

ANGOLA

“THEY WANT TO KEEP US VULNERABLE” HUMAN RIGHTS DEFENDERS UNDER PRESSURE

Fact-Finding Mission Report



March 2015

Cover photo: A group of young Angolans demonstrate at the place of Independence in the centre of Luanda on May 27, 2013 to protest against the enforced disappearance of two of their colleagues in 2012. The demonstration was violently dispersed by the police.

Photograph by Estelle Maussion / AFP PHOTO

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MAP OF ANGOLA



Map No. 3727 Rev. 4 UNITED NATIONS
August 2008

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LIST OF ACRONYMS

AG	Attorney General
AJPD	<i>Associação Justiça Paz e Democracia</i> - Association Justice Peace and Democracy
ACHPR	African Commission on Human and Peoples' Rights
AU	African Union
CASA-CE	<i>Convergência Ampla de Salvação de Angola - Coligação Eleitoral</i> - Wide Convergence for the Salvation of Angola - Electoral Coalition
CCPR	United Nations Human Rights Committee
CEDAW	UN Committee on the Elimination on all Forms of Discrimination Against Women
CESCR	UN Committee on Economic, Social and Cultural Rights
CPLP	<i>Comunidade dos Países de Língua Portuguesa</i> - Community of Portuguese Speaking Countries
DNIAP	<i>Direcção Nacional de Investigação e Acção Penal de Angola</i> - National Directorate of Investigation and Penal Action
DNIC	<i>Direcção Nacional de Investigação Criminal</i> - National Directorate of Criminal Investigation
EU	European Union
FAA	<i>Forças Armadas Angolanas</i> - Angolan Armed Forces
FNLA	<i>Frente Nacional de Libertação de Angola</i> - National Front for the Liberation of Angola
FIDH	International Federation for Human Rights
FLEC	<i>Frente para a Libertação do Enclave de Cabinda</i> - Liberation Front for the Independence of the Enclave of Cabinda
GDP	Gross Domestic Product
ICCPR	International Covenant on Civil and Political Rights
MPLA	<i>Movimento Popular de Libertação de Angola</i> - Popular Liberation Movement of Angola
OHCHR	Office of the High Commissioner for Human Rights
OMCT	World Organisation Against Torture
NGO	Non Governmental Organisation
SADC	Southern African Development Community
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNHRC	United Nations Human Rights Council
UNITA	<i>União Nacional para a Independência Total de Angola</i> - National Union for the Total Independence of Angola
UTCAH	<i>Unidade Técnica de Coordenação da Assistência Humanitária</i> - Technical Unit for the Coordination of Humanitarian Aid
PRS	<i>Partido de Renovação Social</i> - Party of Social Renovation

INTRODUCTION – PURPOSES OF THE MISSION

Alerted by reports from various non-governmental organisations (NGOs), including from the *Associação Justiça Paz e Democracia* (AJPD), FIDH member organisation, on the recurring violations of the rights of human rights defenders in Angola, the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT) decided to send an international fact-finding mission to this country in the framework of their joint programme, the Observatory for the Protection of Human Rights Defenders (the Observatory).

The mission was mandated to investigate and analyse the political and legal environment in which human rights defenders operate in Angola and the difficulties they face in carrying out their mandate. The mission was specifically mandated to analyse the national legislation and assess its conformity to the United Nations Declaration on Human Rights Defenders¹ and the regional and international human rights instruments in force in Angola; to identify the principal trends of repression against human rights defenders; to collect first-hand testimonies on cases of repression; to analyse the ability of Angolan institutions to offer effective protection to human rights defenders and analyse the government's stance with regard to regional and international recommendations related to the protection of human rights defenders. The mission also aimed at identifying recommendations to the Government of Angola, the international community and other relevant stakeholders. The mission report is not intended to provide a comprehensive assessment of the situation of human rights defenders in Angola. During the mission particular attention was paid to human rights defenders working on issues related to justice and good governance, diamonds and oil exploitation, housing rights and corruption, as well as on the situation in the Cabinda province, since these cases illustrate a general trend of the obstacles faced by human rights defenders in Angola.

The mission was composed of Mr. Thomas Masuku, former Judge of the High Courts of Swaziland and Botswana, and human rights consultant (Swaziland), Ms. Alexandra Montgomery, Attorney at Justiça Global (Brazil), and Ms. Tchérina Jerolon, FIDH Africa Desk Programme Officer and African Union Advocacy Coordinator (France). The mission took place from April 10 to May 2, 2013, in Luanda and Benguela.

Requests for meetings were sent to a number of Government officials in conformity with a well-established practice of the Observatory. Among those authorities, the Vice Ministry of Interior, the State Secretary for Human Rights and the Deputy Ombudsman accepted to meet with the Observatory delegation. The mission also met with representatives of a number of embassies based in Luanda, as well as a broad range of representatives of NGOs, journalists, lawyers, artists and opposition political parties. Further information was also collected by the mission delegates after the mission and is reflected in some parts of the report.

The meetings were arranged courtesy of AJPD. FIDH and OMCT would like to thank all the persons met by the mission, as well as AJPD for its constant support and availability throughout the mission.

1. Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 8 March 1999, <http://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf>

I. HISTORICAL, POLITICAL, ECONOMIC AND HUMAN RIGHTS CONTEXT

From war to economic performances and political influence

Following a long liberation struggle against Portugal, which led to its independence in 1975, Angola plunged into a protracted civil war involving the two main liberation movements, the Government's Popular Liberation Movement of Angola (*Movimento Popular de Libertação de Angola* – MPLA) and rebels of the National Union for the Total Independence of Angola (*União Nacional para a Independência Total de Angola* – UNITA)².

Despite the conclusion of two major peace agreements (1991 Bicesse Accords and 1994 Lusaka Protocol), over a period of 27 years, the two belligerents intermittently confronted one another through heavily armed fighting. The death, in February 2002, of UNITA's historical leader, Jonas Savimbi, led to the conclusion of a peace agreement between MPLA and the rebel movement, bringing to an end a war which devastated the entire country by claiming hundreds of thousands lives, leaving over four million people internally displaced; constraining 450,000 more to seek refuge in neighbouring countries³ and destroying a major part of the infrastructure.

12 years later, Angola is regarded as a strategic partner on the regional and international economic and political scenes. Angola is benefiting from a sustained economic growth resulting from an exponential production and exportation of its oil, diamond and other natural resources. Within less than a decade, the country has become Sub-Saharan Africa's second largest oil producer after Nigeria and is considered as containing the second largest reserves of natural gas on the continent. Since the end of the war, Angola has also invested into important post-reconstruction projects aimed at improving its infrastructures (roads, airports, railways, hospitals, schools, hotels, public facilities, etc.).

Alongside these economic successes, over the past few years, Angola has also gained a relative political and diplomatic weight within regional and international fora. Angola was until recently a member of the African Union (AU) Peace and Security Council and of the United Nations Human Rights Council, and is a current member of the United Nations Security Council. The country is also gaining political weight within the AU and the Regional Economic Communities⁴ and continues to play an important role within the Community of Portuguese speaking countries (CPLP).

Notwithstanding these fast and important achievements, multiple challenges are yet to be addressed to deliver dividends in terms of peace to the population and laying the foundations of democracy and the rule of law in this country. According to a diplomat met during the Observatory mission, *"Angola seems to be heading in different directions at the same time. On the one hand, the country appears to be progressively democratic and on the other hand, authorities continue to infringe basic principles of the rule of law."* Despite the adoption, in 2010, of a Constitution guaranteeing fundamental rights and freedoms and despite the establishment of institutions mandated to promote and protect them, the socio-political context in Angola is still marked by political and economic patronage, marginalisation of the opposition, lack of transparency and accountability, widespread poverty, inequalities, endemic corruption, impunity and the volatile situation in the Cabinda province. In such a context, human rights defenders advocating for the respect of the rule of law, good governance and accountability, are facing various forms of hindrances (see below part III).

2. While the National Front for the Liberation of Angola (*Frente Nacional de Libertação de Angola* – FNLA) was also involved in the first years of the war, the conflict turned out to oppose MPLA to UNITA.

3. See UNHCR, <http://www.unhcr.org/3ddceb677.html>

4. Namely the Southern African Development Community (SADC) and the Economic Community of Central African States (EEAC).

Supremacy of the MPLA and its Executive

During the Observatory mission, several criticisms arose over the control and hegemony of the Executive – incarnated by the President, José Eduardo Dos Santos, who has remained in power since 1979 – and the ruling MPLA over all branches of political, economic and military power. *“The State is the party and the party is the State.”* This declaration, which came from one of the interlocutors met by the mission set the scene. For some *“the line is very blurry between what is the Government and what is the MPLA”*. For others *“the MPLA membership card is more important than the ID in our country”*.

The general elections held on August 31, 2012, the third since independence, allowed the MPLA to maintain its stranglehold on the country's politics. The ruling party won 175 out of 220 seats at the National Assembly (72% of votes)⁵. This followed the party obtaining the highest number of votes in all provinces (the party even attained more than 70% of the votes in 12 of the 18 provinces)⁶. The abstention rate rose to nearly 40%. Yet, this victory paved the way for José Eduardo Dos Santos' reinstatement as President of the Republic for another five years, pursuant to article 109 of the 2010 Constitution which provides for the leader of the party with most seats in Parliament to become President.

In its Electoral Manifesto and Government Program (2012-2017), the MPLA committed to prioritise its actions towards consolidation of peace and strengthening of democracy, with particular attention being given to structural reforms within the judiciary and promotion of human rights⁷. José Eduardo Dos Santos echoed these commitments in his inaugural speech, reaffirming the willingness of his Government to build *“a democratic, inclusive and progressive society of well-being and social justice [and promote] more rigorous respect for the principles of good governance”*⁸. However, these commitments are yet to be upheld and seen in practice.

In particular, the principles of inclusiveness and of good governance are considered by the opposition as being regularly violated by the regime in place. Denouncing the lack of proper checks and balances that have characterised the political scene in Angola since independence, a representative from an opposition political party met during the mission of the Observatory stated that *“the voice of the President is the only one which matters in Angola. He has a remote control on everything”*, a remote control which has been institutionalised by the 2010 Constitution. Pursuant to the text, the President, who is both Chief of State and Head of Government, is vested with extensive powers, including the power to appoint or dismiss most of the senior civil servants: all Ministers, Vice-Ministers and Secretaries, Judges of the main Courts, including the Constitutional Court, the Supreme Court, the Court of Auditors, the Military Supreme Court, the Attorney General, Provincial Governors or Ambassadors⁹.

Widespread poverty, huge disparities and endemic corruption

Despite Angola's economic performances, poverty and huge disparities remain widespread throughout the country. According to recent figures, 43.4% of the population lives below the poverty line (on less than 1.25 USD per day)¹⁰, a rate which considerably increases in rural areas. This situation of extreme poverty contributes to the increase in the vulnerability of these populations which face various forms of violations of their rights. The poorest populations are

5. According to some opposition parties met by the delegation, the National Electoral Commission did not accredited a large number of their representatives, around two million people were not allowed to vote, many people were asked to vote in places where they could actually not vote. UNITA arrived far behind with 18% of the votes (32 seats). CASA-CE (8 seats), PRS (3 seats), FNLA (2 seats).

