1998 the judge formally archived the complaint, thus closing the investigation. However, Massimo Bergnesi had not been informed of the proposal to archive the complaint. His formal request had apparently been mislaid by the Public Prosecutor's office. As a result, he had no opportunity to appeal against the Prosecutor's proposal which had been accepted and finalized by the judge. Meanwhile, proceedings relating to the police complaint against Massimo Bergnesi continued.

<sup>39</sup> UN Doc. E/CN.4/1998/79 - Report by the Special Rapporteur

<sup>40</sup>CAT/C/44/Add.2. - para 87.

On 11 March 1998 the Prosecutor attached to Lucca Tribunal (a first instance court) informed him that he was now under investigation in connection with an additional charge - of calumny against the police officers, on the grounds that he had accused them of ill-treatment in full knowledge that this was false.

On 16 September 1998 - a week before Lucca Pretura found him guilty (on 23 September) of insulting the honour and prestige of a police officer, and of using threats and violence - the Public Prosecutor attached to Lucca Tribunal requested the relevant judge to commit him for trial on the offence of calumny. On 6 November 1998 he lodged an appeal against the 23 September sentence which is still pending.

On 28 January 1999 Lucca Tribunal committed him for trial on the charge of calumny.

### **Failure to ensure all acts of torture, attempted torture and complicity or participation in torture are offences under criminal law, and that they are punishable by appropriate penalties which take into account their grave nature [Article 4]**

The crime of torture <sup>41</sup> as such does not exist in Italian law and this has been commented on in detail by the Italian government, the UN Committee against Torture and the UN Human Rights Committee. In December 1998 a group of 69 Senators put forward a draft law (*Disegno di legge 3691*) proposing the introduction of a crime of torture -- based on the definition of torture contained in Article 1 of the UN Convention against Torture -- into the Italian Penal Code.

The Constitution of the Italian Republic stipulates in Article 13.4 that “physical or moral violence against persons placed under any form of detention shall be punished”. Article 27.3 states that “... punishments of convicted persons shall not consist of inhumane treatment ...” A Constitutional Court decision of June 1993 (Decision No 349) ruled that no form of detention “will imply treatment contrary to the sense of humanity”. 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 Code of Penal Procedure. Penitentiary legislation and regulations also contain provisions protecting prisoners from inhumane treatment.

Amnesty International notes that Italy’s third periodic report to the UN Committee against Torture indicates “the general orientation of the Italian government in favour of inserting the crime of torture in the Italian penal system.” However, it goes on to state that “nevertheless, given the ample safeguards already provided by the Italian penal order... a change in this sense does not seem necessary”.

### **Failure to ensure redress and compensation for victims of torture [Article 14]**

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<sup>41</sup>Article 1 of the Convention defines “torture” as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or another person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”

During previous consideration of Italy's compliance with the UN Convention against Torture, the Italian government has stated that Italian law does not provide any general system of state compensation for victims of torture, although the Penal Code provides for compensation for material and non-material damage by the person found guilty of the offence.

Amnesty International notes that Article 3 of the draft law 3691 put forward by a group of Senators in December 1998 (see above) proposes the institution of a fund for victims of torture attached to the office of the President of the Council of Ministers, in order to ensure compensation for acts of torture.

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## APPENDIX

### ***Illustrative examples of continuing allegations of ill-treatment by law enforcement and prison officers***

Allegations of ill-treatment continue to be made against law enforcement officers by Italian citizens, many of them young and detained in connection with, or on suspicion of, drugs-related offences.

**3** In August 1997 the Public Prosecutor's Office in the town of Terni requested that nine carabinieri officers be committed for trial in connection with the alleged ill-treatment of **Maurizio Grisolia, Marco Ferrer Proietti, Lando Sabatini and Milena Giulivi** on 23 May 1996. The arrest of the four, all in their twenties, on suspicion of organizing a local drug-dealing ring, led to the discovery of the illegal drugs ecstasy and cocaine.

