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Gambian Security Forces Must Respect Human Rights in Addressing 'Crime'

Amnesty International is deeply concerned about President Yahya Jammeh's recent instructions to the security forces, including the Inspector General of Police, staff from the Ministry of Defense and other security forces to "shoot first and ask questions later" in an attempt to rid the country of "armed robbers".

Amnesty International is calling on President Jammeh to immediately announce that the use of lethal force is only allowed when strictly unavoidable in order to protect life. The President must ensure that the security forces carry out their duties in compliance with the Gambia's international human rights obligations and international standards on the use of force and firearms.

The organization is concerned that such orders to shoot "armed robbers" is a violation of the Gambia's international human rights obligations. Even if they are accompanied by instructions restricting when police may shoot to kill, it may give the police the message that it is acceptable to use lethal force as a first resort. In any case, the use of firearms should be regarded as potentially lethal in all circumstances, and firing at a suspect, regardless of where an officer aims, can result in death.

Lethal force must only ever be used as a last resort to protect life and only when less extreme measures are inadequate.

On 22 May 2012 at the State House in Banjul, President Jammeh launched what he called "Operation Bulldozer" to rid the country of all criminals, including "drug dealing, pedophiles, homosexuals, murderers, drug traffickers, human traffickers, 419 (internet fraud)...". The Operation will see the creation of permanent task force to begin its mandate on 28 May 2012. According to the Inspector General of Police, the Operation has not yet been implemented.

Amnesty International is warning that President Jammeh's proposed hard-handed crackdown on criminal activity will lead to human rights violations. Amnesty International has documented many incidences of human rights violations within the criminal justice system in the Gambia, including enforced disappearances, extrajudicial executions and unfair trials. In 2011, the organization found that human rights violations were carried out by the National Intelligence Agency (NIA), the police and the army. Detainees were rarely informed of their rights or the reason for their arrest or detention and were often held for more than 72 hours without charge, in violation of the Constitution. Torture continued to be used routinely to extract confessions and as punishment.

The police and other security forces have a duty to protect lives and property and uphold the rule of law. They must do so in a professional and responsible manner that promotes and protects human rights of all individuals, including the rights of criminals and alleged criminals.

Background Information:

Amnesty International is also deeply concerned that the Gambia's Constitution provides much wider grounds for the use of lethal force than is permissible under international law and standards. Article 18 of the Gambian Constitution allows for "reasonably justifiable" use of force in "defence of property," to "effect lawful arrest or prevent the escape of a lawfully detained" person, "riot, insurrection of mutiny" and to prevent "criminal offence(s)." The Constitution is impermissibly broad and has a more lenient standard of necessity than what is required by international standards. The

Constitution also does not include a protection clause specifying that the use of force by security forces must only be used as a last resort in order to protect life, giving the security forces carte blanche to shoot at will. For example, the Constitution does not require the existence of an imminent or grave threat of death or serious injury, giving security forces permission to use force even in a minor offence against property.

The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials make clear that firearms cannot be used unless certain additional requirements are met, including as a preliminary matter that there exists a grave or imminent threat of death or serious injury. While the use of force and firearms may sometimes be permissible when making an arrest or preventing a person from escaping, every effort should be made to exclude the use of firearms. All law enforcement agencies should be guided at all times by the principles of necessity and proportionality when using force.

Any use of force or firearms resulting in death or injury should be investigated to ensure that the use of force was not arbitrary or abusive. The investigations must include commanding officers and officials with chain-of-command responsibility. Those suspected to be involved should be suspended from duty pending the investigation.

The Gambia is a state party to the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights, guaranteeing the right to life; freedom from torture or cruel, inhuman and degrading treatment; freedom from arbitrary arrest and detention; and the right to a fair trial, including presumption of innocence, access to lawyers and interpreters, freedom from undue delays and exclusion of any evidence obtained as a result of torture.