



9 July 2017

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RE: Prosecution of Angolan Journalists Rafael Marques de Morais and Mariano Brás Lourenço

Dear Ambassador Gupta,

I am the Executive Director of the Allard Prize for International Integrity, which is awarded biennially to an individual or organization that has demonstrated exceptional courage and leadership in combating corruption, especially through promoting transparency, accountability, and the rule of law. I write on behalf of the undersigned human rights lawyers and educators and individuals with a deep and longstanding commitment to Africa to seek your assistance in monitoring the recent charges filed against our 2015 Allard Prize winner, Angolan journalist and human rights defender Rafael Marques de Morais and journalist Mariano Brás Lourenço.

Background

Mr. Marques de Morais was a co-recipient of the 2015 Allard Prize, awarded for his body of work exposing corruption in Angola, and has earned other high-profile international awards for his investigative work. He was nominated for the Allard Prize by one of the world's leading human rights organizations as an effective, credible anti-corruption and transparency proponent. Mr. Marques de Morais previously faced government persecution because of his work, including a defamation lawsuit resulting from his 2011 book, *Blood Diamonds: Corruption and*

Torture in Angola, which documented hundreds of cases of torture and arbitrary executions in the country's diamond mining industry. He is currently editor of a corruption watchdog site, *Maka Angola*, which focuses on investigating and publishing citizen's complaints about corruption and human rights violations in Angola. Given its reputation for reporting unbiased news, *Maka Angola* has the largest Facebook following of any news outlet in the country.

Mr. Marques de Morais now faces criminal prosecution, apparently brought in retaliation for his criticism and exposure of government corruption. His sentence could be over nine years in prison if convicted on the current criminal charges against him, which are as follows:

- (i) Outrage to a Body of Sovereignty (citing Art. 25, para. 1 of the Angolan Law on Crimes against State Security); and
- (ii) Insult against Public Authority (citing Art. 181 of the Angolan Penal Code)

The Angolan Attorney General, João Maria de Sousa, acting as a private citizen, has also filed three additional charges against Mr. Marques de Morais in a civil suit, accusing him of:

- (i) Abuse of press freedom (citing Art. 74, para. 2 of the former Angolan Media Law (Law 7/06 of May 15));
- (ii) Injury (citing Art. 7 of the Angolan Penal Code); and
- (iii) Defamation (citing Article 410 of the Angolan Criminal Code).

Mr. Brás Lourenço faces similar charges for republishing and commenting on Mr. Marques de Morais' article in the newspaper *O Crime*.

Human rights advocates maintain that these charges are intended to prevent and/or chill individuals and organizations from criticizing the existing government in the lead-up to the Angolan election, scheduled to take place on August 23, 2017.¹ Indeed, none of the charges appear to be based on alleged illegal activity. Instead, they are based on the lawful practice of writing and disseminating news articles that address lawful topics of public interest and concern, here an alleged illegal land acquisition involving the Attorney General.

Angola is Legally Obligated to Protect its Citizens' Freedom of Expression and Opinion

The prosecution of Mr. Marques de Morais and Mr. Brás Lourenço for their exercise of legally-protected rights to freedom of expression and opinion violates Angola's international legal obligations. As a party to the *International Covenant on Civil and Political Rights* (ICCPR) and the *African Charter on Human and Peoples' Rights* (ACHPR), Angola must ensure that all

¹ See e.g., Human Rights Watch, *Angola: 2 Journalists Face Baseless Criminal Charges* (June 29, 2017), available at <https://www.hrw.org/news/2017/06/29/angola-2-journalists-face-baseless-criminal-charges>; Amnesty International, *Urgent Action: Human Rights Defender and Journalist Charged* (June 30, 2017), available at <https://www.amnesty.org/en/documents/afr12/6619/2017/en/>.

persons within its territory have the right to exercise their lawful right to freedom of expression and opinion without risk of sanctions.

Specifically, Article 19 of the ICCPR requires Angola to ensure that everyone has the right to freely express opinions and share information. As the UN Human Rights Committee has elaborated, the scope of Article 19 includes a free press “able to comment on public issues without censorship or restraint.”² The Human Rights Committee has detailed its concern about intimidation and restrictions on freedom of expression through defamation lawsuits in a number of countries.³ Indeed, the Committee specifically found in 2005, in response to a communication brought by Mr. Marques de Morias challenging his criminal conviction for criticizing the Angolan President, that “[a]ll public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition.”⁴ Article 2 of the ICCPR further requires each state party to ensure that all people within its territory enjoy the rights protected under the treaty.

Likewise, Article 9 of the African Charter on Human and People’s Rights provides that every individual shall have the right to receive information and express and disseminate his/her opinions within the law.⁵

Requests

We respectfully request that you express your concern to the Angolan government about the charges brought against Mr. Marques de Morais and Mr. Brás Lourenço, which appear designed to stifle lawful, peaceful dissent and which violate their right to freedom of expression and opinion, protected by both Angolan domestic and international law. If the charges against them are not dropped, we ask that you monitor Mr. Marques de Morais’ and Mr. Brás Lourenço’s court proceedings and trials to ensure that they receive a fair legal process, as required by Article 14 of the ICCPR.

Thank you for your consideration of this urgent matter. Please keep us informed of any action undertaken in respect of Mr. Marques de Morais and Mr. Brás Lourenço.

² UN Human Rights Committee, *General Comment 34: Article 19*, 12 September 2011, CCPR/C/GC/34 at 13 and 20.

³ See e.g., UN Human Rights Committee (HRC), *UN Human Rights Committee: Concluding Observations: Thailand*, 8 July 2005, CCPR/CO/84/THA.

⁴ *Rafael Marques de Morais v. Angola*, CCPR/C/83/D/1128/2002 at 3.8.

⁵ *African Charter on Human and People’s Rights*, Art. 9 (ratified and deposited by Angola in 1990). In the case of Angola, Article 40 of the country’s constitution guarantees the right to freedom of opinion and expression, and freedom of the press and Article 44 states that freedom of the press “shall be guaranteed, and may not be subject to prior censorship, namely of a political, ideological or artistic nature.”

Sincerely yours,



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