

SOUTHERN AFRICA LITIGATION CENTRE

Angola's 3rd Universal Periodic Review 34th Session (Oct-Nov 2019)

**Submission by:
Southern Africa Litigation Centre**

March 2019

The Southern Africa Litigation Centre (SALC) promotes and advances human rights and the rule of law in Southern Africa, primarily through strategic litigation support and capacity building.

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Special Note:

On 23 January 2019, Angola passed a new Penal Code. The Penal Code is not released to the public until a 90-day waiting period has passed. This report was submitted before the release of the Penal Code and does not take into account any changes that may have occurred due to its passage. **SALC wants to request the ability to submit an addendum to our report considering the new Penal Code once it becomes available at the end of April 2019.** We hope that you can consider our request.

Introduction

1. This report has been prepared by the Southern Africa Litigation Centre (SALC). The issues included in the report were raised during a regional summit hosted by SALC from 14-16 November 2018: Southern Africa Human Rights Defenders Summit - Reflecting on Closing Civic Spaces and its Impact on Marginalised Groups in Southern Africa. The issues are organised thematically, with recommendations following each section.

Freedom of Expression

2. During Angola's second UPR cycle which was considered on 30 October 2014 and reported in A/HRC/28/11, many of the recommendations concerned freedom of expression and opinion, especially in regard to the press and human rights defenders.
3. Angola supported Recommendations 134.165 (Zimbabwe), 134.166 (Djibouti), and 134.175 (Morocco) which called on Angola to integrate and encourage human rights in schools and curricula. Angola also supported Recommendations 134.56 (Viet Nam), 134.57 (Egypt), and 134.64 (Senegal) which called on Angola to train public servants and enforcement officers in the field of human rights, including involvement from Angolan civil society.
4. Angola also supported Recommendations 134.123 (Belgium), 134.124 (Slovenia), 134.125 (Canada), 134.126 (Czech Republic), 134.127 (France), 134.129 (Senegal), and 134.130 (Sweden) which called on the government to fully protect and respect freedom of expression, opinion, association and peaceful assembly and to take the necessary measures to create a safe and favourable environment for civil society by respecting the human rights of all individuals. However, it did not support the related Recommendations 135.30 (Estonia), 135.21 (USA), 135.32 (Sweden), 135.33 (Norway), and 135.34 (Australia) which called specifically for the decriminalisation of defamation and other press offences and for Angola to ensure that journalists and human rights defenders are not intimidated.
5. Despite its commitment to create a favourable environment for the exercise of free expression and opinion, Angola continues to pass new limiting legislative frameworks and the police continue to arrest and abuse human rights defenders and journalists.
6. On 18 November 2016, Angola passed a suite of five bills which it referred to as the Social Communication Legislative Package (Pacote legislativo da comunicação social). Under the Angolan Press Law, Act No. 1 of 2017, which was part of this package journalists must register; failure to register can lead to fines or suspension of activities. Furthermore, the Act criminalises the publication of text or images which are "offensive to individuals". The law also gives the Ministry of Social Communication authority to oversee the editorial decisions of newspapers and other press.
7. Other criminal offences also limit freedom of expression. Angola continues to criminalise defamation. Furthermore, it is also a crime to insult any public officer or to spread false news. The crime of sedition also remains in the Penal Code. These laws remain on the books and are relied on in practice as well.