The carabinieri were alleged to have kicked, punched and slapped Marco Ferrer Prad repeatedly during a search of his apartment, refused to allow him to contact his lawyer, and after transfer to their offices, to have shown him a truncheon with the word '*avvocato*' ('lawyer') written on it, to have held a pistol to his head and again kicked and punched him, and beaten him with truncheons.

The carabinieri were alleged to have subjected Lando Sabatini to similar treatment, including display of the truncheon described above, and forced him to kneel on pieces of dry pasta in their offices. They were also accused of having subjected Maurizio Grisolia and the female detainee, Milena Giulivi, to kicks, punches and blows with truncheons.

The judicial investigation was opened after a duty doctor at the prison to which the detainees had been transferred from carabinieri custody examined them and, finding the explanation the detainees offered for their injuries -- namely that they had been caused by accidental falls -- unconvincing, alerted another law enforcement agency.

**An increasing number of cases of alleged ill-treatment reported to Amnesty International concern women.**

**3** In November 1997 a 25-year-old female law graduate **Chiara Del Frate** lodged a criminal complaint against a female police officer, alleging that the officer had assaulted her without provocation after she and a male police officer had stopped her while she was sitting on her motorbike, stationary, at traffic lights in central Rome. She had no rear view mirror on the bike, an offence carrying a fine, but when she had been detained at the roadside for some time, Chiara del Frate asked the officer to fine her and let her continue on her way. At that point she said the officer suddenly flung the bike to the ground, causing her to stumble, seized her by her hair, pulling some of it out, and continued to pull her by her hair until she forced her to fall to the ground. When she got up again she said the officer grasped and twisted her arm. She claimed that she hit her head and twisted her knee and tore her jacket in the course of the alleged assault.

When she called out for help, asking someone to call the police, a number of people approached and the officers dragged her away, threatening to put her in handcuffs. When a police car arrived she ran to it and was taken to a police station. She was fined for the traffic violation, but she lodged a complaint against the police, supported by medical reports. Doctors at a local hospital diagnosed a sprain to her neck muscles, forcing her to wear a surgical collar, and a sprain to her knee. The police accused her of assaulting the officer and lodged a formal complaint accusing her of insulting the honour and prestige of a public officer.

**3** In June 1997, an off-duty police officer was formally accused of causing bodily harm (*lesion*) to a **vigilessa urbana** (a female member of the *vigili urbani*) who was directing traffic in central Rome. When the police officer approached in his car, the *vigilessa* indicated that he should turn left, he refused, wishing to travel straight on, and announced that he was a police officer. When the *vigilessa* continued to insist that he turn left, he got out of his car and reportedly started to hit her - punching her in the chest and stomach until he was pulled off by witnesses. The *vigilessa* was taken to the casualty department of the local hospital where doctors established that her injuries would take some seven days to heal.

Many of the allegations received by Amnesty International concern foreign nationals or Italian citizens of foreign extraction, again involving an increasing number of women, several of them of Nigerian origin.

**3** On 29 February 1996 **Grace Patrick Akpan**, an Italian citizen and the daughter of a Nigerian diplomat, lodged a formal complaint addressed to the Catanzaro Public Prosecutor's office in which she alleged that police officers had physically assaulted her and that there was a "xenophobic" aspect to their behaviour. The complainant was a medical student at the time of the alleged incidents (now a practising hospital doctor), married to a *carabiniere* officer in Catanzaro, and had lived in Italy for some 12 years. She said that two police officers stopped her for an identity check as she was walking to her local church on 20 February and began questioning her in a threatening manner. She said that she was not carrying her identity documents but gave her name, explained that she was married to a *carabiniere* officer and lived nearby. She claimed that when she stated that she was an Italian citizen they told her, using the derogatory term "*negra*", that "a black woman cannot be an Italian citizen".

