

**IHF FOCUS: rule of law; fair trial and detainees' rights; torture, ill-treatment and police misconduct; conditions in prisons and detention facilities; religious intolerance; women's rights; asylum seekers and immigrants; international humanitarian law.**

During 2001, France was further criticized for both its failure to improve prison conditions and treatment of prisoners and for the inhumane conditions at refugee holding centres.

A draft Sect Bill, passed by the National Assembly in May caused continued uproar amongst both national and international organisations, regarding its potential to create religious discrimination and violate international and European human rights standards.

Other concerns included the protracted length of judicial proceedings and reports of misconduct of law enforcement officials, particularly as regards non-nationals. A debate was reopened on France's international obligations to try those accused of complicity in war crimes and crimes against humanity during the events of the Algerian war.

## **Rule of Law**

### ***Anti- Terrorism Legislation***

In response to the 11 September terrorist attack on the US, new temporary measures were adopted by the French National Assembly on 31 October to strengthen the existing anti-terrorist plan named "Vigipirate". These amended the Day-to-Day Security Law (*Loi relative a la sécurité quotidienne*) and were promulgated in November. Concern was expressed over the hastily prepared amendments, which afforded increased power to the police against potential criminals. These gave extended power to search private vehicles and bags and the obligation on the police to retain phone records, whilst the role of the judiciary in controlling police activity was diminished. Further, the law increased the powers of private security firms. The measures also permitted the retention of DNA records to extend to all crimes, not just sex crimes. The League of Human Rights

(*Ligue des Droits de l'Homme, LDH*) argued that these moves were not only against the constitution by limiting citizen's rights but also may potentially have a negative impact on immigrants. Public denunciations against the law were also made by a group of 300 Parisian lawyers in December.

A further result of the increased security concerns following the 11 September was highlighted by Reporters Sans Frontières (RSF). Spurred by complaints from the United Kingdom (UK), the Audiovisual Council (*Conseil Supérieur de l'Audiovisuel, CSA*) reproached the Al Jazeera TV station based in Qatar for disseminating pictures related to the war in Afghanistan without any explanation of their context and of disseminating incorrect news reports without prior viewing. RSF argued that intrusions by the CSA must remain exceptional and called on the CSA to ensure that the war in Afghanistan would not be used as a pretext for reintroducing censorship of news.<sup>1</sup>

### **Fair Trial and Detainees' Rights**

Several cases were brought to the European Court of Human Rights during the year concerning the protracted length of pre-trial detention and judicial proceedings.

◆ In July, the Court held unanimously that the criminal proceedings against Dris Zannouti lasting five years, ten months and ten days violated Article 6.1 of the European Convention on Human Rights (ECHR), (right to determination of civil rights within a reasonable time).

◆ A second case in July, found that civil proceedings in the case of Catherine Malve, which had commenced in January 1995 and were still pending on 31 July 2001, also violated Article 6.1. Further violations were pronounced in October.<sup>2</sup>

### **Torture, Ill-Treatment and Police Misconduct**

Cases of police misconduct were reported also in 2001, some of them resulting in deaths.

◆ On 8 November, journalist Ivora Cuzak, employed by the television channel Zaléa TV, was pressed up against a fence and had her camera forcibly removed by police officers while filming as part of a documentary on the situation of the families of 4,000 people who had been evicted from their homes in the district of La Corneuve in Paris. On 8 November, the families were in protest occupying a gym in the sports centre Antoine Magne in La Courneuve, which the police were attempting to clear not just of the families but of all media representatives. The confiscated camera was returned without films. On 13 November a letter was addressed to the Minister of Internal Affairs, Daniel Valliant, by the RSF, protesting against this curb on freedom of information in France.<sup>3</sup>

The potential impunity of the police force was criticized following the result in the case of Youssef Khaif.

