

VANUATU

NO SAFE PLACE FOR PRISONERS

Introduction

Appalling conditions in Vanuatu's prison system were revealed during investigations by Amnesty International into allegations that dozens of prisoners were ill-treated during mass arrests of suspected rioters under a state of emergency in January 1998. Public concern about the conditions in which some 200 of those arrested were held has highlighted long-standing deficiencies, including prison buildings made unsafe by earthquakes and water seepage, insufficient food for prisoners and a lack of safe accommodation for female prisoners. In August 1998, a female prisoner was held for a month in a prison evacuated by all male prisoners because the building was considered "too dangerous".

Since 23 September 1998, some 20 officers of the Vanuatu police and military forces have been facing criminal charges of "intentional assault". These charges are a result of police internal investigations, initiated after a hospital doctor alerted the Police Commissioner that a prisoner was in danger of dying from injuries consistent with his being severely kicked and beaten during interrogation by military officers.

The Republic of Vanuatu

(formerly the New Hebrides) covers some 80 Pacific islands between Fiji, New Caledonia and the Solomon Islands. Governed until 1980 as a British-French condominium, Vanuatu is an independent member of the Commonwealth, with a mostly Melanesian population estimated at about 177,000. In recent years, Vanuatu has suffered severe tropical cyclone damage. In 1998 the United Nations classified it as one of the "least developed countries".

An Amnesty International delegate visited Vanuatu's capital, Port Vila, two weeks after the state of emergency ended in February 1998. The delegate met with prisoners and former prisoners, senior police and prison officers, as well as with individuals and representatives of non-government organizations. The delegate also inspected most of Port Vila's prison and police cells.

This report documents evidence and testimonies of human rights violations, including cruel, inhuman and degrading prison conditions, recorded during and after Amnesty International's visit. In publishing details of the alleged abuses of prisoners, Amnesty International seeks to draw attention to the welcome fact that the Vanuatu authorities have swiftly taken steps to bring to justice police and military officers suspected of abusing their extended powers under the country's first state of emergency. This report concludes by offering a set of recommendations to the Government of Vanuatu and to the country's main development partner countries. Amnesty International believes that, if implemented, these recommendations would contribute to a more effective protection of basic human rights in Vanuatu.

I Events surrounding the mass arrests

In early January 1998, protests in the streets of Port Vila against alleged official corruption led to widespread rioting, looting and violence. The protests came after years of political instability that were marked by four changes of government in three years and several Ombudsman reports on alleged official corruption. Three days before the riot, on 9 January 1998, the Appeals Court of Vanuatu upheld a decision by President Jean-Marie Leye to dissolve Parliament and call national elections. The President's move followed a motion of no confidence filed in Parliament in November 1997, and a government decision in July 1997 to abolish the office of the Ombudsman and to remove the office holder, Marie Noëlle Ferrieux Patterson.

The Ombudsman's powers included the monitoring of prison conditions and of some fundamental human rights guaranteed by the Constitution. When Parliament repealed the Ombudsman Act in November 1997, after the then government of Prime Minister Serge Vohor found it could not remove the Ombudsman from office, the President initially refused to sign the repeal into law. When a newly elected government pledged on 8 June 1998 to introduce a new Ombudsman Act, the President finally approved the repeal Act. Since then, there has been little progress towards creating new Ombudsman legislation, forcing the Ombudsman to operate under her broadly defined, but legally limited powers set out in the Vanuatu Constitution. The Ombudsman announced in August 1998 that she will not be able to deal with non-urgent complaints lodged after 26 June 1998 until a new Ombudsman Act becomes effective.

Riots in the capital

On the morning of 12 January 1998, some 500 men and women gathered in front of the Vanuatu National Provident Fund's (VNPF) office building in central Port Vila, a town with an estimated population of about 30,000. An Ombudsman's report had implicated senior politicians in alleged misuse of the VNPF which manages the country's retirement funds. The protesters clashed with police when some of them threatened to harm the Fund's staff and started throwing stones at the VNPF building, smashing windows. VNPF staff whose cars were overturned by rioters reportedly fled with the assistance of police officers who shot tear gas at the crowd. Some 20 police officers in riot gear were forced to withdraw after being attacked with stones, sticks and metal rods; their vehicle was turned over by the demonstrators. At least five police officers were injured and treated in hospital; two officers were admitted to hospital for observation, one with a fractured arm, one with a broken leg.

With hundreds of people joining the protesters, the violent scenes soon spread to other offices, business premises and the private homes of people believed to be linked to the VNPF. Many shops were looted, and Radio Australia reported that the disturbances lasted well into the night. Press photographers had their cameras smashed, and one journalist told Amnesty International that he was threatened by protesters not to publish details or photographs that could lead to their identification. According to the police and some local observers, the escalation of the violence appeared to be part of a well-prepared plan. A prominent Vanuatu businessman whose property was severely damaged in the rioting was quoted in media reports as saying the

violence was politically motivated to stop his financial support, during the forthcoming elections, for the National United Party led by the Minister for Justice, Walter Lini. Despite a change of government following the March 1998 elections, the minister retained this portfolio.

