

PORTUGAL

A brief perspective on Amnesty International's concerns, past and present

The history of Amnesty International's work for human rights in Portugal dates back to the foundation of the organization itself. Amnesty International's Portuguese Section, since its inception in 1981, has played an active role in the major worldwide actions of recent years, such as the campaigns to abolish the death penalty and against torture. On the death penalty, Portuguese legislation led the world, with it being abolished for political offences in 1852 and for common criminal offences in 1867. The 1976 Constitution outlawed its use and, finally, the Military Penal Code was changed in 1977.

The problem of torture and ill-treatment in Portugal, however, remains of serious concern to the organization. Throughout recent years there has been a steady volume of substantive allegations of torture and ill-treatment and, in some instances, suspected illegal killings by law enforcement officers.

Many such allegations are supported by reliable medical and other forensic evidence but it is a matter of concern that, in many cases, the judicial and administrative machinery has shown itself to be incapable of taking decisive action to help victims and to bring offenders of such crimes to justice. The evident importance of this was highlighted by the Council of Europe's Committee for the Prevention of Torture in a critical report on Portugal, published in November 1996: "...one of the most effective means of preventing ill-treatment by public officials lies in the diligent examination of all complaints of such treatment and, where appropriate, the imposition of suitable penalties; this will have a very strong dissuasive effect".

However, it has been Amnesty International's experience that it is precisely this element which is absent in the present situation. In November 1993, the United Nations (UN) Committee against Torture examined Portugal's Initial Report on the implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (the Convention against Torture) since it entered into force in March 1989. The Committee against Torture found that incidents of ill-treatment and, sometimes, torture continued to take place in police stations and other places of detention across the country, that there were frequent delays in opening inquiries into allegations of torture and ill-treatment and that those responsible for such acts were not always brought to justice. It concluded that this situation, together with the lightness of the sentences passed for acts of torture and ill-treatment, created an "impression of relative impunity for the authors of these crimes which is highly prejudicial to the application of the provisions of the Convention". Amnesty International fully concurs with these findings.

The seriousness of the problem posed by torture and ill-treatment was further underlined by the 1996 report of the European Committee for the Prevention of Torture which found, following its 1995 visit, that "a significant proportion of the persons interviewed alleged that they had been ill-treated while in police custody". Amnesty International considers it of grave concern that almost none of the core recommendations on safeguards against ill-treatment, made following the Committee for the Prevention of Torture's earlier visit of inspection in 1992, had been implemented by 1995 and that it did not feel able to modify its earlier statement that the "ill-treatment of persons in police custody was a relatively common phenomenon".

Amnesty International fully concurs with this statement; the organization's interventions and publications reflect this situation. Since 1993 Amnesty International has published some 26 external

documents which deal with different aspects of Amnesty International's principal concern in Portugal: the continuation of the use of torture and ill-treatment by law enforcement officers. The full list of available titles is published as Appendix one.

The failure of the judicial and administrative system to deal effectively with such cases, as required of a State Party to the UN Convention against Torture, is clearly illustrated by a case which began in August 1984. **Domingos do Couto** died in hospital four days after he had been arrested following an altercation with an officer of the Republican National Guard (GNR). He stated that he was kicked, punched and beaten with truncheons in custody. The autopsy showed he had four fractured ribs, weals in the heart region and extensive bruising of the chest, apparently caused by blows from a truncheon. A complaint, made by the victim's family to the Public Prosecutor, was passed to the relevant Military Tribunal for action in November 1984. Nine years passed with no result and, finally, in 1993 Amnesty International was informed that the inquiry has been closed at the request of the commanding officer for the northern region. The prosecuting officers did not explain how or by whom Domingos do Couto's injuries had been inflicted in custody, nor the circumstances of his subsequent death.

The occasions when offenders are brought to justice, even for serious crimes and even when supported by medical evidence, are comparatively rare. The sentences passed are then so light as to contribute to the atmosphere of "relative impunity", identified by the Committee against Torture. In June 1992 a civilian court in Oporto convicted a Public Security Police (PSP) officer of causing bodily harm to a youth in October 1990. **Paulo Jorge Gomes Almeida** and a friend claimed to have been threatened by a man with a gun. They went to the police station to complain when a uniformed officer seized Paulo Jorge by the neck and threw him through a plate-glass door. He was taken to hospital where he received 59 stitches in his arm and suffered permanent disfigurement. The court gave the officer a suspended sentence of six months' imprisonment and he was later amnestied. A second officer was acquitted. **Francisco Carretas** and a friend were arrested by GNR in February 1992 in Almada. As a result of ill-treatment, Francisco Carretas was treated in hospital for a fractured coccyx and injuries to his neck, right ear, scalp, buttocks, chest, ribs and spine. His friend suffered injuries to his rib cage and back. In May 1995 a military court found five officers guilty of using "unnecessary force" (*crime de violência desnecessária*). The officers were freed pending appeals and in December 1995 the Supreme Military Tribunal upheld the conviction, sentencing them to nine months' imprisonment. This is now reportedly being appealed to the Constitutional Tribunal.