6. See (Comissão Nacional Eleitoral de Angola), <http://www.eleicoes2012.cne.ao/paginas/paginas/dat99/DLG999999.htm>

7. See MPLA Programa de Governo (2012-2017), <http://www.mpla.ao/imagem/ProGovMPLA.pdf> and MPLA Manifesto Eleitoral, <http://www.mpla.ao/imagem/Manifestom.pdf>

8. http://www.angolaembassy.org.il/documents/Speech_Investiture_Ceremony.pdf

9. See 2010 Constitution, art.119 to 122.

10. See UNICEF statistics on Angola, http://www.unicef.org/infobycountry/angola_statistics.html

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for instance the main victims of the widespread phenomenon of demolitions, displacements and forced evictions in Angola. It is estimated that thousands of families have been victims of forced evictions, in particular in the provinces of Luanda, Benguela, Huila, or Huambo. Most of these evictions have been characterised by the same *modus operandi*: no prior notification or consultation with those affected; excessive use of force by police force or security agents; arbitrary arrests and detentions of those showing resistance; inadequate or non-existent relocation alternatives and insufficient or non-existent compensation.

Endemic corruption in Angola is one of the major causes of under-development which, in particular, maintains a large range of the population in a situation of extreme poverty. *“Corruption pervades everything in Angola. It has consequences over the functioning of all major sectors in this country including education, health or economy”*, declared a diplomat met during the mission. According to most of the interlocutors met by the Observatory delegation, corruption is an alarming scourge in Angola, and is highly evident within the public administration – government, judiciary, police – and the private sector – in particular within the extractive industries. While the authorities have publicly committed to combatting corruption, in particular through the strengthening of the legal framework (Law of the High Authority Against Corruption, 1996, Public Probity Law, 2010, Anti-Money Laundering and Terrorism Financing Law, 2010, ratification of the UN Convention Against Corruption, 2006) and the decision to set up anti-corruption bodies, these efforts have so far proven to be ineffective and in some cases non-existent.

Widespread poverty, huge disparities, demolitions, forced evictions and corruption in Angola have been denounced by several international human rights agencies, including the United Nations Human Rights Committee and the United Nations Committee on Economic Social and Cultural Rights¹¹. Following her April 2013 mission in the country (which coincided with the mission of the Observatory), Ms. Navi Pillay, United Nations High Commissioner for Human Rights, raised serious concerns over *“the huge disparities that have developed between the richest and the poorest, and the sometimes harsh methods used to evict people from land earmarked for development, especially in and around Luanda”* and she *“stressed the importance of reducing these disparities over the next four or five years”*. She further recommended that *“related issues such as corruption, unemployment, high cost of living and extreme poverty [...] be tackled before disillusionment starts to set in, especially among the country’s youth”*¹².

Ms. Pillay referred here to the growing discontent observed within the Angolan youth, who did not hesitate to take the streets since early 2011 to demand social justice, good governance and fair redistribution of the benefits of the exploitation of natural resources. Alongside the youth movement, some human rights organisations and journalists are fighting against widespread poverty, corruption, inequalities or forced evictions in Angola, a commitment which demonstrates the pre-eminence of such concerns within the society and for which human rights defenders are facing various kinds of harassment (see below part III).

Police brutality and impunity

Police and security forces in Angola are regularly singled out by civil society for their abusive, excessive and disproportionate use of force. The violent repression of peaceful demonstrators; summary and extra-judicial killings; enforced disappearances; arbitrary arrests and detentions; acts of violence perpetrated against detainees are part of the abuses attributed to police and security forces, for which very few have faced prosecution or disciplinary sanctions.

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11. See CCPR 2013 Concluding Observations on the initial report of Angola, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/AGO/CO/1&Lang=En. See CESCR 2008 Concluding Observations: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/AGO/CO/3&Lang=En.

12. See Opening remarks by the UN High Commissioner for Human Rights Ms. Navi Pillay at her press conference during her mission to Angola, April 24, 2013, on: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13262&LangID=E>



ANGOLA, Luanda: Angolan police officers arrest young Angolans on September 19, 2013 at the Square of Independence in the center of Luanda while they were calling for a demonstration against social injustices. In the past two years, Angola's youths have also grown increasingly critical of the regime of President Jose Eduardo dos Santos, who was re-elected in 2012 for a further five years on top of his 33 years in office. – © AFP PHOTO / ESTELLE MAUSSION

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In its 2013 Concluding Observations, the United Nations Human Rights Committee, expressed its concerns with regard to “*arbitrary and extra-judicial killings by security forces [...] in particular those which occurred in the province of Huambo in 2010, as well as during the counter-insurgency against the Front for the Liberation of the Enclave of Cabinda in 2010*”. The Committee also expressed concerns at “*cases of disappearances of protesters which occurred in Luanda between 2011 and 2012 [and] at the reported impunity of security forces involved in such human rights violations*”¹³ (see below part III).

Concerned with the recurrence of the human rights violations perpetrated by the police and security forces, some NGOs, in particular the Association Justice Peace and Democracy (*Associação Justiça Paz e Democracia* - AJPD), have engaged in a close monitoring and regular denunciation of these abuses and in parallel endeavours to ensure that these forces receive adequate training on human rights standards.

The situation in the Cabinda province

Following the 2012 elections, the authorities committed to “*maintain political stability by promoting, defending and consolidating peace*”. Such a commitment was, among others, referring to the volatile situation in the oil-rich Cabinda province (up to 70% of Angola's output). Since Angola's independence in 1975, separatist movements have been requesting and fighting for Cabinda's own independence. After the end, of the war against UNITA in 2002, the military redeployment of the Angolan Armed Forces (*Forças Armadas Angolanas* - FAA) in Cabinda led to the weakening of the main separatist movement, the Liberation Front for the Independence of the Enclave of Cabinda (*Frente para a Libertação do Enclave de Cabinda* - FLEC). Following a peace agreement signed in August 2006 with a faction of FLEC (the Cabinda Forum for Dialogue – FCD), the Government has described sporadic armed attacks as being the work of “*bandits*”, instead of rebels. Today, while the situation is considered by the authorities as stable, alleged cases of arbitrary arrests and detentions, restrictions to freedoms of expression, of religion, of association and/or assembly continue to be reported. Human rights organisations documenting and denouncing the human rights violations committed by both the Angolan authorities and the FLEC, such as the organisation Mpalabanda, faced recurring restrictions to their actions (see below part III).

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13. See CCPR 2013 Concluding Observations.

II. THE HUMAN RIGHTS LEGAL AND INSTITUTIONAL FRAMEWORK

A. The national human rights legal framework

On February 5, 2010, Angola adopted a new Constitution. This is the third Constitution the country has had since its independence in 1975. The second Constitution that was in place from 1992 until 2010 instituted a multi-party democracy, guaranteed a range of fundamental freedoms and rights of citizens and introduced a free market economic system. The new Constitution guarantees additional rights and freedoms – including freedom of association –, specifies the scope of other rights and provides for avenues to ensure they are adequately enforced.

The Constitution includes within the scope of the fundamental rights and freedoms the necessity to interpret and integrate these rights and freedoms according to the Universal Declaration on Human Rights (UDHR), the African Charter on Human and Peoples' Rights, and other international treaties ratified by Angola (article 26). The Constitution also provides that the Angolan courts should apply the provisions of these international human rights treaties, even if not invoked by the parties concerned (article 26) and that fundamental rights and freedoms shall be directly applicable to and binding upon public and private entities (article 28).

The fundamental rights and freedoms enshrined in the Constitution include the right to life (article 30), the right to personal integrity (article 31), the right to physical freedom and personal security (article 36), freedom of expression and information (article 40), freedom of the press (article 44), freedom to meet and demonstrate (article 47), freedom of association (article 48), as well as the ability to form trade unions (article 50). The Constitution also contains a whole set of judicial remedies and guarantees (articles 56 to 75) and bans the death penalty (article 59), torture and degrading treatment (article 60).

Article 56 provides in particular that the fundamental rights and freedoms enshrined in the Constitution are inviolable and that the State should not only create the necessary conditions (political, economic, social and cultural) to ensure their effective realisation and protection but should also ensure that public authorities respect and guarantee these rights and freedoms. Access to justice is provided for under article 29, whereas guarantees during criminal proceedings are located under article 67 and right to fair trial is provided in article 72.

Regional and international human rights instruments ratified by Angola include the African Charter on Human and Peoples' Rights (ratified in 1991), the Protocol to the African Charter on the Rights of Women in Africa (2007), the African Charter on the Rights and Welfare of the Child (1992), the International Covenant on Civil and Political Rights (1991), the International Covenant on Economic Social and Cultural Rights (1991), the Convention on the Elimination of All forms of Discrimination Against Women (1984) and its Optional Protocol (2007), the African Convention on Preventing and Combating Corruption (2006), the United Nations Convention against Corruption and the SADC Protocols (2005). As provided under the Constitution, these instruments shall be directly applicable to and binding upon public and private entities.

However, Angola is not yet a State party to important regional and international treaties such as the African Charter on Democracy, Elections and Governance, the Protocol to the African Charter on the Establishment of the African Court on Human and Peoples' Rights, the Convention Against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment; the Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, and the Rome Statute to the International Criminal Court.

Over the past recent years, Angola has showed commitment to engage with regional and international human rights treaty monitoring bodies, in particular through the submission of its periodic reports. Angola has been recently reviewed by, among others, the UN Human Rights Committee (CCPR, in 2013), the UN Committee on the Elimination of all forms of Discrimination Against Women (CEDAW, in 2013), the African Commission on Human and Peoples' Rights (ACHPR, in 2012). It is also to be noted that Angola has hosted the 55th ordinary session of the ACHPR, held in Luanda, from April 28 to May 12, 2014. The country has also authorised promotion and fact-finding missions from the UN High Commissioner for Human Rights (in 2013), the ACHPR (2010) and the UN Working Group on Arbitrary Detention (2008). There are however a number of pending requests for visits formulated by UN Special Procedures, including the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association (who has requested for a visit since October 2013) and the Special Rapporteur on Independence of Judges and Lawyers (since 2008).

During her April 2013 mission to Angola, Ms. Navi Pillay, the UN High Commissioner for Human Rights commended the strengthening of the national legal human rights framework while raising concerns over the remaining *“problems, for example, in the content, interpretation and implementation of laws on freedom of expression and freedom of assembly, with the police sometimes suppressing protests in a heavy-handed fashion”* and she insisted on the need for *“more new laws, amendments to existing laws, and proper implementation”*.

B. The deficiencies of the Angolan judiciary

It appeared clearly during the mission of the Observatory that, despite the starting of a reform process within the Angolan judicial system, this sector remains marred by deficiencies which considerably limit the ability of victims of human rights abuses, including human rights defenders, to get justice and redress. Most of the interlocutors met during the mission of the Observatory described the sector as one subjected to political interference; obstructed by a lack of proper knowledge and reference to national and international human rights laws and treaties in force; suffering from a lack of sufficient material and human resources and one afflicted by endemic corruption.

While articles 175 and 179 of the 2010 Constitution provide for the independence and impartiality of the Courts and guarantee the tenure of judges, the Angolan judiciary remains an institution subservient to political direction, influence and pressure and one, that does not effectively play its critical role in the defence, protection and enforcement of fundamental rights and freedoms. Pursuant to the Constitution, the President of the Republic is competent to appoint, without proper checks and balances, 4 out of 11 judges of the Constitutional Court (including the President of the Court); all judges of the Supreme Court (and to designate the President of the Court, who shall preside over the High Council of the Judicial bench), the President and Vice President of the Supreme Military Court, the President and Vice President of the Court of Auditors.

The lack of appropriate material (obsolescence of the infrastructures, lack of means of transportation or communication) and human (lack of prosecutors and judges, lack of sufficiently qualified personnel, in particular on national and international human rights law) resources also contribute to the inefficiency of the Angolan judicial apparatus. These obstacles result in the considerably long delays in the finalisation of judicial cases, a situation that is even worse in the provinces.

