



## THE SITUATION OF HUMAN RIGHTS DEFENDERS

# ANGOLA

Briefing Paper for the Committee on Economic, Social and Cultural Rights - September 2015

This is a joint submission made by the International Service for Human Rights (ISHR) and the Global Initiative for Economic, Social and Cultural Rights (GI-ESCR). This submission is made on the occasion of Angola's review at the 56th Pre-Sessional Working Group of the UN Committee on Economic, Social and Cultural Rights (the Committee) and it addresses the issue of human rights defenders (HRDs) and economic, social and cultural (ESC) rights.

We contend that the issue of HRDs should be prominent on the List of Issues for Angola, given the grave situation of HRDs working on ESC rights in Angola and that the State has not responded adequately to recommendations made by the Committee in its Concluding Observations during the last reporting cycle.<sup>1</sup>

The undue suppression of NGOs, HRDs and civil society who work to prevent the violation of, and seek to advance, substantive ESC rights enshrined in the International Covenant on Economic, Social and Cultural Rights, is a corollary violation of those self-same rights.

The effective protection and realisation of ESC rights relies upon the valuable contribution of civil society and HRDs. Civil society and HRDs play a vital role by monitoring and evaluating State compliance with the Covenant, providing input into policy formulation and program and service design, raising the alarm on rights violations and holding decision-makers accountable for the consequences of their actions. Without civil society and HRDs the effective protection and realisation of ESC rights enshrined in the Covenant would be lacking.

Therefore, for ESC rights to have meaning in practice, States must ensure that HRDs can play this vital role, by providing an enabling environment and respecting and protecting the rights of HRDs, so that defenders can voice their concerns and critiques of Government action without fear of reprisals. This obligation is implicit in the normative content of ESC rights, such as the right to adequate housing, to health and to education.

Our submission will illustrate the risks and obstacles facing HRDs in Angola, and will show that defenders working on ESC rights face particularly high levels of risk and obstacles to their human rights work. We conclude that the Government of Angola must do more to guarantee a safe and enabling environment for HRDs if it is to guarantee the respect, protection and fulfilment of ESC rights.

The new Constitution of Angola, adopted on 5 February 2010, provides that the Angolan courts should apply the provisions of 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). Angola ratified the International Covenant on Economic Social and Cultural Rights (the Covenant), in 1991.

## THE DEFINITION OF HUMAN RIGHTS DEFENDERS

The United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, (Declaration on Human Rights Defenders) defines a human rights defender as anyone working for the promotion and protection of human rights.<sup>2</sup>

This broad definition encompasses professional as well as non-professional human rights workers, volunteers, journalists, lawyers and anyone else carrying out, even on an occasional basis, a human rights activity.

- The UN Special Rapporteur on human rights defenders last year stated that ‘those who promote and defend human rights are ipso facto defenders, even if they are not members of an organisation’.<sup>3</sup>
- OHCHR Fact Sheet 29 on HRDs states that ‘to be a human rights defender, a person can act to address any human right (or rights) on behalf of individuals or groups. Human rights defenders seek the promotion and protection of civil and political rights as well as the promotion, protection and realization of economic, social and cultural rights’.<sup>4</sup>
- It illustrates by saying that ‘human rights defenders address any human rights concerns [including]... discrimination, employment issues, forced evictions, access to health care, and toxic waste and its impact on the environment... the rights to life, to food and water, to the highest attainable standard of health, to adequate housing, to a name and a nationality, to education, to freedom of movement and to non-discrimination...’<sup>5</sup>
- For example, lawyers seeking accountability for ESC rights violations, journalists exposing violations, community housing associations campaigning for better housing conditions or protesting development or beautification projects that involve evictions or resettlement or violate other ESC rights.

It argues that the group of defenders working on housing, health care and sustainable income projects merit ‘particular attention as its members are not always described as human rights defenders and they themselves may not use the term “human rights” in a description of their work, focusing instead on terms such as “health”, “housing” or “development” which reflect their area of activity’.

However, their work ‘is central to respect for and protection and achievement of human rights standards, and they need and deserve the protection given to their activities by the Declaration on human rights defenders’.<sup>6</sup> This is currently not the case in Angola,

## THE IMPORTANCE OF HUMAN RIGHTS DEFENDERS IN THE PROTECTION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The UN Declaration on Human Rights Defenders, as well as numerous Human Rights Council resolutions and reports by Special Procedures, have underlined the importance of HRDs in contributing to the implementation of human rights law.