◆ Mr Khaif, a young Algerian was shot from behind and killed by police brigadier Hiblot on 9 June 1991. He was travelling in a stolen car that had forced its way across a police barricade shortly after another stolen car had killed a policeman at the same spot. The LDH argued that not only was there an excessive and threatening number of policemen in court during the trial, but the acquittal of the accused policeman on the grounds that it was a "necessary" action (self-defence being ruled out as the victim was 50 metres away from the police officer) gives free reign to the police to kill any suspect from behind if he/she seeks to escape. Further, the LDH also underlined the risk that this ruling by the Cour d'Assises in Versailles would be perceived by minorities as evidence of discrimination by the justice system.<sup>4</sup>

◆ Baba Traoré, a Malian national, lodged a judicial complaint in March with the public prosecutor of Bayonne, claiming that he had been severely ill-treated by police officers following his arrest at Hendaye police station. Despite asking for the grounds of his arrest, his questions were allegedly unanswered and he was punched by the police officers.<sup>5</sup>

◆ An appeal in the case of Mohammed Ali Saoud who died after being physically restrained by police officers and shot with rubber bullets in 1998 was still pending in late 2001. Charges of "voluntary and involuntary homicide" against the police officers were ordered to be dropped in October 2000, due to the fact that the judge felt that the officers had found themselves in a dangerous situation and had thus not acted criminally.<sup>6</sup>

◆ Amnesty International (AI) in a November report, expressed concern over allegations made by 16-year-old Yacine of police brutality against him. Yacine claimed that in July he was approached and questioned by police officers whilst sitting in a car, which had a damaged starter motor. When resisting attempts to handcuff him, he claimed that police officers beat him severely and this continued after arrest. Two medical reports refer to the existence of many haemotoma and bruises. He also alleged that he was refused permission to inform his mother of his detention. Judicial and administrative inquiries were opened by French authorities and AI called for confirmation that these are thorough and impartial in line with international obligations.<sup>7</sup>

### **Conditions in Prisons and Detention Facilities**

Despite the publication of reports by the French National Assembly and the Senate in July 2000, outlining the often poor conditions in the French prison system and recommending reforms of the

system, little was done in 2000-2001 to satisfy calls for a reformed penitentiary law and ameliorated prison conditions. Concerns continued to be voiced over the dissatisfactory nature of health facilities for sick prisoners and the evidence of detrimental effects on health on those in prolonged isolation.

◆ The case of Maurice Papon (former Vichy official convicted for complicity in crimes against humanity during World War II), whose lawyers had lodged an application with the European Court of Human Rights, was rejected as inadmissible in June. The application argued that Mr Papon's continued detention violated Article 3 of the ECHR (freedom from inhumane or degrading treatment or punishment) due to his very old age and failing health. The Court argued that whilst detention of an elderly person may raise an issue under Article 3, the circumstances of each individual case must be analysed. In the case of Mr Papon it was considered that the combination of his health and conditions of detention did not reach the severity necessary to breach Article 3.<sup>9</sup>

◆ A renewed call to the French Government was made by several civil rights organizations, regarding the case of the four *Action Directe* prisoners, Joëlle Aubron, Nathalie Ménigon, Jean-Marc Rouillan and Georges Cipriani, who were sentenced in 1994 to a life sentence for the commission of murders and politically motivated acts of violence. All four have been subjected to varying conditions of prolonged isolation. Human rights organisations argued that this, combined with limited access to health facilities, had contributed to the deteriorated health conditions of Ms Ménigon and Mr Cipriani in breach of international standards. It was reported that Ms Ménigon was semi-paralysed with speech difficulties and had suffered two heart attacks. Despite this, she had reportedly been refused a comprehensive med-

ical examination. Since the plea in January, Mr Cipriani, who has suffered severe mental problems since imprisonment was moved to a special section in a psychiatric hospital - for those whose mental state is not compatible with detention. Mr Rouillan and Mr Aubron had been on hunger strike in December 2000 and January 2001 to protest their comrade's plight.<sup>9</sup>