8. In June 2017, Rafael Marques was arrested for criminal defamation of the President. He was eventually acquitted in July 2018. Again, in April 2018, three Angolan students were charged with criminal defamation of the president. Criminal defamation impermissibly curtails the right to freedom of expression. This is especially true when it is enforced for defaming the president or other public officials. It is essential in a democratic society that citizens be able to openly express their opinions and ideas about the government. Ample civil discourse increases public participation in government and should be encouraged.
9. There have also been reports of police abuse and harassment of journalists and human rights defenders. In May 2016, journalist Coque Makuta was arrested and beaten by police in Luanda for reporting a story on police corruption. In April 2017, a man who was participating in a protest advocating for people with disabilities was dragged out of his wheel chair and beaten by police.
10. Angola has made commitments to support the training of police and other public officials on human rights. This included a desire to work cooperatively with civil society. The attacks on human rights defenders and journalists prevent effective collaboration between civil society and government and are evidence that the government has not achieved its goals of a police force that is sufficiently versed and motivated to protect human rights.
11. Furthermore, Angola has no independent complaint mechanism to review allegations of police abuse. This limits the abilities of victims to access an effective remedy.
12. In April 2017, a teacher in Angola was dismissed from work after writing an article critical of the government. This reprisal violated the teacher's freedom of expression. This is especially concerning because of Angola's support for recommendations to increase human rights educations in schools and curriculum. By taking steps to punish teachers who exercise their right to free expression, the government of Angola is backsliding on its commitment to increase human rights awareness in schools.
13. These laws and actions have a chilling effect on journalists', human rights defenders' and every citizens' freedom of expression. They pose a great risk to freedom of expression which is protected by Article 40 of the Constitution of Angola and Article 19 of the ICCPR. They also dilute freedom of the press as protected in Article 44 of the Constitution of Angola. The absence of an independent complaint mechanism for police abuse infringes on Article 2(3) of the ICCPR which guarantees an effective remedy for violations of human rights.

14. Recommendations

- a. Repeal criminal defamation laws.
- b. Amend Act No. 1 of 2017 to remove mandatory registration of journalists.
- c. Repeal the offence of sedition.
- d. Remove criminal liability for the spread of false news.

- e. Repeal the offence of insulting a public official.
- f. Investigate allegations of police abuse. Initiate disciplinary hearings or criminal proceedings when police are involved in arbitrary arrests or excessive use of force and, if found guilty, sentence them appropriately.
- g. Consider establishing an independent complaint mechanism to review allegations of police abuse.
- h. Integrate human rights into the school curricula, and protect the exercise of these rights by students, teachers and administrators.
- i. Create a safe environment which protects journalists, human rights defenders and other civil society actors and their right to exercise their freedom of expression.

Freedom of Association

- 15. During its 2014 UPR, Angola supported Recommendation 134.132 (Norway) which called for transparent, non-discriminatory and expeditious procedures for registration of civil society organizations.
- 16. Angola's Associations Law, Act No. 14 of 1991, requires mandatory registration of all NGOs. Failure to register with the State can lead to heavy fines and a one-year prison sentence. Furthermore, the process to register is difficult and can only be done in Luanda. This prevents many rural and provincial civil society organisations from registering.
- 17. While registration of NGOs should not be mandatory, having the ability to register in an efficient manner from anywhere in the country would allow civil society to better organise and exercise their right to associate freely.
- 18. The executive attempted to require further NGO registration requirements in a July 2017 Presidential Decree. The Constitutional Court, however, struck down the Presidential Decree as unconstitutional. The Decree attempted to further monitor NGO registration and their financial support. The Courts ruling is a positive step for freedom of association in Angola,
- 19. Freedom of Association is protected by Article 48 of the Constitution of Angola and Article 22 of the ICCPR.

20. Recommendations

- a. Amend Act No. 14 of 1991 to remove mandatory registration of NGOs.
- b. Review legislation and procedures for registering NGOs and revise them to create a streamlined process that is accessible in both urban and rural areas.

Right to Peaceful Assembly

21. During its 2014 UPR, Angola supported Recommendations 134.131 (Costa Rica), 134.134 (UK), and 134.137 (Ireland) which called on Angola to fully respect the right of peaceful assembly and adopt practical measures to ensure the right to peaceful assembly, guaranteeing proportionality in the use of force by security forces.
22. Angolan law requires notice be given for all public assemblies. Police frequently break up protests and public marches. The president banned all protests leading up to the 23 August election, except for groups that were competing in the election.
23. Article 47 of the Constitution of Angola protects freedom of assembly. Article 21 of the ICCPR protects the right to freedom of peaceful assembly and prohibits restrictions unless they are “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.”

24. Recommendations

- a. Remove the requirement for mandatory notice of public assemblies.
- b. Review public order laws and policing guidelines, and reform them to align with the best practices outlined in the African Commission’s Guidelines on Policing Assemblies in Africa.