As seen above, endemic corruption is another scourge of the justice system in Angola, which is the reflection of a more generalised phenomenon observed within various spheres of the society. Corruption within the judiciary contributes to the lack of confidence in this sector and, in a context where access to legal aid remains the exception, discourages victims of human rights violations from addressing their grievances before national Courts.

In 2008, the CESCR urged Angolan authorities *“to take the appropriate measures to ensure that the independence of the judiciary is guaranteed, and that this principle is fully implemented and*

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promoted [and to] conduct training for judges and lawyers on economic, social and cultural rights”¹⁴.

In its 2013 recommendations to Angola, the UN CCPR raised concerns “at the reported lack of independence as well as corruption of the judiciary, and the insufficient number of judges, lawyers, tribunals and courts, all of which may create difficulties regarding access to justice” and called upon the State to “strengthen the independence of the judiciary and effectively combat corruption [, to] increase the number of trained judges and lawyers [, to] implement its plan aimed at increasing the number of tribunals and courts (municipal and provincial) in order to ensure that justice is accessible to all [and to] ensure that legal assistance is provided in all cases where the interest of justice so requires”¹⁵.

These recommendations are yet to be implemented.

C. The national institutions mandated to promote and protect human rights

Several institutions have been established to achieve the promotion and protection of human rights in Angola, among them are the **Parliamentary Commission on Human Rights, Petitions, Complaints and Citizens’ Suggestions**¹⁶ (which is composed of 22 members of Parliament in charge of receiving and addressing complaints on human rights violations brought by citizens) and the **State Secretariat for Human Rights**¹⁷ (created in 2010 to ensure the promotion and respect of human rights throughout the country).

During the mission of the Observatory, its delegates met with Ms. Maria da Conceição de Almeida Sango, Deputy Ombudsman. The **Office of the Justice Ombudsman** (*Provedoria de Justiça*) was established in 2006 through the Law No. 04/06. The office is “a public and independent institution which protects human rights, freedoms and guarantees of citizens. It uses informal means to ensure that justice is served and that public administration operates within the law” (article 1). Within the course of his/her mandate, the Ombudsman shall perform his/her duties on the basis of complaints filed by citizens regarding the acts or omissions of organs and agents of the public administration that affect their rights and freedoms. The Ombudsman cannot issue binding decisions but rather recommendations.

During their meeting with the Deputy Ombudsman, the mission delegates referred to the demonstrations organised in the country since early 2011 (see below part III), and to claims that some police officers employed excessive use of force against protesters. The Deputy Ombudsman indicated that, while the police repression could have fallen under the mandate of her Office, the absence of any complaints from demonstrators have prevented her from intervening. Article 3 of the Law establishing the Ombudsman, provides for the exercise of *propiu motu* initiatives in case of gross violations. This provision could have been invoked by the Ombudsman to take action.

Most of the interlocutors met during the mission of the Observatory raised concerns over the inefficiency of national institutions created to monitor, promote and protect human rights in Angola. They pointed out in particular to the lack of independence from the Executive or the weakness of their mandates, that do not allow them to take appropriate action in cases of human rights violations and which illustrates, in their view, the authorities’ lack of political will to effectively address human rights violations.

In its 2013 recommendations, the UN CCPR regretted that “the law on the Office of the Ombudsman does not provide the guarantees necessary to ensure its independence and that the Office does not have an appropriate mandate to address human rights issues” and called upon the authori-

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14. Committee on Economic Social and Cultural Rights Concluding Observations on Angola, E/C.12/AGO/CO/3 , 1 December 2008.

15. See CCPR 2013 Concluding Observations.

16. *Comissão dos Direitos Humanos, Petições, Reclamações e Sugestões dos Cidadãos*.

17. *Secretaria de Estado para os Direitos Humanos*.

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ties to *“revise the Ombudsman Law to ensure that it complies with the Paris Principles [...] or establish a new national human rights institution with a broad human rights mandate in line with the same principles”*¹⁸.

In 2012, the ACHPR recommended the authorities to *“establish an independent national human rights institution in accordance with the Paris Principles”*. This recommendation was echoed in 2013 by the CEDAW Committee, which stated that *“while noting the existence of an Ombudsman, the Committee is concerned about the absence of an independent national human rights institution [and] recommends that the State party consider establishing an independent national human rights institution in accordance with the Paris Principles”*.

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18. See CCPR 2013 Concluding Observations.

III. PATTERNS OF VIOLATIONS OF THE RIGHTS AND FREEDOMS OF HUMAN RIGHTS DEFENDERS

Despite an apparent willingness of the Angolan authorities to uphold their human rights commitments and obligations, human rights defenders operating in this country are facing various forms of hindrances to their effective capacity of action, resulting in particular not only from the weaknesses of the legal and institutional human rights framework, but also from the lack of political will to permit dissenting voices.

During its mission, the Observatory gathered testimonies from human rights defenders who are regularly subjected to judicial and administrative harassment, threats and other forms of restrictions to their freedoms of association, expression and assembly, in particular when they raise concerns on issues deemed sensitive by the authorities such as good governance, access to justice, corruption, forced evictions, exploitation of natural resources or the situation in the Cabinda province. As stated above, those cases do not represent an exhaustive assessment of the situation of human rights defenders in Angola but rather picture a more general trend of hindrances to the work of human rights defenders in this country.

Overview of the human rights organisations in Angola: strengths and weaknesses

Few NGOs in Angola work as generalist human rights organisations, many of them focusing on specific areas of concerns such as forced evictions, corruption, violence and discrimination against women and children, or HIV–AIDS. This specialisation contributes to develop the expertise of human rights organisations on these key issues. Over the past few years, some human rights organisations have strengthened their ability to conduct advocacy outside Angola. They have targeted regional and international human rights mechanisms, such as the African Commission on Human and Peoples' Rights (ACHPR) or the United Nations Treaty Bodies and Special Procedures, a mobilisation which allowed these mechanisms to receive regular information on the human rights challenges prevailing in Angola and to make decisions and positions in this regard.

But independent human rights NGOs in Angola continue to face a number of challenges that affect their capacity to act with effectiveness. Beyond the legal and administrative barriers (see below), human rights organisations are also facing structural impediments. Firstly, due to a lack of resources and capacity, very few of these organisations have the ability to operate nationally. Most of them concentrate their actions in certain areas, in particular in the capital, Luanda. These NGOs are facing various challenges including the lack of sufficient staff – in a context where young graduates mostly give priority to higher-paid jobs – or the lack of basic means (communication, housing, transport, internet). This situation seriously deteriorated since 2011, with the successive departures from the country of traditional donors. Interlocutors met during the Observatory mission attributed these departures to the fact that Angola is no longer considered by donors as a priority considering its continuous economic growth. Such departures have seriously contributed to weakening the capacity of action of independent human rights organisations in Angola, in particular those that do not benefit from any form of financial support from the Angolan authorities.

A. Infringements to freedom of association: legal and administrative restrictions amid threats and other forms of intimidation

A.1. Legal and administrative restrictions to freedom of association

Article 22 (1&2) of the International Covenant on Civil and Political Rights (ICCPR), to which Angola is a State party provides that:

1. *Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.*
2. *No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.*

Article 10.1 of the African Charter on Human and Peoples' Rights, to which Angola is a State party provides that:

1. *Every individual shall have the right to free association provided that he abides by the law.*

Article 5 (b) of the 1998 UN Declaration on Human Rights Defenders provides that:

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels: [...]

- (b) *To form, join and participate in non-governmental organisations, associations or groups.*

As mentioned above, the Angolan Constitution guarantees freedom of association (article 48). It gives citizens the right to freely create associations, without requiring any administrative authorisation, under the condition that they are based upon democratic principles. The restrictions contained in the Constitution for the creation of associations are applicable only when the associations are contrary to the constitutional order, or when their purpose is to promote violence, tribalism, racism, dictatorship, fascism, xenophobia or military/paramilitary organisations. The Constitution also guarantees that associations are free to pursue their goals without intervention from public authorities and that they shall not be dissolved or have their activities suspended, unless and only in such cases previously prescribed by law.

Despite these constitutional guarantees, other pieces of national legislation contribute to restrict freedom of association in Angola. Until the enactment, in January 2012 of the new law on associations (n°6/12, January 18, 2012)¹⁹, the constitution and registration process of associations was regulated under the 1991 Angolan Law on Associations (n°14/91, May 11, 1991) which provided for a complex, costly and opaque process: according to Article 13 of the 1991 Law, associations acquired legal personality following the deposit of a copy of their deed of constitution to the Ministry of Justice. The Ministry was then supposed to issue a certificate to these associations. In most cases however most of the associations which followed this process never received their certificate from the Ministry, which contributes to place them in a situation a legal vulnerability. While the adoption of the new Law was intended to clarify and simplify the constitution process of NGOs (article 10 – *personalidade jurídica* – provides that the acquisition of legal personality follows the registration of the association by the registration and notary services available where the association is located and article 11 – *forma e publicidade* – provides that following the registration by the local notary services, the latter must, within 15 days, inform the national organ responsible for the registration of associations at national level and the publication of their

19. This new law on associations was adopted by the Angolan National Assembly on November 30, 2011.

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creation in the official journal), the Law still contains some very vague provisions in this regard.

Article 11 does not specify what is the “national organ responsible for the registration of associations”. In a context where the registration process of associations has been characterised for many years by the lack of clarity over the mandate and responsibilities of various government agencies (local/provincial administrations, UTCAH, Ministry of social services, Ministry of Justice), this vagueness may contribute to unduly prolong the registration process for some organisations and leave the door open to arbitrariness. Article 12 (*recusa de escritora e registo*) of the new Law provides for the refusal of the registration by the notary services without however referring to the procedures that could be carried out to appeal such decision. Article 13 (*controle de legalidade*) provides that the Public Ministry is responsible for controlling the legality of associations and that in case the statutes of an association do not conform either with the law or with public morality, the Ministry can decide its de-registration (*extinção*).

Beyond the vagueness of these provisions, NGOs interviewed during the mission of the Observatory pointed out the lack of transparency which surrounded the adoption of the new Law and its inadequate dissemination to administrative authorities and civil society organisations which led one of the interlocutors of the Observatory to comment that “While some provisions of this new Law could potentially simplify the registration process of NGOs, the reality is however that the authorities seem to be more willing to restrict its application through administrative barriers.” Most of the NGOs met during the mission of the Observatory were either not aware of the adoption of the new Law or did not have information on its content.

In 2013, following the examination of Angola's periodic report, the CCPR raised concerns “at legal restrictions to freedom of association, which have resulted in difficulties for non-governmental organisations to be registered”. The Committee then recommended that Angola should “amend its legislation to remove restrictions on the establishment and registration of associations, and take measures to encourage their activities and collaborate with them”²⁰.

A.2. Human rights organisations in the eyes of the authorities: the cases of AJPD, Mãos Livres and Omunga

On April 30, 2007, Mr. Pedro Walipi Kalenga, the then Director of the Angolan Government's Technical Unit for the Coordination of Humanitarian Aid (UTCAH), the government body in charge of coordinating the activities of NGOs in Angola, publicly announced that the Government would soon stop the activities of more than 500 NGOs whose projects did not have an impact on the life of the population. On July 10, 2007, Mr. Kalenga confirmed his threats when he accused, in a radio broadcast, four prominent human rights organisations – namely the AJPD, *Mãos Livres*, the Angolan branch of the Open Society Initiative of Southern Africa, as well as the local housing rights organisation SOS-Habitat – of alleging human rights violations to justify their activities while actually carrying out actions contrary to the law. He further accused them of inciting people to react, even violently, against governmental institutions and authorities and threatened to ban their activities²¹.

