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GAMBIA: THURSDAY'S REFERENDUM -- REVISED DRAFT CONSTITUTION RETAINS THREATS TO HUMAN RIGHTS

The Gambia's new constitution threatens respect for human rights. Despite public comments on the earlier draft, the revised text, which goes to a referendum tomorrow, has retained alarming threats, Amnesty International said in a report issued today.

"It is essential that no government has the power to violate fundamental human rights such as the right to life and freedom from torture," the organization said.

The revised draft constitution -- issued just less than a week before the referendum on 8 August -- has the following impact on human rights:

- it grants total impunity from prosecution for the Armed Forces Provisional Ruling Council (AFPRC), its ministers and all appointees, even if the alleged acts have been unlawful - this denies victims of human rights violations their right to judicial remedy and creates a climate where such violations are tolerated;
- it permits fundamental human rights to be removed in a "state of public emergency", such as the right to form political parties and freedom from arbitrary arrest, and offers no limits to define such an "emergency";
- it retains the death penalty reintroduced by the AFPRC in 1995.

"As the criteria for determining a state of public emergency are not specified, it leaves fundamental human rights of Gambians potentially as vulnerable to the discretion of future governments as they have been under the AFPRC," Amnesty International said.

If the rule of law is to be fully reinstated in the Gambia, it is important that those in authority show a willingness to correct past excesses and a determination to ensure improved human rights safeguards in the future, both in law and in practice. The Gambia has to ensure that it respects all its international treaty obligations, particularly under the International Covenant on Civil and Political Rights and the African Charter on human and people's rights. Both these treaties require the Gambia to take measures to uphold the rights enshrined in them.

The previous constitution (1970) was almost entirely suspended in July 1994, one week after lieutenant (now Captain) Yahya Jammeh seized power on behalf of the AFPRC. A succession of decrees have outlawed political activity of any kind, removed the right to a fair trial and led to indefinite detention which the courts are powerless to challenge. In January 1996, a court ordered the release on bail of 25 suspected supporters of the former ruling party who had been held since October 1995. They were re-arrested later the same day when the AFPRC issued a decree with retroactive force.

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