

BRIEFING PAPER

Universal Periodic Review

MARCH 2019

THE SITUATION OF HUMAN RIGHTS DEFENDERS IN

ANGOLA

Contacts

Adelaïde ETONG KAME
International Service for Human Rights
a.etong@ishr.ch

Maria Lúcia I. DA SILVEIRA
Associação Justiça, Paz e Democracia (AJPD)
lsilveira@ajpdangola.co



During its last UPR in 2014, Angola accepted [192 recommendations](#). The government accepted 1 recommendation on human rights defenders and 15 recommendations on freedom of expression, freedom of association and the right to peaceful assembly. These recommendations called on the State to take the necessary measures for civil society, human rights defenders and journalists to carry out their activities, *de facto* and *de jure*, in a safe and enabling environment. However, since its last review, the government has continued to repress peaceful political dissent and has adopted several restrictive laws.

A. RISKS FACING HUMAN RIGHTS DEFENDERS

- In Angola, human rights defenders and journalists are victims of arbitrary arrests and illegal detentions for defamation, rebellion, preparatory acts of rebellion, and public disorder. Authorities, including the Criminal Investigation Service (Serviço de Investigação Criminal) and the Angolan Armed Forces (FAA), resort to such practices and violence to prevent the expression of political dissent and denunciations of human rights violations during demonstrations.ⁱ
- Human rights defenders José Marcos Mavungo and Arão Bula Tempo were arrested on 14 March 2015 while they were calling for peaceful protests in Cabinda. They belonged to the Mpalabanda Associação Cívica de Cabinda, an Angolan NGO banned by the government in 2006. On 20 May 2016, the Supreme Court absolved José Marcos Mavungo, while the Provincial Court of Cabinda dropped all charges against Arão Bula Tempo on 11 July 2016.^{ii, iii}
- Fundamental rights, such as freedom of expression and information (art.40 of the Constitution) are repeatedly infringed and misinterpreted by authorities. The Provincial Court of Luanda sentenced journalist Rafael Marques de Morais to prison on 28 May 2015, after being indicted on eight charges, including slander for denouncing violations by armed forces. Twelve more charges were brought in during the trial before being later dismissed. After his release on 20 May 2016, Marques de Morais spoke on being intimidated and threatened by State security agents, who tried to coerce him into giving up on activism.^{iv, v}
- Notwithstanding that freedom of association and peaceful assembly are enshrined in the Constitution (art.47), on 20 June 2015, fifteen pro-democracy activists were detained and two others were arrested temporarily while participating in a meeting called ‘Philosophy of Peaceful Revolution’. This is known as the “15+2 case”.^{vi} UN Special Rapporteur on the situation of human rights defenders urged the Angolan government to immediately release detained activists.^{vii} On 28 March 2016, the Provincial Court of Luanda sentenced them to imprisonment for two to eight and a half years, on charges of preparatory acts of rebellion, criminal association and conspiracy. After the defense requested habeas corpus, the Supreme Court of Justice decided to release the 17 activists in June 2016.^{viii}
- On 24 February 2017, 101 Angolans belonging to the People’s Movement for the Liberation of Angola (MPLA) were detained prior to and during demonstrations in North and South Lunda, and eventually released. Authorities deployed in this operation reportedly went door-to-door to arrest suspects. Several Police units and the armed forces opened fire at civilians in Cuango and Cafunfo.^{ix}
- After the indictment of activists who were protesting charges of state security crimes, reprisals from the State were anticipated, resulting in significant self-censorship.^x
- In that sense, and as part of a national strategy to silence dissident voices, on 20 June 2017, a dozen activists were arbitrarily arrested for attending a meeting organized by UNITA (opposition party) on human rights violations under former president José Eduardo Dos Santos and the state of democracy in the country. While in detention, they were reportedly victims of ill-treatment.^{xi}
- Similarly, on 24 June 2017, seventy Angolans were arrested, 13 were injured and one was found dead in Moxico, North Lunda and South Lunda, while demonstrating to demand transparent elections. The protests were convoked by the Lunda Tchokwe Protectorate Movement (MPL-T). They had allegedly informed authorities in reasonable time but received no answer, which would have implied that no order prohibiting the series of demonstrations had been delivered.^{xii}
- Furthermore, when prosecuted, the procedural guarantees of defenders are not always respected. On 28 June 2017, forty-two of them were sentenced to forty-five days of imprisonment and a 22 mil kwanzas (70 USD) fine for ‘public disorder’. Poor detention conditions and unfair legal procedures were denounced.^{xiii}
- Regarding the strict control over press content, allegations made against the government risk being considered defamation. On 30 June 2017, after

publishing an article questioning the legality of land acquisition by the General Public Prosecutor, human rights defender Rafael Marques de Morais and journalist Mariano Brás Lourenço were charged with ‘outrage to a sovereign body’ and ‘defamation of public authority’. It was also reported that when accused of defamation, defendants do not enjoy the presumption of innocence.^{xiv, xv}