Soon after these statements, the Angolan authorities initiated concrete actions aimed at banning some of these organisations (see AJPD case below) or threatening their sustainability. These statements were also followed by the closure, in May 2008, of the Office of the High Commissioner for Human Rights (OHCHR) after the decision of the Angolan authorities not to renew their Memorandum of Understanding on the promotion and protection of human rights in Angola. Today, human rights organisations in Angola mostly remain in a situation of vulnerability, which is due to the voluntarily maintained ambiguity of their legal status or the use of subtle acts of

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20. See CCPR 2013 Concluding Observations.

21. See the Report submitted by the Special Representative of the Secretary-General on the situation of human rights defenders, Hina Jilani, para 12-16, A/HRC/7/28/Add.1, 3 March 2008, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/7session/A-HRC-7-28-Add1.pdf>.

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intimidation against their members, aimed at undermining their actions. The Association Justice Peace and Democracy (*Associação Justiça Paz e Democracia* – AJPD) and Omunga are among these vulnerable organisations.

The **Association Justice Peace and Democracy** (AJPD), a leading human rights organisation in Angola, was established in May 2000 with the view to advocate for the promotion of peace, the respect for human rights, social and economic development and the strengthening of the rule of law. AJPD is currently one of the main human rights organisation which documents and denounces rights abuses perpetrated in Angola and carries out specific activities aimed at encouraging reforms of the justice and prison systems at guaranteeing respect for civil and political rights, in particular the right to free, fair and transparent electoral processes, and at combating corruption and the lack of transparency within the public administration. Over the past few years, AJPD has also carried out active and effective advocacy before regional and international human rights mechanisms, thus contributing to the increasing knowledge, outside the frontiers, of the human rights situation in Angola. This leadership in the denunciation of human rights violations in Angola has contributed to the tense relationship between AJPD and the authorities.

On September 4, 2008, AJPD was informed by the Angolan Constitutional Court that legal action had been initiated by the Attorney General (AG) in order to ban the organisation²². The legal basis of the action was that the founding documents of the organisation “*contain articles that are in contravention of the Angola Law of Associations*” (Law n° 14/91). AJPD was then given 15 days to prepare its defence. AJPD appealed against the proposed ban, on the grounds that the claims of illegality were unfounded and that the law on which the complaint was based was in itself unconstitutional as it fundamentally restricted the freedom of civil society organisations to participate in political and civic life. This legal process took place in a context where Angola was heading for its first general elections in 16 years. It was then regarded as a clear means to silence AJPD, which had pointed out some of the irregularities of the electoral process.

Later on, AJPD was informed that the case had actually been lodged against the organisation in 2003 by the former AG, who alleged that some sections of the organisation's statutes were illegal. The AG challenged the legality of articles 6.b, 6.c, 11.3 and 28.2 of AJPD's statutes, which provide for the modes of action of the organisation (peaceful reaction to the excesses of the authorities and public denunciation of human rights violations) and for its composition (allowing legal persons to be part of the organisation) and requested AJPD to modify these articles in line with Law n°14/91, failing which the organisation shall be dissolved.

In 2003, the AG started the lawsuit against AJPD before the Supreme Court. Following the creation, in June 2008, of the Constitutional Court, the case was then transferred to the said Court. On February 9, 2009, the Constitutional Court however declared that it had no jurisdiction over the case against AJPD and that it should be transferred back to the Supreme Court. In turn, the Supreme Court decided not to take the case back and instead referred it to the Provincial Tribunal of Luanda. Since then, the case has been pending before the Provincial Tribunal of Luanda which has not taken any decision as concerning the legality of AJPD's statutes. This is a clear demonstration that the proceedings initiated against AJPD primarily aimed at intimidating its members, by threatening to ban the organisation at any time, on the basis of fallacious allegations. AJPD is amongst the human rights organisations which still has not received its certificate of registration from the Ministry of Justice.

AJPD's representatives have also faced acts of intimidation outside Angola. In November 2011, during the 50th ordinary session of the African Commission on Human and Peoples' Rights (ACHPR), held in Banjul, the Gambia, a representative from the Angolan state delegation warned one of AJPD's representative to be careful with the organisation's statements on Angola while portraying this representative as being part of the political opposition and as working

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22. See Observatory for the Protection of Human Rights Defenders Urgent Appeal, 8 September 2008, <https://www.fidh.org/International-Federation-for-Human-Rights/Africa/Angola,813/Attempt-to-ban-the-AJPD-AGO-001>.

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for foreign countries. Informed about this act of intimidation, the ACHPR adopted, during this session, a resolution on human rights defenders in Africa raising concerns about *“the difficult environment in which those who cooperate with African human rights system including human rights defenders”*, condemning *“all acts of violence against the activities of those who cooperate with African human rights system, including human rights defenders and [condemning] all form of violence and reprisal against them”* and urging States to *“prevent and refrain from all acts of intimidation or reprisal against individuals or groups who seize the African Commission on Human and Peoples’ Rights”*²³.

Mãos Livres is a human rights organisation created in 2000, which provides free legal aid to victims of human rights abuses. Mainly composed of lawyers and journalists, Mãos Livres has been documenting issues deemed sensitive such as corruption within the State apparatus or the private sector²⁴ enforced disappearances, acts of torture, including against detainees, or forced evictions. Over the past few years, the organisation has also lodged complaints before national courts against police officers²⁵ or high ranking State officials for their alleged responsibility for human rights violations (extra-judicial killings, cases of corruption, drug trafficking, etc.).

Members of Mãos Livres reported to the Observatory delegation a climate of fear has been created by the authorities to intimidate them and undermine their action. They described a situation where some of them face public stigmatisation from the authorities; various forms of threats and acts intimidation (with suspicious cars parked in front of their offices or houses, with cases of personal cars being burnt by unidentified individuals); or discrimination against their families (within education or employment).

Prior to the August 2012 general elections, Mãos Livres along with other organisations called for the running of a free, fair and transparent electoral process. Members of the organisation reported to the Observatory delegation that during this electoral period, representatives from government authorities portrayed, through public speeches, Mãos Livres as an agent of foreign countries. The interlocutors further indicated that following these statements, three members of the organisation were robbed of their cars and one car was burned.

Mãos Livres is also part of the organisations that have not yet received their certificate of registration from the Ministry of Justice. They informed the Observatory delegation that they had sent several letters to the Ministry of Justice requesting for the issuance of the certificate. There has been no response so far. Mãos Livres has also requested to be recognised as a public utility association, which request has not been granted so far. During the mission of the Observatory, several of its interlocutors pointed out the fact that only the organisations close to the Government or those considered as not conducting sensitive activities have so far been granted the status of public utility associations, which entails the right to receive public funds. While Mãos Livres used to have offices in all the 18 provinces of the country, due to lack of sufficient financial support, it has been forced to close down nine of its offices, and to keep only focal points. In a context where victims of human rights violations barely benefit from free legal aid, this situation has left a *vacuum*.

Omunga, which stands for *“we are working together”*, is a human rights organisation created in the late 1990s as part of an umbrella organisation called Okutiuka-Apav, which aimed at protecting street children from various forms of abuses. Omunga, which is based in the province

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23. See ACHPR Resolution 196, Resolution on Human Rights Defenders in Africa, November 2011, <http://www.achpr.org/sessions/50th/resolutions/196/>

24. In a report published in 2013, jointly with the organisation Corruption Watch, Mãos Livres denounced a debt deal between Russia and Angola, which would have resulted in the misappropriation of *“hundreds of millions of dollars from the treasuries of both Russia and Angola [...] into the pockets of businessmen, arms dealers and serving politicians”*. *Deception in High Places: The Corrupt Angola-Russia Debt Deal*, 2013, <http://www.cw-uk.org/wp-content/uploads/2013/04/The-Corrupt-Angolan-Russian-Debt-Deal-Full-Report.pdf>

25. Following the extra-judicial killings, on July 23, 2009, of eight men by police officers in Sambizanga (Luanda), Mãos Livres lodged complaints against the policemen allegedly responsible for the killings. While, on March 22, 2010, seven policemen were convicted to 20 to 24 years’ imprisonment, they were all released after having spent four years in detention.

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of Benguela, became independent from Okutiuka-Apav in 2005 and continued identifying and denouncing the main human rights violations perpetrated against street children, including marginalisation, discrimination, lack of access to education, to health and other basic rights and physical abuses, including sexual abuse. From 2009, Omunga started to focus also on housing rights and to strongly advocate against demolitions and forced evictions.

According to members of Omunga met by the Observatory delegation, they became subject to threats and other forms of intimidation when the organisation started denouncing cases of serious human rights violations perpetrated by State agents – mainly the police – against street children (sexual abuse, murder). They described various forms of intimidation against them which include arbitrary arrest and detention, threats of criminal prosecution (in particular for defamation), police visits to their houses without prior notice, cases of unidentified cars parked in front of the organisation with people taking pictures or wire-tapping.

Members of Omunga described a situation of continuous threats against the organisation and infringements on its activities (they would be denied access to hospitals for instance), bolstered by a stigmatising public discourse of the authorities. On various occasions, Omunga members have been portrayed by the authorities as being supporters of the opposition parties, as agents of foreign countries, or as a potential threat to the restored peace, a discourse that was particularly acute during the last general elections.

Almost eight years after its inauguration, Omunga is still considered by the authorities as not being formally registered, while the organisation has complied with all the formalities required by the Law on Association (14/91) for its creation and acquisition of legal personality (Omunga published its constitution documents in the Official Gazette in December 27, 2006 and deposited these documents at least three times at the Ministry of Justice, without receiving any responses from the latter). In a letter dated March 16, 2012, addressed to Mr. Agostinho Felizardo, Vice Governor of the province of Benguela, the Angolan Ministry of Justice, Ms. Guilhermina Prata, affirmed possessing documents proving that Omunga was not an organisation legalised by the Ministry.

This ambiguity concerning the registration of Omunga increases its vulnerability and exposes its members to arbitrariness. The Observatory was informed that on 18 February 2015, at dawn, two men, dressed in uniforms of the national army, broke into the offices of Omunga. At that time, Mr. José Patrocino, the coordinator of Omunga was asleep in his house, which is located on the premises of Omunga's offices. According to the testimony provided by the guard who was on duty that day, the two men were armed with revolvers and violently assaulted him, forcing him to leave. They then broke into the office where they stole a camera and a phone. Following the incident, Mr. Patrocino filed a complaint at the police station, but at the time of writing there had been no meaningful investigation.

A.3. Prohibited to report on human rights violations committed in the Cabinda province: the ban of Mpalabanda and harassment of its members

The organisation **Mpalabanda** (*Associação Cívica de Cabinda*) was created in July 2003 with a view to promote peace and respect for human rights in the region of Cabinda. Since its creation, Mpalabanda published well-documented reports denouncing the human rights abuses perpetrated in the course of the confrontation that opposed the Government armed forces to members of the Front for the Liberation of the Enclave of Cabinda (*Cabinda Liberation Force or Força de Libertação de Cabinda* – FLEC). Mpalabanda was representative of the social diversity of Cabinda (it included amongst its members representatives of the Catholic Church, students, university professors, peasants, senior executives of the local administration, etc.).

While Mpalabanda was involved in the facilitation of peace negotiations between belligerents, it was soon perceived as a threat by the authorities of Luanda which presented the organisation as a radical and separatist political faction allied to FLEC. A former member of Mpalabanda met by the Observatory declared: *"Initially, the authorities allowed us to carry out our activities. They*

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wanted to see whether the population would adhere to our actions. When they saw the support we got from the population, then they started to prohibit our activities carried out outside Cabinda city. Those who attended our activities were arbitrarily arrested, even when it was a simple conference."