When security forces were unable to control the situation, the Police Service in neighbouring Fiji prepared to send 100 officers to Port Vila at the request of the Vanuatu Police Commissioner. The Commissioner later told reporters that police had not been prepared as the violence was unexpected. The situation was complicated by the fact that many officers shared the protesters' concerns over the Ombudsman report which triggered the disturbances. The confusion in Port Vila was aggravated by an effective news blackout. Without reporting the events, Radio Vanuatu closed down, along with the state's television channel, in the afternoon of 12 January 1998. Regular broadcasts did not resume until the following day when the Government made a series of announcements. Many shops and restaurants remained closed and boarded up for up to three days while police set up road blocks to prevent further escalation of the looting and to recover stolen goods.

Human rights restricted under state of emergency

In a nationwide radio address on 13 January 1998, President Leye, at the request of the government, declared a two-week state of emergency with extended powers for the police. This first ever state of emergency in Vanuatu was later extended by another two weeks, to 10 February 1998, for the country's main urban centres, Port Vila, on the island of Efate, and Luganville on Espiritu Santo.¹ The President also announced national elections for 6 March 1998 which led to changes in the government.

The situation in Port Vila was calm on 13 January 1998 after the government had announced it would give in to the protesters' demands. According to the police, the role of the traditional village chiefs was crucial in preventing further rioting. On 14 January 1998, the Attorney-General and the Police Commissioner used state-owned radio and television channels to explain emergency regulations giving additional powers to police and VMF officers and suspending or restricting constitutional human rights provisions. The Police Commissioner - who also commands the VMF - urged people to cooperate with the police and village chiefs, to return stolen goods and to bring any concerns to his attention. While written details on the regulations

¹ Under the provisions on a state of emergency in Vanuatu's Constitution, the Council of Ministers may make regulations for dealing with a public emergency, for example to restore public order (Section 69). Such regulations must be "*reasonably necessary in the circumstances of the emergency*" (Section 71.2). With few exceptions, regulations may override fundamental human rights protected by the Constitution. Regulations cannot, however, violated the rights to life and to "*freedom from inhuman treatment*", and citizens detained under emergency regulations must not be held in detention without trial for more than one month (Section 71.1).

were not available, the Police Commissioner told Amnesty International that the main focus of regulations was to restrict the right to freedom of assembly and association, protected in Section 5.1(h) of the Constitution. For example, while public meetings were not generally prohibited, more than three people were not allowed to gather without explicit permission from the Police Commissioner.

Two days later, on 16 January 1998, the Minister of Justice announced a “clean-up” on national radio against people whom he said had taken the law into their own hands. He was publicly criticised for interfering with judicial processes when he read out a list of the names of people allegedly implicated in the disturbances, including church and opposition leaders. Some local observers considered that the Minister’s comments may have encouraged some police or VMF officers to abuse their extended powers under the state of emergency, and may have constituted a threat to the independence of the judiciary.

The judiciary had previously drawn criticism over cases against politicians implicated in allegations of corruption. During 1997 the executive reportedly tried to pressure members of the judiciary in cases with political implications. Three days after the state of emergency was lifted, the Vanuatu judiciary moved to respond to such criticism, apparently trying to protect itself against political interference. The Vanuatu Supreme Court issued a *“Joint declaration of judges and magistrates of the Republic of Vanuatu on the basic principles on the independence of the judiciary in the Republic of Vanuatu”*. Signed by almost all judges and magistrates and published in all three national languages on 28 February 1998, the declaration affirmed the principles of judicial independence, fair trial, the constitutional guarantees of freedom of speech and freedom from any interference or intimidation in the operation and jurisdiction of the judiciary.

Police launch mass arrest operation to restore law and order

The police announced a major “Operation Restore Public Hope” and drew up a list of some 500 people to be arrested without warrants, or to be taken to police stations and VMF barracks for questioning over charges of looting, unlawful assembly, receiving stolen goods and criminal damage to property. The police and VMF’s Joint Planning and Operations Centre - in charge of the whole operation - instructed senior prison officers to prepare for a large number of extra prisoners over the following two weeks. Prisoners at Port Vila Central Prison were transferred to a smaller facility known as the former British prison to make room for the screening of hundreds of suspects expected to be arrested. Government officials, a radio journalist and a pastor were among 73 men and women reportedly arrested in the first week of the state of emergency. Most of them spent at least some of their time in custody at Port Vila Central Prison. According to the police, about 500 people were apprehended for questioning during the arrest operation which continued over two weeks until the end of January. While exact figures were not recorded, police estimated that several hundred people were held in the overcrowded

Port Vila Central Prison around the weekend of 24-25 January 1998, in most cases for periods of between a few hours and 24 hours. The prison's maximum capacity is 63 prisoners.

Overcrowding was temporarily exacerbated by a large number of people who came forward to turn themselves in at the request of local chiefs and elders. Their names were then checked against the list of 500 suspects. While the majority were soon released, those suspected of more serious offences were taken to police headquarters for questioning and held in custody for up to three days until their cases were heard at one of the magistrates' courts. Most of the arrests occurred over a 24-hour period starting on Sunday, 25 January 1998, shortly before the initial state of emergency expired. Armed police and VMF officers reportedly raided homes and arrested 241 people while other officers set up roadblocks and patrolled the streets, although there were no reports of fresh disturbances. Police estimated that the majority of detainees voluntarily turned themselves in and that most were first-time offenders.

