

# **LESOTHO**

## **@Torture, political killings and abuses against trade unionists**

Lesotho, which has been under military rule since 1986, is due to return to civilian government after multi-party elections in October 1992. The constitution which has been drafted for the transition to civilian rule contains a Bill of Rights which guarantees protection of all fundamental human rights. However, Amnesty International remains concerned about the failure of the Lesotho Government to respect human rights in a number of important respects: in particular, its failure to take adequate steps to investigate and prevent a number of cases of torture and alleged extrajudicial execution. Amnesty International is also concerned about the continuing imprisonment of 23 people arrested after the military seizure of power in 1986 who were convicted in trials which apparently did not conform to internationally accepted standards of fairness. In recent months the government has also taken a number of measures against the trade union movement, including the imprisonment of trade union officials and the use of the Internal Security Act to restrict the holding of meetings.

Although the introduction of the new Constitution should increase protection of human rights in Lesotho, Amnesty International is calling on the present military government to take prompt action to end these abuses. Political imprisonment, torture and extrajudicial execution have been endemic in Lesotho under successive governments. The advent of a new civilian Constitution and Bill of Rights provides no automatic guarantee that these human rights violations will end.

### **History and constitution**

Lesotho achieved independence from Britain in 1966. It is an enclave within South Africa, formed in the mid-nineteenth century when King Moshoeshoe I rallied the Basotho nation in a secure mountainous region away from the areas controlled by the Dutch and British settlers. Lesotho is economically dependent on South Africa, its chief export being the labour of Basotho migrant workers in the South African mines. This source of income has declined in recent years. The Lesotho Government hopes that the resulting loss of foreign exchange will be replaced by the proceeds of the Lesotho Highlands Water Project, an ambitious scheme to create reservoirs and sell water to South Africa. However, the loss of mine remittances and the return of migrant workers has prompted wide-ranging debate about the future of the country.

At independence Lesotho was a constitutional monarchy with a multi-party parliamentary system. King Moshoeshoe II was head of state, with a combination of ceremonial and executive

functions. Under the 1966 Constitution human rights were guaranteed by a justiciable Bill of Rights.

In 1970, Prime Minister Leabua Jonathan declared a state of emergency and suspended the Constitution after his Basutoland National Party had lost a general election. In 1974 the government introduced an Internal Security Act which allowed incommunicado detention without charge or trial for up to 60 days. There were frequent reports of torture of prisoners held under the Internal Security Act, as well as prisoners dying in custody. In 1982 the Internal Security Act was amended to allow detention without charge for a maximum of three 14-day periods (it was further amended in 1984). The 1983 Human Rights Act reintroduced a measure of legal protection of human rights. However, it did not constitute a Bill of Rights, since the guarantees it offered were subordinate to existing laws, including the Internal Security Act.

In 1986 a military council chaired by Major General Justin Metsing Lekhanya seized power. The King, who had occupied a figurehead position since the suspension of the 1966 Constitution, had certain executive powers restored to him. All party political activity was banned. Senior army officers who opposed the military takeover were arrested and two died in custody. Soldiers were tried before a court martial without proper guarantees of a fair trial and sentenced to terms of imprisonment. Two former ministers in the Leabua Jonathan government were abducted by soldiers and killed. A state of emergency was in force between 1988 and 1989 and the government used its detention powers under the Internal Security Act to hold, among others, newspaper editor Johnny wa ka Maseko before his expulsion from the country in 1988. The following year a university lecturer, Joel Moitse, and a politician, Majara Jonathan Molapo, were both detained without charge for two weeks under the provisions of the Act.

In March 1990 the King was forced into exile and his cousins, Sekhobe and Thabo Letsie, were expelled from the Military Council. Later in the year King Moshoeshoe abdicated to be replaced by his younger son, who became King Letsie III. A year later Major General Lekhanya was himself forced to resign, to be replaced by Colonel Elias Phisoana Ramaema. In May 1991 the Military Council lifted the 1986 ban on political parties.

In 1990 the Military Council had embarked on a process of returning the country to civilian rule, nominating a Constituent Assembly. In 1991 the assembly produced a draft constitution modelled upon the 1966 Constitution, particularly in its Bill of Rights, which is enforceable through the courts. The new draft differed from the 1966 Constitution in restricting the King's executive powers. The assembly nominated a Constitutional Commission, chaired by the Minister of Justice, to solicit popular reactions to the constitutional draft. Some organizations, notably the Law Society, were critical of the Constituent Assembly since it was a nominated rather than popularly elected body. Elections for a civilian parliament are expected to take place in October 1992.