Members of Mpalabanda have been the targets of regular acts of intimidation and harassment including arbitrary arrests and detentions, death threats or passport confiscations. Some members have been also allegedly victims of acts of torture or killings. These acts of intimidation and harassment reached a climax on September 14, 2006, when Mpalabanda was closed down and its offices sealed off, following a sentence issued by the Provincial Court of Cabinda on July 20, 2006, banning the organisation for its alleged involvement in politics and its "incitement of violence". The closing down of Mpalabanda took place in a context where the Angolan authorities were conducting peace negotiations with a faction of FLEC whose legitimacy was questioned by several actors, including representatives of Mpalabanda. It is reported that Vegard Bye, Head of the UN High Commissioner for Human Rights Office (OHCHR) in Luanda at that time had declared that *"the government has made it clear that it would crack down on those who don't accept the peace deal"*²⁶. The peace agreement was signed on August 1, 2006.

A member of Mpalabanda met by the Observatory declared: *"What most annoyed the Angolan Government were two things: the reports where we denounced the killings, arbitrary arrests and other human rights violations perpetrated in the region and our call for a political settlement of the conflict through open and transparent negotiations. The Government started to perceive us as an obstacle and decided to get rid of us."*

In August 2006, following the decision of the Provincial Court of Cabinda, Mpalabanda representatives lodged an appeal before the Supreme Court to challenge the ban. Five years later, in November 2011, along with other civil society organisations, they signed a petition that they submitted to the Court requesting for their case to be heard without further delay. However, up to now, the case has still not received consideration from the Supreme Court and Mpalabanda has not been able to resume its activities.

Following the closure of the organisation, cases of increasing acts of harassment, including judicial harassment, against its members or systematic obstacles to their freedom of assembly, have been reported. For instance, on September 29, 2006, Mr. **Raul Manuel Danda**²⁷, Spokesperson of Mpalabanda, was arbitrarily arrested by the Provincial Criminal Investigation Police at the airport in Cabinda province. Police officers confiscated some of his documents, which they related to the conflict in Cabinda. Mr. Danda was held without charge at the Provincial Criminal Investigation Police in Cabinda until October 3, 2006. He was then charged with *"instigating, inciting and condoning crimes against the security of the State"* and was transferred to the Civil Prison in Cabinda. He was released on October 27, 2006, and the charges were dropped.

In 2010, following the attack against the Togo football national team, who came to participate in the African Cup of Nations organised in Angola, an attack which left two people dead and several others injured, and for which FLEC members claimed responsibility, the Angolan authorities arrested seven persons including three prominent human rights defenders, former members of Mpalabanda, namely Mesrs. **Francisco Luemba**, **Raul Tati**²⁸ and **Belchior Lanso**²⁹. The three human rights defenders were charged under Law 7/78, which provided for heavy prison sentences for those responsible of crimes against State security. While no evidence was brought against them, they were sentenced to three to six years' imprisonment under article 26 of Law 7/78, which referred to *"any act not set out in the law but capable of endangering the security of the State"*. They

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26. See Irin News: "Angola: Concerns as Luanda pushes through Cabinda peace deal", 3 October 2006, <http://www.irinnews.org/ft/report/61248/angola-concern-as-luanda-pushes-through-cabinda-peace-deal>

27. At the time of writing, Raul Danda was a Deputy at the National Assembly, on behalf of the opposition party, UNITA.

28. At the time of writing, Raul Tati was a Professor at the Institute of Science and Education in Cabinda.

29. At the time of writing, Belchior Lanso was the Executive Secretary of the Consensual Front of Cabinda (FCC) created in Kinshasa to coordinate the actions of some associations and political movements in Cabinda.

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were all released on December 22, 2010 and article 26 of the Law 7/78 was eventually reviewed. In March 2011, Mr. Francisco Luemba was arrested at the airport passport control in Luanda while he was planning to travel to Portugal. He was detained by the National Directorate for Criminal Investigation (DNIC) and informed that he was prohibited to travel outside the country. The DNIC officers showed him a letter from the Director of Immigration services of Cabinda where his name appeared on a list of people prohibited to leave the country. Mr. Luemba spent a night at the Directorate and was released the following day, when he was told that his arrest was a mistake.

On June 21, 2011, Mr. **Agostinho Chicaía**³⁰, former President of Mpalabanda, was arrested and detained without charges in Kinshasa, Democratic Republic of Congo (DRC), apparently in connection with the attack against the Togo football team. Mr. Chicaía was living in the Republic of Congo since 2009 and was planning to attend a conference on environmental issues in Harare, Zimbabwe, when he was arrested by the Congolese immigration police. His arrest allegedly occurred at the demand of the Angolan authorities. He was then released on July 9, 2011 without charges.

Some former members of Mpalabanda met by the Observatory reported the persistence of acts of threats, intimidation and discrimination (in employment or schools) against themselves and their families, a situation that has forced some of them to leave the region. Since the banning of the organisation, reporting on the human rights situation in the region of Cabinda has remained limited.

In 2013, the UN CCPR raised concerns *“at reports of intimidation and harassment faced by some non-governmental organisations, which prevent them from effectively carrying out their activities”* and recommended that Angola should *“take measures to encourage [the activities of associations] and collaborate with them [and to] take concrete measures to protect non-governmental organisations and ensure the protection of their members from reprisals”*³¹.

In 2012, the ACHPR was also *“concerned by the allegations of harassment of human rights defenders, and the poor collaboration between the Government and some human rights NGOs”* and recommended Angola to *“adopt legislative measures to guarantee freedom of association and ensure the protection of human rights defenders”*³².

A.4. The risky fight against demolitions, displacements and forced evictions: the case of SOS-Habitat

SOS-Habitat was created in November 2002 to support those affected by demolitions, displacements and forced evictions. Initially composed of almost 300 victims of house demolitions and forced evictions, SOS-Habitat today provides support to almost 60,000 families (almost 400,000 persons) who are victims of forced evictions in Luanda, and also in other cities such as Huambo, Benguela, Huila and Kwanza Norte. In a context where forced evictions continue to affect thousands of people throughout the country, the organisation remains the main one advocating for the protection of housing and land rights, including before national Courts. SOS-Habitat has filed cases before national courts to seek justice and reparation for families and victims of forced evictions, including against high ranking officials.

Since the creation of the organisation, members of SOS-Habitat have been facing several threats and other acts of intimidation as well as arbitrary arrests and detentions, in particular while trying to denounce demolitions and forced evictions. In 2007, SOS-Habitat was amongst the organisations threatened with banning by the Director of UTCAH for allegedly carrying out activities contrary to the law and aimed at inciting people to react against governmental institutions. While no legal action has been taken so far to ban the organisation, these statements clearly

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30. At the time of writing, Agostinho Chicaía was the Executive Secretary of the Transborder Initiative of Mayoumbe, an institutions created by Angola, Congo-Brazzaville and DRC to protect the environment and the forest of Mayoumbe.

31. See CCPR 2013 Concluding Observations.

32. ACHPR Concluding Observations on the Cumulative Periodic Reports (2nd, 3rd, 4th and 5th) of the Republic of Angola, 2012.



ANGOLA, Luanda: Thousands of Angolans left homeless by forced evictions

Picture showing, heaps of waste, all that remains of what was home to 3,000 families who could do nothing but stand and watch as their homes were flattened by government bulldozers. As many as 15,000 people are believed to have been made homeless in 2009 forced evictions on the southern peripheries of Luanda, in a string of land clearances to make way for gated condominiums and shopping centres. – © AFP PHOTO / LOUISE REDVERS

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contributed to increase the vulnerability of its members. These various forms of harassments compelled Mr. **Lúis Araújo**, former Coordinator of the organisation (who faced arbitrary arrest and detention and received credible information on a murder threat against him), to leave the country in 2009 for fear of further persecution.

Members of SOS-Habitat met during the mission of the Observatory described a persisting fear for their physical integrity in a context where they continue experiencing police tailing.

They described a situation whereby, over the past few years, the Angolan authorities have changed their attitude towards the organisation by using more sophisticated techniques to intimidate its members. For example, prior to some meetings organised by SOS-Habitat with communities affected by forced evictions or house demolitions, the authorities would meet with the leaders of those communities and accuse SOS-Habitat of belonging to the opposition party UNITA, instigating fear within the community.

In 2008, the CESCR was *“concerned that NGOs involved in the realization of economic, social and cultural rights are allegedly still under strict oversight, subject to coordination, evaluation and inspections carried out by the Technical Unit for the Coordination of Humanitarian Assistance, and that human rights defenders are still subjected to many legal and de facto restrictions, which constitutes a serious obstacle to the promotion and protection of economic, social and cultural rights”* and *“urged [Angola] to establish legal guarantees to enable NGOs to carry out their activities for the promotion and protection of economic, social and cultural rights without arbitrary interferences [and to] to ensure that perpetrators of attacks to the human rights defenders are brought to justice”*³³.

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33. See CESCR 2008 Concluding Observations.

B. Independent journalists covering human rights issues under threats

Despite provisions of the 2010 Constitution guaranteeing freedom of expression and information (article 40) and freedom of the press (article 44), journalists in Angola continue facing various forms of hindrances to exercising these rights, including judicial harassment, arbitrary arrests and detention, threats and other forms of intimidation, in particular when they report on issues related to corruption, good governance, police brutality and other topics deemed too sensitive by the authorities. While some independent journalists have been regularly reporting on these topics over the past years, most of the others are driven to self-censorship, compelled by the criminalisation of press offences by the authorities.

In a context where the State owns the unique daily newspaper, national television and radio, independent media, not affiliated to the Government, are facing difficulties in reaching a wide and diverse audience, in particular outside Luanda. According to a journalist met during the mission of the Observatory *“independent journalists are perceived by the authorities as part of the opposition and not as journalists. This situation limits their access to the primary information.”* The journalist further denounced the *“lack of vehicles of social communication that are not controlled by the ruling party”* referring to the lack of critical reporting and the obstructed press reporting on human rights violations.

A member of the youth movement met by the Observatory declared: *“Our media is not aimed at informing the population. They are controlled by the Government. We have some private media but only in Luanda. The Government does not allow private media to be based in the provinces because they will show what the Government does not want people to see.”*

The youth protests which started in Angola in early 2011 were mainly organised through social networks, which paved the way for the Government's willingness to also exercise stronger control on this means of communication by proposing a legislation which contained criminal offences related to the publication, through social networks, of information deemed subversive. While this draft legislation was abandoned following national and international pressure, concerns have been raised over the possible introduction of some of its provisions within the proposed revised Penal Code.

B.1. Restrictions to freedom of expression and freedom of the press

Article 19 of the ICCPR provides that:

1. *Everyone shall have the right to hold opinions without interference.*
2. *Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*
3. *The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:*
 - (a) *For respect of the rights or reputations of others;*
 - (b) *For the protection of national security or of public order (ordre public), or of public health or morals.*

Article 9 of the African Charter on Human and Peoples' Rights to which Angola is a State party provides that:

1. *Every individual shall have the right to receive information.*
2. *Every individual shall have the right to express and disseminate his opinions within the law.*

Article 19 of the UDHR provides that:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold

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opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 6 of the 1998 UN Declaration on Human Rights Defenders recognises the right of:

“everyone (...) individually or in association with others, to seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; (...)” and “to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and (...) to draw public attention to those matters”.

As seen above, the Angolan Constitution provides for freedom of expression (article 40) and freedom of the press (article 44). Pursuant to article 44, the press is free and cannot be subject to censorship. It also provides that the State must ensure plural expression, through the imposition of different ownerships and editorial diversity in the media, and ensure the existence and independence of public radio and television services. While article 40 guarantees everyone's right to freely express, publicise and share ideas and opinions, right to inform and receive information, without any forms of obstruction or censorship, it also provides for criminalisation of *“infraction [committed] during the course of exercising freedom of expression and information”*³⁴, a provision which can hamper human rights defenders and journalists' rights to freely express their views without fear of being prosecuted and convicted to criminal offences.