Police investigate alleged ill-treatment

From that day on, a growing number of those arrested started to voice complaints about their treatment by police and VMF officers. In a number of cases there is evidence that officers repeatedly, deliberately and severely kicked and punched prisoners in retaliation for violence against police during the 12 January riot. Some suspects filed complaints making allegations that they were beaten in order to reveal the names of other suspects. According to information received by Amnesty International, senior police and VMF commanders directly involved in the arrest operation failed to ensure that the Police Commissioner was made aware of reported ill-treatment of suspects. Although some senior officers appear to have intervened to stop beatings of prisoners, they did not report this to their superiors. In February 1998, Police Commissioner Peter Bong told Amnesty International that he had not been aware of any complaints or abuses until Wednesday, 28 January 1998. On that day he visited two seriously injured suspects in Port Vila Central Hospital and immediately ordered an internal investigation.

From Wednesday, 15 January 1998, the first suspects arrested under the state of emergency appeared before Port Vila Magistrate's Court. Relatives of some of them reportedly alleged that they had been beaten by police officers after their arrest and complained about the treatment of women in custody. According to local media, Magistrate Jerry Boi voiced concern over the treatment of people taken into custody under the state of emergency. He was quoted as saying that "*the State of Emergency cannot override the fundamental rights of people [such as] the right to life and ill-treatment*". One newspaper later reported it was receiving "*more and more letters from readers and the public complaining about the way that the police treat[ed] them*" in the cells of the police headquarters.

When questioned about the comments by the Magistrate, a police spokesman told Amnesty International that the Police Commissioner received no information from the Magistrate's Court about any allegations of ill-treatment. At this stage, the police did not take

any action to investigate the allegations. According to the Police Commissioner, the comments made by Magistrate Boi referred not to injured defendants appearing in court, but reflected the Commissioner's own instructions to his officers regarding constitutional protection from "inhuman treatment" and the permissible use of "maximum force" during arrest in cases of resistance only. On 3 February 1998, leaders of some political parties in Vanuatu sent a petition to the President complaining "*that the Police is taking advantage of the state of emergency to employ far more force than is necessary, to beat up the people in prison, many of who have already been admitted to hospital.*"

Ombudsman staff denied prison visits

During the height of the arrest operation, between Friday and Wednesday afternoon, 23-28 January 1998, Ombudsman staff were repeatedly denied entry to detention facilities by prison guards. Such prison visits had been routine but were restricted during the state of emergency. The Police Commissioner rejected an urgent formal request for prison visits by the Ombudsman on the grounds that in the current situation such visits were "prejudicial to public order". The Commissioner told Amnesty International that, in his opinion, efforts to maintain order would have been undermined if certain sectors of the community had learned of Ombudsman staff investigating the custody of prisoners who were implicated in riots triggered by an Ombudsman report.

Dozens of prisoners treated for injuries

By Monday, 26 January 1998, two days before the police internal investigation was ordered, several dozen people released from custody had sought medical treatment for injuries allegedly suffered at the hands of police or VMF officers. One man who went to see a private doctor that day was found to have multiple bruises and swelling in his face, right flank, thigh and upper back. According to Port Vila's Central Hospital, at least nine of the hospital's staff members, and "scores" of other people were treated for injuries linked to their arrest. The victims claimed to have been punched, kicked and hit by rifle butts in the face and upper torso. Police internal investigations confirmed allegations that some prisoners taken to the police headquarters for questioning were led one by one into a small room in which officers switched off the light, placed the prisoner inside a circle of officers, and then pushed, beat and kicked him, partly in retaliation for the attacks on police on the day of the riot, and partly in order to extort statements and information.

Most of the injuries treated at the hospital were multiple bruises and abrasions, but there were also fractured bones, such as a broken rib and finger. One man was re-admitted to hospital about a week after his arrest when he complained of spitting blood. An estimated 15 to 20 people were treated for more serious injuries, including two police officers injured during the riot.

Four people were admitted to hospital for periods of up to 17 days, and according to police, two of them were police officers.

The case of Gregory Gideon

Shortly after seven a.m. in the morning of Wednesday, 28 January 1998, 27-year-old Gregory Gideon was found in a semi-conscious state at the main Port Vila Central Hospital gate, apparently left there by VMF or police officers. He had been arrested at work two days earlier and was allegedly kicked and beaten while being held in custody, initially at the VMF barracks. Hospital staff told Amnesty International that Gregory Gideon was developing shock symptoms from “massive” internal bleeding when found. His eyes were swollen and he had minor injuries to his face, nose and left hand. During a life-saving emergency operation to remove his spleen, a doctor requested that the Police Commissioner be immediately informed about the case. The doctor considered Gregory Gideon’s injuries as unusually severe and consistent with his having been repeatedly kicked hard by a person wearing heavy boots. As a result of these injuries, Gregory Gideon now has to take medication for the rest of his life to compensate for the removal of his spleen, and faces an increased risk of death if contracting a malaria infection.

When Amnesty International interviewed him on 26 February 1998 at his home, Gregory Gideon had not yet fully recovered and was expected to attend to the hospital once a month. He stated that after his arrest he was taken into a room at the VMF barracks where three officers punched him on the face and body after placing him into a chair. They also hit him with the butts of their firearms. “Then [one officer] kicked me into my back and I fell down.” While lying on the ground one officer “kicked me into my belly, at least three times”. An officer of senior rank eventually entered the room and stopped the kicking. Gregory Gideon was taken up, tied to a chair and slapped in the face before the senior officer asked him whether he was one of those who had smashed the windows of his vehicle.