She said that the officers appeared to agree to her suggestion that they follow her back the short distance to her apartment to collect her documents, but that, as she turned to walk home, one of the officers suddenly knelt her in the back, throwing her to the ground and then tore her mobile phone out of her hand, breaking the aerial, and bent her arms behind her back. The two officers then bundled her violently into the back of their car: one of them knelt with one knee on her stomach and one hand holding her down by the neck, while the other officer grasped her head and twisted it, pulling her by her hair. The first officer shouted "You should thank God you're a woman and that we're in town, otherwise I'd have killed you". One of the officers continued to hold her down in the back of the car as the other drove off, announcing over the police radio that they were bringing in "a coloured prostitute". On arrival at the police station, the duty inspector asked the arresting officers if Grace Patrick Akpan had been caught "going with men". In her complaint she said that this confirmed the impression that she had already formed that, for the police, "a young coloured woman, and moreover a Nigerian, could not by definition be anything except a prostitute".

She claimed that when she began to ask loudly for an explanation of what had happened, one of the arresting officers hit her in the face. After shouting for help and insisting that she was the wife of a *carabiniere* officer and asking for someone to try to check her identity, she was eventually allowed to talk to the *carabinieri's* central switchboard where she left her name while they checked her identity. She spent over an hour at the police station during which time she began to feel ill but her requests for a drink of water, to be taken to casualty or for an ambulance to be called were refused. She was told she could go nowhere until an inspector from the Aliens Bureau arrived. The inspector proved to be a relative by marriage and immediately confirmed her identity. The police then gave her water, returned her mobile phone and allowed her to contact her lawyer. She was then released.

She went immediately to the Casualty Department of the local Pugliese Hospital where she was admitted for urgent treatment for injuries it was estimated would take some 20 days to heal. A medical certificate issued on the night of 20 February recorded a sprain and bruising to her neck, abrasions to her upper lip and injuries to her head and chest caused by violent impact.

In a subsequent statement to the press the Catanzaro Chief of Police indicated that the police had lodged a complaint against Grace Patrick Akpan because she had refused to identify herself to the police officers and, when asked to get into their car, had reacted by hitting one of the officers with her mobile phone, causing him facial abrasions requiring some three days to heal.

In December 1996 two police officers were committed for trial on charges of abusing their authority, causing injuries, and using threats and insults and Grace Patrick Akpan was committed for trial on charges of insulting and resisting a public officer, causing injuries and refusing to supply details of her identity. The trial of all three defendants was first scheduled to open before a court in Catanzaro in February 1997 but was immediately postponed to October 1998, whereupon it was adjourned to December 1998. However, after one day the proceedings were adjourned until 29 March 1999, apparently to allow the court to question further witnesses. The 29 March 1999 hearing took place, as scheduled, and the proceedings were then adjourned until 15 October 1999.

3 In August 1997, after three days' detention, **Shirley Oghenekaro**, a 30-year-old Nigerian national with a valid work permit and employed as a child minder and domestic worker in Genoa, was brought before a Judge of Preliminary Examination, accused of causing bodily harm to police officers, insulting police officers and violently resisting arrest. However, she told the judge that three days earlier, when returning home from work by bus on her usual route, two ticket inspectors boarded and she explained that she had left her season ticket at home, by mistake. She said she was racially insulted and a heated exchange followed which resulted in the police being called in and taking her to a police station where she said police officers called her a prostitute, forced her to sit on a chair and when she tried to get up, seized her by the hair while another kicked her in the back. She displayed a large bruise on her back to the judge and lodged a formal complaint against the officer whom she accused of kicking her. The police said she had refused to identify herself and had kicked and scratched the officers, causing two of them to seek hospital treatment. The judge confirmed that the officers had acted correctly in detaining her and taking her in for questioning, but ordered her immediate release. An investigation was opened into the allegations made by Shirley Oghenekaro and the police.

3 **Sofia O**, a 24-year-old Nigerian prostitute, was arrested in Genoa on the night of 12 October 1998, apparently in the context of an investigation into the operations of a Nigerian criminal gang operating in the city. She subsequently lodged a criminal complaint against five members of the Genoa police. She alleged that a police patrol of three men stopped her on the street and without provocation seized her by her hair, threw her onto the back seat of their car and then jumped on her and beat her. She said that at the police station she was subjected to further punches and blows, including blows from a blunt instrument. At one point she said the officers forced her to clean blood off the floor with a cloth and then rub it on her face.

