



**The Systematic Torture and
Abuse of Prisoners by the
Government of Tonga
Following Civil Unrest in
November 2006**

**National Centre for
Women and Children**

Kingdom of Tonga

November 2006

THE SYSTEMATIC TORTURE AND ABUSE OF PRISONERS BY THE GOVERNMENT OF TONGA FOLLOWING CIVIL UNREST IN NOVEMBER 2006

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The National Centre for Women and Children is a non-government organisation, funded by NZAID.

Based on the principals of the Universal Declaration of Human Rights, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination Against Women, the Centre aims, inter alia, to:

- Provide a counselling service for the women and children of Tonga who have been the victims of sexual abuse, sexual assault, rape, domestic violence and all other forms of violence;
- To work towards the elimination of family violence in Tonga and to promote safety for women and children regardless of race, age, religion or class;
- To provide community education and awareness concerning all aspects of sexual abuse, sexual assault, rape, domestic violence and all other forms of violence;
- Be a proactive advocate and influential in informing Government law reform in the areas of sexual abuse, sexual assault rape and violence.
- Lobby the Government and all other relevant organizations for changes to existing and proposed policies which adversely affect or discriminate against women and children.

“I want to clarify that Tonga is not under martial law ... Today Tonga’s normal laws apply as they have always done.”

Minister of Justice and Attorney General, Hon ‘Alisi Taumoepeau, 23rd November 2006¹

“One of the prisoners was crying – crying like he was at a *putu* [Tongan funeral]. He was begging too. His handcuffs had been on for three days straight. They [the Police] wouldn’t even take them off when he went to do a shit. The cuffs had worked themselves so tight that they had cut through his skin and you could see his wrist bones exposed.”

Prisoner held at Nuku’alofa Police Station, November 2006²

“I saw bloody people come into the cells everyday. People with smashed faces – it just became normal.”

Prisoner held at Nuku’alofa Police Station, November 2006³

“What ever they say [allegations of military and police beatings] we don’t want to count it, we don’t even want to acknowledge it.”

Major Alda Motua, Tonga Defence Service, 29th November 2006⁴

¹ Minister of Justice and Attorney General, Hon ‘Alisi Taumoepeau, *Government of Tonga Media Release “The Rule of Law in Tonga is Unchanged”* 23 November 2006 [accessed online: www.tonga-now.to 24 November 2006]

² Interview with Prisoner (Name withheld) November 2006

³ Interview with Prisoner (Name withheld) November 2006

⁴ Major Alda Motua “Defence force and police accused of abuse” Interview by Kerri Webb on Radio Australia, 29 November 2006. Accessed online [www.radioaustralia.net.au/pacbeat on 29/11/06]

EXECUTIVE SUMMARY

This report exposes the systematic nature of torture and abuse of prisoners arrested and held in the cells of the Nuku'alofa Police Station by Tonga Defence Service (TDS) personnel and Police Officers from the Tonga Police Force since the Nuku'alofa riots on 16th November 2006.

Treatment amounting to torture under the common law of Tonga and International law has also been reported as occurring in custody.

Official figures regarding the number of prisoners in custody are also questioned by information collected. This is of significant concern given the current practice of prisoners being held incommunicado.

Of greatest concern to the National Centre for Women and Children, however, is that up to 40 children have been estimated to have been held in custody at some stage since the 16th November. One prisoner reported seeing a child of about 13 years of age in custody.

The Government of Tonga must take urgent measures to address the serious human rights issues raised in this report.

I INTRODUCTION

On Thursday 16th November 2006, a peaceful pro-democracy march through central Nuku'alofa, the capital city of the Kingdom of Tonga, turned violent.

Widespread property damage, looting and fires occurred. As at 28th November 2006, seven lives have been lost in these riots.⁵

Initial estimates indicate that 80% of the central business district of Nuku'alofa has been destroyed by fire, with a damage bill of \$100 million.⁶

By 9 p.m. on Thursday 16th November, the Government of Tonga had implemented an unprecedented security operation. The entire capital city was cordoned off as a "Proclaimed Area"⁷ with armed TDS personnel and Police Officers from the Ministry of Police manning check points at every entrance to Nuku'alofa.