Gregory Gideon showing his operation scar. © AI

Gregory Gideon said he was threatened if he did not reveal the names of people present at the 12 January riots. “They said, if you don’t tell us the names of the others, we’ll [hit] you until you are dead”. After revealing one name he was asked to sign a statement and was led outside the building. His request to be taken to the hospital because of the pain in his abdomen was denied by an officer who took him to the shanty town of Black Sands to arrest the young man he had named during the beatings. This man told Amnesty International he was taken into the same interview room, punched into his forehead and kicked into his backside by two officers before questioning.

After their return to the VMF barracks, Gregory Gideon complained about his pain to an officer he knew and who took toilet paper to wipe the blood off his face while he sat on a

bamboo bench to rest. He stated that another officer later approached him, held his left hand on the bamboo and hit it with a rock, saying the hand must be punished because he had used it to throw rocks at police during the riots. Gregory Gideon said that several officers were watching but did not intervene. He was subsequently led to a VMF vehicle and taken to the police headquarters, although he again begged the driver to take him to the hospital. Police officers locked him into one of two heavily overcrowded and dirty holding cells without recording his injuries or alerting a doctor. Several of the prisoners held with him later claimed they were not offered food or water until the evening of the next day. However, Gregory Gideon felt too sick to eat. In desperation, prisoners drank water from the toilet basin in the corridor. They took turns sleeping on the part of the cell floor which was not covered in urine.

In the early morning of Wednesday, 28 January 1998, a prisoner raised the alarm that Gregory Gideon had collapsed. He was carried from the cell and apparently taken by police officers to the hospital where they left him at the front door without alerting medical staff. While police have not charged Gregory Gideon for any offence, they have since offered his family compensation after he lodged a formal complaint with the Ombudsman.

The case of Dick Yaukas

Dick Yaukas, approximately 30 years old, was arrested in the morning of Monday, 26 January 1998, and taken to the Police headquarters where he was hand-cuffed on arrival. He told Amnesty International in February 1998 that he was still near the reception desk and in the presence of a group of police officers, when one officer switched off the lights and another three started punching him into the face. *"I said please stop, please stop! I'm not a stranger, I'm ni-Vanuatu!"* He stated that he fell after being hit in the side and was kicked into his face while lying on the floor. *"They asked me whether I took part in the riots. I admitted that I was [present] at the scene of the riots, but they kicked me again."* He was asked to give the names of anyone he knew had also been present at the riots, and he named a friend who was subsequently arrested. Still lying on the floor he asked what crime he had committed, but an officer pointed the barrel of a gun at him and another said, "Shoot him, shoot him!". He claimed that he was kicked in the face, losing three teeth, and eventually became unconscious.

After being taken to Port Vila Central Prison, Dick Yaukas found talking very difficult and painful because his jaw had been dislocated. *"My face was bleeding and I was spitting blood trying to clear my throat."* His request to be taken to hospital was denied. More than 24 hours later, a relative who is a police officer visited him in prison but was refused permission to take him to hospital. On Wednesday, 28 January 1998, another of Dick Yaukas' relatives arrived with the same police officer. It appears that by this time, police had been alerted by the hospital to Gregory Gideon's case. This time Dick Yaukas's relatives were allowed to take him to Port Vila Central Hospital where he remained for two weeks and three days. His initial medical examination revealed multiple minor injuries, and his jaw was expected to take several

months to heal. When interviewed by an Amnesty International representative on 28 February 1998, Dick Yaukas was wearing a towel wrapped around his head to hold his jaw in place and spoke with difficulty. He used a stick to support himself when walking and had problems hearing properly on one ear. He stated that he still had problems eating anything substantial. By June 1998, he was still receiving out-patient treatment.

Police bring suspected perpetrators to justice

Following media reports on the Police Commissioner's visit to see Dick Yaukas and Gregory Gideon in hospital on 28 January 1998, the Commissioner advised journalists about enquiries from Amnesty International on the internal inquiry into the alleged beatings and his powers to suspend officers from active duty. He assured them he had again instructed senior officers that emergency regulations were no excuse for inhuman treatment.

In a written reply to Amnesty International's questions, he explained that all completed internal investigation files into criminal misconduct of officers would be sent to the Public Prosecutor and to the Police Commissioner or to the Police Service Commission for consideration of disciplinary measures. The Commission is a body appointed by the Prime Minister, under legislation governing the police, to hear disciplinary charges against senior officers from the rank of inspector (Chapter 105, Laws of the Republic of Vanuatu). The Commissioner also advised Amnesty International that the Ombudsman would have the full cooperation of the police to carry out her own investigation. However, at least one officer - accused of having kicked a complainant into the face - later stated that he had been given instructions by his officer in charge, a chief inspector, to decline being interviewed by the Ombudsman or making a written statement. He stated he would only answer questions in court. The Police Commissioner later advised Amnesty International that he decided against his initial intention to suspend officers from active duty partly because, at the time, some 50 officers were already suspended over the reported illegal detention of Vanuatu's President and senior VMF officers in 1996.