Aside from the Constitution, other pieces of legislation impose serious limits to the exercise of freedom of expression and freedom of the press. The 2006 Press Law (n°07/06, May 15, 2006), which regulates media activity, contains provisions that restrict the scope of the freedom of expression and of the press. Article 74 criminalises the *“abuses of freedom of press”*³⁵ which comprise the *“spreading of information that incite secession of the country”*; the *“spreading of information that causes disruption of public order, social panic and distrust in the financial and banking system”*; the *“promotion of persecution and defamation campaign through systematic and continued dissemination of information partially or totally false about facts, attitudes, professional, administrative or commercial performance of any person”*; or the *“publication of false news and rumours”*. These crimes are punishable under Angolan 1886 Penal Code to a up to four months prison sentence³⁶. While the country has initiated, since 2004, a process of reforming the Penal Code, according to information provided to the Observatory, provisions of the draft text still provide for criminalisation of defamation.

These provisions, which fall short of international standards, stating that any restriction to freedom of expression must be *“necessary”* and *“proportionate”*, have been abusively used against journalists in Angola. In its Resolution 169 adopted in 2010, the ACHPR stated that *“criminal defamation laws constitute a serious interference with freedom of expression and impedes on the role of the media as a watchdog, preventing journalists and media practitioners to practice their profession without fear and in good faith”* and called upon States parties to *“repeal criminal defamation laws or insult laws which impede freedom of speech, and to adhere to the provisions of freedom of expression, articulated in the African Charter, the Declaration [Declaration of Principles on Freedom of Expression in Africa – editor's note], and other regional and international instruments”*³⁷. Other international human rights bodies and mechanisms, including the UN Special Rapporteur on the Promotion and the Protection of the Right to Freedom of Opinion and Expression have called upon States to ensure that defamation falls under civil rather than criminal law³⁸.

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34. Article 40 of the Angolan Constitution: *As infracções cometidas no exercício da liberdade de expressão e de informação fazem incorrer o seu autor em responsabilidade disciplinar, civil e criminal, nos termos da lei.*

35. Article 74 (*Crime de abuso de liberdade de imprensa*).

36. Article 407 of the Penal Code (1886) (*Difamação*).

37. ACHPR, 169: Resolution on Repealing Criminal Defamation Laws in Africa, adopted in Banjul, The Gambia, on November 24, 2010.

38. General Assembly, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Ambyei Ligabo, A/HRC/4/27, 2 January 2007.

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Angolan journalists met during the mission further denounced the absence of an independent institution mandated to regulate the media profession, a *vacuum* which, in their view, prevents them from certifying their status as journalists (through the obtaining a press card for instance) and from being authorised to cover some events.

During her 2013 mission to Angola, the UN High Commissioner for Human Rights called Angolan defamation law “*a threat to investigative journalism*” and added “*freedom to investigate and expose possible abuses should not be undermined by heavy-handed actions, threats and intimidation on the part of the authorities*”. In 2012, the ACHPR called upon Angola to “*take the appropriate legislative measures to decriminalize press offences and guarantee freedom of expression and access to information*”.

In 2013, the UN CCPR expressed concerns at “*the existence in the State party’s legislation of offences which may constitute obstacles to the exercise of freedom of expression, including freedom of the press*”. The Committee raised particular concerns over cases of “*threats, intimidation and harassment by security or police forces of journalists, human rights defenders and protesters during political rallies or demonstrations in Luanda*” and recommended Angola that “*amend its legislation to protect the freedom of expression including the freedom of press [and to] take the necessary steps to ensure that any restrictions to the freedom of expression fully comply with the strict requirements of article 19, paragraph 3, of the Covenant*”.

B.2. Judicial harassment against independent journalists covering human rights issues

Authorities regularly use Angola’s legal provisions criminalising press offences to hamper freedom of expression and freedom of the press. This trend is illustrated by some of the following recent cases.

a) William Tonet and *Folha 8*

William Tonet, Editor of the independent weekly newspaper *Folha 8*, (who was running as a candidate for the opposition party CASA-CE during the 2012 general elections), is known for his stance against corruption and bad governance. On October 10, 2011, Mr. Tonet was sentenced by the Luanda Provincial Court to a one year suspended prison sentence and to US \$ 105,000 in damages (to be paid within five days). William Tonet was charged with “*publication of false news*”, “*abuses of press freedom*” and “*defamation*” following the complaints filed against him by five senior government and army officials, namely Gen. Antonio José Maria, head of military intelligence, Gen. Manuel Helder Vieira Dias Junior Kopelipa, State Minister and military adviser to the President of the Republic, Francisco Pereira Furtado, former chief of staff of the Angolan Armed Forces, Hélder Fernanco Pitta Groz, AG of the Armed Forces, and Silvio Burity, National Director of Customs. These officials accused Mr. Tonet of being responsible, among other accusations, for the publication, in 2008, of defamatory information suggesting that they were involved in corruption cases linked with the acquisition of diamond mines. While he appealed the decision of the Court, at the time of writing, his appeal was still pending before the Supreme Court.

Following Mr. Tonet’s conviction, *Folha 8* also became a target of the regime. On March 12, 2012, around 15 police officers from the DNIC entered the newspaper’s office and confiscated most of its equipment (including computers and hard disks). The police officers presented a search warrant alleging charges of “*outrage against the State, the person of the President, and the organs of the executive*”, an offence falling under the 2010 Law on Crimes against the Security of the State. The accusations were based on the publication in *Folha 8*, on December 30, 2011, of a satirical cartoon, which had been previously circulating on the Internet, portraying the President, his Vice President and Mr. Kopelila, the President’s military adviser, as thieves. While no prosecution was brought against the newspaper or its staff members, this raid illustrated the willingness of the authorities to curtail its activities. On May 15, 2013, several media reported a declaration which would have been made by the Ministry of Social Communication allegedly threatening to suspend *Folha 8* and Radio Despertar for spreading insulting and defamatory information about the authorities and for appealing to public disorder.

b) Rafael Marques de Morais

Rafael Marques de Morais declared to the Observatory delegation that “*by defending human rights I’m treated as the head of a gang. I’m on digital surveillance and those in contact with me might suffer consequences.*” Rafael Marques de Morais is a journalist and human rights defender well known for his denunciation of corruption and human rights abuses in the Angolan diamond industry. He has been facing judicial harassment for his stance against these abuses since the late 1990s.

On March 31, 2000, following the publication of articles where he depicted the President Eduardo Dos Santos as being responsible “*for the destruction of the country and the calamitous situation of State institutions*” and for “*the promotion of incompetence, embezzlement and corruption as political and social values*”, Mr. Rafael Marques was convicted to a six months’ prison sentence and ordered to pay a fine of US \$ 60,000. His sentence was suspended – following strong national and international pressure – under the condition that he did not commit criminal offences within a period of five years. Later on, the UN CCPR recognised that his arrest and detention had been unlawful and his trial unfair and ordered the Government of Angola to pay damages to the journalist for the violations of his rights guaranteed under the ICCPR. The Committee further urged Angola to ensure non-repetition of similar violations³⁹. The Government has yet to implement the Committee’s decision.

Following this case, Mr. Rafael Marques continued reporting on and denouncing the instances of corruption and human rights violations, in particular within the diamond industry. He published numerous articles and books (including *Cabinda: A Year of Pain*, 2003, *Lundas: the Stones of Death*, 2005 and *Blood Diamonds: Corruption and Torture in Angola*, 2011) where he denounced the human rights abuses perpetrated by government forces against civilians and alleged the responsibility of some State officials in these abuses.

These publications led to the filing of various criminal defamation lawsuits against Mr. Rafael Marques. In 2012, seven Angolan generals, including Gen. Manuel Hélder Vieira Dias Júnior Kopelipa, the President’s military adviser (who was amongst the complainants in the case filed against Mr. William Tonet), filed complaints against Mr. Marques and the editor of his book *Blood Diamonds: Corruption and Torture in Angola* – which linked them to human rights abuses and corruption in the diamond-mining industry – for criminal defamation. The complaints were filed in Portugal, where the book was released in 2011. This lawsuit followed a complaint filed in Luanda by Mr. Marques in November 2011 against 17 officials, including those Generals, whom he accused of being responsible for extra-judicial killings, acts of torture and other serious human rights abuses committed against civilians in the Lunda province. On February 11, 2013, the Portuguese prosecution service decided not to proceed with the case considering that Marques’ intention was to inform rather than offend. The plaintiffs however decided to file a civil defamation lawsuit in Portugal, requesting for US \$ 390,000 in damages, a case which was still pending before Portuguese courts at the time of writing the report.

On April 3, 2013, Mr. Marques was summoned for interrogation by the Organised Crime Unit of the National Police in Luanda. He was then informed that he had been indicted in January 2013 and had been charged with 11 charges of criminal defamation for having allegedly defaming, in his book *Blood Diamonds*, the same Generals and some business entrepreneurs.

In May 2013, Mr. Marques’ lawyer was informed that his case had been transferred to the National Directorate of Investigation and Penal Action (DNIAP), a department within the Office of the Attorney General. On July 31, 2013, while Marques was questioned at the DNIAP, no details on the exact content of the 11 charges brought against him were given to him.

39. See Communication N° 1128/2002: Angola. UN Document CCPR/C/D/83/D/1128/2002, April 18, 2005.

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Almost a year later, on July 7, 2014, Mr. Marques' lawyer received, from the Office of the AG, an indictment – dated March 25, 2014 – instituting the prosecution against him for “*eight crimes of Libel under article 245 of the Penal Code*” and alleging that his “*criminal responsibility is aggravated by circumstances 1 (premeditation), 20 (publicity) and 25 (special obligation not to commit a crime), all listed in article 34 of the Penal Code*”⁴⁰. Mr. Marques' lawyer was given five days to submit a list of witnesses for his defence, together with his submissions on the merits of the case. He submitted his response on July 14, 2014 without having been allowed to access all the files related to the case. He finally received the files on August 6, 2014. While Mr. Marques' trial had been scheduled to start on December 15, 2014, three days before it was set to start, Mr. Marques was informed that the trial had finally been postponed to March 24, 2015.

The lack of access, in due time, to all the documents related to the case; the transfer of the case to DNIAP, upon request of the AG, the lack of sufficient time given to his lawyer to prepare his defence, constitute serious infringements to Mr. Marques' right to due process and constitute another illustration of the authorities' willingness to hamper his freedom of expression and undermine his documenting and reporting activities⁴¹. The harassments against Rafael Marques have also taken the form of cyber-attacks and cyber-espionage. His blog, *Maka Angola*, has been blocked on several occasions and his personal laptop has been attacked with malware⁴².

c) Queirós Anastácio Chilúvia

On February 7, 2014, the journalist **Queirós Anastácio Chilúvia**, Director of **Radio Despertar** (a radio close to the main opposition party, UNITA), was sentenced to a six-month suspended imprisonment on charges of defamation and offending the police. Mr. Chilúvia was convicted following the broadcasting of the screams of detainees coming from a police station located in Cacuacco, a suburb of Luanda. On February 2, 2014, while he was passing near the police station and he heard detainees screaming. He went to question police officers about the reasons for such screaming. In the absence of any clear response from the police, Mr. Chilúvia decided to report the event live on Radio Despertar. Mr. Chilúvia was arrested by the police and held in detention for five days without being charged. On February 6, 2014, he was brought before a judge who sentenced him the day after to a six-month suspended prison term and released him on a US \$2,000 bail. The six-month sentence was suspended for two years. The detainees Mr. Chilúvia reported on were reportedly asking for help for a fellow inmate who was suffering from tuberculosis. While the sick detainee was transferred to a hospital following Mr. Chilúvia's reporting, he died a few hours after his arrival.