On Friday 17th November the *Emergency Powers (Maintenance of Public Order) Regulations 2006* were passed which gave Police and TDS Officers wide ranging powers, including the ability to arrest and detain any person for a period not exceeding 48 hours.

Since Saturday 18th November, almost 150 Australian and New Zealand Police and Military personnel have been deployed to Tonga.

II METHODOLOGY

This report is based on research conducted in Nuku'alofa after the events of November 16th 2006.

Persons who had been arrested by Security Forces after November 16th and released prior to 30th November 2006 were interviewed with the assistance of a Tongan translator where necessary regarding their experiences during arrest and in custody. It was estimated by prisoners that approximately 30 prisoners were released during this period.

Where appropriate, photographs were taken to document claims of physical abuse.

Names of these persons interviewed have been withheld for their privacy and to preclude potential retaliation.

It should be noted that the urgency by which this report has been compiled has not allowed for an exhaustive coverage of persons who have been held in custody at the Nuku'alofa Police Station. This report is an immediate call for this process to begin. The National Centre for Women and Children will seek collaboration with other local NGO's to collect more detailed information regarding the treatment of persons in custody and will publish a detailed follow up report before the end of December 2006.

⁵ Matangi Tonga Online *Police confirm seven dead in Shoreline fire*, 28 November 2006 [accessed online <http://www.matangitonga.to/article/tonganews/crime/bodies281106.shtml> on 29/11/06]

⁶ Government of Tonga, Ministry of Labour Commerce and Industries *Assessment Report of Damages from 16/11(2006)* [accessed online at www.tonga-now.to on 25/11/2006].

⁷ Proclamation pursuant to s 4 *Public Order Preservation Act* [Cap 38] 17th November 2006.

III FINDINGS

A Arrests

Prisoners reported that the vast majority of injuries that occurred to them and that they had observed on other prisoners occurred during arrest and while in transit to the Nuku'alofa Police Station. These injuries included facial cuts, swelling and bruising; ripped ears; broken and missing teeth; split lips and heavily bruised ribs.

“I saw bloody people come into the cells everyday. People with smashed faces – it just became normal.”⁸

Tonga Defence Service personnel were reported as the main perpetrators of violence against prisoners. The predominant weapon of choice was reported as rifle butts.

A prisoner described how he was sitting in the back seat of a taxi at a checkpoint. His friend in the front passenger seat was talking to a soldier. The prisoner said he made some popping noises with his mouth, imitating a gun through his open window. Without warning another soldier drove the butt of his rifle multiple times into the side of the prisoners head.

Another prisoner described how upon his arrest, he was being transported to the Nuku'alofa Police Station in a TDS vehicle. There were soldiers and police sitting on both sides of him. A TDS Officer removed his pistol from his holster and hit the prisoner with the flat side of the pistol twice on his head (Refer to Figure 1). The TDS Officer then loaded and cocked his pistol and pointed it at the prisoner, threatening to kill him and saying he “deserved to die”. Police and TDS Officers in the vehicle then described how easy it would be for them to “get rid of” the prisoner without anyone knowing. The prisoner reported that he was bleeding profusely from the strikes to his head and his face, shirt and shorts were covered in blood. The prisoner was made to hide his head below the window level of the vehicle as it drove through town.

Another prisoner described how he did not remember anything about his arrest but regained consciousness on the floor of the prison cell covered in blood from a cut and swelling to his left temple and tear to his left ear (Refer to figures 2 and 3). Other prisoners interviewed described that this prisoner was placed in their cells with serious swelling and bruising to his head and temple area where they noticed that his skin had been scraped away by what they believed was a rifle butt.

