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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders.

REFERENCE: AL G/SO 217/1 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)
AGO 2/2013

26 April 2013

Excellency,

We have the honour to address you in our capacities as Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolution 16/16, 16/4, 15/21, and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received regarding **the arrests of Messrs. Manuel Nito Alves, Luaty Beirão, Adolfo Campos, Mauro Smith and 14 other individuals, including human rights defenders, who intended to participate in a peaceful protest calling for a Government response to the disappearances of two human rights defenders.**

According to the information received:

On 30 March 2013, a peaceful protest was organized by several human rights defenders calling for a Government response to the alleged disappearances of two human rights defenders, namely, Messrs. Silva Alves Kamulingui, also known as António Alves Kamulingue, and Isaías Sebastião Cassule. According to the source, the protesters were expected to meet at 10:00 a.m. at the Cemetery of Saint Ana, in Luanda.

At approximately 8:00 a.m., before the demonstration was due to take place, one of the organizers, Mr. Manuel Nito Alves, was reportedly arrested near the supermarket Alimenta Angola, while talking about the demonstration to ten other individuals. Around the same time, three human rights defenders, namely, Messrs. Luaty Beirão, Adolfo Campos and Mauro Smith, were reportedly arrested when

they enquired about the heavy police presence at the Cemetery of Saint Ana. According to the information received, other protesters who had started to gather were allegedly dispersed by police and encouraged to leave the area. At approximately 9:00 a.m., Mr. Mbanza Hamza, one of the organizers of the demonstration, together with another human rights defender were allegedly beaten by police.

It was reported that the Provincial Police of Luanda issued a statement confirming the arrest of 12 individuals. However, according to the source, 18 individuals were allegedly arrested. Reportedly, on 30 March 2013, all individuals arrested were released without any charges.

According to the information received, the protest on 30 March 2013 was organized to demonstrate solidarity with Messrs. Silva Alves Kamulingue and Isaías Sebastião Cassule, who were last seen on 29 May 2012, two days after a protest that they had organized in Luanda, which was participated by war veterans. In July 2012, a complaint related to this case was filed with the police. On 22 December 2012, police allegedly dispersed a protest in Luanda which called for an official explanation on the whereabouts of the two individuals and reportedly arrested five protesters and three bystanders. In December 2012, the Angolan Government announced an investigation on the two cases of disappearances. However, it was reported that relevant authorities have not yet provided any information on the progress of the investigation.

Concern is expressed that the aforementioned arrests of individuals, including human rights defenders, may be related to the exercise of their rights to freedom of peaceful assembly and expression, in their struggle for justice for victims of enforced disappearances.

Without expressing at this stage an opinion on the facts of the case, we would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights (ICCPR), that the Republic of Angola acceded to on 10 January 1992, which provides that "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."

We would also like to refer your Excellency's Government to article 21 of the ICCPR which provides that "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others."

In this connection, we would like to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

In this connection, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 5 point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully; and

- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Furthermore, we would like to recall that in the Declaration on the Protection of all Persons from Enforced Disappearance, adopted by General Assembly resolution 47/133 of 18 December 1992, it is stated that States must take steps to ensure that persons involved in investigations [of cases of disappearance], including the complainant,

counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal. It also stated that States must take steps to ensure that any ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or during the investigation procedure is appropriately punished.

We would also like to recall that in its resolution 21/4, adopted without a vote, the Human Rights Council urged States to take steps to provide adequate protection to witnesses of enforced or involuntary disappearances, human rights defenders acting against enforced disappearances and the lawyers and families of disappeared persons against any intimidation, persecution, reprisals or ill-treatment to which they might be subjected, paying special attention to women as relatives of disappeared persons in the context of their struggle to resolve the disappearance of members of their families.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the summary of the case accurate?
2. Please provide the details, and where available the results, of any investigation and judicial or other inquiries carried out in relation to the aforementioned alleged arrests and acts of intimidation and pressure aimed at preventing the peaceful protest. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide the full details of any prosecutions which will be undertaken in relation to the present case. Will penal, disciplinary or administrative sanctions be imposed on the alleged perpetrators?
4. Please explain what measures have been taken to ensure that human rights defenders and activists, including those that wish to exercise their rights to freedom of peaceful assembly and freedom of expression, operate in a free and enabling environment for the defense of human rights and fundamental freedoms.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

Olivier de Frouville
Chair-Rapporteur of the Working Group on Enforced or Involuntary
Disappearances

Frank La Rue
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and
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Margaret Sekaggya
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