◆ By May, the Breton Alain Solé, held at the prison of Fresnes, had gone on two hunger strikes and attempted suicide since his imprisonment in October 1999. 'Secours Breton' ('Breton Aid', an NGO aiding the families of Breton political prisoners) attributed this to the inadequate health care afforded to him and his deteriorating state of health since incarceration. Mr Solé suffers from chronic diabetes. His initial detention at the short-stay prison of Villepinte was characterized by irregular monitoring and control of his health with reportedly a lack of insulin readily available. After his suicide attempt, he was moved to the Fresnes prison situated closer to the penitentiary hospital, yet was only attended medically one month after his arrival and did not have personal access to his medication which must instead be collected from the prison nurse after queuing with all the other prison patients.<sup>10</sup>

In July the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published its report on findings made in France from 14-26 May 2000. The delegation visited prisons, police and gendarmerie establishments, holding facilities of the customs administration and health establishments. The Committee welcomed the Government's efforts to ameliorate conditions in prisons, yet found varying degrees of material conditions and called for efforts to be pursued vigorously throughout the prison system. It also demanded additional medical care and the application of recommendations issued by

the national Committee for the Evaluation of the Suicide Programme (*Comité National d'Évaluation du Programme de Suicides*). Medical conditions at Fresnes prison hospital were particularly highlighted as a grave concern to be immediately rectified. Serious reservations were also expressed about the isolation of detainees for administrative reasons.

The report also expressed concern over detention facilities at a number of police stations where there was often a lack of food, water and mattresses, thus not only depriving detainees of basic human rights but also prejudicing those who thereafter have to stand in court undernourished and lacking sleep.<sup>11</sup>

### Religious Intolerance

On 3 May, the controversial About-Picard Sect Bill "to reinforce the prevention and repression of groups of a sect-like character" was passed by the Senate and adopted on 30 May by the National Assembly. The law had faced strong opposition by French churches and national and international NGOs during and after hearings held by the Senate on the Bill in November 2000.

The law introduced a new criminal offence of abuse of a person "in a state of psychological or physical dependence resulting from the serious and repeated pressure or techniques which can alter his judgment." The law gave courts the permission to order the dissolution of any officially registered cult if it or representatives of it have been convicted of more than one criminal offence. Critics argued that the list of crimes was so broad as to include not merely fraud or sexual abuse but also petty crimes such as causing a traffic accident resulting in bodily injury. Additionally, crimes do not have to be committed by the representative when acting for the organisation. Language within the law was criticized due to its vagueness and the lack of a definition of "sect" or "pressure".<sup>12</sup>

The bill also prohibited banned organisations from reforming under a new name and forbade touting for new members nearby schools, hospitals and retirement homes. It was felt that the provisions would inflame further religious intolerance in France, where a recent poll recorded that 73% of the population viewed sects as a danger to democracy.<sup>13</sup> The Law also presented a potential backlash against Protestant churches due to the fact that the notion Evangelical became synonymous with religious proselytising. Concerns over the potential ramifications of the Law have been voiced by a number of civil rights organisations, including the IHF, and a petition presented to the Council of Europe's Parliamentary Assembly resulted in the appointment of a special rapporteur to conduct an investigation into whether the law meets European human rights standards. Declarations were made in April and May by the Parliamentary Assembly of the Council of Europe. The IHF respectively, requested the postponement of parliamentary voting until after the rapporteur's results were published.<sup>14</sup>

### Asylum Seekers and Immigrants

Fresh calls were made to the French Government to open new holding centres for refugees beside that at Sangatte, which was overcrowded and unhealthy. This came after a series of conflicts between Kurds and Afghans during the year and disagreements with the UK authorities and Eurotunnel over security measures. The most recent assault on 20 November resulted in the injury of 29 people and the sentencing of a Kurd to two years imprisonment. The mayor of Blériot-Sangatte, Mr André Ségard argued that Sangatte was initially created to hold 200 Kosovars, yet is now both overcrowded and additionally has to deal with clashes between national groups.<sup>15</sup>

There were reports of ill-treatment by officials and inhumane conditions at the

Roissy holding areas for refugees at Paris Charles-de-Gaulle airport.

◆ A preliminary judicial inquiry commenced in March into allegations of ill-treatment of asylum seekers by police officers in ZAP 3 holding area at Roissy Charles-de-Gaulle airport. A Ministry of Foreign affairs official claimed that he had been witness to Blandine Tundidi Maloza (a national from the Democratic Republic of the Congo) as she lay on a waiting room floor with what were clearly recent flesh wounds. She alleged that she had been violently attacked by officials whilst resisting an attempt to put her on a plane home. She also argued that her asylum request, which she had submitted before the forced expulsion, had been ignored.