- Moreover, as reported by Amnesty International, organisations working on human rights issues can also face restrictions in accessing their funds. Namely, OMUNGA and SOS-Habitat were prevented from accessing their funds, from national and international origins.^{xvi}

B. OFFICIAL RESTRICTIONS ON THE SPACE FOR HUMAN RIGHTS DEFENDERS

- In its decision n°447/2017, adopted on 5 July 2017, the Constitutional Court of Angola took a significant step against restrictions on civic space.^{xvii} It declared the Presidential Decree n°74/15 on NGOs regulation (adopted on 23 March 2015) to be unconstitutional. This is due to its restrictive and overbearing state-interventionist nature.^{xviii}
- However, in August 2017, Amnesty International expressed great concerns over the adoption of several restrictive laws on 16 November 2016, known as the [Social Communication Legislative Package](#). These are the Freedom of Information Act, the Organic Law on the Regulatory Entity of Angolan Social Communication, the Law on the Exercise of Television Activity, the Law on the Exercise of Radio Activity and the Law on the Status of Journalists. They threaten freedom of expression and the press. Among other things, media editorial lines are subject to the approval of the Ministry of Social Communication and their content to the control of a regulatory entity.^{xix}
- Accordingly, the Constitutional Court declared articles 7 and 10 of the Freedom of Information Act constitutional, after reviewing them in its decision n° 447/2017. Therefore, pursuant to article 7, the Angolan Social Communications Regulatory Body was set up. This could potentially lead to more restrictions on the press and control over its content due to the difficulty in guaranteeing its full independence.
- Furthermore, libel laws are still used to limit the work of defenders. Defamation is still considered a *crime against honour* under article 216 of the 2018 Criminal Code.^{xx, xxi}

C. HUMAN RIGHTS DEFENDERS FACING PARTICULAR RISKS

- Political movements claiming the autonomy or independence of the province of Cabinda are repeatedly targeted by authorities, who seek to systematically prevent demonstrations. As such, defenders’ rights are even more restricted and they are regularly subjected to violence, arbitrary arrests and illegal detentions.^{xxii}
- On 16 December 2018, twenty-nine activists were detained while preparing for a demonstration for the anniversary of the Universal Declaration of Human Rights. The aim of the march was to demand the end of torture and of the on-going criminalisation of demonstrations in the province.^{xxiii} All were released the same day, except for one who was found dead after his detention.^{xxiv}
- On 28 January and 1 February 2019, sixty-two civilians, among them activists belonging to the Independence Movement of Cabinda, were arrested arbitrarily in the province for their involvement in peaceful protests.^{xxv}

D. THE RESPONSE OF THE STATE REGARDING THE PROTECTION OF HUMAN RIGHTS DEFENDERS

- In spite of the recommendation adopted in its last UPR in 2014, Angola has yet to create a National Human Rights Institution.
- Although President João Lourenço, elected in 2017, has undertaken significant efforts to tackle corruption schemes and abuses by the former government, measure to protect defenders are yet to be elaborated and implemented.
- In the light of the repressive actions against the population, the Special Rapporteur on Freedom of Assembly and Association, and the Special Rapporteur on Freedom of Expression requested a visit on 30 October 2013 and 31 March 2015 respectively, to which the State did not respond.^{xxvi}
- Moreover, in opinion n° 21/2016, the Working Group on arbitrary detention requested the release of fourteen Angolans. The State did not respond, although the release of José Marcos Mavungo was eventually communicated.^{xxvii}
- Nevertheless, in December 2018, President João Lourenço met with leaders of NGOs, including activist artist Luaty Beirão and journalist Rafael Marques de Morais. This was an important step

towards the recognition of civil society's role in the promotion and protection of human rights, but no concrete steps have been taken by the government.

RECOMMENDATIONS TO THE GOVERNMENT OF ANGOLA:

- Establish a National Human Rights Institution that is compliant with the Paris Principles and fully mandated and resourced to monitor the situation of human rights in Angola and prevent violations and abuses;
- Adopt a national law for the promotion and protection of human rights defenders in line with the UN Declaration on human rights defenders and other relevant international and regional human rights norms;
- Respect and protect the rights to freedom of expression, freedom of association and to peaceful assembly in compliance with international standards, the National Constitution, the Law on the Right of Assembly and Protest of 11 May 1991 and the Law on Demonstrations;
- Abolish or amend all laws and policies which limit the activities carried out by civil society and human rights defenders, including the Social Communication Legislative Package and criminal libel laws used to coerce civil society into self-censorship;
- Take all the necessary measures to put an end to arbitrary arrests and illegal detentions of human rights defenders; release arbitrarily detained prisoners and compensate victims in accordance with international standards;
- Adopt legislation to limit the unlawful use of force by security forces and authorities in the context of peaceful demonstrations; and
- Ensure effective, credible and impartial investigations into all allegations of human rights violations against defenders and ensure that perpetrators are held accountable.