When HRDs face threats and obstacles, the promotion and protection of all rights is undermined. Meanwhile, it is the duty of the State to guarantee a safe and enabling environment for HRDs. As the Committee recognised in its previous review of Angola, threats and obstacles for HRDs constitute a serious obstacle to the promotion and protection of ESC rights.<sup>7</sup>

- The UN Human Rights Council has stressed that respect and support for the activities of HRDs, including women HRDs, is essential to the overall enjoyment of human rights.<sup>8</sup>
- The Declaration on Human Rights Defenders states that defenders have an important role to play and an essential responsibility in safeguarding democracy, ensuring that it remains open and pluralistic, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.<sup>9</sup>
- The previous UN Special Rapporteur on human rights defenders stated that ‘the defence and promotion of human rights is a legitimate and courageous activity which is necessary to ensure that communities can fully enjoy their entitlements and realize their potential. Defenders can play a key role in safeguarding democracy and ensuring that it remains open, pluralistic and participatory and in line with the principles of rule of law and good governance. Defenders should be able to carry out their activities in an environment that empowers them to defend all human rights for all’.<sup>10</sup>

## THE COMMITTEE’S PRONOUNCEMENTS ON HUMAN RIGHTS DEFENDERS

The Committee has confirmed the importance of the State obligations to respect and protect HRDs on numerous occasions.

CESCR Concluding Observations:

### Angola (2009):

- ‘The Committee is 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.’

- ‘The Committee urges the State party 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. The Committee further urges the State party [to] ensure that perpetrators of attacks [against] human rights defenders are brought to justice.’

#### **Equatorial Guinea (2012):**

- ‘The Committee is concerned by reports that indicate that human rights activists are subjected to intimidation and harassment.’
- ‘The Committee urges the State party to adopt all measures necessary to protect human rights defenders and activists — particularly those working in the area of economic, social and cultural rights — from any and all acts of intimidation and harassment and to ensure that perpetrators of such acts are brought to justice.’<sup>11</sup>

#### **Argentina (2011):**

- ‘The Committee is concerned about instances in which security forces and agents, both public and private, resorted to reprisals and disproportionate use of force against persons participating in activities in defence of economic, social and cultural rights, in particular in the context of land disputes.’
- ‘The Committee urges the State party to protect social activists and human rights defenders against any form of intimidation, threat and, especially, disproportionate use of force perpetrated by security forces and agents, both public and private. It also calls on the State party to ensure that all allegations of reprisals and abuse are promptly and thoroughly investigated, and that the perpetrators are brought to justice.’<sup>12</sup>

#### **Cambodia (2009):**

- ‘The Committee expresses its deep concern about the culture of violence and impunity prevalent in the State party and the repression of human rights activists defending economic, social and cultural rights, particularly those defending housing and land rights. The Committee is also concerned about reports that the court system has been used to legitimize forced evictions and falsely prosecute housing rights defenders. (art. 11) The Committee urges the State party to take all necessary measures to combat the culture of violence and impunity prevalent in the State party, and for the protection of human rights defenders, including indigenous leaders, peasant activists engaged in defending the economic, social and cultural rights of their communities against any intimidation, threat and violence, whether perpetrated by State

security forces and agents or non-State actors. It also calls on the State party to ensure that all alleged cases of repression and abuse are promptly and thoroughly investigated...’<sup>13</sup>

Other examples can be found in the Concluding Observations on: Brazil,<sup>14</sup> Viet Nam,<sup>15</sup> India,<sup>16</sup> DRC,<sup>17</sup> Philippines<sup>18</sup> and Sri Lanka.<sup>19</sup>

In addition the Committee has addressed the issue of HRDs and the role of civil society in protecting and realising ESC rights in its **General Comments** as follows:

#### **General Comment 15 - Right to Water:**

- ‘The formulation and implementation of national water strategies and plans of action should respect, inter alia, the principles of non-discrimination and people’s participation. The right of individuals and groups to participate in decision-making processes that may affect their exercise of the right to water must be an integral part of any policy, programme or strategy concerning water...’<sup>20</sup>
- ‘States parties should respect, protect, facilitate and promote the work of human rights advocates and other members of civil society with a view to assisting vulnerable or marginalized groups in the realization of their right to water.’<sup>21</sup>

