

Angola (3)

17/11-99

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## ANGOLA

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## Freedom of expression under threat

November 1999

SUMMARY

AI INDEX: AFR 12/16/99

DISTR: SC/CO/GR

Freedom of expression in Angola is being stifled. Since full-scale war resumed in December 1998 the Angolan authorities have increasingly used legal procedures to arrest, question and intimidate journalists, apparently with the intention of silencing criticism. At the same time, the authorities have failed to fulfil their legal obligations to protect the physical integrity of media workers and others and to investigate the cases of those who have received death threats or who have been physically assaulted or murdered.

Angolan government authorities have claimed that some media reports relating to the war have endangered public order or security or the good name of the state. No state of exception has been declared and no exceptional measures to restrict the right to freedom of expression have been imposed in law. However, the authorities have invoked various laws in a manner which appears to contravene the guarantees on freedom of expression and information provided by Angola's Constitution and by international human rights treaties to which Angola is a party.

Since the signing of the Peace Accords for Angola in 1991, various independent publications and radio stations have emerged. They have operated under a climate of repression which has increased during periods of fighting, for example during the fighting between 1992 and 1994 and since late 1998.

The war in Angola is causing unimaginable suffering. The armed opposition *União Nacional para a Independência Total de Angola* (UNITA) National Union for the Total Independence of Angola, is besieging and shelling cities. About 1.7 million people have been displaced by the fighting in recent years and some five million are in need of humanitarian assistance but aid agencies are unable to reach many of them.

The right to freedom of expression is essential to enable Angolans to know what is happening in their country and to be able to contribute in a meaningful way to the resolution of

its problems, including the causes and conduct of the war and issues such as the pervasive corruption in Angola. Denial of the right to freedom of expression can only serve the interests of those who violate international human rights and humanitarian law and who survive on corruption.

This report reflects the escalation of restraints on the media and examines the accusations leveled against journalists under charges, which are often so broadly formulated as to make them difficult to rebut, and analyses the use of legal procedures in the light of international human rights standards. It makes recommendations for bringing Angolan law and practice into conformity with international standards. It calls on the authorities to take immediate and urgent steps to guarantee the free exercise of the right to freedom of expression, to protect the integrity and security of journalists and media workers, and to bring to justice those suspected of threatening or assaulting media workers. The failure to take these steps acts as a green light to those who may have political or personal grudges against journalists.

**KEYWORDS: FREEDOM OF EXPRESSION1 / JOURNALISTS1 /  
BROADCASTERS / ARBITRARY ARREST / LEGISLATION / IMPUNITY /  
TORTURE/ILL-TREATMENT / EXTRAJUDICIAL EXECUTION /**

This report summarizes an 18-page document ( words), : ANGOLA Freedom of expression under threat (AI Index: AFR 12/16/99) issued by Amnesty International in November 1999. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at <http://www.amnesty.org> and Amnesty International news releases can be received by email: <http://www.amnesty.org/news/emailnws.htm>

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## **ANGOLA**

### **Freedom of expression under threat**



November 1999  
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# ANGOLA

## Freedom of expression under threat

### 1. Introduction

Freedom of expression in Angola is being stifled. Since full-scale war resumed in December 1998 the Angolan authorities have increasingly used legal procedures to arrest, question and intimidate journalists, apparently with the intention of silencing criticism. At the same time, the authorities have failed to fulfil their legal obligations to protect the physical integrity of media workers and others and to investigate the cases of those who have received death threats or who have been physically assaulted or murdered. This report reflects the escalation of restraints on the media and examines the accusations leveled against journalists under charges, which are often so broadly formulated as to make them difficult to rebut, and analyses the use of legal procedures in the light of international human rights standards. It makes recommendations for bringing Angolan law and practice into conformity with international standards. It calls on the authorities to take immediate and urgent steps to guarantee the free exercise of the right to freedom of expression, to protect the integrity and security of journalists and media workers, and to bring to justice those suspected of threatening or assaulting media workers. The failure to take these steps acts as a green light to those who may have political or personal grudges against journalists.

Angolan government authorities have claimed that some media reports relating to the war have endangered public order or security or the good name of the state. No state of exception has been declared and no exceptional measures to restrict the right to freedom of expression have been imposed in law. However, the authorities have invoked various laws, including the press law of 1991 and a security law of 1978, in a manner which appears to contravene the guarantees on freedom of expression and information provided by Angola's Constitution and by international human rights treaties to which Angola is a party: the African Charter on Human and Peoples Rights (ACHPR), which Angola ratified on 9 October 1990, and the International Covenant on Civil and Political Rights (ICCPR), to which it acceded on 10 January 1992. Since the signing of the Peace Accords for Angola in 1991, various independent publications and radio stations have emerged. They have operated under a climate of repression which has increased during periods of fighting, for example during the fighting between 1992 and 1994 and since late 1998.

The war in Angola is causing unimaginable suffering. The armed opposition *União Nacional para a Independência Total de Angola* (UNITA) National Union for the Total Independence of Angola, is besieging and shelling cities. About 1.7 million people have been displaced by the fighting in recent years and some five million are in need of humanitarian assistance but aid agencies are unable to reach many of them. Some 200 people are reportedly dying every day. In August 1999 the Catholic Bishop of Uíge in northern Angola called, in a radio interview, for a cease fire and for the opening of humanitarian corridors to allow supplies to reach thousands of people affected by hunger and disease. He said that the state media were "not reflecting the extent of the suffering in the area, where people live in terror and deprived

of food and the most basic necessities." Church sources claimed that people in the besieged city of Huambo in central Angola were reduced to eating roots, cats and dogs.