Medical reports issued by doctors attached to a casualty ward and a prison to which she was subsequently transferred, and subsequent examinations by forensic specialists carried out at the Public Prosecutor's request, recorded traumatic injuries taking around 10 days to heal. The officers stated that they had been obliged to use reasonable force to restrain the detainee who swore at and insulted them, attacked a police officer by biting the finger of one and the arm of another officer whom she also kicked. Their statements were supported by medical reports recording injuries on the officers requiring approximately 10 days to heal. The officers were placed under investigation in connection with possible charges of causing bodily harm and Sofia O was under investigation for possible offences of resisting arrest, threatening, insulting and causing bodily harm to public officers.

In January 1999, while the judicial investigation into the above cases continued, journalists in Genoa reported that they had interviewed three other Nigerian females working as prostitutes in Genoa who claimed to have been detained on the same night as Sofia O and to have also suffered ill-treatment. Unlike her, however, they were released from police custody and not imprisoned and said they had been too afraid to lodge complaints against the police because they worked as prostitutes, had no work permits and risked being repatriated. The journalists indicated that the women spoke little Italian and were clearly reluctant and frightened to speak about their experiences.

One said that in the police station she was asked questions which she did not understand because they were in Italian, then around three or four police officers using truncheons hit her head, arm and knee. A second said she was grasped by the neck and forced to bend to one side while someone injected liquid into her ear with a syringe or a similar object. She said that, as the liquid did not cause her any particular discomfort, she believed it was simply done to frighten her. The third said she was beaten and made to sit on a chair and then felt something which she described as "like electric shocks": she said she thought they had touched her with "a strange kind of baton."

[For further alleged ill-treatment of foreign citizens - see also case of Ghanaian citizen Edward Adjei Loundens under *Prompt and impartial investigations into alleged ill-treatment* and case of UK citizen Chris Jackson under *Introducing measures and undertaking systematic reviews to prevent torture and ill-treatment*]

There have also been further reports of alleged ill-treatment of Roma.

**3** In a report on Italy issued in March 1999<sup>42</sup> the ERRC concluded that "**Roma** throughout Italy are regularly subjected to unremedied violence and other forms of abuse by law enforcement officials". It stated that "Police abuse of Roma in Italy takes various forms, ranging from beatings during arrest or in custody to shootings to the unlawful confiscation of personal belongings under the threat of physical abuse." It cited a number of illustrative cases of alleged ill-treatment of both Romani men and women - involving beatings by police officers in Florence, Pisa, Brescia, Palermo and Naples, all occurring between May and December 1998, as well as the shooting through the head of an eight-year-old Romani girl, by carabinieri, leaving her in a continuing coma, and the wounding of three accompanying adults in disputed circumstances on a road near Florence in May 1998. The report also stated, inter alia, that "Other forms of police misconduct targeting Roma in Italy include strip searches of women by male police officers, arbitrary destruction of identification documents during identity checks and the cutting off of hair of Romani girls found begging."

**Isolated instances of sexual assault by law enforcement officers have also been reported.**

**3** In January 1999 a court in Chiavari sentenced two officers attached to the State Police in Rapallo (near Genoa) to four years' imprisonment for the kidnap and **rape of an Albanian female** in February 1998. They had stopped the woman, a prostitute, while they were off-duty, in a town near Genoa, then taken her against her will in their car to Genoa, forced her to have sexual relations and then abandoned her. She subsequently lodged a formal complaint.