When an Amnesty International delegate visited Vanuatu at the end of February 1998, police internal investigators had begun interviewing officers over the alleged ill-treatment of suspects who had filed complaints to the Police Commissioner. The Ombudsman had also started investigating complaints received. As a result of the investigations, the Acting Public Prosecutor decided between July and September 1998 to lay charges of "intentional assault" against some 20 VMF and police officers. Four of them are accused of having assaulted more than one prisoner, while two are officers of a senior rank. On 23 September 1998, their cases were adjourned to 7 December 1998 after all accused officers present in court that day pleaded "not guilty". The adjournment is attributed to a busy schedule for the prosecution and the courts. Some officers charged face penalties of up to 10 years' imprisonment, if convicted in the Supreme Court of causing permanent injuries to Dick Yaukas and Gregory Gideon. Those accused over another 14 complaint cases are facing sentences of up to five years'

imprisonment, if convicted by the Port Vila Magistrate's Court. Any officers found guilty in court also face disciplinary proceedings and can be dismissed from the service if sentenced to imprisonment. However, it is not clear whether senior officers involved in the arrest operation will be held responsible for failing to prevent, stop or report abuses of prisoners when they became aware of it.

II Prison officials concerned about prison conditions

When Amnesty International's delegate visited Port Vila's detention facilities, senior police and prison officers expressed their concern that prison conditions were inhuman. Vanuatu operates three prisons and several police cells, most of which are in Port Vila on the main island of Efate. One prison is located on Vanuatu's largest island, Espiritu Santo. Detention facilities in Port Vila include two short-term holding cells in the ground-floor of the national police headquarters which is expected to move to another building by 1999. These cells are locally known and referred to as "Number 6". Port Vila Central Prison, known as the "former French prison", has two cells for female prisoners and 15 cells for males. Up to August 1998 it was mostly used for prisoners awaiting court proceedings. A second, smaller prison in Port Vila, known as the "former British prison", has six cells and was until recently used mainly for convicted prisoners.

During the past two years, an additional cell for women has been available at the female single police officers' quarters. This cell had been newly established after an Ombudsman investigation found that some female prisoners left prison pregnant because existing facilities did not allow for their proper protection. It is not clear why the single female prisoner held at the Central Prison in August 1998 was not transferred to this additional cell when all male prisoners were evacuated to the former British Prison.

Medical assistance for prisoners seems also inadequate. As the cases of some complainants held during the January 1998 arrest operation indicate, even prisoners with serious external injuries were initially denied medical assistance. This was despite a system under which a nurse is due to visit prisons twice a week while sentenced prisoners are being examined by a medical professional, both after reception at the prison and prior to their release. This practice potentially exposes new prisoners awaiting trial to risks from undetected health problems, particularly during periods of overcrowding or when court proceedings are delayed. Amnesty International is concerned that, in the absence of a prison nurse, the decision whether a prisoner needs medical assistance may be left to prison officers not trained in assessing prisoners' health problems.

Safety concerns prompt transfer of male - but not female - prisoners

In August 1998, safety concerns over earthquake damage and water seepage at Port Vila Central Prison - described below - prompted the effective closure of the male prisoners' block.

All male prisoners were transferred - reportedly at their own request - to the former British prison. Their move aggravated crowded and inadequate conditions at the former British prison which has a capacity of only 36 prisoners. In violation of international human rights standards, this transfer also brings together prisoners awaiting trial with those already sentenced, and there is no room to separate juvenile prisoners from adults. According to prison guards, a female prisoner at Central Prison was not evacuated and remained there until the weekend of 19-20 September 1998 when she was placed into the custody of an immigration officer. Following the transfer of the men, the female prisoner had made a formal complaint expressing concern about her safety. She reportedly feared being left alone in the building after office hours, with only a female prison officer to protect her, while the female prisoners' block is relatively vulnerable to potential intruders. Amnesty International is concerned that this situation effectively constitutes discrimination on the basis of a prisoner's sex because alternative accommodation - however inadequate - was only made available to male prisoners. When the organization raised this concern with the Superintendent of Prisons on 17 September 1998, he advised that it would be against his orders if a woman continued to be held at a prison considered too dangerous for men.

Plans for new prison

During its visit to Vanuatu in February 1998, Amnesty International learned that the government has been pursuing plans since at least April 1997 for a new prison to be built outside Port Vila as soon as financial assistance can be secured for the project. Detailed plans have been prepared, and the Police Commissioner has negotiated with traditional land owners to ensure that a suitable block of land is available.

During a forthcoming visit to Paris and London, expected in October 1998, the Vanuatu Prime Minister is likely to raise the issue with the country's French and British development partners. A senior government official advised Amnesty International that any new prison would take years to be completed, even if sufficient funds can be secured quickly. In the meantime, the government was unable to provide for safe and adequate alternative prison accommodation to ensure that basic international human rights standards are met, in particular that female prisoners are housed safely as well as separate from males, convicted prisoners separate from those awaiting trial, and juveniles separate from adults. Amnesty International is disturbed to learn that without urgent measures by the government, prisoners may suffer dangerous and inhuman conditions for years to come, while police officers - thanks to Australian aid - will soon move into a new national headquarters.