#### **General Comment 19 - Right to Social Security:**

- ‘Beneficiaries of social security schemes must be able to participate in the administration of the social security system...’<sup>22</sup>
- ‘The formulation and implementation of national social security strategies and plans of action should respect, inter alia, the principles of non-discrimination, gender equality and people’s participation. The right of individuals and groups to participate in decision-making processes that may affect their exercise of the right to social security should be an integral part of any policy, programme or strategy concerning social security.’<sup>23</sup>
- ‘States parties should respect, protect, facilitate and promote the work of human rights advocates and other members of civil society, with a view to assisting disadvantaged and marginalized individuals and groups in the realization of their right to social security.’<sup>24</sup>

#### **General Comment 12 - Right to Food:**

- ‘The formulation and implementation of national strategies for the right to food requires full compliance with the principles of accountability, transparency, people’s participation, decentralization, legislative capacity and the independence of the judiciary...’<sup>25</sup>

- ‘States parties should respect and protect the work of human rights advocates and other members of civil society who assist vulnerable groups in the realization of their right to adequate food.’<sup>26</sup>

### General Comment 18 - Right to Work:

- ‘The formulation and implementation of a national employment strategy should involve full respect for the principles of accountability, transparency, and participation by interested groups. The right of individuals and groups to participate in decision-making should be an integral part of all policies, programmes and strategies intended to implement the obligations of States parties under article 6. The promotion of employment also requires effective involvement of the community and, more specifically, of associations for the protection and promotion of the rights of workers and trade unions in the definition of priorities, decision-making, planning, implementation and evaluation of the strategy to promote employment.’<sup>27</sup>
- ‘States parties should respect and protect the work of human rights defenders and other members of civil society, in particular the trade unions.’
- Trade unions play a fundamental role in ensuring respect for the right to work at the local and national levels and in assisting States parties to comply with their obligations under article 6.’<sup>28</sup>

### HUMAN RIGHTS DEFENDERS WORKING ON ESC RIGHTS FACE HEIGHTENED AND SPECIFIC THREATS AND OBSTACLES

Unfortunately the situation of HRDs working on ESC rights issues is deteriorating worldwide as is evidenced by the proliferation of reports<sup>29</sup> of alarming increases in threats, harassment, arbitrary detention, murder and enforced disappearances.<sup>30</sup> A more recent trend has been the proliferation of domestic laws that restrict and seek to silence NGOs working on ESC rights issues.

These attacks and restrictions on defenders of ESC rights obviously have serious consequences for individuals and their families, but also for their communities and their campaign about the underlying rights violations. Such attacks have a devastatingly chilling effect on all voices of dissent.

- This trend is also well documented by UN human rights experts. The former Special Rapporteur on human rights defenders, Ms Hina Jilani, in a 2007 report found that labour rights activists suffered the highest number of attacks, harassment, arbitrary detention and disappearances and those working on land and natural resources issues or campaigning against forced evictions were the second most harassed group seen by her mandate.<sup>31</sup> She noted that there was a global trend towards targeting of ESC rights advocates, particularly in the Asian and Latin American regions. In August 2013, the former Special Rapporteur on Human

Rights Defenders, Margaret Sekaggya, considered the relationship between large scale development projects and HRDs.<sup>32</sup> She found that the situation of HRDs working on land rights, natural resources and environmental issues had worsened since 2007.<sup>33</sup>

- Last year, the current Special Rapporteur on human rights defenders identified HRDs working on ESC rights and minority rights, environmental defenders, and defenders who work in the area of business and human rights as three of the five most vulnerable groups of defenders, recommending that States pay particular attention to them.<sup>34</sup>
- Similar trends have been noted by the Special Rapporteur on Extreme Poverty and Human Rights and the UN Working Group on the issue of Human Rights and Transnational Corporations and other Business Enterprises, which in March 2013 noted the very high number of cases brought to their attention relating to conflict over land and natural resources and the harassment and attacks on persons protesting against the impact of business activities.<sup>35</sup>
- Most recently the UN Working Group on Enforced Disappearances published a ‘Study on enforced or involuntary disappearances and economic, social and cultural rights.’<sup>36</sup> One focus of the Study was ‘enforced disappearances against those working on the promotion and protection of economic, social and cultural rights’ where the Working Group noted that ‘persons who live in poverty and lack the enjoyment of a number of economic, social and cultural rights are more vulnerable to becoming victims of enforced disappearance.’<sup>37</sup> Further, the Study confirmed the greater risk of enforced disappearance of people actively defending ESC rights and stated that ‘enforced disappearance is used as a repressive measure and a tool to deter the legitimate exercise, defence, or promotion of the enjoyment of economic, social and cultural rights.’<sup>38</sup> The Study explains:
  - When an individual becomes a victim of enforced disappearance as a result of exercising or promoting economic, social and cultural rights, the enjoyment of those rights is also violated. For instance, the disappearance of a teacher who promoted cultural rights also interferes with the right to cultural life as well as the exercise of students’ right to education (A/HRC/22/45, para. 69).<sup>39</sup>
  - Further, because enforced disappearances are a tool to intimidate and prevent others from claiming their ESC rights, they have a collective impact on the ESC rights of others working in the field: ‘this deterrence leads to violations of the rights of the disappeared, others engaged in related activities and the larger community, because of the chilling effect of enforced disappearances.’<sup>40</sup>

