

AMNESTY INTERNATIONAL



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Commodore Voreqe Bainimarama
Prime Minister of Fiji and Commander of the Royal Fiji
Military Forces
4th Floor, New Government Buildings
Suva, Republic of Fiji

7 December 2012

Dear Commodore Bainimarama

I am writing to you in relation to reports of the torture of the five prison escapees who were recaptured by the military on 21 September 2012. As the Commander in Chief of the Royal Fiji Military Forces and Prime Minister of Fiji, I urge you to ensure that an independent, impartial and effective investigation is conducted expediently and that those responsible are brought to justice.

On Monday 17 September, it was reported that five prisoners escaped from Naboro Prison. Four of the men, Solomon Quari, Tevita Sugu, Josaia Usumaki and Epeli Qaraniqio, were recaptured by the security forces at Uduya Point on 21 September. On 25 September, Isoa Waqa was captured by police at Laqere, Nasinu. On 1 October, Tevita Sugu and Josaia Usumaki appeared before the Magistrates Court in Suva with visible injuries and requiring assistance to walk. The other three men, Solomon Quari, Epeli Qaraniqio and Isoa Waqa were unable to attend court on this date for medical reasons as confirmed by prosecutors and were still recovering from their injuries. Qaraniqio's injuries were so severe that he was only fit to reappear in court on 16 November, nearly two months after his recapture. During this time, his right leg had been amputated below the knee as a result of an open fracture which became infected. We understand that Qaraniqio has not had any legal representation to date.

The above information has been openly reported in the media, however limited information has been available on the health of the five men since they were recaptured and the causes of such serious injuries. Amnesty International has received verified and reliable information, which details the treatment of these five men after they were recaptured. It includes testimony that the men complied with the directions of armed military officers and did not resist arrest when they were recaptured at Uduya Point.

The testimony states that armed military officers tortured the men following their recapture at Uduya Point. The men were handcuffed and beaten. They were then placed on a boat and taken to the mainland. Security officers threw a handcuffed and injured Qaraniqio into the sea several times, each time hauling him back into the boat. The men were then taken to Nabua military barracks where the torture continued.

The testimony says that the men were forced to take off all their clothes and were left naked in dark cells. The men were kicked, hit with the butt of guns, sworn at, spat on and had hot water poured on them. One of the men was unconscious for most of two days in which he was in military custody at

Nabua barracks. Another suffered rectal injuries after military officers pushed the barrel of a gun into his anus.

All men were hospitalised for various lengths of time following their recapture for various lengths of time. On 26 September, Assistant Commissioner of Police, Rusiate Tudrava said to the *Fiji Sun* that reasonable force was used in the arrest of the men, that the men resisted arrest and that only minor injuries were sustained.

We are concerned that reports of ill-treatment in the days immediately after the recapture of the men were dismissed summarily by Fiji authorities. On 26 October, the *Fiji Sun* reported further comments from Assistant Commissioner of Police Tudrava that Qaraniqio had his leg amputated because of diabetes.

The medical reports in the case of Epeli Qaraniqio describe open leg fractures and jaw fracture that were likely caused by significant force which were not explained either by medical reports or by the police accounts. Likewise, the medical reports did not make reference to suffering from diabetes.

Amnesty International remains concerned that reports of torture in the days immediately after the recapture of the men were dismissed summarily by Fiji authorities, and that to our knowledge the Fiji Police Force has not initiated any investigation into their treatment. Amnesty International is deeply concerned that this will deny the victims justice and promote a culture of impunity.

In addition, we have concerns about the level of medical care provided to the five men. Some media reports claimed that they have only been seen by military medics at the Colonial War Memorial Hospital. We are concerned about access to regular and appropriate medical care, including access to counselling services, and rehabilitation of the men.

We would like to emphasise that torture and other cruel, inhuman or degrading treatment or punishment are prohibited in all circumstances without exception. This absolute prohibition is a rule of customary international law which binds all nations, irrespective of whether or not they are party to relevant treaties. This rule is reflected, among other instruments, in United Nations (UN) standards governing the treatment of persons deprived of liberty, including the UN Standard Minimum Rules for the Treatment of Prisoners (1955), the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988) and the UN Basic Principles for the Treatment of Prisoners (1990).

Under international law and standards, states must also ensure that all reasonable allegations of torture are properly investigated, including through medical documentation as elaborated in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol, 1999). This obligation reflects both the duty of states to ensure reparations to victims of this serious human rights violation, including the disclosure of the truth; and their general duty to protect human rights, including by holding perpetrators of violations to account and taking steps to ensure that such violations are not repeated.

We call on the Fiji Government to:

- Ensure that all those suspected of being responsible for torture and other ill treatment, including those who physically committed the violations and those in positions of responsibility who ordered or allowed others to commit them, are brought to justice in proceedings meeting international fair trial standards with no possibility of the death penalty.
- Publicly condemn all torture and other ill-treatment; ensure that these practices cease; and make clear to all officers involved in arrest, detention and interrogation that torture and other ill-treatment will not be tolerated under any circumstances.
- Ensure that all five injured men are provided with appropriate medical care and rehabilitation without incurring expenses, especially those who suffered from permanent impairment as a result of their torture.

- Give immediate and public assurance that the right to a fair hearing will be respected for all five men and any person accused of assisting them, including the provision of legal representation.
- Ratify the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol.
- Extend an open invitation to the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit Fiji as soon as he is able to and fully co-operate with the Special Rapporteur, including by providing him with a copy all investigation records and medical reports relating to this incident.

We look forward to hearing your response to our concerns.

Thank you for your consideration.

Yours sincerely,

Roseann P. Rife
Head of East Asia
Amnesty International