Police holding cells "Number 6"

Many complaints from suspects arrested in January 1998 related to their questioning and detention at the national police headquarters building in central Port Vila. According to police investigations, suspects who were taken there for questioning were registered at the reception

area and then led through two swing doors into a semi-dark corridor in which the first lamp was broken and the second switched off at the time. According to a police internal investigator, this intimidated prisoners and prevented them from identifying the faces of officers leading them into the cell block.

Corridor to "No 6". © AI

From that dark corridor, a locked door leads into a narrow corridor with two small cells known as "Number 6", providing bunk beds for two and four prisoners respectively. The cells were severely overcrowded at the peak of the January arrest operation. According to credible information, at least 13 people occupied the smaller, and 16 the larger cell on the morning of Monday, 26 January 1998. Police were unable to provide more accurate figures, or to confirm claims that even more prisoners were temporarily held there on Sunday, 25 January 1998. A 30-year-old man interviewed by Amnesty International was detained at "Number 6" from that Sunday morning to about noon on Wednesday, 28 January 1998, after giving himself up to police when he learned that his name was on their "black list". His statements confirm other reports of serious overcrowding. He stated that prisoners were routinely stripped to their underwear, and not given any mats to sleep on. Most prisoners tried to sleep by sharing the available beds and floor space, lying on their backs with their feet up on the walls or against the bars.

At the time of Amnesty International's visit a few weeks later, this cell block was filthy, infested by mosquitoes, poorly ventilated and very poorly lit even at daytime. There was a toilet in a corridor corner outside the cells, but no water tap, shower or washing basin. Cells had no lamps, and corridor lamps no light bulbs. Large puddles smelling of urine covered much of the floor area, matching descriptions by former prisoners detained here on 25-26 January 1998. Police advised Amnesty International that these cells are normally used only for short periods of time, mostly for people taken into protective custody on suspicion of alcohol intoxication, and occasionally for criminal suspects awaiting a bail decision by a court. If a court refused an application for release on bail, suspects would be transferred to Central Prison.

Wet floor, "no 6" police cell. © AI

Port Vila Central Prison

Port Vila Central Prison is also known as the "former French prison" because it was built ca 1963 during the joint British-French administration of Vanuatu which ended in 1980. It has room for up to 57 male and six female prisoners. According to prison officers, on Sunday, 25 January 1998, about 200 people were held there for periods up to half a day, while over 100 prisoners were reportedly kept for at least 24 hours. Prison officers could not confirm reports that at least six women were kept over night during the mass arrests, although all cases of prisoners not released after screening should have been documented in prison records.

Cells opening to the men's exercise yard, Port Vila Central Prison, February 1998 © AI

The female prisoner block has only one, poorly ventilated cell with three beds and an air vent blocked to prevent escapes. An additional, small and unfurnished cell is available for the temporary segregation of any woman convicted of having committed an offence within prison. As in most cells at Port Vila Central Prison, part of the floor and sleeping space of both female cells becomes regularly wet during the rain which is seeping through cracks in the ceiling caused by earthquakes and lack of repair. Unlike the male exercise yard, the small female prisoner exercise yard does not permit shelter from the tropical rain storms common during the November to May rain season. In most cells visited by Amnesty International, lights were broken or lacked light bulbs, and electrical wiring, even in the officers' room, was improvised or in a dangerous state of disrepair.

Almost all cells showed cracks in walls or damage to ceilings, water seepage and other signs of structural damage which had been investigated by architects in mid-1997 for a report to the government. Prison officers told Amnesty International that prisoners are often deprived of their sleep during rainfall because they were constantly forced to shift their beds or sleeping mats to escape dripping water. Officers were afraid to use light switches during the rain, as water was running down broken electrical wiring. A recent inspection of the prison on the island of Espiritu Santo - an hour's flight from Port Vila - reportedly found similar poor conditions.

*Rain seepage inside female segregation cell. © AI***The former British Prison***Former British Prison, Port Vila. © AI*

The former British Prison in Port Vila, also built during the 1960s, has been used mainly for sentenced male prisoners until August 1998. At the time of writing this report, almost all of Vanuatu's male prisoners outside the island of Espiritu Santo were accommodated in its six cells, located around a small yard providing little shade from the sun. While building damage appears to be not as extensive as in Central Prison, there are considerable deficiencies and the cells are generally in a poor state of repair. Shortly before Amnesty International's visit, rain had leaked through the ceiling on prisoners' beds and floor mats, and the last earthquake in 1997 left long cracks in several cell walls. Paint and plaster had fallen off most ceilings. There were cockroaches in the cells and no lights in the shower and toilet block. A small prison garden lacked adequate room to plant the vegetables and bananas with which prisoners tried to complement their meagre food rations. The extensive drought during 1997 which affected many countries in the South Pacific had virtually destroyed the vegetable plants. Daily prison routine

depended on the weather due to the lack of day time facilities during wet weather. The prison yard provided hardly any shelter from the tropical sun or from rain storms.

Ceiling damage, former British Prison. © AI

Government aware of “dangerous” prison conditions

While efforts are made by officers in charge of prisons to address poor conditions within tight resources, for example by flexible unlock periods for low security prisoners, they have been unable to make more than cosmetic repairs to building damage. Amnesty International is seriously concerned that such prison conditions amount to inhuman and degrading treatment which also carry dangers of physical harm to prisoners and officers alike. The organization is further concerned that a substantial proportion of the people taken into custody during the January arrest operation were held for up to three days under these conditions, with Ombudsman investigators and some relatives denied access to prisoners. In Amnesty International’s opinion, detention in such conditions would also have aggravated the pain and suffering of those who had previously been ill-treated.