In addition to the death and suffering caused by the fighting and the humanitarian crisis, both the government and UNITA have targeted unarmed civilians suspected of supporting the enemy. Both parties to the conflict have contravened their obligations under international humanitarian law<sup>1</sup> which forbids violations such as torture, deliberate and arbitrary killing of unarmed civilians and there have been reports of mutilations by UNITA<sup>2</sup>. While information about human rights abuses in areas of conflict is very difficult to obtain and corroborate, reports indicate that both sides have executed captured combatants and carried out deliberate and arbitrary killings of civilians. UNITA is also reported to have carried out mutilations. Given these violations of international humanitarian law, a report focusing on the right to freedom of expression may appear to be a lesser priority. However, Amnesty International believes that restriction of the right to freedom of expression and information beyond the limits permitted under international law only serves to hide and therefore to encourage other human rights violations and violations of international humanitarian law.

Hopes of an early end to the conflict are dim. The government maintains that the 1994 Lusaka Protocol<sup>3</sup> is still valid but it has also stated that it is no longer willing to engage in dialogue with UNITA. The UNITA leader, Jonas Savimbi, has called for peace but without offering any concrete proposals. Increasingly, civil society groups are coordinating their appeals for an end to the fighting. The *Grupo Angolano de Reflexão para a Paz* (GARP), Angolan Group for Reflecting on Peace, formed on 2 April 1999, published a Manifesto for Peace in Angola on 16 July 1999 which calls for a national dialogue to achieve a lasting peace. This has been endorsed by intellectuals, professionals, members of opposition parties, trades unions and non-governmental organizations, representatives of religious groups and journalists.

The right to freedom of expression is essential to enable Angolans to know what is happening in their country and to be able to contribute in a meaningful way to the resolution of its problems, including the causes and conduct of the war and issues such as the pervasive corruption in Angola. Denial of the right to freedom of expression can only serve the interests of those who violate international human rights and humanitarian law and who survive on corruption.

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<sup>1</sup> International humanitarian law provides minimum guarantees during armed conflict. All parties to a conflict are obliged under international humanitarian law to ensure the protection of civilians and infrastructure essential to the survival of civilian population. Torture, rape and deliberate and arbitrary killing of civilians and combatants who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention or any other cause are forbidden.

<sup>2</sup> Such abuses are described in Amnesty International's report *Angola: Human rights - the gateway to peace [Angola: Direitos Humanos - passaporte para a paz]* (AI Index: AFR 12/01/99)

<sup>3</sup> The Lusaka Protocol was signed in November 1994 to end the fighting which broke out when UNITA rejected the results of elections supervised by the United Nations under the Peace Accords for Angola of 1991.

Governments are bound by international law to uphold the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers and in any media. Under international law, the authorities may not restrict this right, even in the interests of national security, unless they can demonstrate that the restriction is prescribed by law and is necessary for the protection of a legitimate national security interest. The curtailment of the rights to freedom of expression and freedom of information provides a cover under which other fundamental rights and freedoms may be denied. This document does not deal with freedom of expression in areas under UNITA control: in these areas freedom of expression practically does not exist because of the overwhelming and complete control exerted by UNITA leaders on these areas..

Amnesty International is calling on the government to take action to ensure that journalists are protected from threats or attacks on their physical safety and that legal procedures used in relation to the right to freedom of expression and information operate strictly in accordance with international human rights law and with international standards of fair trial.

## 2. Legal proceedings against journalists and media workers

Since January 1999, some 20 journalists, most of whom worked for privately-owned radios<sup>4</sup> and newspapers, have been briefly detained for questioning by police concerning possible charges including defamation, slander or crimes against the security of the state. The use of these charges appears to be an attempt to curb opposition and criticism. The abuse of legal proceedings for political ends violates international human rights law. Any journalists or other persons imprisoned for exercising their right to freedom of expression in a non-violent way would be regarded by Amnesty International as prisoners of conscience.

José Manuel Alberto and José Cabral Sande of the independent radio station *Rádio Morena Comercial*, which operates from the southern city of Benguela, were detained on 11 January 1999. The local military commander had reportedly filed a complaint with the provincial attorney's office after the radio re-transmitted an interview which the Voice of America (VoA) had recorded with Paulo Lukamba "Gato", the UNITA Secretary General, in which the latter reportedly made statements about military actions considered offensive to the Angolan Armed Forces (FAA). The two were held for over 24 and 12 hours respectively and taken to court on 12 January. After a summary trial the judge ruled that the police had not produced sufficient evidence on which to convict the defendants, ordered their provisional release and returned the case to the police for further investigation. Various national and international non-governmental organizations working on press freedom and human rights

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<sup>4</sup> Radio is the most important vehicle of communication. Only 6% of the population read newspapers while over 60% have access to radio.

expressed concern. The authorities subsequently agreed to withdraw the case on the understanding that *Rádio Morena Comercial* would make no further comment on military matters.