As stated above, according to media reports, on May 15, 2014 the Ministry of Social Communication has allegedly threatened to suspend Radio Despertar for spreading insulting and defamatory information about the authorities and for appealing to public disorder.

d) Armando Chicoca

Armando Chicoca, an independent journalist who had published for Voice of America and Radio Ecclesia, was sentenced to one year in prison on March 3, 2011, for “*defamation*” after disclosing the testimony of the former housekeeper of Mr. Antonio Vissandula, former Judge and President of the Court of Namibe, accusing him of having fired her for refusing his sexual advances. After having spent almost a month in detention, Mr. Chicoca was released on a US \$2,500 bail on April 7, 2011, pending the outcome of his appeal to the Supreme Court. At the time of writing, his appeal was still pending.

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40. 08 (Oito) crimes de denuncia caluniosa p. ep. nos termos de artº 245 do Código Penal.

41. For more information, see Joint Letter addressed by Angolan and international human rights organisations, including the Observatory for the Protection of Human Rights Defenders, to the ACHPR and UN relevant Special Rapporteurs concerning the case of Rafael Marques, August 2, 2013.

42. https://www.fidh.org/IMG/pdf/20140811_annex_i_letter_of_allegation_august_2013.pdf

B.3. Prohibited to cover the demonstrations

While they were trying to cover the youth protests that erupted in Angola in early 2011, some journalists faced arbitrary arrest and detention, harassment and intimidation from some of the authorities. For example, on September 20, 2013, the police mistreated three journalists, including Rafael Marques de Morais as they were interviewing a group of protesters who had just been released from police detention. Police officers confiscated their cellphones and cameras and took the journalists to the headquarters of the police station in Luanda where they were allegedly beaten and where their material was destroyed. They were released without charges a few hours later and they went to file a complaint against the police officers at the Provincial directorate of criminal investigation in Luanda. Their complaint was discontinued.

C. Restrictions to freedom of peaceful assembly

Article 11 of the African Charter on Human and Peoples' Rights provides that:

“Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.”

Article 21 of the ICCPR provides that:

“The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.”

Article 47 of the 2010 Constitution provides that all citizens have the right to demonstrate peacefully and unarmed. It states that there is no need for a governmental agency to authorise demonstrations. However, if these demonstrations take place in public places, authorities have to be informed for purposes contained in the law. The law regulating the freedom of assembly and demonstration is the Assembly and Demonstrations Act (n°16/91, 11 May 1991), which narrows the guarantees provided for in the 2010 Constitution. The law imposes limits on the exercise of the right to assemble and demonstrate: it does not allow for assembly or demonstrations to be carried out on private or public lands without authorisation.

C.1. Crackdown on the “youth movement”

In early 2011, inspired by the Arab spring, hundreds of young Angolan men and women – students, workers and jobless – started demonstrating in Luanda and other cities such as Benguela, Cabinda, Huambo, Lunda Sur, Lunda Norte and Bie. The demonstrations were mostly spontaneous and aimed at requesting for the end of a political and economic system based on patronage, inequalities, injustices, corruption, and lack of freedoms and of transparency.

A young man, active within the youth movement, declared to the Observatory delegation: *“As a young person in Angola, it is hard to have a perspective of what would be your life in ten years. We want to dream. We want a country where we feel free, where we do have our freedom of expression guaranteed and where for living we do not need to be part of the ruling party.”* Developing further on the reasons that led to the demonstrations he added: *“We started demonstrating because our Government is not democratic and does not allow people to think differently. What happened in North Africa was a trigger for us. These countries had experienced dictatorship and yet, they showed us that demonstration could lead to regime change. Eduardo Dos Santos has been in power for more than 30 years and yet we are still missing all basic needs such as education and health. For a long time people had been silenced in Angola, living in fear. That was our*

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main motivation. Democracy, freedoms and social justice." The Government's response to these spontaneous demands for democracy and social justice was characterised by stigmatisation, repression, arbitrary detention and prosecution.

Another interlocutor from the youth movement who was interviewed by the delegation, speaking about the injustices and inequalities in Angola, put the matter graphically and said, "*Where there is no justice for the poor, there will be no peace for the rich.*"

The political rhetoric employed by the authorities was aimed at stigmatising and de-legitimising the youth movement. Demonstrators were portrayed as agitators and bandits who wanted to challenge the country's restored peace. The purpose was to instigate fear among the population by referring to a possible return to war. Pro-government demonstrations calling for the preservation of peace were held, without any forms of hindrances from the authorities.

Authorities also sought to undermine the movement with the use of excessive and disproportionate force against demonstrators, arbitrary arrests and detention and acts of intimidation and harassment. While most of the demonstrations were announced in advance to relevant authorities, in accordance with the law, demonstrators met by the Observatory reported having witnessed or having been severely beaten by police forces and brought to police stations injured. Demonstrators also reported the presence of armed men in plain clothes who were allegedly helping the police to attack demonstrators. "*They started beating us with iron sticks and with whatever they founded in the streets, such as stones. They were always covered by the police*" declared one of the demonstrators to the Observatory delegation.

The repression increased in 2012, in the pre-electoral context. "*In 2012, their technique of repression was radically different. When we were announcing our demonstrations, police would come to us and intimidate us prior to the date set for the demonstration. Police would come to our 'bunker' and would severely beat us.*" New forms of demands also emanated from war veterans demanding for instance for higher pensions. The repression reached its climax with the abduction and enforced disappearance, on 27 May, 2012, of two demonstrators, Isaias Kassule and Alves Kamulingue.

Dozens of demonstrators have been arbitrarily arrested and detained. While some would be released the same day, others would face unfair trials and prison sentences. "*When we went to Court, the judgement was really dramatic. We were portrayed as the criminals and the police as the victims*" reported one of the demonstrators met by the Observatory delegation. While several demonstrators filed complaints against police officers for having received threats or having been victims of brutality, police officers have to a large extent remained unpunished.

In its 2013 recommendations, the UN CCPR called upon the authorities to "*ensure the enjoyment by all of the freedom of peaceful assembly and protect journalists, human rights defenders and protesters from harassment, intimidation and violence [and to] investigate such cases and prosecute those responsible*".

CONCLUSION AND RECOMMENDATIONS

12 years after the end of a 30-year long war which claimed one million lives and left one-third of the population displaced, while Angola is benefiting from a fruitful exploitation of its natural resources and growing political influence on the regional and international scenes and despite the recent adoption of legal and institutional reforms to guarantee respect of fundamental rights and freedoms, multiple human rights challenges are yet to be addressed to laying the foundations of democracy and the rule of law in the country. In a socio-political context still marked by the prevalence of widespread poverty, endemic corruption and marginalisation of the opposition, Angolan human rights defenders and independent journalists are facing different kinds of obstacles preventing them from monitoring, documenting and denouncing human rights abuses in a satisfactory manner.

Within this transitional phase towards the establishment of the Rule of Law in Angola, human rights defenders and journalists have a key role to play. Yet, despite the declared willingness of Angolan authorities to abide by their national and international human rights commitments, information collected during the mission of the Observatory depicts an environment marked by a persistent distrust of dissenting voices, a context that is detrimental to the building up of a strong and sustainable civil society. Today, human rights defenders and journalists remain vulnerable. They continue to work in an environment where they face regular judicial and administrative harassment, threats and various forms of restrictions to their freedom of association, expression and/or assembly, in particular when they raise concerns over "sensitive" issues such as governance, access to justice, corruption, forced displacement and evictions, exploitation of natural resources or the situation in the Cabinda province. The impunity enjoyed by those responsible of acts of harassment and intimidation further contribute to this situation of vulnerability.

In order to ensure that all relevant stakeholders, and in particular human rights defenders and independent journalists, can freely participate in the building up of the democracy in Angola, **the Observatory for the Protection of Human Rights Defenders calls upon:**

The Authorities of Angola, including the Government, National Assembly and Judiciary, to:

Concerning the protection of the rights of human rights defenders:

- Guarantee, in all circumstances, the fundamental rights and freedoms of human rights defenders as provided for in the United Nations Declaration on Human Rights Defenders, the African Charter on Human and Peoples' Rights, the International Covenant on Civil and Political Rights, the Universal Declaration on Human Rights and other relevant regional and international human rights instruments ratified by Angola;
- Guarantee in particular the physical and psychological integrity of all human rights defenders in Angola; put an immediate end to any acts of violence and harassment – essentially judicial harassment – against human rights defenders;
- Ensure that prompt, independent and transparent investigations into cases of violations of the rights of human rights defenders, including threats, physical assault and other forms of violence, are carried out and that those responsible are brought to justice;
- Put an immediate end to the public stigmatisation of human rights defenders and recognise their necessary role for the strengthening of democracy and the rule of law in Angola, and create a safe and enabling environment so they can carry out their activities freely and without hindrance and intimidation;
- Take all necessary measures to ensure that the constitution and registration process of NGOs is clarified and simplified and conducted with transparency and non-discrimination; take all necessary measures to guarantee NGOs' right to appeal, before independent and impartial mechanisms, any decision to refuse their registration or decide their extinction;

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- In particular, take all necessary measures to ensure that the human rights organisations Omunga, AJPD and Mãos Livres are issued with their certificates of registration without further delay and are able to carry out their activities without hindrances;
 - Guarantee the rights of human rights organisations to monitor, document and report on the human rights situation in the Cabinda province without fear of intimidation and other forms of hindrances;
 - Drop the criminal charges for criminal defamation pending against the journalist Rafael Marques de Morais, allowing those aggrieved to seek redress in civil courts, and ensure that he and his legal counsel have full access to the legal documents and the evidence against him;
 - Take all necessary measures to give full effect to the UN CCPR 2005 decision calling for the payment of damages to Rafael Marques de Morais following his unlawful and unfair trial;
 - Ensure that peaceful demonstrators can exercise their right to demonstrate without fear of excessive and disproportionate use of violence by police forces, arbitrary arrests and detention, unfair trials, acts of intimidation;
 - Engage into a constructive and regular dialogue with human rights organisations and defenders on the state of human rights in the country.

Concerning the conformity of the legal and institutional framework with regional and international human rights treaties:

- Conform with the provisions of the UN Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998, especially its Article 1, which states that *“everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels”*, Article 11 which reads that *“everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession”* and Article 12.2, which provides that *“the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration”*;
- Repeal all provisions within the national legal framework that are contrary to Angola's regional and international human rights obligations related to the rights of human rights defenders, in particular their rights to freedom of association, freedom of expression, freedom of peaceful assembly and demonstration guaranteed under the ICCPR and the African Charter;
- Repeal in particular provisions of the 2006 Press Law and the 1991 Demonstration Act that are contrary to Angola's human rights obligations and ensure that the draft Penal Code under review does not contain provisions that are contrary these obligations; take all necessary measures to give effect to the recommendations issued by the ACHPR, the UN CCPR and other relevant human rights mechanisms concerning the repealing of defamation laws;
- Take all necessary measures to strengthen the effectiveness of the national human rights institutions and mechanisms mandated to promote and protect human rights; consider creating, as recommended by regional and international human rights mechanisms, a national human rights institution that conforms with the Paris Principles;
- Take all necessary measures to implement the provisions of the ACHPR Model Law on Access to Information in Africa.

