

**IN THE COMMUNITY COURT OF JUSTICE OF THE ECONOMIC
COMMUNITY OF WEST AFRICAN STATES (ECOWAS)
ABUJA, NIGERIA**

SUIT NO:

BETWEEN

- | | | | |
|--|---|---|--------------------|
| 1. THE FEDERATION OF AFRICAN JOURNALISTS
2. FATOU CAMARA
3. FATAOU JAW MANNEH
4. ALHAGIE JOBE
5. LAMIN FATTY | } | - | APPLICANTS |
| | | | PROPOSED APPLICANT |

AND

THE REPUBLIC OF THE GAMBIA - RESPONDENT

AND

IN THE HUMBLE APPLICATION OF THE REDRESS TRUST - AMICUS CURIAE

MOTION ON NOTICE

**BROUGHT PURSUANT TO THE INHERENT JURISDICTION OF THIS
HONOURABLE COURT**

TAKE NOTICE, that this Honourable Court will be moved on the ... day of March 2016 at the hour of in the... or so soon thereafter when counsel to the Amicus Curiae may be heard praying this Honourable Court for the following:

1. AN ORDER of this Honourable Court granting leave to the Amicus Curiae to intervene in the above matter in relation to the proposed areas of intervention, and to submit helpful and useful findings that would aid this Honourable Court in the just and equitable determination of this matter; and
2. ANY SUCH ORDER OR FURTHER ORDERS as this Honourable Court may deem fit and proper to make under the circumstances.

GROUND UPON WHICH THE APPLICATION IS BROUGHT

3. The Amicus Curiae, The Redress Trust (REDRESS) is an international human organisation, based in London, United Kingdom. Registered as a charitable organisation under United Kingdom law, it has a mandate to assist torture survivors to prevent their further torture and to seek justice and other forms of reparation. Founded in 1992, it has accumulated extensive expertise on the rights of victims of torture to gain both access to the courts and redress for their suffering and has advocated on behalf of victims from all regions of the world. REDRESS regularly takes up cases on behalf of torture survivors at the national, regional and international level and provides assistance to representatives of torture survivors.
4. The Amicus Curiae enjoys consultative status with ECOSOC and has extensive experience in interventions before national, regional and international courts and tribunals, including the United Nations' Committee against Torture and Human Rights Committee, the African Commission on Human and Peoples' Rights, the European Court of Human Rights, the Inter-American Commission and Court of Human Rights, the International Criminal Court, the Special Court for Sierra Leone and the Extraordinary Chambers in the Courts of Cambodia. REDRESS is furthermore currently assisting the Committee for the Prevention of Torture in Africa of the African Commission on Human and Peoples' Rights in developing a General Comment on the Right to Redress for Victims of Torture and Ill-treatment under Article 5 of the African Charter on Human and Peoples' Rights.
5. It is argued in the above matter that the fundamental human rights of the Second, Third, Fourth and proposed Fifth Applicants, who are journalists and citizens of The Gambia currently living in exile, and the human rights of journalists currently residing in The Gambia who are represented by the First Applicant, are being violated by certain criminal laws in existence and enforced in The Gambia. The relevant provisions of the criminal law of The Gambia violating the human rights of these journalists are sections 51, 52, 52A, 59, 178, 179, 180, 181, 181A of the Criminal Code of The Gambia and section 173A of the Information and Communication Act 2009 (the "Relevant Law").
6. The Second, Third, Fourth and proposed Fifth Applicants have submitted that their human rights have been violated by specific instances of enforcement of the Relevant Law. These instances of enforcement have taken the form of arrests, detentions, false accusations, physical assaults, torture and threats and have additionally resulted in the forced exile of the Second, Third, Fourth and proposed Fifth Applicants allegedly leading to further health complications, including upset brought about by painful separation from family and loved ones, as well as emotional and physical distress. The First Applicant further documents other instances where the Relevant Law has been applied in response to journalistic activity, as well as instances of targeting and persecution of journalists in The Gambia.

Amicus Curiae's interest in the matter & significance of the issues raised by the case

7. A critical aspect of REDRESS' litigation work involves the selective filing of third party interventions before national, regional and international courts and tribunals on points of law of key importance to human rights protection, and on which REDRESS' knowledge of comparative practice might assist this Honourable Court. Ensuring legal protection and seeking reparation for victims of torture is a key component of REDRESS' work.
8. This matter raises critical questions as to the nature and extent of States' positive obligations under international law, including Article 5 of the African Charter on Human and Peoples' Rights, to prevent and prohibit torture generally and in particular in the context of journalists exercising their right to freedom of expression and the right to information. The case highlights the particular vulnerability of journalists and the obstacles they encounter when seeking to exercise their rights. It furthermore provides a significant opportunity for this Court to consider the obligation under Article 5 of the African Charter on Human and Peoples' to provide redress to victims of torture.
9. The proposed intervention of the Amicus Curiae would address the positive obligations of States to effectively protect journalists from torture and to provide adequate redress when they are tortured. The intervention would draw upon a substantial body of comparative regional and international law and jurisprudence that might be valuable to this Honourable Court in its adjudication of this matter. We note that other international bodies, notably the United Nations' treaty mechanisms and regional human rights mechanisms, including in particular the African Commission on Human and Peoples' Rights, have elaborated a significant body of standards to which, we respectfully submit, this Honourable Court should have regard in its deliberations.
10. The Proposed Intervention of the Amicus Curiae would not address the particular facts or merits as alleged by any party to the case. The added value to the Court of the Proposed Intervention would be the considered comparative analysis of the absolute prohibition of torture and related ill-treatment and how it applies to the issues arising from this case.

Proposed issues to be addressed

11. The proposed intervention will address:
 - i. The impact of attacks, including torture, on journalism.
 - ii. The nature and scope of States' positive obligations to prevent and prohibit torture in light of regional and international standards and the necessary approach, that a State must take in order to provide effective protection to journalists.
 - iii. The right to holistic redress for tortured journalists in forced exile, including the right to a remedy and reparation under international law.

12. The leave of this Honourable Court is required before the Amicus Curiae can file their intervention. The Amicus Curiae respectfully requests that leave to intervene be granted. We believe that an intervention on these issues may aid this Court in discharging its function.

Dated thisday of2016

Counsel for Amicus Curiae

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FOR SERVICE ON:
THE REPUBLIC OF GAMBIA