William Tonet, the director of the bi-weekly independent newspaper *Folha 8*, and two contributors, Rafael Marques de Morais and António Pascoal Mukuna, were questioned separately on 6 and 19 April in connection with articles published in *Folha 8* on 20 January 1999. These articles commented on draft evasion by those whose families could afford to send them abroad to study and on opposition to the war.

A cartoon on the cover of the 20 January edition of *Folha 8* showed young men queuing to register for the draft whose exclamations sum up the content of the articles: - "Here we go again, paying for the errors of the politicians!"; "I've already lost four brothers in this stupid war! I'm the only one left!"; "They get fat while we serve as cannon fodder!"; "... and afterwards we'll be wandering in the streets like abandoned dogs!".

The three journalists were reportedly questioned on suspicion of committing crimes under the press law and the law of crimes against the security of the state. Charges arising out of these laws could include incitement against military service, and defamation or slander against government officials. William Tonet was reportedly asked to reveal the names of his sources of information. Formal charges have not yet been brought against any of the three journalists.

Earlier, on 18 January, the day on which registration for military service commenced, the Minister of Social Communication, Pedro Hendrik Vaal Neto, had issued a statement to certain independent newspapers and radio stations noting with concern that the private media had published information which incited young men to evade military registration and that this constituted "a grave violation of the press law, of the military laws and other ordinary laws . . .". The Minister added that the freedom of the press should be exercised within the general aims of the mass media which include that of "contributing to the consolidation of the Angolan nation and reinforcing national unity". The statement concluded by urging the media to act in strict conformity with the law, which carried sanctions including canceling licences to publish or broadcast.

William Tonet was again questioned in late June - this time about an article alleging the involvement of senior government officials in a corruption network which appeared in the 19 June edition of *Folha 8*.

Restrictions have been imposed on *Rádio Ecclesia*, the Luanda based Catholic Church radio, on several occasions. In January 1999 the station was reportedly forbidden to broadcast programs recorded by *Rádio Renascença*, Portugal's Catholic radio. These programs were said

to include information on the fighting in Angola and interviews with UNITA representatives.

On 9 August, after *Rádio Ecclesia* had re-broadcast a British Broadcasting Corporation (BBC) program containing part of an interview with the UNITA leader, Jonas Savimbi, police arrived at the station with warrants for the arrests of Paulo Julião Muacavala, head of production and Emanuel Monteiro Cordeiro da Mata, editor in chief. Emanuel da Mata was not present at the time and the police took Paulo Julião Muacavala, Laurina Eduardo Tavares [f], an editor and Francisco Filipe Joaquim, a reporter, to the Criminal Investigation Department (DNIC). Father António Jaka, the director of *Rádio Ecclesia*, voluntarily accompanied them. The police confiscated the audio cassette and other material. The three detainees were questioned for over four hours and then released at about midnight.

On the following afternoon, police again arrived after the radio station broadcast the second part of the BBC interview with Jonas Savimbi. They arrested Paulo Julião Muacavala again and also detained Emanuel da Mata and Father António Jaka. The three were held for about nine hours. The police reportedly insisted that Father António Jaka sign an undertaking that *Rádio Ecclesia* would never again broadcast any material featuring UNITA and Jonas Savimbi without obtaining the prior authorization of the Ministry of the Interior. *Rádio Ecclesia* is reported to be seeking legal advice about the legality of this action.

Also questioned on 10 August were Reginaldo da Silva, a BBC correspondent, and João Nelson Rosa, Manuel Silva and José Maria of the state-controlled *Televisão Pública de Angola* (TPA), Public Television of Angola. Reginaldo da Silva had reportedly lent a tape of the interview with Jonas Savimbi to *Rádio Ecclesia* and TPA had also re-broadcast excerpts from the interview.

On 10 August the General Command of the National Police published a press statement saying that *Rádio Ecclesia* had broadcast the words of someone against whom there is an arrest warrant<sup>5</sup>. The statement said that scurrilous, totally unfounded and distorted statements were disseminated, tarnishing the good name of the Angolan state and its prestige abroad. It noted that these crimes contravened Law N° 7/78 of 26 May 1978 on Crimes against the Security of the State.

Three journalists were questioned in connection with reports which appeared in *Folha 8* on 11 August concerning the arrests of the *Rádio Ecclesia* journalists. The article had included excerpts from the interview with Jonas Savimbi but the quotes were blanked out in the printed version. Paulo Julião Muacavala of *Rádio Ecclesia* was reportedly questioned for three hours on 31 August. Since then, William Tonet has repeatedly been called for questioning about the 11 August article and articles in subsequent editions of *Folha 8*. Other members of his staff,

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<sup>5</sup> The General Command of the Angolan Police issued an arrest warrant for Jonas Savimbi in July 1999 accusing him of various crimes including armed rebellion, sabotage, incitement to collective disobedience and homicide.

including two page setters, were also questioned and asked to reveal the names of Folha 8's sources. In particular, William Tonet has been pressed to reveal the full identity and address of a priest who was one of his sources.