In May, the civil rights organization that provides assistance to foreigners at border zones, the *Association nationale d'assistance aux frontières pour les étrangers* (Anafé), published a report on observations made during the period between November 2000 and March 2001. The report highlighted the recurrent violation of human rights, refusal to register asylum applications, restricting access to authorized associations and intimidation of applicants by officials. It also referred to specific cases of official brutality. The collection of proper evidence was hampered, however, by the fact that refugee organisations did not have permanent access to the holding centres.<sup>16</sup>

Following an open letter<sup>17</sup> addressed to Prime Minister Lionel Jospin deploring the disrespect of refugee rights within holding centers, national newspaper *Le Monde* sought permission to visit the area but was refused by Interior Minister Daniel Valliant. Despite this, in December *Le Monde* sent Senator Robert Bret to the area. The resulting report highlighted further the recurring violation of rights. It spoke of overcrowded, inhumane conditions with asylum seekers waiting lengthy periods before being allowed access to bathroom facilities and an offer of only one meal a day. Further com-

plaints included the refusal of officials to register many demands and the holding of persons for several days in the centre. An underlying problem was the rise in numbers of asylum applicants arriving at Roissy, which had grown dramatically in November. Figures for the first half of the year for the whole of France showed, moreover, that those held had increased to 10,700 compared to 19,000 during the entire year 2000. Eighty-nine percent of these foreigners arrived at Roissy. According to French law, asylum seekers should be placed in establishments offering hotel-type services (*des prestations de type hôtelier*).<sup>18</sup> On 10 December, Anafé made a statement deploring the absence of a response on the part of government officials to the situation.<sup>20</sup>

Attempts were continued in October by a number of organisations to bring to the attention of the French Parliament the "critical situation" of the entire refugee system in France. Ten points were outlined where reforms were felt to be necessary. These included the adoption of a comprehensive interpretation of the definition of refugee as set out in the 1951 Geneva Convention, the rectification of dysfunctions found at every stage of the process, with the focus to be placed upon the asylum-seeker himself, offering an interpreter and counsellor (*conseil*) and immediate adequate access to language facilities and right to work once accepted.<sup>21</sup>

The number of refusals of applicants reached over 80%.

A further issue of concern was that of unaccompanied minors held at holding centres in France. On 2 May, the Court of Cassation ruled that holding them was not a violation of children's rights. Despite calls from a plethora of civil rights organisations for immediate access to French territory to be given to children, in November the Government commenced renewed attempts to secure the officialization of an amendment to the law on parental authority to allow the retention of unaccompanied minors in holding areas.<sup>22</sup>

In November, *Histoires de Vies Brisées*, a film by French film-maker Bertrand Tavernier was released, relaunching a campaign to abolish the so-called double penalty (*double peine*) which gave French courts the right to deport non-French nationals once they had served prison sentences in France. The film had documented the 1998 hunger strike led by ten North Africans in protest against their pending deportation. Mr Tavernier argued that these people were paying a high price as in practice many had grown up in France and had their families there. The campaign was led by several organisations, including the LDH, which stressed the violation of Article 8 of the ECHR (right to respect of private and family life) by this legislation.<sup>23</sup>

### International Humanitarian Law

#### *Accountability for War Crimes*

The publication in May of *Services Spéciaux: Algérie 1955-1957* by General Paul Aussaresses, a high-ranking French military officer during the Algerian war, sparked further national debate on the topic of France's international obligations to try those accused of complicity in war crimes and crimes against humanity executed in Algeria 50 years ago. In his book Mr Aussaresses describes his participation in torture and summary executions and alleged that the then French Government was informed of and tolerated these and the forced displacement of peoples. In addition, Mr Aussaresses justified these acts as normal and necessary.