**Ill-treatment continues to be reported during and following public demonstrations.**

**3** On 19 **February 1997** police intervened in a demonstration in support of striking university cleaners taking place outside the medical faculty of Tor Vergata University in Rome. Police officers tried to convince the demonstrators to allow other working cleaners to enter the faculty but the demonstrators did not give way and there was an exchange of insults before police officers began to use force. The following day the press quoted the local parish priest, Don Giacomo Tantardini, and his deputy, Don Antonio Baracchini, who intervened to defend the demonstrators. The priests claimed that the police had used excessive force and had beaten people indiscriminately using punches, kicks and truncheons. They said they had seen "scenes of unheard of, gratuitous, inhuman violence". One female, Patrizia Caterina was said to have been lying on the ground, knocked down by a blow to the head, when she was seized by the neck and by the feet and her head was knocked violently and deliberately against the curb. At this point the two priests intervened asking the police to treat them in the same way as they were treating the strikers. They were then taken to the police station, but released within hours.

After these reports appeared in the press, the priests learned that - although the police had not informed them that they were being accused of any offence while they were at the police station -- formal complaints had been lodged against them accusing them of offending the honour and prestige of the President of the Republic, aggravated defamation of public institutions and an aggravated offence of insulting the honour and prestige of a public official. The police stated that, once at the police station, the two priests had started to shout, insulting the police and the head of state, saying they were '*assassini*' (murderers) and accusing them - inter alia - of 'collusion' with organised crime. The priests vigorously protested their innocence.

**3** On 29 **April 1997** a parliamentary deputy who, with another deputy participated in a demonstration outside the Peruvian Embassy in Rome on 23 April, submitted a written question to the Minister of the Interior in which he protested that the police had carried out an unjustified and excessively violent assault, without warning, on peaceful demonstrators who had made no move to, and had no intention of trying to enter the embassy. A formal complaint signed by 17 participants, including the two parliamentary deputies, members of other political parties and of non-governmental organizations, also alleged a "brutal" assault by police using truncheons against people holding their hands up in surrender and accused them of continuing to beat people

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<sup>42</sup>Written Comments of the European Roma Rights Centre Concerning Italy - for consideration by the UN Committee on the Elimination of Racial Discrimination.

lying on the ground and offering no resistance. The complaint indicated that a number of people, identified by name, had required medical treatment at local hospitals which had recorded injuries mainly to the head and face. It also noted that police had pursued people running away from the disturbance and beaten them.

Three of these people, **one male - ML, and two females - MC and GP** (full names known to Amnesty International) lodged a formal complaint of ill-treatment against the police with Rome Public Prosecutor's office on 29 April 1997 in which they alleged that the man was kicked and beaten on the street and also repeatedly in the Viminale police station and that the two women were also kicked and beaten with truncheons in the police station and subjected to verbal and sexual abuse. While at the station they said that they heard the officer most active in the beatings ask a colleague to accompany him to the hospital so that he could obtain a certificate recording injuries to himself.

After about four hours at the police station, where they had been refused access to their own lawyers, but were allowed to speak to a duty lawyer called in by the police, they were transferred, first to a local hospital for treatment and subsequently to prison. Medical reports recorded injuries requiring approximately 20 days to heal in the case of one of the detainees and five days in the other two cases.

As a result of the detainees' formal complaint a judicial investigation was opened and a (named) police officer was reportedly committed for trial, accused of abusing his authority and of having assaulted the detainees inside Viminale police station, together with other (unidentified) officers, causing bodily harm. At the same time the three detainees were also charged with insulting, resisting and injuring a public officer. The joint trial of the accused officer and the detainees opened before the Sixth Criminal Section of Rome Tribunal in January 1999. The outcome was unknown to Amnesty International at the time of writing.

**In several cases of death in custody, the circumstances surrounding the death have been the subject of dispute.**

**3** In November 1998 Rome Public Prosecutor's office opened an investigation and ordered an autopsy with regard to the death of **Luciano Ciccolunghi** in a cell in Regina Coeli prison clinic.

Luciano Ciccolunghi, a drug-addict suffering from phlebitis, was arrested by Rome police for car theft on Thursday, 26 November. The police said there was a violent struggle (*collutazione*) at the time of arrest on the street during which the detainee suffered a broken nose and rib. He was taken first to the police station and subsequently transferred to the casualty department of San Camillo hospital for treatment of his injuries. The doctors recorded that his injuries would take about 20 days to heal and apparently recorded the detainee's claim that they were caused by blows. The hospital wished to admit him for further treatment but he apparently refused and was taken to Regina Coeli prison in Rome and admitted to the prison clinic.