On Friday 3 September William Tonet was held in the DNIC for a few hours and released but Gilberto Neto, a journalist, remained for about eight hours. Although the 11 August article had not been signed, the police apparently believed Gilberto Neto to be the author. The article had cited a *Rádio Ecclesia* journalist as saying that the police had threatened to close the radio, that the church should not involve itself in politics and that the death penalty could be reinstated<sup>6</sup> to deal with such cases. The investigators reportedly told Gilberto Neto that he had defamed the police and that he had committed crimes against state security. During the day he was taken to a cell twice, once for over two hours and the second time for one and a half hours for refusing to reveal his sources and for allegedly refusing to cooperate with the police. On one occasion the police reportedly took him to have his finger-prints and photograph taken and when he objected they pushed against his mouth the wooden panel used to identify the person being photographed. This cut his lip. The police are reported to have said they were going to hold him over the weekend and take him to court on 6 September for obstructing the police. When he asked if he could telephone a friend a police officer pulled him by the shirt and tore it. Gilberto Neto was released at about nine o'clock that night.

William Tonet was again questioned on 6 and 8 September. On 10 September he received notification that the emigration police had received orders from the DNIC not to allow him to leave the country. According to the law, such orders should be issued only on the orders of a court. However, William Tonet's case has not reached the court, nor has he ever refused to cooperate with the police inquiry. At the time of writing this report, William Tonet, Gilberto Neto and the editor, Victor Carvalho had been notified that they would be required to answer further police questions.

Isaias Soares, a VoA correspondent in the city of Malange, reported on 18 August that a United Nations (UN) humanitarian official in Malange had claimed that soldiers and police officers were misappropriating humanitarian aid. The remark of the UN official was reportedly related to the frequently reported cases of police and soldiers setting up roadblocks outside the city where they rob displaced persons who have been given humanitarian supplies. The next day, 19 August, two men identified as DNIC officers stopped Isaias Soares in the street and took him to the FAA command where he was held for a few hours for questioning. A few days later he was summoned and again questioned. He has not been formally charged with any offence but he was informally told not leave the city. Isaias Soares had previously been suspended from his job on *Rádio Nacional de Angola* (RNA), Angolan National Radio, in November 1997, possibly as the result of a report on the death in police custody earlier that month of 10 UNITA members.

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<sup>6</sup> Angola abolished the death penalty in 1992.

Albano Custódio, a *Rádio Ecclesia* correspondent in Kuito, Bié province, in central Angola, and a VoA reporter, Aniceto dos Santos, were questioned by police on 25 August about a report of UNITA's shelling of Kuito, the provincial capital. Albano Custódio's report had been broadcast on 24 August. According to reports, the Bié police claimed that the broadcast could spread panic in the city and prevent humanitarian aid flights from landing at the airport. On 23 August two other journalists, Florentino Setila and Abel Abraão, had also been questioned about reports of the shelling of Kuito by UNITA artillery.

In a letter to *Rádio Ecclesia* dated 7 September, the Minister of Social Communication stated that the government banned the radio station from transmitting live programs of the Portuguese Catholic radio station, *Rádio Renascença*. The letter reportedly said that *Rádio Ecclesia* had violated the press law, without specifying which article of the law had been broken.

The private media, the *Sindicato de Jornalistas Angolanos* (SJA), Angolan Journalists Union, and international NGOs promoting freedom of expression have protested at the wave of arrests and the threats to close publications and broadcasts. The Minister of Social Communication's response, in May 1999, was to accuse Angolan journalists of inventing the incidents and informing international organizations concerned with press freedom and human rights in order to tarnish the image of their country.

### 3 The law vs freedom of expression

The practice of briefly detaining journalists for questioning on suspicion of criminal offences in connection with their reports marks a new trend in Angola. At the time of writing, none of the journalists has been tried or formally charged. It is therefore not yet possible to say whether the courts will interpret Angolan law in the light of international human rights standards relating to freedom of expression. Nevertheless, it is relevant to examine the accusations against journalists in the context of Angolan law and international human rights law.

Angola's Constitution (1992) provides the right to freedom of expression<sup>7</sup> and stipulates that Angolan law must be interpreted in accordance with the requirements of international human rights standards. Article 21 of the Constitution states in paragraphs 2 and 3:

"2. *Constitutional and legal norms related to fundamental rights shall be interpreted and incorporated in keeping with the Universal Declaration of Human Rights, the African*

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<sup>7</sup>The Constitution (1992) provides the right of freedom of expression in Article 32 paragraph 1 which states: Freedom of expression, assembly, demonstration, association and all other forms of expression shall be guaranteed.

*Charter on Human and Peoples' Rights and other international instruments to which Angola has adhered.*

*3. In the assessment of disputes by Angolan courts, those international instruments shall apply even when not invoked by the parties."*

However, much work is yet to be done to bring Angolan legislation, including the press law and the law on national security, into conformity with international human rights standards. Moreover, there is little opportunity to challenge the law itself or the manner of its use since the Constitutional Court is not functioning and the Ombudsman's Office<sup>8</sup> provided under the Constitution has not been established.

The articles, editorials and broadcasts which have caused the authorities to question journalists with a view to prosecution fall into the following categories:

- reports relating to military matters including those deemed to discourage men from doing military service or to cast doubts on the purpose of the war or giving information about military actions which are considered likely to cause public disorder or to provide information useful to the enemy;
- retransmission of radio broadcasts of interviews with Jonas Savimbi and other UNITA officials;
- reports alleging the involvement of government officials in corruption.

Statements by the Minister for Social Communication in May and June 1999 contained a series of accusations against journalists. He is reported to have threatened to take 'drastic steps' against media outlets which were "unpatriotic", and which "discouraged military's recruitment", "revealed military secrets" and "disseminated a negative image of the government".