An open letter to President Chirac by Human Rights Watch directly after the publication called for criminal proceedings against

Mr Aussaresses and an independent inquiry into his allegations of complicity against the French Government, pointing to the potential breach of international legal obligations and the French Penal Code. This followed from a series of calls over the years by civil rights organisations to deal with the matter, and an open national debate on the issue, which commenced in late 2000.<sup>24</sup>

Several complaints were filed against General Aussaresses during May and June i.a. for crimes against humanity, with a Paris court by the family of National Liberation Front leader Larbi Ben M'hidi who was killed by Aussaresses in 1957, and with an investigating magistrate attached to a Parisian court by Lousiette Inghilahriz, a member of the Algerian National Liberation Front tortured in 1957. The International Federation of Human Rights (*Fédération Internationale des Ligues des Droits de l'Homme, FIDH*) filed complaints with the Paris prosecutor for both crimes against humanity and apology for war crimes.<sup>25</sup>

On 26 November, General Aussaresses went on trial at the Correctional Tribunal in Paris on charges of being a war apologist brought by civil rights organisations FIDH, *Action des Chrétiens pour l'Abolition de la Torture* and *Mouvement contre le Racisme et pour l'Amitié entre les Peuples*. The judgement was to be issued on 25 January 2002. General Aussaresses and the publishers face a potential FF 300,000 (45,730 Euro) fine. A previous attempt at prosecuting him for commission of war crimes, however, failed due to a 1968 amnesty law and no preliminary inquiry was ordered into this complaint.<sup>26</sup>

### Endnotes

<sup>1</sup> Reporters sans Frontières, *Lettre de Protestation*, 13 November 2001, at [www.rsffr/html/europe/cplp01/lp01/131101.html](http://www.rsffr/html/europe/cplp01/lp01/131101.html)

<sup>2</sup> Cf Cases *Fransisco v France* (app.no. 38945/97); *Durand(2) v France* (app.no. 42038/98); *Parejo v France* (app.no. 40868/98). For details, see [www.echr.coe.int](http://www.echr.coe.int).

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- <sup>5</sup> Amnesty International (AI), *Concerns in Europe January-June 2001*, 1 September 2001, at [www.amnesty.org/ai.nsf/index/EUR010032001](http://www.amnesty.org/ai.nsf/index/EUR010032001)
- <sup>6</sup> AI, *Amnesty International Report 2001, France*, at [www.amnesty.org/web/ar2001.nsf/webeurcountrie/FRANCE](http://www.amnesty.org/web/ar2001.nsf/webeurcountrie/FRANCE)
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- <sup>8</sup> *Papon v France* (app.no. 64666/01) For details, see [www.echr.coe.int](http://www.echr.coe.int).
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- <sup>11</sup> For full report, see *Rapport au Gouvernement de la République française relatif à la visite en France effectuée par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) du 14 au 26 mai 2000*, at [www.cpt.coe.int/fr/rapports/inf2001-10fr.htm](http://www.cpt.coe.int/fr/rapports/inf2001-10fr.htm).
- <sup>12</sup> Human Rights without Frontiers. See articles at [www.hrwf.net/newhrwf/html/france2001.html](http://www.hrwf.net/newhrwf/html/france2001.html)
- <sup>13</sup> *The Guardian*, "Cult crackdown called extreme", 12 June 2001, at [www.hrwf.net/newhrwf/html/france2001.htm](http://www.hrwf.net/newhrwf/html/france2001.htm)
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- <sup>15</sup> *Le Monde*, "Après les rixes entre étrangers au centre de Sangatte, un jeune Kurde a été condamné à deux ans de prison ferme", 25 November 2001, at [www.lemonde.fr.ref/\\_/0,9187,3226-254020,00](http://www.lemonde.fr.ref/_/0,9187,3226-254020,00).
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- <sup>23</sup> BBC News, *Filmmaker fights French law*, 12 December 2001, at [www.bbc.co.uk](http://www.bbc.co.uk)
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- <sup>26</sup> LDH, *Le Général Aussarresses jugé pour apologie de crimes de guerre*, 23 November 2001, at [www.ldh-france.asso.fr/](http://www.ldh-france.asso.fr/)