

URGENT ACTION

CONTINUED ILL-TREATMENT OF DETAINED SOLDIERS

The court martial of 23 members of the Lesotho Defence Force (LDF) for mutiny charges has been postponed to 6 September. Sixteen of the accused remain in custody. The authorities continue to subject the detainees to ill-treatment.

On 29 April the Lesotho Appeal Court ruled that the court martial should proceed, and overturned previous High Court orders that the remaining detainees be released on bail. As the Lesotho Defence Force (LDF) had not complied with previous High Court rulings, the defence team approached the Appeal Court in an attempt to compel the LDF to uphold these orders. As such, 16 of the **23 accused soldiers** remain in Maseru Maximum Security Prison, whilst the seven men on bail are required to report to barracks three times a day.

This is despite the fact that a Southern African Development Community (SADC) Commission of Inquiry report found that there were anomalies relating to the charges of mutiny and recommended that the 23 soldiers facing mutiny charges be granted amnesty from criminal prosecution.

Prison authorities subjected the detained soldiers to further ill-treatment as a result of a march organized by the detainees' children on 16 June, Father's Day. When the march was announced, five of the detained soldiers were placed in solitary confinement and denied food for a day. The wives of the detainees have also reported being stripped searched when visiting their husbands in prison.

Opposition members of Parliament tried to visit the detainees after they were placed in solitary confinement but senior LDF officers refused their access and threatened them, saying that they would be shot if they did not leave the prison. In addition, one of the detainees has been denied specialized medical treatment that he requires and the LDF has also refused to allow him to use a thicker mattress in prison that would help better manage his pain.

Defence lawyer Advocate Khotso Nthontho remains charged with perjury relating to his 12 February arrest. Additional charges of fraud, contempt of court, and obstruction of justice have also been added to his indictment, but no progress has been made in his case. In mid-June, the Minister of Defence publicly criticized the detained soldiers' legal team on national radio, calling them unprofessional and accusing them of cheating their clients and the public for their continued attempts to have their clients released.

Please write immediately in English or your own language:

- Urging the Lesotho authorities to immediately release the remaining 16 detained soldiers on bail and to guarantee and ensure humane treatment for all 23 soldiers facing charges, including allowing access to specialized medical care for the detainees that require it;
- Urging them to dissolve the court martial process, in light of the SADC Commission of Inquiry findings.

PLEASE SEND APPEALS BEFORE 19 AUGUST 2016:

Minister of Defence and National Security
Hon. Tšelisso Mokhosi
Ministry of Defence and National Security
Along Kingsway, Opposite National Library
P/Bag A166
Maseru 100, Lesotho
Email: pglerotholi@gmail.com
Salutation: Dear Honourable Minister

Minister of Justice, Human Rights and
Correctional Services
Hon. 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 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 third update of UA 263/15. Further information: <https://www.amnesty.org/en/documents/af33/3481/2015/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 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 Southern African Development Community (SADC) Commission of Inquiry led by Justice Mpaphi Phumaphi was set up on 3 July 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 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 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 report recommended that officers suspected of involvement in the killing of Brigadier Mahao 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 the killing of Brigadier Mahao. As the Commission’s mandate included assisting in the identification of any perpetrators with a view to ensuring accountability for those suspected to be responsible for Brigadier Mahao’s death, the Lesotho government’s action to remove names relating to these events undermines the purpose of the Commission itself.

In June, the Lesotho government missed the deadline to file an update to SADC. On 20 June Prime Minister Pakalitha Mosisili presented an updated report in Parliament, but stated that SADC’s recommendations were not binding. At a further SADC meeting on 28 June, it was resolved that SADC would assist with the security sector and constitutional reforms and urged all opposition leaders in exile to return to Lesotho despite receiving no promises of safety.

Lesotho held general elections on 28 February 2016 in a vote that did not produce a clear winner. A coalition government was formed by Prime Minister Pakalitha Mosisili’s Democratic Congress 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 politicization of the security sector.

Name: Twenty-three soldiers

Gender m/f: m

Further information on UA: 263/15 Index: AFR 33/4411/2016 Issue Date: 8 July 2016