Although no formal charges have been brought in these cases, the Ministry of Social Communication and the General Command of the Angolan National Police have issued statements which indicate the criminal legislation under which journalists could be charged. Many of the offenses in these laws are defined in an ambiguous manner which seriously hampers the ability of the accused to defend themselves.

In a statement issued on 10 August and subsequently published, the General Command of the Police stated that the journalists questioned in connection with the *Rádio Ecclesia* broadcasts on 9 and 10 August could be prosecuted under Articles 8 and 24 of Law No 7/78 of 26 May 1978, the Law of crimes against the security of the State. Article 8 of this law, entitled "Divulging dangerous affirmations", states that those who make or reproduce affirmations they

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<sup>8</sup> According to Article 142 of Angola's Constitution, the Ombudsman's Office is to be an 'independent public body, the purpose of which shall be to defend the rights, freedoms and guarantees of citizens, ensuring by informal means the justice and legality of public administration'.

know to be false or grossly distorted and which endanger the good name of Angola may be sentenced to between two and eight years' imprisonment. Article 24 concerns instigation to collective disobedience, rumours and counter-revolutionary propaganda. This includes broadcasting false or tendentious news or predictions which may cause public alarm, discontent or disorder. Violations of Article 24 are punishable by prison terms of up to two years. These articles are ambiguous: such terms as "endanger the good name of Angola", "rumours" and "counter-revolutionary propaganda" are open to interpretation and could favour the prosecution.

Another law to which the Minister of Social Communication, Pedro Hendrik Vaal Neto, has referred is the Press Law, Law N° 22/91 of 15 June 1991. Article 3 a) of this law states that the general aims of the mass media include, "to contribute to the consolidation of the Angolan Nation and to reinforce national unity". It appears that this was the basis of a statement which the Minister of Social Communication reportedly made in a radio interview on 1 June to the effect that radio stations and newspapers faced closure if they did not take a patriotic stance in reporting on the war.

The Press law also states in Article 3 b), that one of the general aims of the mass media is "to exercise in full freedom, the right to inform, without limitations except those defined by law". According to Article 5 of the Press Law, the only limits which may be imposed on press freedom are: "those which may be imposed under general and military law to safeguard national security, public order and public health and morals".

Article 5 of the Press Law appears to allude to the ICCPR, Article 19, paragraph 3 b (see box). However, it omits the protection provided by Article 19 which requires that any restrictions on the right to freedom of expression "shall only be such as are provided by law and are necessary" (emphasis added). Angola acceded to the ICCPR on 10 January 1992.

**Article 19 of the International Covenant on Civil and Political Rights**

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, or of public health or morals*

<sup>9</sup> The other general aims are: "c) to inform the public, with truth, independence and impartiality, about national and international occurrences, ensuring citizens' right to correct and impartial information;" and "d) to guarantee free expression of opinion to the public and civil society".

The strategy adopted by the authorities appears to have been effective in silencing the press on certain issues, particularly with respect to the statements of UNITA leaders. In several cases referred to above, after journalists were arrested for questioning the cases were withdrawn. The case against the *Rádio Morena Comercial* journalists in Benguela was withdrawn on the basis of what was referred to as a "gentlemen's agreement" between the journalists and the police to the effect that the radio would not broadcast political comment on the war. As noted above, after the arrest of the *Rádio Ecclesia* journalists in Luanda in August 1999, Father António Jaka was reportedly required to sign an agreement that the station would in future not broadcast any material featuring UNITA and Jonas Savimbi without prior permission from the Ministry of Interior. Folha 8, in its edition of 11 August, reported on the story of the *Rádio Ecclesia* arrests but blanked out paragraphs which carried quotes from the interview with Jonas Savimbi. These broad gagging orders should also be examined in the light of Article 19 of the ICCPR.

In any court case in which a limitation to the right to freedom of expression may be at issue, the full implication of Article 19 of the ICCPR (see box) should be respected. This includes not admitting any restriction on freedom of expression or information except in respect of a law which is accessible, unambiguous and precise enough to enable individuals to foresee whether a particular action is unlawful. Any punishment or sanction prescribed in relation to a restriction of the right to freedom of expression must be proportional to the offence. Furthermore, the government must demonstrate that the expression or information at issue poses a threat to a legitimate national security interest, that the restriction imposed must be justified as necessary, that it is the least restrictive means possible and that the restriction is compatible with democratic principles.

Further clarification is provided by the Human Rights Committee, the body which oversees the implementation of the ICCPR. In its View of 21 July 1994, on the case of Mukong (Cameroon), Communication N° 458/91, paragraph 9.7, the Committee states that "... the legitimate objective of safeguarding and indeed strengthening national unity under difficult political circumstances cannot be achieved by attempting to muzzle advocacy of multi-party democracy, democratic tenets and human rights." The Committee also considered, in its View of 20 October 1998 on the case of Tae Hoon Park (Republic of Korea), Communication N° 628/1995, paragraph 10.3, that "The right to freedom of expression is of paramount importance in any democratic society, and any restrictions to the exercise of this right must meet a strict test of justification." It said that it was obliged to "... determine whether the measures taken against the author were necessary for the purpose stated" and, in this case, found that the state concerned had "failed to specify the precise nature of the threat which it contends that the author's exercise of freedom of expression posed....".