ABOUT THIS BRIEFING PAPER

ISHR and Associação Justiça, Paz e Democracia (AJPD) encourage States to consult UPR submissions by local activists and make recommendations to Angola regarding the protections of HRDs. This paper is a result of compiling public information and direct contact and experience in the protection of HRDs. Readers should consult sources provided for additional information.

ⁱ Amnesty International, "Angola: autoridades angolanas não devem reprimir manifestação", <https://bit.ly/2JmXLXE>

ⁱⁱ Human Rights Watch, "Angola: rights activists face outrageous trials", <https://bit.ly/2TKDShR>

ⁱⁱⁱ FrontLine Defenders "Case history: Arão Bula Tempo", <https://bit.ly/29JdHwD>

^{iv} e-Global, "O regime não se cansa em me pressionar para não continuar a denunciar as violações de Direitos Humanos em Cabinda" <https://bit.ly/2Y2qfsS>

^v American Bar Association, "Trial observation report: the case of Rafael Marques de Morais", <https://bit.ly/2HGtC2W>

^{vi} FrontLine Defenders, "Angola: continued detention of 17 HRDs arrested one year ago", <https://bit.ly/2HsqOHh>

^{vii} UN, "Relator da ONU pede libertação imediata dos 15 ativistas angolanos presos de forma arbitrária", <https://bit.ly/2HF0yJ1>

^{viii} Madalena Sampaio, "Amnistia: Libertação de ativistas angolanos foi uma "excelente surpresa", <https://bit.ly/2OavEJZ>

^{ix} Lusa, "Libertadas mais de 70 pessoas detidas em protesto na província angolana da Lunda Norte", <https://bit.ly/2OgxusQ>

^x Freedom House, "Angola profile", <https://bit.ly/2Tfa1sW>

^{xi} Amnesty International, "Angola: detained activists must be immediately released", <https://bit.ly/11dU4L2>

^{xii} Isabel Pinto Machado, "Angola: Lunda Tchokwe sai amanhã à rua apesar das intimidações", <https://bit.ly/2JmyFYU>

^{xiii} Nelson Francisco Sul, "Manifestantes das Lundas condenados por criarem desordem popular", <https://bit.ly/2CswBbR>

^{xiv} Government of Angola, "Angola 2017: human rights report", <https://bit.ly/2UEoTIP>

^{xv} Amnesty International, "Angola: Human rights defenders and journalists charges: Rafael Marques de Morais and Mariano Brás Lourenço", <https://bit.ly/2HsujO4>

^{xvi} Amnesty International, "Informe 2016-2017: O estado dos direitos humanos no mundo", <https://bit.ly/2Fck8wl>, p.73.

^{xvii} Tribunal Constitucional, sentence 447/2017, <https://bit.ly/2TeXrKf>

^{xviii} Government of Angola, "Angola 2017: Human rights report", <https://bit.ly/2UEoTIP>, p. 14.

^{xix} Amnesty International, "Angola: uma agenda de direitos humanos para o novo governo em Angola", <https://bit.ly/2HreBml>

^{xx} Freedom House, "Angola", <https://bit.ly/2HqilzT>

^{xxi} Angolan Parliament, Proposta de Lei de Código Penal 2018, <https://bit.ly/2Ocosgl>

^{xxii} Jornal de Angola, "UNITA fala em tratamento arbitrário em Cabinda", <https://bit.ly/2TH3f42>

^{xxiii} Maria João Pinto, "Detenções em Cabinda: Ativista diz que João Lourenço é "cúmplice da degradação social"", <https://bit.ly/2W2xDCC>

^{xxiv} Government of Angola, "Angola 2017: human rights report", <https://bit.ly/2UEoTIP>

^{xxv} Amnesty International, "Urgent action: sixty-two activists, protesters arbitrarily detained", <https://bit.ly/2tk1ASw>

^{xxvi} OHCHR, "View Country visits of Special Procedures of the Human Rights Council since 1998", <https://bit.ly/2TIY1Fd>

^{xxvii} OHCHR, "Opinions adopted by the Working Group on Arbitrary Detention at its 75th session", <https://bit.ly/2W3roOU>