- The Inter-American Commission for Human Rights has identified trade unionists, campesino and community leaders, indigenous and afrodescendent leaders, environmental rights defenders and migrant workers' rights defenders as five of the seven groups of defenders facing a special situation of risk.<sup>41</sup>
- The Commentary on the Declaration on Human Rights Defenders says that 'States should make more efforts to recognize and protect [*inter alia*]... defenders working to promote economic, social and cultural rights.... Those defenders need specific and enhanced protection, as well as targeted and deliberate efforts to make the environment in which they operate a safer, more enabling and more accepting one', because they represent some of the defenders most exposed to attacks and violations.

## THREATS AND OBSTACLES FACING HUMAN RIGHTS DEFENDERS IN ANGOLA IN GENERAL

In Angola a range of threats, a restrictive legal environment and arbitrary application of the law, combine to ensure that HRDs do not have a safe and enabling environment in which to operate. This undermines the ability of the State to respect, protect and fulfil ESC rights. The strict oversight and many legal and de facto restrictions on defenders identified by the Committee during the last review of Angola, continue.<sup>42</sup>

- As highlighted in a number of sources, in order to silence and intimidate HRDs and journalists<sup>43</sup>, the Government has filed many lawsuits against them for defamation, and resorts to 'police abuse, arbitrary arrests, and intimidation to prevent peaceful anti-government protests, strikes, and other gatherings from taking place.'<sup>44</sup>
- In its 2012 Concluding Observations on Angola, the African Commission on Human and Peoples' Rights (ACHPR) expressed concern about 'allegations of harassment of HRDs, and the poor collaboration between the Government and some human rights NGOs.'<sup>45</sup>
- Human Rights Watch's World Report 2013 on Angola alleges that 'defenders, and in particular defenders of economic, social and cultural rights continued to be subject to arbitrary arrests and judicial harassment,' and that the 'judicial system remains used by the authorities as a tool of retaliation' against defenders.<sup>46</sup>
- Angola ranks 101 out of 109 States assessed in the 2013 CIVICUS Enabling Environment index, a study of how open and safe a country is for civil society activism.<sup>47</sup>
- Whilst the Angolan constitution guarantees freedom of expression and of the press, according to Freedom House, 'media in Angola operate in a restrictive environment'.<sup>48</sup> Freedom House ranks Angola 155 out of 199 countries evaluated in its 'Freedom of the press 2015' report, which classifies Angolan press as 'not free'.<sup>49</sup>
- 'State-run media continued to be the principal source of information, as the Government maintained tight control over private media outlets through legal, political, and security-related means.'<sup>50</sup> Amnesty International confirmed that suppression of freedom of expression still continues.<sup>51</sup> Access to information to inform human rights defence, and promotion of human rights, is extremely limited under these circumstances.
- Manuel Nito Alves, a 17-year-old activist, was detained and arrested on 12 September 2013 for commissioning T-shirts printed with words deemed insulting to the President of Angola. He was held in detention for almost two months before being conditionally released on 8 November 2013.<sup>52</sup> He had his first court appearance on 19 June 2014.<sup>53</sup>
- Last year the UN Human Rights Committee expressed concern at 'legal restrictions to freedom of association, which have resulted in difficulties for non-governmental organisations to be registered, and also at reports of intimidation and harassment faced by some non-governmental organisations, preventing them from carrying out their activities effectively.'<sup>54</sup>
- The very existence of numerous human rights organisations is under threat, mainly because of a lack of funding sources.<sup>55</sup> Moreover, the registration process for civil society organisations is long and complex.<sup>56</sup>
- Judicial power is often subject to political interference. Judges lack adequate knowledge of national and international human rights laws and treaties in force. In the context of a lack of checks and balances, judiciary deficiencies and corruption, HRDs and victims of human rights violations are often unable to achieve justice and redress before national Courts.<sup>57</sup>
- Criminalisation of HRDs and the arbitrary use of the judicial system against them is commonplace in Angola. Judicial actions against journalists,<sup>58</sup> disappeared HRDs,<sup>59</sup> charges of 'abuse of press freedom' and defamation against bloggers,<sup>60</sup> refusal of access to lawyers and keeping HRDs *incommunicado*<sup>61</sup> were reported.
- These risks are exacerbated in the context of public demonstrations for human rights. For example, on 3 December 2011, Rafael Marques, a journalist from Novo Jornal, was arrested by the police, while he was trying to cover a demonstration<sup>62</sup>. On 30 March 2013, police threatened journalists and told them to leave the area of a planned demonstration. On 19 September 2013, journalists Rafael Marques,