One prisoner who was in custody for over 7 days reported that 3 out of 4 prisoners who came into his cell upon arrest during this period had serious head injuries which he said could only be caused by an implement such as a rifle, “fists can not do damage like that”⁹.

The Emergency Ward of Vaiola Hospital was contacted for statistics regarding consultations or admissions received since 16th November of persons who had complained of physical violence by Security Forces or persons who had been brought to the Ward by Security Forces with injuries. Statistics regarding consultations and admissions are not computerised until the end of each month.

⁸ Interview with Prisoner (Name withheld) November 2006

⁹ Interview with Prisoner (Name withheld) November 2006

Three different Doctors on the Emergency Ward, across various shifts, did describe seeing a two or three people being brought in by Security Forces with facial injuries. One male person was reported as being admitted to hospital by Security Forces with serious facial injuries including a broken nose and broken jaw.



Figure 1: Prisoner who said he had been hit by a TDS Officer twice in the head with the flat side of a pistol while being transported to the Central Nuku'alofa Police Station. (This photograph was taken 1 and a half weeks after the injury was alleged to have occurred)



Figure 2: Prisoner who said that he could only remember waking up on the prison floor, covered in blood. Other prisoners interviewed described that this prisoner came into the cells with excessive swelling to the left side of his head and temple area where they noticed that his skin had been scraped away by what they believed was a rifle butt. (This photograph was taken 1 week after the injury was alleged to have occurred)



Figure 3: Same prisoner in Figure 2 also said that he woke up in the prison with serious ear damage. (This photograph was taken 1 week after the injury was alleged to have occurred)



Figure 4: Two prisoners showing facial injuries claimed to be received from soldiers and police during their arrest and interrogation. Both prisoners were released without charge.
(Photograph Kele'a Newspaper 29/11/2006)



Figure 5: A prisoner showing facial injuries claimed to be received from soldiers and police during his arrest and interrogation. This prisoner was released without charge.
(Photograph Kele'a Newspaper 29/11/2006)

B Arrival at the Nuku'alofa Police Station

Once inside the Nuku'alofa Police Station prisoners reported that they did not have any further contact with TDS personnel.

Some prisoners described how they were subject to verbal abuse from Police Officers while they were waiting to be processed inside the Police Station.

One prisoner described how he was required to sit on the floor behind the front counter of the Police Station. There were about 25 Police Officers and TDS personnel sitting around this area. The prisoner reported constant threats by these Officers on his life and threats regarding physical beatings. "This was the first time in my life that I felt inhuman."¹⁰ This prisoner said that he was bleeding profusely from a cut to his head and a Police Officer asked if he wanted to go to hospital, however, the prisoner thought the Police Officer was asking him if he wanted another beating and he thus declined.

Prisoners were then strip searched. Some male prisoners reported being strip searched in front of female Police Officers who would verbally abuse the prisoner.

Prisoners were then escorted to a cell. One prisoner reported that a plain clothes officer, possibly a Detective, told his escort to make sure he gave him a good beating when he got to his cell. Some prisoners were beaten by Police Officers before being placed in their cells and some were not.

C The Prisoners

Using the descriptions of the prisoners interviewed, the prison population could be classified into five groups:

1. Persons suspected of property destruction and arson

2. Persons suspected of theft and looting

A prisoner observed that those people responsible for looting were generally released within 48 hours.

3. Persons who were involved in the pro-democracy march and who had given speeches at Pangai si'i.

A prisoner who said he had been actively involved in peaceful demonstrations but was not part of the rioting reported that Police Officers had informed him that he was being held "for the benefit of everybody"¹¹. This prisoner was held in custody for 9 days and was released without being charged with any offences associated with the riots. This prisoner reported that those persons involved in the pro-democracy march or who gave speeches at Pangai si'i on the day of the riots were expected to be held until the 20th December 2006.

¹⁰ Interview with Prisoner (Name withheld), November 2006.

¹¹ Interview with Prisoner (Name withheld), November 2006.

