

# Italy's double standards: The Regeni and Abu Omar cases reveal a contradictory approach to human rights

[blogs.lse.ac.uk/europpblog/2016/03/03/italys-double-standards-the-regeni-and-abu-omar-cases-reveal-a-contradictory-approach-to](http://blogs.lse.ac.uk/europpblog/2016/03/03/italys-double-standards-the-regeni-and-abu-omar-cases-reveal-a-contradictory-approach-to)

3/3/2016

*The torture and murder of Italian PhD student Giulio Regeni in Egypt has reignited deep concerns about the treatment of human rights in the Middle East. [Andrea Lorenzo Capussela](#) contrasts the tragic event with another case just considered by the European Court of Human Rights: the abduction in 2003 of the Egyptian Muslim cleric Abu Omar by the CIA in Milan, with the complicity of Italian agents. He argues that the Italian government should now waive state-secrecy concerns and allow its agents to be tried in order to encourage Egypt to show the same level of openness in the Regeni case.*

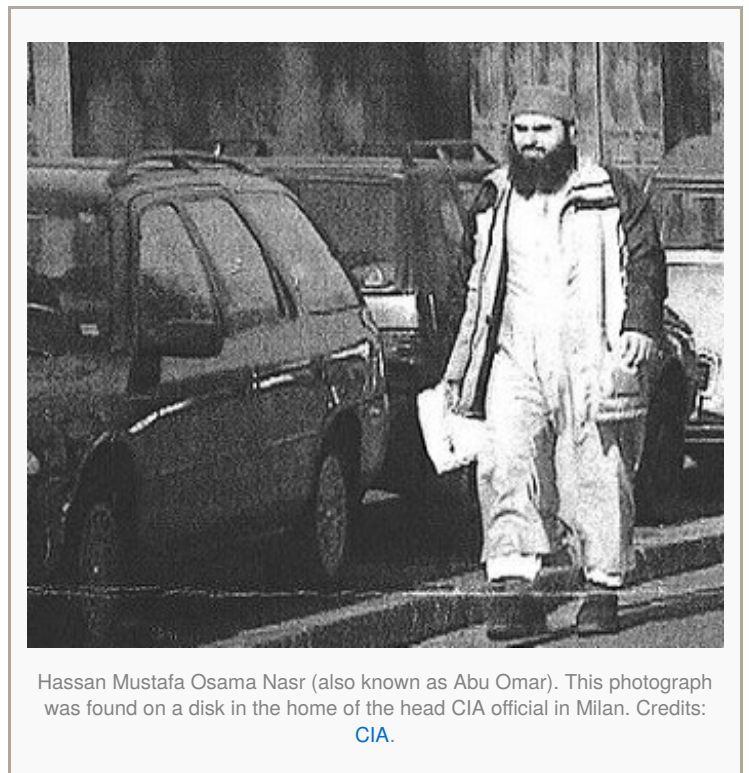


The Cambridge researcher Giulio Regeni, an Italian, was [killed in Cairo](#). As Italy demanded justice, the Egyptian authorities adamantly [ruled out](#) the involvement of their security services, but the autopsy conducted in Rome reportedly [proves](#) that Regeni was tortured by professionals. Italy is now said to be considering tougher measures.

Recently the European Court of Human Rights adjudicated over a [case](#) which contains some similarities. It condemned Italy for having denied justice to an Egyptian Muslim cleric, for whose abduction and torture Italy is indirectly responsible. The [details of this story](#) make the contrast with Italy's demands in Regeni's case glaring, and might help in explaining Egypt's tacitly defiant response.

The cleric, Abu Omar, was kidnapped by the CIA in a street in Milan, driven to a Nato air base near Venice, and flown to Egypt, where he was secluded, interrogated, tortured, and abused for more than a year. This happened in 2003, as part of the Bush administration's anti-terrorism policy. The case prompted a broader investigation by the Council of Europe, which [unveiled](#) many other 'extraordinary renditions' on European soil.

Abu Omar's disappearance was noticed because the Milan prosecutors were already investigating him in relation to terrorism. The CIA effectively snatched him from their hands. The outcome – which suggests that these methods are hardly more effective than civilised criminal investigations, as a recent [US Senate report](#) notes – is that the Milan courts convicted Abu Omar for terrorism, and issued sentences of between six and nine years to twenty-six CIA agents, for having kidnapped him and delivered him to his torturers.



Hassan Mustafa Osama Nasr (also known as Abu Omar). This photograph was found on a disk in the home of the head CIA official in Milan. Credits: [CIA](#).

This is incomplete justice. But this is the only case of extraordinary rendition – [in Europe](#) and, to my knowledge, elsewhere – in which the perpetrators have been identified and judged. The reason is that 'Italian magistrates are fiercely independent and are not answerable to any government authority/entity, including the Minister of Justice... it is nearly impossible to prevent them from undertaking action in Italy that they wish to carry out.' This is what the US embassy in Rome wrote to the State Department on 24 March 2005, in a cable ([published by Wikileaks](#)) which

discusses precisely the Abu Omar case.