Coque Mukuta and Alexandre Solombe were arrested while interviewing demonstrators who had just been released. All three of them were victims of harassment by police.<sup>63</sup>

## **SPECIFIC THREATS AND OBSTACLES FACING ECONOMIC, SOCIAL AND CULTURAL RIGHTS DEFENDERS IN ANGOLA**

Whilst HRDs in Angola are at risk in general, those whose activism aims to protect ESC rights are particularly at risk. Protesters on such rights face harassment, ESC rights NGOs face obstacles to registration and journalists reporting on these rights face criminalisation. HRDs working on issues related to housing and on transparency and corruption face heightened risks.

### **A. Harassment and intimidation of human rights defenders demanding economic social and cultural rights**

Many activists demanding basic ESC rights find their spaces for protest and advocacy closed by the Angolan authorities. In particular, protesters suffer intimidation and harassment, and individual defenders are subject to an arbitrary application of the judicial system.

- Alleged harassment and intimidation was widely documented during protests that began in May 2012 about unpaid pensions and other benefits owed to former soldiers of the Angolan armed forces,<sup>64</sup> and during protests in 2011 about the increasing economic marginalisation of youth.<sup>65</sup>
- Demonstrators protesting at the lack of response by authorities to the killing and genital mutilation of women in Cafunfo in June 2013 suffered intimidation by police.<sup>66</sup>
- Heading to give a lecture on democratisation and the right to education,<sup>67</sup> the academic, activist and journalist Domingos da Cruz was arrested on 21 June 2015.<sup>68</sup>
- Since 2009, 38 members of the Comissão do Manifesto Jurídico Sociológico do Protectorado da Lunda-Tchókwé – CMJSP-Lunda, who fight for the right to self-determination, have been arrested and in some cases convicted for State security crimes.<sup>69</sup>
- In Angola, those demanding a basic standard of living and housing face harassment, excessive use of force, arbitrary detention and threats that their organisation will be closed down.
- Defenders working on housing rights have faced excessive use of force, arbitrary arrests and detentions by the police.<sup>70</sup>

- For instance, the following demonstrations were threatened: in Benguela, marches planned for 25 March 2010 in solidarity for the over 3,000 families evicted in Huila; demonstrations to commemorate Habitat Day on 5 October 2013; demonstrations by teachers' unions; demonstrations by war veterans in Luanda;<sup>71</sup> activists protesting against the poor state of streets in Cazenga district, Luanda.<sup>72</sup>

- In 2007, the Director of the Angolan Government's Technical Unit for the Coordination of Humanitarian Aid (UTCAH) threatened to ban SOS-Habitat (one of the main NGOs defending housing rights in Angola) and three other human rights organisations - Mãos Livres, AJPD and Open Society Foundation - for allegedly inciting people to react against the Government.<sup>73</sup>

- Odair Kassarje, Pedro Gongga and Franco, activists from the organisation 'Movimento Revolucionário', were detained during protest in Rangel province for better standards of living and health rights, including the rights to water and food.<sup>74</sup>