An added element of Amnesty International's concern is where the sentences for ill-treatment arise from circumstances where racial abuse is alleged. **Alexandre Gravanita**, a white Portuguese citizen born in Angola, was stopped by a PSP officer in December 1991 in Setúbal and taken to the police station. He claimed that officers kicked and punched him and racially abused him. He was released without charge and had to receive hospital treatment for his injuries. In March 1993 one officer was found guilty of abusing his authority and sentenced to one year's imprisonment and fined; a second was found guilty of false testimony and sentenced to eight months' imprisonment. Both sentences were suspended for three years.

On 23 May 1996 **Vaz Martins**, a lawyer of Cape Verdean origin, went late at night to visit a client in the Alfragide PSP station after receiving a telephone call. He claimed that, after waiting 45 minutes to see his client, who was suspected of stealing a camera, he asked the duty officer why he was

being kept waiting. An argument ensued in which the officer asked him if he was being accused of racism. When the officer came to check his identity he apparently commented that Vaz Martins was a "foreigner". After visiting his client, Vaz Martins claimed that he saw the officer draw a gun and forced him to leave the station. Nearly two years prior to the incident, in May 1994, Vaz Martins alleged that an officer assaulted him in the same station. He claimed he was punched in the face, hit with the handle of a firearm, as a result of which he lost most of the sight of his right eye. He required 39 stitches to an injury to his head and has since had four operations to attempt to restore his eyesight. According to press reports an inquiry is pending.

The allegations of ill-treatment received by Amnesty International concern all law enforcement agencies and every type of socio-economic class, with no distinction of age.

A prominent Lisbon lawyer, **Dr Duarte Teives Henriques**, lodged a complaint with the Prosecutor General of the Republic claiming that he was assaulted by three PSP officers in July 1995. He had reportedly challenged the lawfulness of an officer's order to move his car when he was seized, pushed to the ground, kicked and verbally abused. He suffered a fracture of the left lower leg and spent the night in the cells before being taken to hospital. In December 1996 an inquiry was still underway into both his complaint against the police and their charges against him of refusing to obey orders, failing to identify himself, damaging a vehicle and insulting authority.

A magistrate in the Public Prosecutor's Office (DIAP), **Dr Antonio Guerreiro**, lodged a judicial complaint claiming that he was physically and verbally assaulted by four officers of the transport division (BT) of the GNR. On 30 December 1995 he was driving into Cascais when a BT vehicle pursued him. The officers had been investigating a car crash. He claimed that he was punched, pulled out of his car and then kicked. He stated that he was a magistrate but the officers apparently ignored him and refused to contact a colleague to confirm his identity. Instead it was suggested that he must have been involved in drug dealing because of the type of car he was driving. He received treatment in a local hospital and was detained in police custody overnight. Officers insulted and threatened him and he was reportedly charged with failing to identify himself and assaulting a police officer. In December 1996 an inquiry was in progress.

Amnesty International is further concerned by a number of suspect deaths. In May 1996 **Carlos Rosa** was shot and killed in the GNR post in Sacavém. A GNR sergeant confessed to the killing, reportedly claiming, *inter alia*, that he had shot him in the head accidentally while cleaning his weapon. When he realised he had killed him, he cut off his head with a machete to prevent identification. Two weeks later the body was found in a ditch and the head buried in a nearby field. Reportedly, the autopsy had failed, to date, to establish whether the death was caused by shooting or decapitation and whether the victim had been tortured. A judicial inquiry was opened and the court committed the sergeant to preventive detention, allowing five other soldiers, who were also in Sacavém, to remain at liberty.

In October 1996 an investigation was opened into the action of three PSP officers in Alcântara. **Olívio Almado**, a 21-year-old of Cape Verdean origin, was stopped when he was with a group of friends on 13 October 1996. The officers searched him and asked him to identify himself which he could not, as he did not have his papers with him. He was, therefore, put in a PSP car to be taken to the police station to identify himself. He may legally be held for up to six hours. However, there is no record that Olívio

Almado ever arrived at the police station, although registration of detention is required by law. His body was found floating in the Tagus river, near the dock at Alcântara, a week later. An autopsy concluded that the cause of death was "asphyxia by drowning". However, press reports stated that the examination also found clearly visible signs of violence, with his head split open and injuries to the face.

The officers have claimed that they did not take him to the police station as they said they would but instead they dropped him off in another area of the town so he could meet friends. There is no evidence that he ever met them. The reason the police gave was that Olivio Almado was a soldier and if he had been registered by the police it would result in disciplinary action against him. The result of further forensic tests was awaited.

In this brief resume, the central problem of alleged torture and ill-treatment, including, sometimes, illegal killing, is clear. The pattern is aggravated by allegations of racism and poor training leading to aggressive behaviour and failure to observe procedures by law enforcement officers. The response of the judicial and administrative authorities has been frequently characterized by delay, inertia and lack of thoroughness.