4. *Persons who were drunk or had been apprehended for minor drug possession offences.*

A prisoner said that only half of the prisoners in his cell had been arrested for offences relating to the riots on 16th November, the other half were being held for minor drug possession offences or for drunkenness.

A prisoner who said he was arrested for being drunk, and was seriously physically assaulted by TDS personnel upon his arrest, was never interviewed by Police and was released without charge about 36 hours later.

Another prisoner said that two young guys who had been arrested for the possession of 2 joints of marijuana and were severely beaten were held in custody for 9 days before being released on drug possession charges.

5. *Witnesses*

A prisoner reported that a person who had been shopping at Molisi Supermarket with his wife when it was first attacked with rocks by rioters was held in custody for 2 days because Police Officers did not believe that he could not identify any of the rioters who were breaking into the store as he was fleeing with his wife.

D *Prison Conditions*

Prisoners reported over crowded conditions in the cells. This was particularly prevalent on the days immediately following 16th November. Anecdotal information collected by one prisoner indicated that a cell that had a capacity of 16 prisoners was holding a total of 64 prisoners on Friday 17th November.

Prisoners reported most cells only having enough bunk beds for half of the occupants in each cell.

Bunk beds had no mattress, pillow or bedding materials. Prisoners were sleeping on the wooden or wire slats.

Those prisoners without a bed were required to sleep on the floor.

Prisoners could not go to the toilet without a Police Officer (prisoners have to exit their cell to use the separate toilet). Prisoners said that more often than not Police Officers would ignore requests to access the toilet. In despair prisoners would urinate on the floor of their cells. One prisoner reported that someone had thrown faeces on the wall of the hallway beside his cell.

Requests to Police Officers for a mop to clean up this urine were ignored. Prisoners who slept on the floor had to sleep amongst the “puddles of piss”¹².

On Sunday 19th November prisoners reported that one of the two toilets broke. Prisoners estimated that about 140 people then had to use the single functioning toilet.

¹² Interview with Prisoner (Name withheld), November 2006.
National Centre for Women and Children, Tonga

The toilet did not have toilet paper. Prisoners reported that they would save the crust of their daily bread ration to wipe their backsides. Other prisoners ripped sleeves off their shirts or simply used their shirts to wipe their backsides. These soiled items of clothing could not be flushed down the toilet so were simply piled up next to the toilet.

Prisoners said that there was very poor ventilation in the cells and prisoners in the cells closest to the toilet reported that the stench of urine and faeces gave them headaches.

Prisoners said that there were no operating shower facilities. Instead they were required to wash in a bathroom sink without soap. Prisoners' water bottles were also filled from this sink.

One prisoner reported that the first opportunity he had to wash himself was 5 days after his arrest.

Prisoners said that food was scarce. The average daily diet was reported to consist of half a loaf of bread each, a can of tinned fish between the prisoners in the cell and a glass of water.

E Interrogations and Forced Confessions

Interrogations were all held on the third floor of the Nuku'alofa Police Station and were reported to be frequently violent.

None of the prisoners interviewed for this report suffered violence during interrogations, however one prisoner was threatened with physical and sexual violence by a Police Officers holding a large broom stick.

One prisoner estimated that about 40% of the prisoners in his cell had been subjected to some form of physical violence during interrogation. He described that one of the prisoners had had a wooden chair broken over him while being interrogated.

A prisoner interviewed for this report said that he observed another prisoner being forced to make a confession by police who were slapping and punching him about the face and head. The prisoner had provided Police Officers with a list of items he had stolen but according to the prisoner who witnessed these events, the Police Officers were trying to get the prisoner to confess to more items.

One prisoner reported seeing two human teeth on the ground of the court yard. One of the teeth was cracked in half.

Some prisoners reported multiple interrogations during their custody.

Some prisoners were never interrogated or interviewed.

One prisoner reported that his first interrogation did not occur until his fifth day of custody.