Indeed, this can be read as a story about the separation of powers, or about the independence of Italy's prosecutors and the interactions between them and the legislative and executive powers. Unlike their peers in most countries, in fact, Italian prosecutors are not just formally independent from the executive power, but are also independent from higher magistrates, have direct control over the investigative police, and are bound to investigate all crimes they learn of, with no discretion to drop charges on account of the *raison d'état* (the potential consequences, in this case, on Italy's foreign policy and security interests). Nowhere else in Europe do prosecutors have, jointly, the same status, powers, and duties.

Such a degree of independence might seem unwise, especially from a realist perspective, and it may weaken judicial accountability, as several examples regrettably suggest. But their independence is the main reason why, in 1992–94, prosecutors in Milan and elsewhere could put a whole political elite in the dock for corruption, provoking a political transformation that remains unprecedented in Europe.

The results were disappointing, however. In the late 1990s [systemic corruption gradually began to reassert itself](#), and the available indicators suggest that bribery is now considerably more widespread than on the eve of the 1992–94 investigation. In parallel, in fact, the political system engaged in a long, dogged, and partly successful campaign – which included both propaganda and [legislative](#) measures, was unwittingly aided by some judicial errors, and had its peak during the 2000s – to clip the prosecutors' wings, to avoid a repeat of that investigation.

This, therefore, is the context in which successive Italian governments had to confront a case that threatened to embarrass both the security services and a rather important ally. A case, more precisely, that set the human rights of a foreign potential terrorist directly against concrete security and foreign policy interests of the state.

Rome first refused to ask Washington to extradite the CIA agents, who remained at large and had to be tried in absentia (which did not impair their rights of defence: defended by lawyers of their own choosing, they appealed their convictions up to the highest court). Then Rome moved to save its own men too, who could not run away: the head of the Italian secret service, his deputy, and a few lesser agents, who had been found guilty of having assisted the kidnapping. By invoking state secrecy on several incriminating documents, the government indirectly facilitated their acquittal, as the remaining evidence was judged insufficient to merit a conviction.

Ironically, some of those documents had already been leaked and published by the press. Of course, the real secret that was being protected is the green light that Italy's secret service, and maybe the government itself, had potentially given to the CIA.

Realists might retort that such a green light must indeed be kept secret. Besides being illegal, however, that kidnapping was part of a misguided policy, whose empirical and moral foundations have since crumbled: a policy, moreover, which in Italy's constitutional setting risked being unveiled and thrown publicly in the dock. Unwise realpolitik is, a realist might say, worse than a crime.

A farcical detail, moreover, is that one of the secret agents involved in the case – Renato Farina – was a journalist, who negotiated a short prison sentence for having (clumsily) used his pen to lay false trails and disrupt the investigation. A rather [colourful figure](#), his story suggests also that Italy's governance problems run deep: after his



The current mayor of Milan, Giuliano Pisapia, holding a sign saying 'Justice for Giulio'. (Via [Facebook](#))

second job was unveiled he continued to write op-eds for widely read newspapers, and in 2008 was elected to parliament.

It must be highlighted, however, that Italian governments did not behave much differently from their European peers. As part of an overview of Europe's response to the extraordinary-renditions programme, for example, in September 2011 the Commissioner for Human Rights of the Council of Europe [declared](#) that:

*[t]he Swedish government misled a parliamentary committee that sought to clarify the facts and furthermore gave erroneous information to a UN human rights body. Elsewhere, notably in Germany, Italy and the United Kingdom, diplomatic or judicial decisions were taken to keep unwanted revelations out of the public domain. State secrecy has been invoked as an obstacle to accountability.*

It is Italy's prosecutors, rather, that stand out among their European peers. Nonetheless, the judgement of the European Court of Human Rights is deservedly harsh. For all governments in office between 2003 and 2013 misused the state-secrecy doctrine in order to deny justice to a man for whose torture Italy is indirectly responsible. The court also notes that three of the CIA agents were pardoned by Italy's Presidents – the [incumbent](#) and his [predecessor](#) – despite the fact that they have never surrendered themselves.

What makes the two cases different is that Regeni died. But a parallel remains possible, on the question of torture, for human rights are universal. Italy demands justice in one case, but denied it in the other one. The country denied justice when the victim was a foreigner and Italy guilty, and demands it when the victim is Italian and others are responsible.

The current government is innocent, because it took office after the case ended. It should waive the state-secrecy protection, allow its agents to be tried, and expect the same from Egypt. Its demands shall hardly be very credible otherwise. And those demonstrating in Regeni's name might wish also to remind Italy of this double-standard.

*Please read our comments policy before commenting.*

*Note: This article gives the views of the author, and not the position of EUROPP – European Politics and Policy, nor of the London School of Economics.*

Shortened URL for this post: <http://bit.ly/1RpKpkX>

---

## About the author

### Andrea Lorenzo Capussela

Andrea Lorenzo Capussela holds a PhD on competition policy. After a few years in the private sector, he served as the head of the economics unit of Kosovo's international supervisor, the International Civilian Office, in 2008–11, and, in 2011–13, as the adviser to Moldova's economy minister and deputy prime minister, on behalf of the EU. He is the author of *State-Building in Kosovo: Democracy, EU Interests and US Influence in the Balkans* (London: I.B. Tauris, 2015), and, together with Vito Intini, he is writing a book on Italy's political economy for Oxford University Press.



•