The European Committee for the Prevention of Torture stated in its 1996 report that "firm and unequivocal action is required to address this situation".

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APPENDIX ONE

LIST OF EXTERNAL DOCUMENTS ON PORTUGAL PUBLISHED BY AMNESTY INTERNATIONAL FROM FEBRUARY 1993 TO AUGUST 1996

- C *Amnesty International Newsletter* (Focus) - "Racism: Torture and ill-treatment in Western Europe" (Cases in Portugal included) - February 1993.
- C *Amnesty International Concerns in Europe: November 1992 - April 1993* (AI Index: EUR 01/01/93) - June 1993. Portugal: "Police officers sentenced in Alexandre Gravanita case; Trial of former governor and guards of Linhó prison opened in March in Cascais; Investigation of Judiciary Police by Ombudsman".
- C *Amnesty International Report 1993* (AI Index: POL 10/01/93) - July 1993. Chapter on Portugal.
- C External report - *Portugal: Torture and ill-treatment: Summary of Amnesty International's concerns* (AI Index: EUR 38/01/93) - October 1993.
- C News service item - *Portugal: Torture and ill-treatment by police: Authorities fail to bring perpetrators to justice* (AI Index: EUR 38/WU 01/93) - 15 November 1993.
- C News service item - *Portugal: United Nations Committee against Torture criticizes "relative impunity" of state officers guilty of torture and ill-treatment* (AI Index: EUR 38/WU 02/93) - 18 November 1993.
- C *Amnesty International Concerns in Europe: May - October 1993* (AI Index: EUR 01/01/94) - January 1994. Portugal: "United Nations Committee against Torture criticized "relative impunity" for offenders guilty of torture and ill-treatment".
- C *Amnesty International Concerns in Europe: November 1993 - April 1994* (AI Index: EUR 01/02/94) - June 1994. Portugal: "Allegations of torture and ill-treatment".
- C External paper - *Portugal: The alleged ill-treatment of José Pedro Tavares Teles da Rocha by Public Security Police officers in Oporto* (AI Index: EUR 38/03/94) - July 1994.
- C *Amnesty International Report 1994* (AI Index: POL 10/02/94) - July 1994. Chapter on Portugal.
- C *Amnesty International Concerns in Europe: May - December 1994* (AI Index: EUR 01/01/95) - February 1995. Portugal: "Allegations of torture and ill-treatment".
- C *Amnesty International Report 1995* (AI Index: POL 10/01/95) - July 1995. Chapter on Portugal.

- C External paper - *Portugal: The alleged ill-treatment of Joaquim Teixeira by Public Security Police officers near Vila Real* (AI Index: EUR 38/01/95) - 18 August 1995.
- C *Amnesty International Concerns in Europe: January - June 1995* (AI Index: EUR 01/02/95) - September 1995. Portugal: "Republican National Guards sentenced for violence against detainees; The case of Paulo Portugal".
- C External paper - *Portugal: Prominent lawyer accuses Public Security Police officers in Lisbon of violent assault* (AI Index: EUR 38/02/95) - 19 September 1995.
- C External paper - *Portugal: The alleged ill-treatment of Rogerio Camoesas by Republican National Guard officer in Penafiel* (AI Index: EUR 38/03/95) - 19 October 1995.
- C *Amnesty International Newsletter* - "Portugal: Lawyer alleges assault by police officers" (AI Index: NWS 21/11/95) - November 1995.
- C External paper - *Portugal: Alleged ill-treatment of Nelson Pires by Public Security Police officers near Lisbon* (AI Index: EUR 38/04/96) - January 1996.
- C *Amnesty International Concerns in Europe: July - December 1995* (AI Index: EUR 01/01/96) - March 1996. Portugal: "New judicial complaints of ill-treatment by law enforcement officers; Guilty verdicts on five GNR officers upheld on appeal".
- C External paper - *Portugal: Alleged ill-treatment of "Soldier Coelho" by Public Security Police officers near Lisbon* (AI Index: EUR 38/02/96) - 5 March 1996.
- C External paper - *Portugal: Two Angolans allege ill-treatment by Lisbon's Public Security Police* (AI Index: EUR 38/06/96) - 21 March 1996.
- C External paper - *Portugal: Alleged ill-treatment of magistrate by GNR officers in Cascais* (AI Index: EUR 38/08/96) - 14 May 1996.
- C *Amnesty International Report 1996* (AI Index: POL 10/02/96) - June 1996. Chapter on Portugal.
- C External paper - *Portugal: Young black allegedly shot by Public Security Police in Lisbon* (AI Index: EUR 38/10/96) - 20 June 1996.
- C External paper - *Portugal: PSP suspected of brutal beating of Guinean citizen* (AI Index: EUR 38/12/96) - 2 July 1996.
- C *Amnesty International Concerns in Europe: January - June 1996* (AI Index: EUR 01/02/96) - August 1996. Portugal: "New judicial complaints of ill-treatment by law enforcement officers; The killing and beheading of Carlos Rosa; Police assault in Santo Tirso; Developments in previous cases".

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