F Torture

A prisoner described how a number of persons who were suspected of arson during the riots were handcuffed for extended periods (up to 4 days) while in custody. One prisoner who had been in handcuffs for three days, without them being removed once, was crying uncontrollably as his handcuffs had cut through his skin and were exposing his wrist bones.

It was reported that these prisoners who were in handcuffs (hands were cuffed either in front or behind the prisoner) for extended periods did not even have their handcuffs removed for meals or to allow them to go to the toilet independently. Prisoners described how these men would not be able to wipe their backside after going to the toilet, the Police Officer escorting them would simply pull up their pants for them.

A prisoner interviewed for this report said that he knew of a prisoner who Police had identified as a trouble maker. Apparently this prisoner was handcuffed, blind folded and thrown into the back of a truck and was taken to Nukunuku Police station where he was forced to lie on his stomach on the floor of the Police Station for two days, without food, before being returned to Nuku'alofa Police Station.

G Suicide attempts

Prisoners reported that suicidal thoughts were common, particularly for those prisoners held longer than 3 days.

While none of the prisoners interviewed reported suicide attempts, one prisoner described how a prisoner who had been regularly beaten by Police Officers had attempted to throw himself out of the third story window of the Nuku'alofa Police Station during one of his interrogation sessions. This prisoner, who was apparently hand cuffed at the time, lost his balance while running at the window and slipped back off the window ledge.

H Prison Massacre Narrowly Avoided

Anecdotal information collected by one prisoner suggested that on or around the 17th November a massacre of over 64 prisoners (up to 40% may have been children) was narrowly avoided.

The prisoner described overhearing 2 Police Officers discussing the details of events as follows:

64 prisoners were crammed into prison cell number 7 (which had a maximum capacity of 16 prisoners). The prisoners were enraged by their conditions and with their combined strength managed to physically force the door of their cell open. During this time, Soldiers standing at the front counter were radioing Commanders for advice. The soldiers were advised shoot to kill and moved into position.

The Police Officers were then heard to describe how a Police Commander stepped in between the soldiers and the prisoners and negotiated with both parties to avoid any loss of life.

The Police Officers were also heard to describe how the soldiers were highly agitated and still wanted to shoot the prisoners, even after they had been returned to custody.

I Incommunicado Detention

None of the prisoners interviewed for this report had been offered the opportunity to contact with or access a lawyer or legal practitioner at any stage while in custody.

None of the prisoners interviewed for this report had been offered the opportunity to contact family or relatives while in custody.

While none of the prisoners interviewed for this report specifically asked the Police for access to a lawyer, they reported that they heard many other prisoners requesting Police Officers for permission to contact a lawyer. These requests were ignored.

One prisoner described how upon his release, other prisoners in his cell begged him to get them a lawyer.

A number of families also interviewed as part of this research were unaware that their family member had been held in custody until they had been released several days later.

J Children

No official figures have been received on the number of children¹³ who have been or are currently being held in custody.

No released child prisoners could be located for interview.

Prisoners interviewed observed children being held in custody. Anecdotal information collected by one prisoner suggested that on Friday 17th November almost half of the persons in custody were children (up to 50 children). This included approximately 30 children being held in prison cell number 7 with 30 other adults. This cell has a maximum capacity of 16 prisoners.

A prisoner released during the week ending Friday 1 December estimated that there were at least 15 children currently in custody at the Nuku'alofa Police Station.

Another prisoner estimated that the youngest child he saw in custody was about 13 years of age.

¹³ For the purposes of this report a “child” is considered any person below the age of 18 years. This follows the Convention on the Rights of the Child which defines a child as “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.” Convention on the Rights of the Child, adopted November 20, 1989, 1577 U.N.T.S. 3 (entered into force September 2, 1990), art 1. The Kingdom of Tonga acceded to the convention in December 1995.

Prisoners reported that children suffered the same types of physical abuse at the hands of TDS and Police Officers as adult prisoners.