He appeared in court on Saturday, 28 November and was due to stand trial but obtained a postponement. He requested the judges to record his physical condition and it was duly noted that he had a broken nose and rib. His lawyer and his mother saw him in court. The Public Prosecutor requested a specialist medical examination on his state of health but the court refused, although authorized that he should have access - in prison - to the medication he was taking for phlebitis.

The next morning, Sunday, he was found dead in his bed in the cell which he shared with several other people. His lawyer and family, when they saw the body, noted that he displayed injuries which had not been visible in court the previous day. His face was swollen, with a number of apparently new cuts and bruises, his mouth was full of coagulated blood and there was a plaster on his chin.

In December 1998 an eyewitness apparently testified in a written statement submitted to the Public Prosecutor's office by Luciano Ciccolunghi's lawyer on 10 December that he had seen officers attached to Rome's street police beating Luciano Ciccolunghi severely.

**Counter-charges are frequently brought or threatened against those indicating their intention of lodging a formal complaint of ill-treatment against law enforcement officers. In rare instances known to Amnesty International, the courts have ruled the counter-charges of such officers to be demonstrably unfounded.**

3 **Andrea C.** was detained for three days in July 1996, accused of assaulting and insulting two Rome police officers, members of an anti-prostitution patrol, who had discovered him in a state of semi-undress with a prostitute in an area frequented by prostitutes. On release, he was committed for trial. However, he lodged a complaint against the police, denying that he had assaulted the police and alleging that they had assaulted him.

He was able to prove his innocence only because he had, with some difficulty, managed to trace the prostitute in question and persuade her also to submit a written complaint against the officers, explaining how events had actually unfolded. Her testimony, along with that of three friends who had been waiting for him in a car near the scene of events, was presented to the judge at his trial in February 1998. As a result, the judge dismissed the charges against him and referred the dossier to the Public Prosecutor's office, requesting criminal proceedings opened against the police officers on suspected offences of giving false testimony and of calumny against Andrea C.

Allegations of ill-treatment continue to emerge from prisons.

3 In March 1997 there were allegations made by individual prisoners held in **Bicocca Prison** (Catania, Sicily) and by members of the local bar council (*Ordine degli avvocati*) and lawyers practising in the Criminal Chamber (*Camera penale*) of the Catania court - that prisoners were being regularly subjected to humiliation and ill-treatment by prison guards. These included allegations that prisoners had been beaten with truncheons, stripped and kept naked for hours, and while naked checked with a metal detector before going into court or having family visits, forced to bend up and down repeatedly (*flessioni*) and walk about with their heads bowed down. Lawyers representing the Bar Council and the Criminal Chamber held a press conference to announce a complaint to the Minister of Justice, during which they also voiced concern that some prison guards involved in the alleged ill-treatment in Bicocca prison had been transferred from Naples where they were already under investigation for the ill-treatment of prisoners (see above: alleged ill-treatment in Secondigliano prison, Naples, under **Prompt and impartial investigations into alleged ill-treatment**).

Some allegations from prisons have concerned minors.

3 In recent years a number of allegations of ill-treatment by prison guards have emerged from the **Ferrante Aporti prison for minors** (Turin), where a large number of the detainees are illegal immigrants. A number of the allegations have emerged via social workers who have, however, also indicated that individual detainees are reluctant to lodge complaints for fear of reprisals. However, in 1998 one of the young male Italian inmates - V.T. - lodged a formal complaint alleging ill-treatment by the prison guards, supported by physical evidence of injuries. A copy of the complaint was sent to the Ministry of Justice's section responsible for prison administration by an employee of the local town council, in charge of funding educational projects at the prison and concerned about the treatment of the detainees. This reportedly resulted in a visit to the prison by the head of the administration of prisons for minors and, in November 1998, in the transfer of the head of the Ferranti Aporti prison guards.