### **B. Obstacles to the registration of NGOs working on economic, social and cultural rights**

On 23 March 2015, a presidential decree was enacted regulating the establishment and maintenance of NGOs in Angola, which some argue represents the 'end of independent NGOs' in Angola, due to its restrictive scope. With the stated aim of combating terrorism, the decree limits NGO rights and requests authorisation from the current government for several actions, such as for receiving foreign funding and for acquiring legal personality.<sup>75</sup>

- The International Center for Not-for-Profit Law (ICNL) has shown that 'NGO registration is a complicated and cumbersome process... often leading to confusion and redundancy'. Angolan law prohibits NGOs from participating in 'all activities of State organs; electoral processes; and from influencing national policy through the Government or Parliament', as well as requiring that NGOs have a minimum of 15 members.<sup>76</sup>
- NGO Association Justice Peace and Democracy (AJPD), has faced repeated attempts at its deregistration because the organisation's statutes were allegedly not in conformity with the Law on Association (Law No. 14/91). AJPD works, among other things, to provide legal defence for HIV-positive individuals deprived of their right to work, health and confidentiality, rights protected by articles 6, 7 and 12(1) of the Convention.<sup>77</sup>
- NGO Omunga was created with the purpose of protecting street children from a range of human rights violations, including health and education rights. Authorities failed to register the organisation 8 years after inauguration despite complying with all formalities required by Law no. 14/91.<sup>78</sup>

### C. Criminalisation of journalists reporting on economic social and cultural rights

According to Human Rights Watch's World Report 2014, in Angola 'the authorities use criminal defamation laws to silence and intimidate journalists and bloggers.'<sup>79</sup> Journalists face harassment, arbitrary detention, beatings, as well as confiscation or destruction of their properties while covering news stories. Such attacks against journalists working on ESC rights stifle their work and lead others into self-censorship.

- For instance: José Marcos Mavungo, a human rights defender, and Arão Bula Tempo, President of the Cabinda Bar Association, were imprisoned for leading a peaceful protest in favour of self-determination and of the economic and social rights of the Cabinda people.<sup>80</sup>
- On 7 February 2013, radio journalist Queirós Anastácio Chiluvia was convicted of defamation for offending the police and working illegally as a journalist for documenting detainees' complaints regarding their health treatment.<sup>81</sup> He was sentenced to six-month imprisonment, suspended for two years.<sup>82</sup>
- In October 2011, William Tonet, director and owner of the newspaper *Folha 8*, was convicted of defamation against three army generals, who allegedly were involved in corruption scandals. He was given a one-year sentence in prison, in addition to being suspended and fined.<sup>83</sup>
- Armando Chicoca, in March 2011, correspondent of Voice of America was convicted of defamation and sentenced to one year's imprisonment for publishing two articles in which he denounced alleged sexual harassment and corruption by the President of the Namibe Provincial Court.<sup>84</sup>

### D. Threats and obstacles for defenders demanding transparency and exposing corruption

In 2014, oil accounted for about 46 percent of GDP, 80 percent of Government revenues and 95 percent of Angola's exports. Meanwhile, Angola is Africa's second largest producer of diamonds, which account for 1 percent of GDP.<sup>85</sup> Extractive industries are, therefore, a lucrative business which underpin the Angolan economy. The UN Human Rights Council has repeatedly recognised the crucial role which defenders play in preventing, mitigating and demanding remedy for human rights abuses carried out in the context of business operations,<sup>86</sup> whilst various UN Special Procedures have highlighted their importance in exposing the corruption which often facilitates human rights abuses. Nonetheless, in Angola, activists defending labour rights and the rights to housing, health, development and public participation in the context of business operations, face both restrictions in terms of access to information and transparency, as well as attacks and

criminalisation in response to their work on this issue. Neither the Angolan State nor the businesses involved are taking sufficient proactive steps to protect defenders.