## **Torture, "disappearance" and extrajudicial execution**

The failure of governments to investigate and take action to prevent torture, ill-treatment, deaths in custody or extrajudicial executions dates from before the military takeover in 1986. For example, in 1981 a church newspaper editor, Edgar Motuba, and two friends were abducted and murdered, apparently by a pro-government death squad. When an inquest was finally held in 1984 it failed to assign responsibility for the killings. The magistrate who presided over the inquest called for further investigations into the deaths, but apparently none took place. Equally, since 1986 there has been a consistent failure on the part of the authorities to prevent similar abuses or to bring those responsible to justice. The continuing existence of an independent judicial system has allowed some abuses to be exposed publicly. Thus in 1990 the High Court awarded damages to a former prisoner who alleged that he had been tortured in the custody of the Royal Lesotho Mounted Police. But there was apparently no further investigation of the allegations and no criminal charges were brought against the officers responsible. In some cases inquests have been held into deaths in detention, but again no action has been taken against the individual law enforcement officials responsible. The frequent recurrence of such cases indicates that both the police and the military (the Royal Lesotho Defence Force) feel able to act with impunity.

Amnesty International knows of only one such case where there has been a full investigation, followed by the criminal prosecution of perpetrators of human rights violations. In 1986 two former ministers in the government of Leabua Jonathan, Desmond Sixishe and Vincent Makhele, and their wives were abducted. Their bodies were later found on the remote Bushman's Pass. Two other people abducted with them identified the murderers as military personnel. However, no prosecutions were brought until 1990, when Colonel Sekhobe Letsie, a cousin of the deposed king and formerly a central figure in the government, was charged with the murder, along with an army sergeant, Ngoana-Ntloana Lerotholi. The two men were convicted of the murder in March 1991. Although it was welcome that action was finally taken against those alleged to be responsible for the Bushman's Pass killings, the fact that prosecution was delayed until after one of those suspected had been ousted from government suggests that political considerations played an important part in the decision to proceed with the case. For this reason it seems unlikely that their conviction will have an exemplary effect on the conduct of other military personnel.

The following are some of the principal cases of concern to Amnesty International, listed in reverse chronological order. Amnesty International is calling upon the Lesotho Government to initiate impartial and independent investigations and to bring those responsible for human rights violations to justice.

- ! **Mofokeng Makakole**, a 31-year-old criminal suspect, died in police custody in Maseru on 28 September 1991, apparently as a result of torture. He had been arrested by South African police at Welkom in the Orange Free State and transferred into the custody of the Royal Lesotho Mounted Police on 27 September 1991. On the evening of 27 September the police took Mofokeng Makakole to his father's house in Maseru where he had told them that he had hidden money. Mofokeng Makakole took the opportunity to tell his father that he had been tortured with electric shocks. The police then returned Mofokeng Makakole to the headquarters of the Maseru Criminal Investigation Department (CID). His father contacted a lawyer and together they went to the CID headquarters where they sought and received assurances that Mofokeng Makakole would not be tortured, although they were denied access to him. When the family visited the CID headquarters again on the morning of 29 September they were informed that Mofokeng Makakole had died as a result of jumping from a moving vehicle. After an official autopsy the body was released to the family, which commissioned an independent post-mortem examination by a forensic pathologist in Johannesburg, South Africa. This examination concluded that Mofokeng Makakole had been beaten with objects such as sticks or *sjamboks* (hide whips) and that he had probably also been subjected to blows from a blunt object or kicked. The pathologist found signs of injuries to the wrist which suggested that he had been tied up. The likely cause of death was given as "pressure to the neck and asphyxia"; in other words Mofokeng Makakole had probably been strangled. However, the independent pathologist was critical of the failure of the police pathologist to perform a bloodless layer dissection of the neck which would have given a clearer indication of whether Mofokeng Makakole had been asphyxiated. No inquest into Mofokeng Makakole's death has been held.
- ! **Ngaka Sula**, an official of the Construction and Allied Workers Union of Lesotho (CAWULE), was shot dead at Khokhoba, Katse village, in August 1991. For details see page 12, below.
- ! **John Ralengana** and **Khabele Khaeane** were severely beaten by warders after a disturbance at Maseru Prison on 31 August 1991. John Ralengana also suffered birdshot<sup>1</sup> wounds. Both men were among six prisoners denied medical treatment for some weeks afterwards. The disturbance followed the discovery of food in a cell housing convicted prisoners - only prisoners on remand are allowed to have food supplied by their families. The prisoner alleged to be responsible, John Ralengana, was taken to the warders' office and informed that he was going to be placed in solitary confinement. Meanwhile other prisoners were locked in their cells. They became unruly because this was a Saturday,

