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EXPERT WITNESS STATEMENT OF FATOU JAGNE SENGHORE

Regional Director West-Africa of ARTICLE 19

1. My name is Fatou Jagne Senghore. I am a human rights and freedom of expression advocate. From 2002 to 2005, I led ARTICLE 19 work with the African Commission on Human and Peoples' Rights for the adoption of the Declaration on Freedom of Expression in Africa and the mechanism of the Special Rapporteur on Freedom of Expression in Africa between 2002 to 2004. In 2010, I established the regional office of West Africa for ARTICLE 19 in Senegal.

2. ARTICLE 19 is a human rights organisation specialised in freedom of expression. The organisation has been active in Africa for the past three decades. When we established the office in West Africa, we decided that it would be key to focus on the protection of journalists among others. The protection of journalists was very important in relation to the Gambia, where many human rights violations were committed by the government at the time of the repressive regime of President Yahya Jammeh. However, not many actors were working in the Gambia because it is such a small country and also, the climate of fear was reigning. We have also done work on the protection of journalists in Mali after the first coup d'état in 2012, and in Burkina Faso during the transition after the collapse of the Compaoré regime. There were many challenges in Burkina Faso, especially after the brief military took over during the transition. There was significant aggression against journalists.

4. We conduct a lot of safety training for journalists, set up safety protocols, standard routines and support the journalists with knowledge on what to do in case they are subjected to violence and ensure legal advice is available to them. We have seen that this has helped quite a lot in the years after 2010. Many journalists who are threatened or asked to report to the police now contact their lawyers. Before, journalists would have been intimidated to report without leaving a trace. We thought it was important to create these routines that make calling a lawyer the first move of action in cases of threats or duress. This ensures that we are able to trace them. An important aspect of this work has also been training lawyers who can advise and assist journalists when they face difficulties, arrest or legal proceedings. This work has really progressed over the years.

In addition to supporting journalists with legal advice and training, we help journalists facing serious threats to reach safe havens when the situation requires.

Development of press freedom in West-Africa

5. In the 1990s, when most of the military regimes in the region ended, the political space in these countries opened up and there was a lot of progress in media freedom. Yet some countries, for example the Gambia, did not go through these changes in the 1990s due to the military takeover of 1994 which negated human rights and media freedom until its fall in 2016. Prior to setting up the West Africa office, ARTICLE 19 supported the Gambia Press Union in their opposition to the Bill that was meant to establish the National Media Commission. This Commission was not independent, lacked representation, and imposed mandatory licensing conditions on individual journalists. Although the government gave in to the international pressure and withdrew the Bill, the situation led to one of the emblematic cases of murders of journalists in West Africa: the killing of Deyda Hydara in 2004. He was one of the key journalists advocating for the withdrawal of the Bill.

6. Over the years, many journalists left the Gambia because of the repression and the unfavorable environment for free freedom. Safety is not only the absence of direct menace, it is also an impression and the environment matters a lot. You can be safe but if you do not feel safe, if you are under pressure, the impression of lack of safety affects your work. By the time the regime fell, we knew about around 100 journalists who left due to persecution, fear for their lives and also due to family pressure.

7. In the case of the Gambia, many people were afraid to speak to regional institutions like the Human Rights Commission. We therefore took it on ourselves to place the Gambia on the Commission's agenda. Initially, the Commission took quite a lot of time to react to the situation in the Gambia. In the last years, and especially in 2016 when the intimidation was widespread, the Commission took a lot of steps to echo our criticism. We think that all of this work, and the voices of journalists especially those who left but could not be silenced, has contributed immensely to the voting out of dictator Yahya Jammeh. After he left the country, many journalists returned to the Gambia.

8. When conditions for press freedom improve, it can still be a long and difficult process to obtain justice for past crimes against journalists. There have been emblematic cases of impunity for murders of journalists in West Africa. In Burkina Faso, the case of the murder of journalist Norbert Zongo has been dragging on and there is still no closure. The case shows that authorities are reluctant to pursue such cases and to prosecute the perpetrators. Yet, people want to know the truth, and families cannot move on unless they know who ordered the murder. People want to see justice but this has been difficult during reconciliation processes, like in the Gambia. We are afraid that in most of the cases, the government will prioritize reconciliation before justice. For example, the people who have confessed to murdering Deyda Hydara during the sessions of the Gambian Truth and Reconciliation Commission have been released.

9. The need for a strong legal framework for press freedom is also clear in the countries where press freedom was quite strong after the 1990s. Even the countries that experienced the opening up of the political and civic space after the 1990s, like Ghana, are now seeing a lot of restrictions, the shrinking of civic space and the rise of authoritarian regimes in the recent years. There are a few countries that are stable on press freedom, but the tendency is very negative. Ghana used to be one of the countries that was doing reasonably well and that enjoyed some press freedom. They have a media commission that is quite independent, and their judiciary is relatively independent. However, there are now some cases that have been unresolved, including the murder of investigative journalist Ahmed Hussein-Suale. No one has been held accountable. There have also been violent attacks against media workers by people close to the authorities. I think this has brought to light some of the vulnerabilities and the fragility of what has been achieved.

10. One of the most important things for the protection of journalists is therefore focusing on the legal framework in different countries. The law is often used to legitimise attacks against journalists. Psychological and physical violence is justified by using laws that are overly broad and not in accordance with international or regional standards. I believe that unless we focus on law reform, these attacks will continue to happen.

I confirm that the facts stated in this witness statement are true.

Date and Place: 31 October, Dakar

Name witness and signature: **Fatou Jagne Senghore**

ANNEXES:

Annex 1: Article, 'Ghana: Attacks on the Rise with impunity', ARTICLE 19 (August 2020), <https://www.article19.org/resources/ghana-attacks-on-journalists/>

Annex 2: Report, 'The Gambia: Analysis of Selected Laws on Media - Overview', ARTICLE 19 (2012), <https://www.refworld.org/docid/4fa77732.html>

Annex 3: Article, 'Burkina Faso: Une transition sapée, une semaine d'attaques contre les médias et les manifestants', ARTICLE 19 (September 2015), <https://www.article19.org/fr/resources/burkina-faso-a-week-of-attacks-for-media-and-demonstrators/>

Annex 4: Written comments submitted by ARTICLE 19 in the proceedings of Gambia Press Union and others v. National Media Commission and others in the Supreme Court of the Gambia (civil suit no. 5/2005), <https://www.article19.org/data/files/pdfs/cases/gambia-comments-on-media-commission-act.pdf>

Annex 5: Article, 'Mali: Bloody repression of protesters and attacks against the media', ARTICLE 19 (July 2020), <https://www.article19.org/resources/mali-bloody-repression-of-protesters-and-attacks-against-the-media/>

The People's Tribunal
on the Murder of Journalists.

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