Amnesty International believes that the effective closure of the former French prison only for male prisoners because of safety concerns is an unacceptable discrimination against female prisoners and places them into a potentially dangerous and vulnerable situation. This apparent lack of equality before the law for women - guaranteed under Vanuatu’s Constitution - is particularly disturbing since Vanuatu has ratified the United Nations Convention on the Elimination of all Forms of Discrimination Against Women.

Amnesty International’s concerns are heightened by the fact that the Vanuatu Government has long been well aware of the situation. The organization learned that as early as 1987, a detailed study into prison conditions was conducted by police and prison officials and submitted to the authorities urging that a new prison should be built as a matter of priority. Ten years later, another study was conducted. Subsequently, in a Strategic Review Report submitted in March 1997 and subtitled “The Security of the Nation”, the Minister for Justice stated that Vanuatu’s

“prison system is currently in an extremely poor state. There is considerable overcrowding. The buildings are old and require substantial repair and maintenance work. There is no adequate provision for female prisoners and the only schemes for effective rehabilitation programs have been the individual initiatives of prison superintendents. [...] Prisoners in some gaols grow their own food to supplement an otherwise meagre diet.” (at p. 27)

A government Council of Ministers decision of 8 September 1997 to make plans for a new prison stated that prison buildings “*throughout Vanuatu are deteriorating and dangerous for the Prisoners to be accommodated*”. The decision proposed to identify an alternative site for the use of prisoners and to have tents erected on prison grounds, allowing access to bathrooms and toilets. However, lack of funds and a dependency on foreign aid have been cited as reasons for the government’s inaction to implement these plans. As a result, prison officers are facing the increasingly difficult task of providing the necessities of life to a growing number of untried and convicted prisoners of all age groups sharing overcrowded, unsafe and inhuman accommodation which denies them basic human rights.

III Conclusion

In Amnesty International’s opinion, the mass arrests in January 1998 have revealed both positive and negative aspects of the human rights situation in Vanuatu. While a number of military and police officers apparently misused their extended powers under a state of emergency, they were not immune to the course of justice. The criminal prosecution of some 20 officers for “intentional assault” of suspects sends an important signal to the people of Vanuatu and beyond its borders that inhuman treatment must never be tolerated, that police and military are not above the law, and that national emergencies are no excuse for human rights abuses.

The fact that a hospital doctor’s phone call to the Police Commissioner led to this prosecution confirms Amnesty International’s experience that medical professionals can play an important role in the exposure and prevention of serious human rights violations. In at least two cases - described above - Amnesty International believes that the assault of suspects in custody, if confirmed, would amount to severe cases of cruel and inhuman treatment or punishment - as defined under international human rights standards² - and would therefore entitle the victims to reparations, including compensation.³

² Article 1 of the United Nations Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted by the UN General Assembly on 9 December 1975) speaks of “*any act by which severe pain and suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him [...] information or a confession, [or] punishing him for an act he has committed or is suspected of having committed [...]*.” The Declaration defines “*an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment*” as torture (Article 1, paragraph 2).

³ “*Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.*” Article 8, Universal Declaration of Human Rights, adopted by the UN General Assembly on 10 Dec 1948. “*Where it is proved that an act of torture or other cruel, inhuman or degrading treatment or punishment has*

The episode has also highlighted appalling and dangerous conditions for prisoners which need to be urgently addressed. Amnesty International urges the Vanuatu authorities and its development partners to cooperate towards a satisfactory solution to the problems raised in this report.

IV Amnesty International's recommendations to the Vanuatu Government

In order to help restore full public confidence into the protection of human rights under Vanuatu's Constitution, Amnesty International calls upon the Vanuatu Government to take whatever steps are necessary and appropriate to prevent cruel, inhuman or degrading treatment or punishment of prisoners. To this end, Amnesty International respectfully puts forward the following 20 recommendations.

Prison system

1. The prison budget should be reviewed to ensure adequate funding is available for food, blankets and the cleaning of bathroom facilities, as well as for the maintenance of the building and its lights. Such a review should not be delayed by plans for a new prison.
2. As a matter of urgency, a temporary, alternative detention facility should be adapted or erected to prevent the need for any prisoners, including women and those awaiting court proceedings, to be kept in conditions which the government itself has described as "dangerous" and "extremely poor".
3. No woman should be held in a prison considered too dangerous for men. All decisions affecting a woman in custody should comply with her right to equal status under Vanuatu's Constitution and should consider the vulnerability of her sex.
4. Plans for a new prison, with adequate facilities to separate convicted from untried prisoners, women from men and juveniles from adults, should be pursued with urgency and determination.
5. Until a new prison becomes operational, overcrowding of existing prisons, the mixing of juvenile with adult prisoners, and of convicted with untried prisoners should be minimized, if necessary by a more flexible use of conditional release, curfews and home detention.

been committed by or at the instigation of a public official, the victim shall be afforded redress and compensation in accordance with national law." Article 11, Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the UN General Assembly on 9 December 1975.