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<sup>1</sup> Birdshot consists of a large quantity of small lead pellets fired from a shotgun and frequently used by police in southern Africa for crowd control. The chief danger from birdshot wounds is of infection if the wound is untreated.

when they would normally have been allowed out of their cells for recreation. John Ralengana left the warders' office to return to his cell, only to find it locked. At the same time prisoners began to break down the cell doors in order to get out. Warders arrived armed with shotguns loaded with birdshot. The warders shouted a warning and fired a shot which hit one prisoner in the leg. John Ralengana fled into a nearby cell. He was followed in by warders who ordered the inmates out of the cell. They came out with arms raised. As John Ralengana came out he came face to face with the senior officer who shot him in one thigh, without provocation. As he fell and tried to steady himself he was shot in the other thigh. The warders then beat him with sticks and *sjamboks*. Khabele Khaeeane was similarly beaten.

Six injured prisoners, including John Ralengana and Khabele Khaeeane, were taken to Queen Elizabeth II Hospital in Maseru and examined, but were returned to prison before they could be treated. They were stripped naked and placed in solitary confinement in cells deliberately flooded with water. A court order for access to John Ralengana was granted on 11 September (and also one on behalf of Khabele Khaeeane at about the same time). Up to this point he had received no medical treatment but on the evening of 11 September he was visited by a prison officer who washed and dressed his wounds for the first time. He saw a physician for the first time. The same doctor saw him again on 17 September and recommended that he should be referred to a surgeon for treatment.

A medical examination later in September of Khabele Khaeeane revealed weals all over his body and an open wound on his head. He complained of pains in the chest.

The medical examination of John Ralengana revealed "multiple linear weals and linear abrasions" on the back, back of legs and back of arms "consistent with severe thrashing with a linear blunt instrument such as a stick or *sjambok*." The physician also identified linear abrasions on the right side of the face and reduced vision in the left eye. There were puncture wounds on the left upper thigh and septic ulcers on the front of both thighs. The physician commented that the injuries on the thighs were consistent with pellet shots and he warned of the possibility of blood poisoning if the wounds were untreated. By March 1992 John Ralengana had still not received medical treatment and his lawyers were seeking compensation from the government.

- ! **Bathobokae Mokhothu**, aged 17 years, was shot dead by police in the course of a demonstration in Maseru on 27 August 1990. The demonstration, in support of a nationwide teachers' strike, was violently suppressed by police. According to Bathobokae Mokhothu's mother, Limakatso Mokhothu, her son was not taking part in the demonstration but had left their home minutes before he was shot on his way to a football

match. She went out of the house when she heard gunshots and saw Bathobokae running towards her being chased and whipped by police officers. She intervened to stop them beating him and saw that he had been shot in the right side of his chest. A neighbour took them to hospital but Bathobokae was dead on arrival. The following day Minister of Justice Kelebone Maope stated publicly: "It is not clear yet who really shot him, and under what circumstances but the matter is being investigated by the police." Subsequent press reports indicated that a police officer was under arrest in connection with the killing but no criminal prosecution has resulted. Amnesty International has received a report that the officer who shot Bathobokae Mokhothu had been reprimanded and transferred to a rural police station. According to Limakatso Mokhothu, at least three officers were involved in assaulting Bathobokae, yet there has been no report of any action against any others.

- ! **Tsepang Tsira**, a youth, was reportedly shot dead by police in Maseru on 25 August 1990. His death also coincided with popular demonstrations in support of the national teachers' strike. According to an eye-witness account he was travelling with friends in a "kombi" van which was followed by a police car. When the van stopped near Maseru railway station the police officers in the car shot Tsepang Tsira in the head. They then forced the other passengers out of the van and beat them. Tsepang Tsira was found to be dead on arrival at hospital. Amnesty International is not aware of any action taken to investigate the killing or to bring the officers responsible to justice.
  