Despite the lack of legal protection for the right to freedom of expression, journalists have called for cases of suspected abuse of press freedom to be settled fairly in court. In April

1999 the *Conselho Nacional da Comunicação Social* (CNCS), National Council for Social Communication<sup>10</sup>, noted that the independent media was under psychological pressure not to comment on the war and that impartiality and pluralism in the media were being "asphyxiated". It called for transparency in the way legal cases against journalists were handled and called on the authorities to ensure the physical security of journalists. Following the statements made by the Minister for Social Communication in May and June accusing journalists of offenses ranging from revealing military secrets to being unpatriotic, the journalists trade union, SJA, advised that the problems in the relations between the government should be settled in courts rather than by administrative decisions. At least one journalist, **Felisberto Graça Campos**, the editor in chief of the weekly *Angolense*, was asked whether he would prefer an out-of-court settlement of his case but chose to have the case decided in court. He faces accusations of defamation in connection with an article in the 20 February edition alleging that a provincial governor had misused public funds.

#### 4. Impunity for the perpetrators of threats, beatings and the murder of journalists

While the arrest of journalists is a new trend, violence against journalists which in many cases appears to be politically motivated and may be carried out in the form of threats of physical harm, assaults and murder, is a pattern which developed in previous years. The violence has been licenced by the failure to bring those responsible to justice. It is also probably nourished by the public statements such as those reportedly made by the Minister of Social Communication in his 1 June 1999 radio interview to the effect that some journalists were acting as propagandists on behalf of UNITA.

Journalists in Angola who take a line critical of the government (including some working for the state-controlled media) have been intimidated or have received threats against their physical safety. These threats are made through anonymous phone calls or through third persons and in some cases they are made directly. Often these threats are a herald to more direct action. **Herculano Coroado Bumba**, a correspondent for the Portuguese radio station TSF who had complained of receiving telephone threats in connection with his reports, said that he had received an intimidatory visit at his home on 14 May 1999 from two armed men wearing the uniform of the Rapid Intervention Police (PIR) and two in civilian clothes, who introduced themselves as members of the PIR. According to the journalist, the men had no warrant but said that they were searching for arms.

In a number of cases in 1999 journalists have been physically attacked.

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<sup>10</sup> This was set up in 1992 and is composed of representatives of parliamentary political parties and the media.

Josefa Lamberg, a VoA correspondent, was assaulted by a soldier on 28 April 1999. The incident took place near a military recruiting centre at the premises of the Transmissions Battalion. It was her third visit there. About two weeks earlier she had interviewed young men registering at the recruiting centre. Her report on the call-up was broadcast on 23 April. It included interviews with the young men, one of whom said that he had not noticed any white people or people of mixed race at the recruitment centre. On 28 April the journalist returned to the centre to continue her work but was not permitted to enter. She drove off but was stopped by three soldiers who had followed her car. The leader of the group, whom she said had been present during her previous visit to the recruiting centre, reportedly leaned down to the window and said "Look over there! Now, do you see whites and mulattos". Then, reaching through the car window, he slapped her face twice and pulled one of her ears. Josefa Lamberg filed a complaint with the military court about the assault. An identity parade was held at the Transmissions Battalion but the soldier who had assaulted her was not present. The case remains unresolved.

The *Reuters* correspondent in Angola, Lara Pawson, was assaulted by three men on 13 May as she left a restaurant in Luanda. One of the men held her by the face and threatened unspecified harm if she continued to publish reports critical of the government. He told her to remember that "Angola belongs to (President) José Eduardo dos Santos". The attack appeared to have been in response to a report she had filed concerning misappropriation of food aid by FAA troops in the city of Malange.

Machado e Irmão, who had worked for *Actual* until April 1999, was reportedly beaten by police on 17 May. He said that he had been in his car with a friend when uniformed police in a patrol vehicle stopped him, apparently because of an infringement of the highway code. The journalist said that when the police found out that he was a journalist they accused him of being one of those who "support the enemy" and "say bad things" about the government. The journalist also complained that in the two weeks following the attack strangers had visited his house asking "Is the journalist there?"

On 2 July two television crews were arrested after they had filmed police exchanging shots with suspected armed robbers in Luanda. The film reportedly showed the apparently unlawful killing of one of the alleged robbers<sup>11</sup>. A witness said that the arrests were carried out by a group of plain-clothes police who seized the cameras of the crews from TPA and a Portuguese television station, Rádio Televisão Portuguesa (RTP). Members of the TPA crew were said to have been held at a street corner and made to keel with their hands in the air. They were reportedly insulted and threatened and some were kicked and hit with machine gun butts. Subsequently, the chief of the police Operational Command reportedly apologized to the journalists and returned the cameras, having removed the film.

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<sup>11</sup> Amnesty International has frequently received reports of police using illegitimate lethal force when dealing with suspected criminals.

José Manuel Alberto of *Rádio Morena Comercial* in Benguela was reported to have been assaulted by a provincial government official of the Ministry of Public Works on 21 July, after he had broadcast a report which commented on the delay in re-opening six primary schools in Benguela and Lobito cities which had been closed for repair four months earlier. The journalist sustained a bruise in the right thigh. He notified the police of the assault. To date, no action has been taken against his aggressor.]