- The 2013 Report of the Observatory for the Protection of Human Rights Defenders documented that human rights activists denouncing corruption in Sub-Saharan Africa are particularly vulnerable to reprisals and abuses, with Angola named as a case in example.<sup>87</sup>
- According to the 'Corruption Perception Index 2014', which analyses transparency and accountability around the world, Angola has worsened and now ranks 161 out of 175 states.<sup>88</sup> It found that it is particularly difficult for activists working on economic rights, and on the impact of economic projects upon the protection of all rights, to uncover violations and denounce their cause, when their access to information is hindered by such a lack of transparency.<sup>89</sup>
- In its 2012 Concluding Observations, the African Commission on Human and People's Rights (ACHPR) expressed concern that the reports of Angola to the ACHPR provided no information 'on revenue obtained from the extractive industries, nor on initiatives taken to ensure transparency in the exploitation and utilisation of mineral and natural resources in Angola.'<sup>90</sup>
- An emblematic case is the recent six-month suspended sentence given to Rafael Marques de Morais for his writing about the alleged involvement by State police and army generals in the torture and killing of Angolans working in the diamond industry.<sup>91</sup> Whether or not the State was directly responsible for these violations, its apparent failure to prevent them or compensate victims could represent a corollary violation of just and favourable conditions of work (article 7), including safe and healthy working conditions (article 7(b)). For the State to comply with its obligations under the treaty, it is vital that journalists and activists reporting alleged violations are able to do so in safety. However, the Marques de Morais case shows that currently the opposite is true and these individuals can face judicial reprisals.
- Marques de Morais has been regularly harassed and threatened for documenting corruption by high-level officials in his blog which has suffered a series of apparently targeted 'denial of service' attacks in 2011.<sup>92</sup>

## SUGGESTED QUESTIONS TO THE GOVERNMENT OF ANGOLA

- What steps is the Angolan State taking to enshrine the UN Declaration on Human Rights Defenders in national law and policies, in order to guarantee their recognition and protection and propitiate a safe and enabling environment for their work?
- When and how does the Angolan State intend to modify legislation and policies regarding the registration and operation of NGOs in order to relax undue governmental oversight and *de facto* restrictions?
- What steps will the Angolan State take to guarantee due process to HRDs and journalists and end the criminalisation of their work?
- How will the Angolan State end the intimidation and harassment of individuals participating in peaceful protests and thus guarantee the right to freedom of assembly and expression?
- What steps will the Angolan State take to facilitate the work of HRDs exposing corruption and abuses related to business projects, including in relation to freedom of information, the behaviour of non-State actors such as businesses, and the free prior and informed consent of affected communities?
- How and when will the Angolan State repeal its criminal defamation laws, ensuring that they cannot be applied arbitrarily against HRDs?

1. **Concluding Observations of the Committee on Economic, Social and Cultural Rights of Angola - Forty-first session**, E/C.12/AGO/CO/3, December 2008. "The Committee urges the State party 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. The Committee further urges the State party to ensure that perpetrators of attacks on the human rights defenders are brought to justice".
2. The Declaration on human rights defenders refers to "individuals, groups and associations ... contributing to ... the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals" (fourth preambular paragraph), **General Assembly Resolution A/RES/53/144**.
3. **Report of the Special Rapporteur on the situation of human rights defenders, Michel Forst – Twenty-eighth**, A/HRC/28/63, para. 103, December 2014.
4. **Human Rights Defenders: Protecting the Right to Defend Human Rights**, Fact Sheet No. 29, United Nations.
5. *Ibid.*
6. *Ibid.*
7. **Concluding Observations of the Committee on Economic, Social and Cultural Rights of Angola - Forty-fist session**, E/C.12/AGO/CO/3, December 2008.
8. **Human Rights Council Resolution 22/6**, A/HRC/22/6, April 2013.
9. **General Assembly Resolution A/RES/53/144**, article 18, March 1999.
10. **Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya - Twenty-fifth session**, A/HRC/25/55, para. 60, December 2013.
11. E/C.12/GNQ/CO/1 (CESCR, 2012) para 14
12. E/C.12/ARG/CO/3 (CESCR, 2011) para 13
13. E/C.12/KHM/CO/1 (CESCR, 2009) para 31
14. E/C.12/BRA/CO/2 (CESCR, 2009) para 8
15. E/C.12/VNM/CO/2-4 (CESCR, 2014) para 11
16. E/C.12/IND/CO/5 (CESCR, 2008) para 50
17. E/C.12/COD/CO/4 (CESCR, 2009) para 12
18. E/C.12/PHL/CO/4 (CESCR, 2008) para 15
19. E/C.12/LKA/CO/2-4 (CESCR, 2010) para 10
20. E/C.12/2002/11 para 48
21. *op cit.* para 59
22. E/C.12/GC/19 para 26
23. *op cit.* para 69
24. *op cit.* para 81
25. E/C.12/1999/5 para 23
26. *op cit.* para 35
27. E/C.12/GC/18 para 42
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