- ! **Dr Michael Sefali**, former Minister of Planning, Economic Affairs and Manpower Development, was arrested in March 1990, apparently in connection with the Bushman's Pass killings, although he was later released without charge. He later applied to the High Court for damages in respect of unlawful arrest, unlawful detention and assault. He alleged that at various times between 14 and 22 March 1990 he had been subjected to interrogation for whole nights, during which he was stripped naked, with his hands cuffed behind his back, covered with blankets from the head downwards and made to stand with bare feet on a cement floor covered with crushed stones. By March 1992 his suit for damages had still not been heard and no action was known to have been taken against his alleged torturers.
  
- ! **Captain Samuel Mokete Tumo**, an officer in the Royal Lesotho Defence Force, was arrested on 20 February 1990 and kept in solitary confinement at Maseru Maximum Prison until 7 March 1990. In a subsequent affidavit he alleged that in the course of interrogation he was stripped naked, covered with blankets, handcuffed and told to kneel on a cement floor covered with crushed stones. He agreed to confess to a murder charge. He was released in April 1990 on a writ of *habeas corpus*. However, he was promptly rearrested and the law was amended to allow detention without charge of military personnel for up to one year. Captain Tumo was detained for nine months,

released, charged with murder and later acquitted. No action is known to have been taken against his alleged torturers.

- ! **Colonel Sekhobe Letsie** and **Sergeant Ngoana-Ntloana**, who were charged with the Bushman's Pass murders, alleged during the course of their trial that they had been kept naked with wet blankets and tyres over their heads and made to kneel on crushed stones. The trial judge, Chief Justice Peter Cullinan, found a statement made by Ngoana-Ntloana to be inadmissible as evidence. In the course of a trial-within-a-trial two army officers allegedly responsible for his torture were called to give evidence. However, no further action is known to have been taken on the allegations of torture.
  
- ! **Lakia Pholo**, an official of the Lesotho Bank, was arrested in July 1989, suspected of a criminal offence. He was subsequently released without charge and sued the government for damages for torture while he was in police custody. The Attorney General admitted liability on the government's behalf. The court examining the suit for damages found that on arrival at police headquarters a blanket was thrown over his head and fastened with a rope. A motor vehicle tyre was thrown around his neck. He was handcuffed and stripped of his trousers and underpants. When he denied any knowledge of the criminal offence the police put crushed stones into his shoes and made him jump up and down in time with the ringing of a bell. He was beaten on the hands and thighs and pinched on the thighs with something which he identified as a pair of pliers. At this point Lakia Pholo lost consciousness. When he regained his senses the blanket and tyre had been removed. He was ordered to stand up but could not do so because of pain and numbness in his hands. Then his interrogators inserted a stick into his anus, pulled it out and put it into his mouth. They repeated this twice. He was finally given his clothes back, handcuffed and forced to spend most of the night standing. He was released two days later. Despite the government's admission of liability and the High Court's finding in favour of Lakia Pholo's account and its award of damages, there has been no criminal prosecution of any police officer in connection with his torture.
  
- ! **Samuel Hlapo** died in police custody in September 1988 in unexplained circumstances. He was one of four men who hijacked a bus shortly before the arrival in Lesotho of Pope John Paul II. The other three hijackers and two of their hostages were killed in a gun battle with South African security forces who were assisting the Lesotho authorities. Samuel Hlapo was taken into custody in Maseru, suffering only superficial wounds, according to eye-witnesses. However, the next day the Lesotho Government announced that he had died as a result of wounds sustained during the gun battle. Although the official post-mortem examination found multiple gunshot wounds, it also discovered that his throat had been slit and his skull smashed. The latter injuries could only have been sustained in custody. Apparently there was no further investigation into Samuel Hlapo's death and no police officers have faced criminal charges in connection with the case.