In previous years there have been several cases of people other than media workers being ill-treated or tortured for exercising their right to freedom of speech. These included trade unionists and representatives of religious groups. In 1995, 27 people were arrested at a public meeting advocating autonomy for Cabinda, an Angolan enclave between the Democratic Republic of Congo (DRC) and the Republic of Congo. They were severely beaten and given electric shocks before being released. One of them, Afonso Justino Waco, a Protestant cleric, was again detained in August 1998 following an interview with VoA in which he spoke of Angolan troop movements towards the border with DRC. He was accused of defaming the government. He was released five days later, the day after the government first confirmed that it had sent troops into DRC in support of the government of Laurent Kabila. In 1996 Miguel Filho, Secretary General of the *Sindicato dos Professores* (SINPROF), a teachers union, was beaten by police after a trade union seminar. He had previously received several threats of physical harm because of his trade union activities. Isaac Mana, SINPROF Secretary General in Moxico province, was beaten by police on 27 July 1998 in connection with a strike calling for the payment of salary arrears.

Since 1992, at least six journalists have been killed and 10 others reported missing in areas of conflict, according to the SJA. In some cases the motive for the killing was almost certainly political while in others the motive is far less clear. It is deeply disturbing that none of these cases has resulted in the perpetrators being brought to justice. The criminal justice system in Angola is undoubtedly under-resourced but it is fully capable of investigating the cases and trying those identified as possible suspects. The real reason for the repeated failure to do so is political.

The most striking of the cases which occurred since 1995 are briefly described below. The fact that the killers are still at large acts as a green light to others who may have a political or personal grudge against a journalist.

Ricardo de Melo, the 38-year-old director and editor-in-chief of the first independent Angolan newspaper, the weekly *Imparcial Fax*, was killed in Luanda in the early hours of 18 January 1995. He had been very critical of government policy and faced charges concerning alleged abuses of press freedom. He had frequently received threats concerning his reports on military matters and on corruption involving senior government officials. On 17 January he had been out dining with friends, one of whom took him back to the block of flats where he lived. The next morning his body was found on a landing of the communal staircase. He had been shot

in the chest at close range by a weapon fitted with a silencer. US dollars in his pocket had not been touched, rendering robbery as a potential motive very unlikely. To date those responsible for carrying out or ordering the killing of Ricardo de Melo have not been brought to justice.

António Casimiro a 25-year-old TPA journalist, was shot dead in the early hours of 30 October 1996. His sister witnessed the killing. According to her account she and her brother were awoken not long after midnight by visitors calling the journalist by name saying that they had come to escort him to Belize, in the north of the enclave, where he was due to report on a visit by provincial government officials later that day. Doubting the intentions of his visitors, he refused to leave the house. Four armed men, three of them in police uniform, then burst in through his bedroom window and started to drag him out of the house. When his sister screamed and called out to the neighbours one of the intruders shot the journalist in the stomach with a revolver and fled with his colleagues.

Various sources have related the killing to an incident which took place on 18 October 1996. António Casimiro and camera operator João Francisco Lubota had been accompanying the visit of a provincial government official to the north of the enclave. When the two men arrived late at the appointed place, the official, a former police officer, threatened to have them arrested or killed and he pointed his pistol at António Casimiro's head. People at the scene of the incident restrained the official. TPA journalists in Cabinda subsequently protested about what had happened and they reportedly received threats from government officials. Two police inquiries were reportedly opened, one into the murder of António Casimiro and one into the death threats made by the government official on 18 October. Some sources have reported that the inquiries were stopped to protect provincial officials. Those responsible for António Casimiro's death have not been brought to justice. João Francisco Lubota was the victim of another attack on the night 14 January 1999 when armed men fired at his house for several minutes.

The Angolan authorities have consistently failed to take action in respect to the intimidation and threats to which journalists are frequently subjected. This is a negation of their responsibilities under Article 3 of the Universal Declaration of Human Rights which states: "Everyone has the right to life, liberty and security of person". The Human Rights Committee, in its decision of 12 July 1990 in the case of W.E. Delgado Páez (Colombia), Communication Nº 195/1985, paragraph 5.5, decided that the state had "the obligation to adopt reasonable and adequate measures to protect people."

## 5. Recommendations

The way in which the right to freedom of expression is upheld in any country is a barometer of the way in which other rights are respected in that country.

Amnesty International is urging the Angolan authorities to take immediate action to ensure that the right to freedom of expression is fully protected as required under Article 19 of the Universal Declaration of Human Rights and Article 19 of the ICCPR, as well as other international and regional standards for the protection of human rights. This would require a triple strategy:-

- amending the law in accordance with international human rights standards for the protection of freedom of expression, in particular with the ICCPR;
- ensuring that official rhetoric and action conform to these standards; and
- bringing the perpetrators of threats and assaults against journalists to justice.

#### i) Amendments to the law

Any necessary amendments should be made to the law to ensure that, in accordance with Article 21 of the Angolan Constitution and Article 19 of the ICCPR (see page 9 above), no restrictions on freedom of expression or information on the ground of national security may be imposed unless the government can show that the restriction is prescribed in law and is necessary (emphasis added) to protect a legitimate national security interest:

- Restriction on the right to freedom of expression may only be imposed in order to ensure respect for the rights and reputations of others, the protection of national security or public order or public health or morals.
- These restrictions may be imposed only to the extent that they are necessary to achieve these objectives.
- In no case may these restrictions impact on the right to freedom of speech.
- Restrictions must be set out clearly and unambiguously so that they may not be used to persecute people on grounds of their ideas, opinions or beliefs.
- The law must also contain mechanisms which sanction any abuse of the restrictions on freedom of expression.
- The legislation which places restrictions on the right to freedom of expression must be based on principles of:
  - Legality (in conformity with the ICCPR)
  - Legitimacy (so as to protect human rights and not to admit abusive or arbitrary use of power)
  - Proportionality (the sanctions should be in proportion to the offence)
  - Necessity (the burden of proof for the necessity of the restriction lies with the government).

