

URGENT ACTION

LESOTHO SOLDIERS RISK FACING A FRESH TRIAL

The Court Martial of the Lesotho Defence Forces (LDF) soldiers facing mutiny charges been postponed. The soldiers fear that if this happens without due legal process, a fresh Court Martial could be set up despite the fact that a Southern African Development Community (SADC) Commission of Inquiry found the mutiny charges against them to be suspect.

In August, during the SADC Heads of State Summit in Pretoria, Lesotho Prime Minister Thomas Thabane announced intentions to disband a Court Martial hearing the case of 23 LDF soldiers charged with mutiny in 2015. The soldiers are accused of plotting to topple the LDF command and were arrested between May and June 2015. The mutiny charges against the soldiers still stand. Seven of the remaining 23 soldiers were released on "open arrest", which is a form of military bail, on 1 March 2017. During their detention at the Maseru Maximum Security Prison, some of the 23 soldiers alleged torture and other ill-treatment at the hands of military authorities.

Following a meeting between Prime Minister Thabane, 11 of the 23 soldiers and their lawyers in September, the soldiers have stated that the dissolution of the Court Martial should legally protect them from further prosecution on the same matter under sec 100 (5) of the LDF Act of 1996. During the meeting, they raised concerns that if the Court Martial is disbanded without the legal due process being followed then they would be denied their right to be heard in a court that could clear their mutiny charges. Further, the soldiers argue that if they are not granted this opportunity to have the charges against them cleared then it leaves them in jeopardy of another prosecution should a new authority decide to reinstate a new Court Martial. Fresh prosecution of the LDF soldiers would be against a SADC Commission of Inquiry report that found there were anomalies relating to the charges of mutiny and found the charges against the soldiers to be suspect.

In September, 22 of the 23 LDF soldiers signed a petition to government raising concerns that the dissolution of the Court Martial could undermine their right to redress and have demanded among other things that their open arrest be revoked completely.

Please write immediately in English or your own language:

- Calling on the Lesotho authorities to ensure that decision to dissolve the Court Martial should not risk the constitutional right to redress for the 23 LDF soldiers;
- Urging them to promote and ensure the right to fair trial of the LDF soldiers charged with mutiny;
- Calling on them to urgently conduct an independent and impartial investigation into allegations of torture and ensure that anyone suspected to be responsible is brought to justice in fair trials and without a recourse to the death penalty, and that those found to have been subjected to torture or other ill-treatment receive reparation.

PLEASE SEND APPEALS BEFORE 1 DECEMBER 2017 TO:

Minister of Defence and National

Security

Senlte Lebona

Ministry of Defence and National

Security

Private Bag A166

MASERU 100

Lesotho

Salutation: Honourable Minister

And copies to:

Prime Minister

Honourable Dr. Thomas Thabane

Phase I 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:

Name 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 fourth update of UA 263/15. Further information:

<https://www.amnesty.org/en/documents/afr33/4411/2016/en/>

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ADDITIONAL INFORMATION

The head of the Lesotho Defence Force (LDF) Maaparankoe Mahao was dismissed from the army on 21 May 2015 after months of political instability. 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.

Brigadier 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, 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 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. On 18 January 2016, SADC leadership met with the Lesotho Prime Minister 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 2016. The report found that there were divisions within the LDF and anomalies relating to the charges of mutiny. It recommended that the 23 soldiers facing mutiny charges be granted amnesty from criminal prosecution. The report further found that Brigadier 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 version of the SADC Commission of Inquiry report tabled in Parliament by the Prime Minister was without the names of certain LDF members implicated in human rights violations in the report, including torture and other ill-treatment, and the killing of Brigadier Mahao. As the Commission’s mandate included assisting in the identification of any suspected perpetrators with a view to ensuring accountability for Brigadier Mahao’s death, the Lesotho government’s action to remove names relating to these events undermines the purpose of the Commission itself.

A coalition government was formed by Prime Minister Pakalitha Mosisili’s Democratic Congress and six other political parties after a general elections in Lesotho on 28 February 2015 failed to produce a clear winner. 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 politicization of the security sector.

Prime Minister Pakalitha Mosisili lost a vote of no confidence in the Lesotho Parliament on 1 March 2017 and six days later King Letsi announced the dissolution of Parliament. The Independent Electoral Commission released the results of the 3 June 2017 national elections, indicating a coalition government led by Thomas Thabane’s All Basotho Convention (ABC) party would form government.

Name: Twenty three LDF soldiers

Gender m/f: m

Further information on UA: 263/15 Index: AFR 33/7295/2017 Issue Date: 20 October 2017