- ! **Mbulelo Ngono**, a South African exile belonging to the African National Congress (ANC), "disappeared" from police custody in Maseru in February 1988. He had been arrested after a shooting incident. Despite an application for a writ of *habeas corpus*, Mbulelo Ngono has never been produced in court and is feared to be dead. **Mazizi Maqekeza**, who was arrested in the same incident, was shot dead in police custody in March 1988. He was receiving treatment for gunshot wounds in Queen Elizabeth II Hospital in Maseru when he was shot by an unknown assailant.
- ! **Brigadier B.M. Ramotsekhoana, Colonel Sehlabo Sehlabo and Sergeant Tjane** died in police custody in March 1986. The two former had been senior officers before the military coup of January 1986. Inquests into the deaths of Brigadier Ramotsekhoana and Colonel Sehlabo were concluded in January 1987. Brigadier Ramotsekhoana was found to have died from respiratory failure as a result of cerebral trauma caused by blows to the head while he was in custody. Colonel Sehlabo died from secondary septicaemia resulting from infection to burns inflicted while he was in custody. The inquest court did not identify the officers responsible for the prisoners' ill-treatment. No inquest was held into Sergeant Tjane's death. In August 1987 the families of Brigadier Ramotsekhoana and Colonel Sehlabo brought actions for damages against the authorities. The following month the ruling Military Council issued an Order indemnifying the Crown for all acts committed between January 1986 and January 1988 in defence of national security. There has apparently been no further investigation into these deaths and no action against those responsible.

What these cases indicate is not only a pattern to the methods of torture and ill-treatment used by the police, but also a persistent failure by the authorities to take effective action against those who perpetrate abuses. In some cases there is no action even after an inquest or the High Court has concluded that torture or other abuses took place. At various times legislation has been in force indemnifying the security forces against legal action for abuses carried out in the course of their duties. The Indemnity Order in force between 1986 and 1988 legalized any behaviour by the army and police in defence of national security. The Emergency Regulations in force between 1988 and 1989 reportedly contained similar provisions. These provisions are no longer in force but have reinforced the security forces' sense that they are beyond the reach of the law. The government's failure to take effective action against human rights violators - except, as in the Bushman's Pass case, where it was politically convenient - means that in practice the security forces continue to act with impunity. This failure in turn confirms the victims of human rights violations in their reluctance to come forward with complaints against the police or army. The photographs on page 10 are of former prisoners showing wounds which they allege were sustained in the custody of the Royal Lesotho Mounted Police. In none of these cases was the prisoner prepared to take further action against the police and the photographs were only supplied to Amnesty International on condition that the identity of the individuals be concealed.

The new Constitution, with its justiciable Bill of Rights, should in theory make the security forces more accountable for their behaviour. In practice, however, specific measures are needed to call those responsible for human rights violations to account. Amnesty International has called upon the present government to initiate a judicial commission of inquiry with broad powers to investigate torture, ill-treatment and extrajudicial executions by the security forces, and to bring those responsible for these acts to justice. In August 1991 Amnesty International submitted to the government details of a number of the cases cited above as meriting further investigation by such a commission. However, the government has not responded to Amnesty International's call.

## **Human rights violations against trade union members**

In the past two years the Lesotho Government has made little use of its detention powers under the Internal Security Act. However, it has increasingly invoked the provisions of the Act governing public meetings and processions in order to restrict trade union

**Victims of severe beating by the Royal Lesotho Mounted Police. Photographs were only supplied to Amnesty International on condition that the individuals' identity be concealed**

activity. The Act requires that the organizers of a public meeting obtain prior permission from the police for the gathering to be held. The authorities have used this requirement to bring proceedings against trade union officials for involvement in internal union meetings. In the one case of this type which has come to trial, the accused have been acquitted. However, charges continue to be lodged in a mischievous manner, apparently as a pretext allowing the police to detain trade union activists for up to 48 hours. The use of the Internal Security Act in this regard appears to be in breach of the government's obligations under International Labour Organization Convention No. 87 on Freedom of Association and Protection of the Right to Organize and No. 98 on the Right to Organize and to Bargain Collectively.

Particular targets for government action have been a number of newly-formed politically independent unions grouped within the Congress of Democratic Unions (CDU), which has been refused official registration. These include construction workers', teachers' and bank employees' unions. The government is currently engaged in legal action to deregister the textile workers' union - not a member of the CDU - which has raised a number of grievances at a large Chinese-owned clothing factory, Lesotho Haps, in Maputsoe.

In July 1991 the Lesotho Government informed Amnesty International that it intended to repeal the Internal Security Act because it was inconsistent with the Bill of Rights in the new draft Constitution. However, only days later, it charged three officials of the textile workers' union with holding a public meeting without police permission.

