

# URGENT ACTION

## TRIAL OF TWENTY-THREE SOLDIERS POSTPONED AGAIN

**The court martial of 23 members of the Lesotho Defence Force (LDF) for mutiny charges has been postponed to 2 May. Sixteen of the accused remain in custody. The soldiers' legal team has been facing increased harassment and intimidation, including arrest.**

The court martial of **23 soldiers** charged with mutiny was due to continue on 1 February but has been postponed to 2 May. This is the second time the case is being postponed. Seven of the accused have now been released on military bail. Sixteen soldiers remain in Maseru Maximum Security Prison where they have been held since May 2015. Their continued detention is in contempt of several previous High Court orders for their release.

The report of the Southern African Development Community (SADC) Commission of Inquiry into the situation in Lesotho made public in early February, found that there was no conclusive evidence of a mutiny plot and that some soldiers were tortured or otherwise ill-treated into implicating others. It recommends that the 23 soldiers be granted amnesty. The report was formally tabled in the Lesotho Parliament on 8 February. Prime Minister Pakalitha Mosisili indicated that the government would only implement some recommendations but has not specified which to date.

The team of five lawyers working on the case of the detainees have all received death threats relating to their involvement in the case and have reported being followed and monitored. In November 2015, a 'hit list' was circulated on social media. All five lawyers were listed and took the threat seriously as some individuals named on a previous 'hit list' were later killed. The homes and offices of two of the lawyers have been broken into in the last few months. The legal team has been operating in a constant threatening environment. LDF members often openly bear weapons in court during proceedings which creates an intimidating atmosphere.

Advocate Khotso Nthontho, one of the lawyers, was arrested on 12 February on charges of perjury. The High Court had ordered the release of three soldiers in November 2015 but only one was released. Advocate Nthontho sought to bring contempt of court proceedings on behalf of the other two. Shortly prior to his filing of an affidavit requested by the High Court, the two soldiers were released without his knowledge. The charges against Advocate Nthontho appear to implicate him for perjury in alleging non-release of the two soldiers in contempt proceedings against the LDF. Advocate Nthontho was released late at night on 12 February after an urgent High Court application granted his release. Whilst in police custody, his house and car were extensively damaged by unknown persons. No one was home at the time of the attack. He is due to appear in Maseru Magistrate Court again on 26 February.

### Please continue to write in English or your own language:

- Urging the Lesotho authorities to immediately release the remaining 16 detainees on bail and to guarantee humane treatment for all 23 soldiers facing charges and to dissolve the court martial process, in light of the SADC Commission of Inquiry findings;
- Calling for an end to the harassment and intimidation of the five lawyers representing the 23 soldiers and calling for the opening of a transparent investigation into their harassment, particularly the death threats.

### PLEASE SEND APPEALS BEFORE 5 APRIL 2016:

Minister of Defence and National Security  
Tšelisio Mokhosi

Ministry of Defence and National Security  
Along Kingsway, Opposite National Library  
Private Bag A166  
Maseru 100,  
Lesotho

Email: [pglerotholi@gmail.com](mailto:pglerotholi@gmail.com)

Salutation: Dear Honourable Minister

Minister of Justice, Human Rights and  
Correctional Services

Moeketse Vincent Malebo  
LNDC Block C, Level 3  
Kingsway  
Maseru 100,  
Lesotho

Salutation: Dear Honourable Minister

### And copies to:

Prime Minister  
Honourable Dr. Pakalitha B. Mosisili  
Phase 1 Government Complex  
P.O. Box 527,  
Maseru 100,  
Lesotho

Fax: +266 22 310 102

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date. This is the second update of UA 263/15. Further information:  
<https://www.amnesty.org/en/documents/afr33/3051/2015/en/>

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### ADDITIONAL INFORMATION

The head of the Lesotho Defence Force (LDF), Lieutenant-General Maaparankoe Mahao, was dismissed from the army on 21 May 2015 after months of political instability in the country. Shortly afterwards, approximately 50 soldiers perceived to be loyal to him were arrested. Lawyers representing their families brought legal applications demanding that the detainees be produced in court. During court proceedings, many of the soldiers reported that they had been tortured and otherwise ill-treated. Over half of them were later released, but 23 remained in custody, charged with mutiny. Some of the released soldiers have become 'accomplice witnesses', giving evidence against the 23 accused. It is believed that their testimonies were obtained through torture and other ill-treatment whilst they were in detention. Seven of the 23 accused have subsequently been released on military bail, leaving 16 soldiers still in detention.

Lieutenant-General Mahao was shot dead on 25 June 2015 in Maseru by soldiers who went to arrest him in relation to an alleged plot to lead a rebellion in the army. He had challenged his dismissal from the army in court in June 2015, shortly before his killing, arguing that it was illegal. The government claimed he had resisted arrest, but his family disputed this, insisting it was an assassination.

A 10-member SADC Commission of Inquiry led by Justice Mpaphi Phumaphi of Botswana was set up on 3 July 2015 to investigate security-related issues facing Lesotho, including the killing of Maaparankoe Mahao. The commission was forced to conclude its work prematurely due to the refusal of the LDF to cooperate. Its report was discussed by SADC's three-state security organ in early December. On 18 January, the leadership of the SADC security organ (Mozambique, South Africa and Tanzania) as well as the SADC presidential troika (Botswana, Swaziland and Zimbabwe) met with the Prime Minister of Lesotho to discuss the report which the Lesotho authorities refused to receive. SADC promptly threatened to expel Lesotho from the regional organisation. Faced with expulsion, Lesotho accepted the report and it was formally tabled in the Lesotho Parliament on 8 February. The report found that there were divisions within the LDF and anomalies relating to the charges of mutiny. It therefore recommended that the 23 facing mutiny charges be granted amnesty from criminal prosecution. The report further found that Lieutenant-General Maaparankoe Mahao had actually been murdered, rather than shot and killed in the course of arrest, as had been alleged by the LDF. It further found that there were efforts at the hospital and within the LDF to cover-up the circumstances surrounding his death. The report recommended that officers suspected of involvement in the killing be immediately suspended and that criminal proceedings against these officers be instituted on an urgent basis.

The version of the SADC Commission of Inquiry report that was tabled in Parliament by the Prime Minister was without the names of certain LDF members who were implicated in human rights violations in the report, including torture and other ill-treatment, and murder. As the Commission's mandate included assisting in the identification of any perpetrators with a view to ensuring accountability for those responsible for the death of Lieutenant-General Mahao, the Lesotho government's action to remove names relating to these events unfortunately undermines the purpose of the Commission itself.

Lesotho held general elections on 28 February in a vote that did not produce a clear winner. A coalition government was formed by Prime Minister Pakalitha Mosisili's Democratic Congress party and six other political parties. The SADC continued to mediate between the country's political rivals to de-escalate tension between the military and the police which has its roots in the politicisation of the security sector.

Name: Twenty-three soldiers and five lawyers  
Gender m/f: m

Further information on UA: 263/15 Index: AFR 33/3481/2016 Issue Date: 23 February 2016