One prisoner who tried to help mentor some children in his cell through their ordeal said that they were very withdrawn, “most of the boys would sit there and not speak.”¹⁴

K Questionable figures regarding the number of prisoners in detention

Information received from prisoners regarding the total number of persons held in custody varies considerably from official figures issued by the Ministry of Police.

Tuesday November 21st

Commander Sinilau Kolokihakaufisi of the Ministry of Police reports that a total of **26 suspects** are being held in custody at the Nuku’alofa Police Station.¹⁵

Prisoners in custody at the Nuku’alofa Police Station on this day estimated the total number of prisoners being held in custody to be between **120 and 140 prisoners**. Some prisoners reported that on this day there were 16 prisoners being held in just one of the seven cells.

Thursday November 23rd

Commander Sinilau Kolokihakaufisi reports that a total of **42 suspects** are being held in custody at the Nuku’alofa Police Station.¹⁶

Prisoners in custody at the Nuku’alofa Police Station on this day estimated that the total number of prisoners being held in custody had not changed and was still between **120 and 140 prisoners**. Some prisoners reported that on this day there were still 16 prisoners being held in just one of the seven cells.

Monday 27th November

The Ministry of Police reports that it has charged a total of 355 suspects for arson, theft and other crimes.¹⁷

¹⁴ Interview with Prisoner (Name withheld).

¹⁵ Matangi Tonga Online *Tonga police detain 42 suspects 23rd November 2006* [accessed online www.matangitonga.to on 29/11/06].

¹⁶ Ibid

¹⁷ Matangi Tonga Online *355 suspects charged with arson, theft and other crimes 28th November 2006* [accessed online www.matangitonga.to on 29/11/06].

Tuesday November 28th

Commander Sinilau Kolokihakaufisi reports that a total of **100 suspects** are being held in custody at the Nuku'alofa Police Station.¹⁸ None of the released prisoners interviewed for this report were in custody on this day.

Wednesday November 29th

A total of **109 suspects** were reported as being held in custody.¹⁹ None of the released prisoners interviewed for this report were in custody on this day.

L Foreign Police Officers

The majority of prisoners interviewed did not see a Foreign Police Officer in the cells.

One prisoner described how he saw a Tongan Police Commander with a Foreign Police Officer (prisoner was unsure if the Foreign Police Officer was from Australia or New Zealand) walk along the hallway of the cells as far as prison cell number 4. The prisoner described how at this point the Tongan Commander ushered the Foreign Police Officer back to the reception area.

According to prisoners, cells numbered 5 to 7 were in the worst conditions and contained the majority of persons who had been physically assaulted.

Some prisoners reported Foreign Police Officers present during interrogations/interviews. In these circumstances prisoners reported that Tongan Police did not use physical violence or threats.

¹⁸ Matangi Tonga Online *355 suspects charged with arson, theft and other crimes* 28th November 2006 [accessed online www.matangitonga.to on 29/11/06].

¹⁹ Matangi Tonga Online *Tofoa man identified as fire victim* 29th November 2006 [accessed online www.matangitonga.to on 29/11/06].

V RECOMMENDATIONS

1. The Government of Tonga should immediately provide access for an independent body such as the Tonga Red Cross Society, Salvation Army or National Centre for Women and Children to monitor the welfare and conditions of prisoners in custody.
2. The Government of Tonga should immediately furnish this independent body with a complete list of all persons in custody including their full names, sex and age.
3. The Government of Tonga must immediately withdraw all persons under the age of 18 from custody unless it is required as a measure of last resort, for the shortest appropriate period of time and fundamental principles relating to juvenile justice are adhered to (such as the separation of children from adult population).
4. The Government of Tonga should exercise greater control over TDS personnel involved in the apprehension of offenders.
5. The Government of Tonga should ensure proper executive oversight of police operations including the detention of prisoners and the conduct of interrogations.
6. Local NGO's must coordinate to collect and catalogue prisoner accounts of treatment while in custody.
7. That a full Government investigation into allegations of torture, cruel, inhumane and degrading treatment or punishment of prisoners be conducted immediately.