One of the main targets of repression has been the Construction and Allied Workers Union of Lesotho (CAWULE), which is affiliated to the CDU. CAWULE's importance is that it attempts to organize workers at the Lesotho Highlands Development Project, a vast scheme to harness the country's water power for export to South Africa and for domestic hydro-electric schemes. CAWULE has sought the right to represent workers at the project. Local people, aside from grievances about the environmental impact of the scheme on Lesotho's mountain regions, are also concerned about the extensive recruitment by the contracting construction companies of unorganized South African migrant workers on short-term contracts.

In July 1990 two CAWULE officials at the Lesotho Highlands Water Project first dam construction site in Katse were shot by police with birdshot and arrested. At the time CAWULE was in dispute with the French construction company Spie Batignolles. The shooting was purportedly in execution of a court order banning CAWULE members from the Katse dam construction site. Yet the incident took place away from the dam site in the middle of the night. The two trade union officials were charged under the Internal Security Act with holding an illegal meeting and acquitted in October 1990.

In a later, more serious incident, Ngaka Sula, a CAWULE official at the Katse dam site, was shot dead at Khokhoba, Katse village, in August 1991. Ngaka Sula worked as a watchman at the site, which CAWULE officials were prohibited from entering. It appears that he was

killed by police in reprisal for allowing Kekeletso Mofana, the Tsaba-Tseka regional organizer of CAWULE, onto the site. If so, his killing was an extrajudicial execution. Kekeletso Mofana has stated that he was threatened by police officers who told him that they had killed Ngaka Sula because of his "hostile attitude".

A total of 214 CAWULE members were briefly detained as they assembled for a May Day rally in 1991. In a later incident in January 1992 police are reported to have opened fire on local men seeking work at the construction site. One man was reported to have been shot dead, but Amnesty International has no further information about the exact circumstances of the killing.

In August 1990 six officials of the Lesotho Teachers' Trade Union, which was engaged in a national strike at the time, were arrested and briefly detained without charge. It was during demonstrations in support of the teachers' strike that police shot dead Bathobokae Mokhothu and Tsepang Tsira (see above, page 6).

In July 1991 three officials of the Lesotho Amalgamated Clothing and Textile Workers Union (LACTWU) were arrested in Maputsoe. This followed LACTWU's raising grievances with the Lesotho Haps clothing company. On 24 July Kopane Moshata and Shoaepane Nathane were summoned to Maputsoe police station and told that they were being arrested for contravening the Internal Security Act. At the police station they saw the personnel officer of Lesotho Haps consulting with the police officer in charge. Both men were held, Shoaepane Nathane in a cell and Kopane Moshata in a waterlogged lavatory. Kopane Moshata was unable to lie down to sleep. The following day LACTWU's general secretary, Hofnie Lebone, went to the police station. He too was arrested and put in a waterlogged lavatory. All three men were denied access to visits from a lawyer or their families until after they had appeared in court on 26 July. They were charged with holding an illegal meeting of Lesotho Haps workers on 13 July and released pending a further hearing. Amnesty International considers that if convicted and sentenced to a term of imprisonment they would be prisoners of conscience.

A similar case arose in September 1991, when nine officials of the Lesotho Union of Bank Employees (LUBE) were arrested in Maseru and charged under the Internal Security Act with holding an illegal meeting. LUBE was on nationwide strike at the time and the meeting concerned was to plan the union's strategy. The nine charged are Mokhali Sutha, George Moremi, Phillip Chalali, Shale Shale, Semakaleng Tau, 'Mantipi Nomo, 'Maserero Mapetla, Lehana Ncheka and Moerane Mofelehetsi. Amnesty International considers that they too would be prisoners of conscience if convicted and imprisoned. Three other LUBE officials were arrested in September 1991 and detained for several weeks for questioning: Mrs MaLeribe Phomang, Base Mapesela and Teboho Lekhotsa. Amnesty International is also investigating the cases of Ramaketso Sehlabaka and Teboho Chaka, LUBE's president and vice-president respectively, and another official of the union, Mrs Mothobi Mothobi. They were also arrested

in September 1991 and charged with the murder of Constantine Kimane, a manager of Barclay's Bank, earlier that month. It is alleged that the murder was committed in pursuance of LUBE's strike, but many observers are concerned that these charges are an attempt to harass and discredit the union and that the three may be completely innocent. Ramaketso Sehlabaka, Teboho Chaka and Mothobi Mothobi were refused bail in February 1992.

