



**The global movement
for tribal peoples' rights**

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**We help tribal peoples
defend their lives, protect
their lands and determine
their own futures**

Ms Agnes Callamard
Special Rapporteur on extrajudicial,
summary or arbitrary executions,
Office of the United Nations High Commissioner
for Human Rights (OHCHR)
Palais des Nations
CH-1211 Geneva 10,
Switzerland

March 29, 2017

Dear Ms Callamard,

Re: Extrajudicial Killings and the Illegal Wildlife Trade

Survival International is extremely concerned about the shoot on sight policy which a growing number of countries now pursue in their “war” against the illegal wildlife trade (“IWT”). This directly affects tribal people who live in or adjacent to the “protected areas” in which this war is waged, particularly when park guards so often fail to distinguish subsistence hunters from commercial poachers.

The principles set out in your recent report on extra judicial executions in “law enforcement contexts” are directly relevant to the activities of anti-poaching squads, but have not attracted the attention they deserve. As a result, although there has been much debate about the practical effect and morality of shoot on sight, there has been almost none about its compatibility with either international human rights law or the right to life guaranteed by most constitutions.

The purpose of this letter is to ask you to expressly confirm that the principles enunciated in your report fully apply to the “war” against the IWT, and that in no circumstances is it legally permissible to kill or attempt to kill someone merely because he is suspected of having poached a wild animal. It should make no difference for these purposes that the animal may belong to an endangered species.

A statement from your office might well save lives, because the wildlife departments which apply shoot on sight, frequently depend on international conservation NGOs for financial and other assistance. Although all the largest organisations are publicly committed to respect the rights of

local communities, they have maintained a discreet silence on shoot on sight.¹ They would find it difficult to hold to this position if a UN Special Rapporteur unequivocally declared that the policy is in direct contravention of fundamental human rights. They would come under considerable pressure - from their own members and others, including Survival - to withdraw their support from governments which refused to revise their shoot on sight policy.

Shoot on sight in various forms now appears to be practised in Kenya, Tanzania, Botswana, Swaziland and a host of other countries. We say “appears” because usually the policy is not defined by any law, or even written down. As a consequence nobody knows when wildlife officers are permitted to use lethal force against them, and it is impossible for dependents to hold to account officers whom they believe to have killed without good reason. Many countries have gone further, and granted wildlife officers immunity from prosecution.

In India, for example, the Assam Government issued a decree in July 2010 to the effect that no criminal or other proceedings can be brought against a “forest officer” who kills anyone with a firearm, unless a Magistrate finds that his use of the firearm was “unwarranted” and the Government agrees. If the Government does not agree it does not have to give any reasons, and its decision cannot be challenged by the victim’s family, or anyone else.

Forest officers can kill with impunity, and often do. In the last twenty years guards at the Kaziranga National Park, for example, have shot dead 106 suspected “poachers”. In 2014 the Park Director reported to the Guwahati High Court that in the first five months of that year his staff had killed nine “poachers”, and at least five others had received “fatal bullet injuries and might have died elsewhere,” which he described as, “not enough”. They killed another 23 “poachers” in 2015. The Director noted in the same report that no guard had been killed since 1985, and that the only previous fatality had been in 1968.

Over the whole of this period not a single guard has been prosecuted. Guards are even reported to receive a cash bonus whenever they kill or wound a suspected poacher. It apparently does not matter that some of those they have killed were almost certainly innocent tribal people who lived near the park. One tribal man with severe learning difficulties was killed after going in after stray cattle and others have reportedly been found dead after last being seen with forest guards.

It is difficult to see how this record can be reconciled with Article 21 of the Indian Constitution, which stipulates that, “no person shall be deprived of his life or personal liberty except according to procedure established by law.” We have asked the Assam Human Rights Commission to investigate the matter but it has declined to do so, ostensibly on the basis that the Commission is not permitted to enquire into matters of “government policy”.

As we have said, there is a continuing debate about whether shoot on sight actually works. Many argue that on the contrary it merely paves the way for further violence, and that it stokes the resentment of tribal communities whose co-operation is essential if the poachers are to be defeated.

¹ See e.g. the Conservation Initiative on Human Rights adopted in 2009 by WWF, Conservation International, the Wildlife Conservation Society and several others. These organisations have undertaken among other things “not to contribute to the infringement of internationally proclaimed human rights.” It is strongly arguable that they violate this undertaking if they fund wildlife law enforcement programmes without first making sure that they sanction the use of lethal force only in defence of human life.

We do not ask you to take sides in this debate, but do respectfully ask you to confirm that irrespective of its practical effectiveness shoot on sight clearly violates the fundamental rights enshrined in the Civil and Political Rights Covenant and other international conventions.

We also hope you will invite the Government of India to comment on the use of shoot on sight by Assam, in the light of our brief reference to the situation at Kaziranga.

We have collated a good deal of other material on shoot on sight which we will be happy to forward to you if you would like to see it, but hope that we have provided sufficient information to enable you to form at least a preliminary view on this important subject.

Yours sincerely,

A handwritten signature in black ink that reads "Stephen Corry". The signature is written in a cursive, flowing style.

Stephen Corry
Director