Concerning the strengthening of the administration of justice:

- Take all necessary measures to guarantee the independence of the judiciary as provided for under articles 175 and 179 of the 2010 Constitution and in accordance with the United Nations Basic Principles on the Independence of the Judiciary;
- Ensure that appointments of judicial officers, particularly in the superior courts are done in an open, transparent and competitive manner and that they are done on the recommendation of an independent and impartial body appointed in a manner that does not transgress the doctrine of separation of powers among the three organs of State;

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- Ensure that the on-going process of reform of the judiciary leads to the strengthening of this sector and in particular to the reinforcement of human rights guarantees;
 - Increase the budget allocated to the judiciary in order to improve its effectiveness; take all necessary measures to ensure that this sector is not marred by corruption anymore;
 - Ensure that a code of ethics for judicial officers is drafted, adopted and implemented in order to strengthen the independence and integrity of the judicial institution;
 - Ensure the independence and impartiality of prosecutors in the performance of their duties. In particular, there must be no reprisals for lawyers who represent clients that are involved in human rights issues;
 - Ensure that prosecutors, judges and representatives of the criminal justice chain receive adequate training on human rights law as well as on international human rights mechanisms;
 - Take all necessary measures to ensure that victims of human rights abuses, including human rights defenders, have effective access to justice, including through the setting up of an effective legal aid system;
 - Take all necessary measures to ensure that the rights to due process and fair trial for human rights defenders facing prosecution are guaranteed;
 - Ensure that thorough, prompt and independent investigations into the cases of threats, intimidation, attacks, abductions and other forms of violence against human rights defenders are carried out, and that the perpetrators face civil, disciplinary and penal sanctions;
 - Investigate allegations of excessive use of force by the police, armed men, State security agents and State officials against demonstrators and ensure that perpetrators are brought to justice;
 - Accede to the request for a mission to Angola formulated since 2008 by the UN Special Rapporteur on the Independence of Judges.

Concerning the ratification of regional and international treaties:

- Proceed to the ratification of the African Charter on Democracy, Elections and Governance; the Protocol to the African Charter on the Establishment of an African Court on Human and Peoples' Rights, by making the declaration under article 34.6 allowing direct access to the Court to individuals and NGOs; the UN Convention Against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment; the UN Convention for the Protection of All Persons from Enforced Disappearance; the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; the Rome Statute to the International Criminal Court.

Concerning the collaboration with regional and international human rights mechanisms:

- Take all necessary measures to give effect to the recommendations issued, to Angola, by the regional and international human rights mechanisms, in particular the ACHPR, the UN CCPR, the UN High Commissioner for Human Rights, the CEDAW Committee and the CESCRC;
- Take all necessary measures to give effect to the ACHPR Resolutions on the situation of human rights defenders in Africa, in particular Resolutions 196 (2011) and 69 (2004);
- Accede to the request for a visit formulated by the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association since October 2013;
- Provide for a standing invitation to regional and international human rights mechanisms, in particular the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, the UN Special Rapporteur on the Situation of Human Rights Defenders, UN Special Rapporteur on Freedom of Opinion and Expression, the ACHPR Special Rapporteur on Human Rights Defenders, the ACHPR Special Rapporteur on Freedom of Expression and Access to Information in Africa.

To the African Commission on Human and Peoples' Rights to:

- Publicly denounce the vulnerability of the situation of human rights defenders in Angola, in particular the legal and practical infringements to their freedoms of association, expression and assembly;
- Call upon the Angolan authorities to fully conform the national legal and institutional framework with the human rights guarantees provided by regional treaties;
- Call upon the Angolan authorities to guarantee the physical and psychological integrity of human rights defenders and ensure that those found responsible for human rights abuses are held accountable;
- Continue to grant particular attention to the protection of human rights defenders in Angola, in accordance with the African Charter and follow-up the implementation of its 2012 recommendations.

To the Southern African Development Community (SADC) to:

- Publicly denounce the vulnerability of the situation of human rights defenders in Angola, in particular the legal and practical infringements to their freedoms of association, expression and assembly;
- Call upon the Angolan authorities to fully conform the national legal and institutional framework with the human rights guarantees provided by regional treaties;
- Call upon the Angolan authorities to guarantee the physical and psychological integrity of human rights defenders and ensure that those found responsible for human rights abuses are held accountable.

To the United Nations:

- Special Procedures of the Human Rights Council, in particular the Special Rapporteurs on the Situation of Human Rights Defenders; on Freedom of Opinion and Expression; on the Rights to Freedom of Peaceful Assembly and of Association; on Extra-judicial, Summary or Arbitrary Executions, should continue alerting the Human Rights Council and international community on the human rights violations committed in Angola in compliance with their mandate of early warning mechanism;
- Special Procedures of the Human Rights Council which have requested to visit Angola, in particular the Special Rapporteurs on the Rights to freedom of Peaceful Assembly and of Association and on Independence of Judges and Lawyers and on the promotion of truth should reiterate their requests;
- The Special Rapporteur on the Situation of Human Rights Defenders should request for a visit to Angola.

To the European Union to:

- Consider the strengthening of the Angolan civil society as a priority within their political dialogue with Angolan authorities; in line with the cooperation agreement signed in 2012 between EU and Angola and upon which both committed to the promotion of human rights and fundamental freedoms;
- Ensure that the delegations and Heads of Missions take all conservatory, protective, preventive and reactive measures, including local statements and proactive démarches in line with the various EU Guidelines on Human Rights Defenders. In particular, ensure regular meetings with human rights defenders; prison visits to human rights defenders detained; observation of trials held against human rights defenders as a means to sanction their human rights activities;
- Systematically condemn, including through highest level public statements, harassment, arrest and violence against human rights defenders, and stress that those responsible for such abuses and violations must be held accountable;

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- Use dialogue to follow up progress and raise other matters of concern, to denounce shortcomings, and to send strong messages of support for human rights defenders; use dialogue also to obtain further commitments and progress, assessing results, based upon clear and meaningful benchmarks and substantive indicators, and making those assessments public. Ensure the dialogues can produce positive human rights outcomes and do not become rituals used to deflect international scrutiny of its human rights record;
 - Always seek for the best interplay between the instruments and policies at disposal, and regularly assess the whole EU strategy put in place and adapt it if no significant results borne. Ensure also in that regards that the granting of particular incentives like GSP or the benefit of closer bilateral relationships, are dependent on measurable progress.

To other Foreign Diplomacies Represented in Angola to:

- Consider the strengthening of the Angolan civil society as a priority within their political dialogue with Angolan authorities;
- In particular call upon the Angolan authorities to uphold their human rights obligations by guaranteeing the rights and protection of human rights defenders.



SIGRID RAUSING TRUST



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The Association Justice Peace and Democracy (Associação Justiça, Paz e Democracia – AJPD) is a national, non partisan human rights organization, established in Angola on May 21, 2000. AJPD is a national, non partisan, voluntary organization with legal status in Angola. It is open to all men and women of good will. It aims to contribute to the active, conscious and responsible work of all Angolans in the process of consolidation of the democratic process, the rule of law, peace, development and strengthening of respect for human rights in Angola in a peacefully manner and respecting democratic legality. Its mission is to contribute and work in advocacy of the rights of citizens and communities in Angola through programmes and projects for the protection of human rights and citizenship in Angola. In this perspective, the organization conducts social advocacy, promotes and provides legal support, organizes conferences, workshops, seminars on the situation of human rights and also carries joint campaigns with international organisations.

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Establishing the facts

Investigative and trial observation missions

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed rigorous and impartial procedures to establish facts and responsibility.

Experts sent to the field give their time to FIDH on a voluntary basis.

FIDH has conducted more than 1,500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

Supporting civil society

Training and exchanges

FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level.

Mobilising the international community

Permanent lobbying before intergovernmental bodies

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them. FIDH also takes part in the development of international legal instruments.

Informing and reporting

Mobilising public opinion

FIDH informs and mobilises public opinion. Press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, website... FIDH makes full use of all means of communication to raise awareness of human rights violations.

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Created in 1985, the World Organisation Against Torture (OMCT) is the main international coalition of non-governmental organisations (NGOs) fighting against torture, summary executions, enforced disappearances, arbitrary detentions and all other cruel, inhuman and degrading treatment or punishment. The strength of OMCT lies in its SOS-Torture Network composed of 311 NGOs from around the world.

Assisting and supporting victims

OMCT supports victims of torture to obtain justice and reparation, including rehabilitation. This support takes the form of legal, medical and social emergency assistance, submitting complaints to regional and international human rights mechanisms and urgent interventions.

OMCT pays particular attention to certain categories of victims, such as women and children.

Preventing torture and fighting against impunity

Together with its local partners, OMCT advocates for the effective implementation, on the ground, of international standards against torture.

OMCT is also working for the optimal use of international human rights mechanisms, in particular the United Nations Committee Against Torture, so that it can become more effective.

Protecting human rights defenders

Often those who defend human rights and fight against torture are threatened. That is why OMCT places their protection at the heart of its mission, through alerts, activities of prevention, advocacy and awareness-raising as well as direct support.

Accompanying and strengthening organisations in the field

OMCT provides its members with the tools and services that enable them to carry out their work and strengthen their capacity and effectiveness in the fight against torture.

OMCT presence in Tunisia and Libya is part of its commitment to supporting civil society in the process of transition to the rule of law and respect for the absolute prohibition of torture.

8 rue du Vieux-Billard - PO Box 21 - CH-1211 Geneva 8 - Switzerland

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Activities of the Observatory

The Observatory is an action programme based on the belief that strengthened co-operation and solidarity among human rights defenders and their organisations will contribute to break the isolation they are faced with. It is also based on the absolute necessity to establish a systematic response from NGOs and the international community to the repression of which defenders are victims.

With this aim, the Observatory seeks to establish:

- a mechanism of systematic alert of the international community on cases of harassment and repression of defenders of human rights and fundamental freedoms, particularly when they require urgent intervention;
- the observation of judicial proceedings, and whenever necessary, direct legal assistance;
- international missions of investigation and solidarity;
- a personalised assistance as concrete as possible, including material support, with the aim of ensuring the security of the defenders victims of serious violations;
- the preparation, publication and world-wide dissemination of reports on violations of the rights and freedoms of individuals or organisations working for human rights around the world;
- sustained action with the United Nations and more particularly the Special Rapporteur on Human Rights Defenders, and when necessary with geographic and thematic Special Rapporteurs and Working Groups;
- sustained lobbying with various regional and international intergovernmental institutions, especially the Organisation of American States (OAS), the African Union (AU), the European Union (EU), the Organisation for Security and Co-operation in Europe (OSCE), the Council of Europe, the International Organisation of the Francophonie (OIF), the Commonwealth, the League of Arab States, the Association of Southeast Asian Nations (ASEAN) and the International Labour Organisation (ILO).

The Observatory's activities are based on consultation and co-operation with national, regional, and international non-governmental organisations.

With efficiency as its primary objective, the Observatory has adopted flexible criteria to examine the admissibility of cases that are communicated to it, based on the "operational definition" of human rights defenders adopted by FIDH and OMCT: "Each person victim or at risk of being the victim of reprisals, harassment or violations, due to his or her commitment, exercised individually or in association with others, in conformity with international instruments of protection of human rights, to the promotion and realisation of the rights recognised by the Universal Declaration of Human Rights and guaranteed by the different international instruments".

To ensure its activities of alert and mobilisation, the Observatory has established a system of communication devoted to defenders in danger. This system, called Emergency Line, can be reached through:

E-mail: Appeals@fidh-omct.org

FIDH Tel: + 33 1 43 55 25 18 Fax: + 33 1 43 55 18 80

OMCT Tel: + 41 22 809 49 39 Fax: + 41 22 809 49 29