## **Imprisonment and unfair trial of military personnel**

Amnesty International is also concerned about 23 people believed to be still imprisoned since their arrest after the military coup of January 1986. All are believed to have been military personnel loyal to the deposed government of Chief Jonathan. They are:

Monyane Jonathan	Semapo Setloboko
Tseollo Rapeane	Reentse Bereng
Tamanyane Libuke	Tseko Ramaoto
Lebese Jonathan	Metiakhola Sebolai
Simon Mosoke	Chabeli Chabeli
Jonathan Molapo	Monica M. Liphoto
Muso Monaleli	Mabalane Tsomoli
Khathatso Thetsane	Motialepula Lekau
Thabo Monaleli	Hlahlobo Mokhethi
Mokhothu Makara	Tooana Mosokoane
Matela Mokhethi	Lebohang Sekope
Percy Sehlabo	

These 23 were reportedly tried by a court martial and sentenced to terms of imprisonment. However, it appears that various important guarantees of a fair trial were absent: the accused were reportedly not allowed to be represented by lawyers of their choice, nor is there believed to have been a right of appeal. According to the charge sheet, the 23 were charged under Order No. 19 of 1986. This was for offences allegedly committed just before the coup in January 1986, yet Order No. 19 was not promulgated until several months later in the year. Thus they appear to have been convicted of an offence which did not exist in law at the time when it was allegedly committed, in breach of all internationally accepted standards of fair trial. It has been reported that some of the 23 have completed their sentences but have been kept in custody without charge. Under an amendment to the law in 1990, military personnel may be detained without charge for up to a year.

## **The death penalty**

Under the Lesotho Criminal Procedure and Evidence Code, the death penalty is mandatory for murder unless there are extenuating circumstances. In practice the High Court, which hears all cases where the death penalty may be imposed, has tended to interpret this widely, so that few death sentences are imposed and even fewer upheld on conviction. Those that are imposed are mainly for ritual murder or for murder in the course of a robbery. There is an automatic right of appeal for prisoners sentenced to death. If the appeal is turned down the King may exercise his prerogative of mercy and grant clemency. The last execution is believed to have taken place in 1984, but two death sentences were imposed during 1991, one of them on Sergeant Ngoana-Ntloana, who was found guilty of the Bushman's Pass murders.

In October 1990, the Minister of Justice and Prisons, Kelebone Maope, proposed to the Constituent Assembly that it should reconsider the use of the death penalty. He linked the issue of the death penalty to the process of transition to civilian rule, arguing:

"If the death sentence was commonly used as in other countries, some of the members of this Assembly would not be alive to-day, and the spirit of reconciliation would not be there, and the motivation for normalizing the political environment would be weak."

However, his speech received a hostile reception, with the majority of the assembly clearly favouring retention.

## **Amnesty International's recommendations**

Amnesty International welcomes the proposed Bill of Rights in the new Lesotho Constitution. It also welcomes Lesotho's stated intention to ratify the Organization of African Unity's African Charter on Human and Peoples' Rights. However, Amnesty International considers that a number of steps need to be taken by the present and new governments of Lesotho to bring domestic law and practice in line with the rights laid out in those standards.

First, Amnesty International urges that the government repeal legislation which interferes with the rights to freedom of expression and assembly, to a fair trial and to freedom from arbitrary arrest and detention - notably, various sections of the Internal Security Act and the 1990 amendment to the Military Code, which allows detention without charge of soldiers for up to one year. Amnesty International also urges the government to withdraw all charges under the Internal Security Act for attending illegal meetings and to release the 23 military personnel imprisoned since 1986 after courts martial which did not conform to internationally accepted standards for fair trial.

Amnesty International urges the Lesotho Government to establish an independent commission of inquiry to investigate and report publicly upon allegations of torture and unlawful killings by the Royal Lesotho Mounted Police and other security agencies, including the cases mentioned in this report. Officials found to be responsible for such abuses should be brought to justice. Victims of torture and the relatives of victims of unlawful killings should receive payments of compensation without prejudice to any other criminal or civil proceedings. The government should issue clear public instructions prohibiting torture and incorporate international standards and practices for the prevention of torture into the training of all law enforcement and custodial officials.

Amnesty International urges the Lesotho Government to abolish the death penalty in the new constitution - a step which has recently been taken in other southern African countries such as Namibia and Mozambique when they have adopted new constitutions. If the government feels unable to take that step, Amnesty International urges it to commute the sentences of all those currently under sentence of death and to amend the constitution so that the death penalty is no longer mandatory for any offence.