These provisions in international law were incorporated into a set of guidelines called the Johannesburg Principles on National Security, Freedom of Expression and Access to Information<sup>12</sup>.

Principle 1.1 states:

a) Any restrictions on expression or information must be prescribed by law. The law must be accessible, unambiguous, drawn narrowly and with precision so as to enable individuals to foresee whether a particular action is unlawful.

b) The law should provide for adequate safeguards against abuse, including prompt, full and effective judicial scrutiny of the validity of the restriction by an independent court or tribunal.

The Angolan Constitution, which is currently under discussion with a view to introducing changes, should be amended to reflect international law and these principles. All other laws which do not conform to international law should also be amended.

**ii) No restrictions on freedom of expression except on grounds permitted under international human rights law**

The Angolan authorities have repeatedly arrested journalists and warned that media outlets may be closed if their reports contain information which the authorities consider to be detrimental to national security. In doing so they appear to have exceeded the restrictions on freedom of expression permissible under the ICCPR. The ICCPR sets out the limits of any restrictions which may be imposed on freedom of expression in its Articles 4, 19 and 20,

Principle 7 of the Johannesburg Principles gives consideration to the categories of expression which should not constitute a threat to national security or subjected to any restrictions or penalties. Amnesty International endorses the following categories but notes that there may be others. At a minimum, these categories include the peaceful exercise of freedom of expression which:

- "(i) advocates non-violent change of government policy or the government itself;
- (ii) constitutes criticism of, or insult to, the nation, the state or its symbols, the government, its agencies or public officials<sup>13</sup> or a foreign nation, state or its symbols, government agencies or public officials;

<sup>12</sup> These principles were adopted on 1 October 1995 by a group of African and international experts, including Amnesty International, in international law, national security and human rights convened by the human rights organizations, ARTICLE 19, the International Centre Against Censorship, in collaboration with the Centre for Applied Legal Studies of the University of the Witwatersrand, in Johannesburg, South Africa.

<sup>13</sup> For the purposes of the Principles "public officials" include "the Head of state; the Head of Government; all government officials including Ministers; all officers of the military, security forces and police; and all people who hold elected office."

- (iii) constitutes objection, or advocacy of objection, on grounds of religion, conscience or belief, to military conscription or service, a particular conflict, or the threat or use of force to settle international disputes;
- (iv) is directed at communicating information about alleged violations of international human rights standards or international humanitarian law."

Principle 8 of the Johannesburg Principles adds that: "Expression may not be prevented or punished merely because it transmits information issued by or about an organization that a government has declared threatens national security or a related interest."

### **iii) The government's burden of proof**

In 1999 journalists have been arrested, their premises or homes have been searched and materials confiscated on the basis of the articles or programs they have published or broadcast. Journalists have been made to sign agreements that they would not publish or broadcast certain categories of information. Detained journalists have been questioned about the names of their sources of information.

As noted above, the law should provide for prompt, full and effective judicial scrutiny by an independent court of the validity of any restriction order. It is incumbent upon the authorities issuing such orders to demonstrate the validity of the restriction. Principle 1.3 of the Johannesburg Principles states that "To establish that a restriction on freedom of expression or information is necessary to protect a legitimate national security interest, a government must demonstrate that:

- (a) the expression or information at issue poses a serious threat to a legitimate national security interest;
- (b) the restriction imposed is the least restrictive means possible of protecting that interest; and
- (c) the restriction is compatible with democratic principles."

The police and other relevant authorities should abide by Principle 18 of the Johannesburg Principles which requires that "Protection of national security may not be used as a reason to compel a journalist to reveal a confidential source."

### **iv) The protection of anyone suspected of a security-related crime including a crime involving freedom of expression or information.**

Anyone detained on suspicion of involvement in a security-related crime, including one which concerns the right to freedom of expression should have full guarantees for their defence in accordance with Article 14 of the ICCPR. These include the rights not to be arbitrarily detained;

to be presumed innocent; to prompt access to legal counsel of choice; the right to a fair and public trial by an independent court; and the right to appeal against judgement and sentence.

**v) Bringing to justice those who threaten or assault journalists**

In 1999 there have been several instances where journalists have been assaulted because of their work. The authorities have failed to condemn such acts publicly and they have also failed to carry out prompt and thorough investigations with a view to bringing the perpetrators to justice. These failures constitute a negation of the Angolan Government's responsibility to uphold not only the right to freedom of expression but also the rights to life and physical integrity.

Amnesty International urges the government to act strongly and immediately to put an end to the culture of violence against journalists and to put an end to the culture of impunity for those who are responsible for this violence.

In addition Amnesty International calls on the authorities to take appropriate action against those officials who have negligently failed to investigate threats and assaults against journalists so that the suspected perpetrators may be brought to justice.