6. Legislation and regulations governing prisons, police and VMF operations should be systematically reviewed in order to ensure clear and unambiguous responsibilities and accountability for the humane treatment of all people in custody.

7. Proper records should be kept at all times on all movements of prisoners, stating the day, time, and purpose of reception or transfer of each individual prisoner, as well as recording the names of the officers involved in his or her transport, reception and assessment. Such records should include details of any visible injuries or complaints about health problems, and should also be kept for all people detained only for questioning.

8. A system should be put in place to ensure that police, prison and military officers can be held responsible and face penalties if they fail to keep proper records. An appropriate independent authority outside the police service or VMF should have the power to inspect such records at any time and without prior notice.

Prisoner health care

9. The current system of medical examinations of convicted prisoners, on admission and before release, should be extended to include those prisoners awaiting court proceedings. Examinations should be at regular intervals, irrespective of the period of imprisonment.

10. Prisoners should have daily access to a visiting medical professional who should be authorized to recommend a prisoner's transfer to hospital, and, if transfer is denied, to bring such a case to the attention of the Police Commissioner and the nearest hospital.

11. The outcome of all medical assessments should be recorded and kept with a prisoner's confidential medical records. All officers who have prisoners in their custody should be alerted if a prisoner faces serious health risks.

12. Every request by a prisoner for medical assistance should be documented in the occurrence book, together with the decisions and arrangements made in response to such requests, as well as the name and rank of the decision-maker.

Prisoner complaints

13. Procedures explaining complaint procedures for prisoners should be displayed in all three national languages at a prominent place accessible to all people in custody. Every person in custody - including at a police station - should be made aware of the procedures.

14. People lodging formal complaints about prison conditions or alleged police ill-treatment should be given a written receipt giving details of the day, time, place and officer recording the

complaint. Complainants should be given written information on the procedure for handling a complaint, including details on the authorities involved.

15. To ensure that any complaints of ill-treatment or neglect of proper care by VMF, prison or police officers are thoroughly investigated in a fair process, such investigations should be open to supervision by a fully independent body such as the Police Service Commission.

16. Any law enforcement official whose conduct is being investigated for alleged acts of torture or ill-treatment, or for encouraging or tolerating such acts, should be promptly subjected to criminal or disciplinary proceedings. Such an officer should not be involved in arrest, interrogation or prison duties during investigations into the officer's conduct.

17. VMF and police officers should be held accountable for any failure to prevent, or report to the Police Commissioner or Police Service Commission any suspected use of excessive force, or any reasonable suspicion that suspects or convicted prisoners may have been subjected to cruel, inhuman or degrading treatment or punishment.

18. VMF and police officers on arrest or prison duties should be trained in medical first aid. Such training should be repeated at appropriate intervals.

19. The training program of police or VMF officers on arrest or prison duties should ensure they are made aware, in a language they fully understand, of their duties and responsibilities towards persons in their care, as laid out in the United Nations Code of Conduct for Law Enforcement Officials. Officers should be informed of the rights of prisoners and persons under arrest as described in the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. These responsibilities are summarized in material prepared by police members of Amnesty International for a Basic Guide to Law Enforcement (see appendix).

20. The Vanuatu Government should seek assistance from the United Nations High Commissioner for Human Rights with a view towards Vanuatu's accession to the International Covenant on Civil and Political Rights and to the International Covenant on Economic, Social and Cultural Rights.

Amnesty International believes that implementation of these recommendations will go a long way towards improving the standards of care and security of suspects and convicted prisoners in Vanuatu, particularly women. It encourages the Vanuatu authorities to take immediate steps to this end, where necessary seeking assistance from its international development partners.

Appendix:

**10 PRINCIPLES OF LAW ENFORCEMENT
FOR THE POLICE AND ALL OTHER LAW ENFORCEMENT OFFICERS
adapted from material prepared by police members of Amnesty International**

The following principles govern a set of guidelines drawn from United Nations standards on law enforcement, criminal justice and human rights. For further details, or to obtain a copy of the full document (AI Index AFR 32/01/98), contact Amnesty International.

The police and all others performing law enforcement tasks should fully respect these guidelines under all circumstances and ensure that colleagues uphold the standards of their profession. Exceptional circumstances such as state of emergency or any other public emergency do not justify any departure from the guidelines.

1. Protect all persons against criminal acts, and especially against violence or threat. Be especially vigilant with vulnerable groups such as children, women, the elderly, refugees and displaced persons.
2. Treat all victims of crime with compassion and respect. In particular protect their safety and privacy.
3. Do not use force or firearms except when strictly necessary and to the minimum extent required under the circumstances.
4. Do not use force or firearms when dispersing unlawful but non-violent assemblies. When dispersing violent assemblies use minimum force.
5. Lethal force should not be used except when strictly unavoidable in order to protect your life or the lives of others.
6. Arrest no person unless there are legal grounds to arrest that person.
7. Ensure all detainees have access promptly after arrest to their family and legal representative and to any necessary medical assistance.
8. All detainees must be treated humanely. Protect all detainees against ill-treatment.
9. Protect all persons against unlawful, arbitrary or summary execution.
10. Report all breaches of these guidelines to your senior officer and to the office of the public prosecutor. Ensure steps are taken to investigate these breaches.

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