

**Mandates of 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; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE: AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (33-27) G/SO 214 (53-24)  
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Excellency,

We have the honour to address you in our capacities as 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; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 16/4, 24/5, 16/5, 17/5, and 16/23.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning allegations of excessive use of force to dissipate a peaceful demonstration, as well as the alleged killing of the human rights defender, Mr. **Manuel "Ganga" de Carvalho** and several protestors.

Mr. Manuel "Ganga" de Carvalho was a member of the political party Convergência Ampla de Salvação de Angola (CASA-CE) who worked for justice on the case of the disappearances of two human rights defenders. Mr. **Silva Alves Kamulingue**, and Mr. **Isaiás Sebastião Cassule** were allegedly last seen on 29 May 2012, a few days after a protest that they had organised in Luanda. It is alleged that they were killed by security forces whilst in detention.

The issue of alleged excessive use of force to suppress demonstrations demanding justice for these disappearances was the subject of an urgent appeal on 10 June 2013 (case no. AGO 3/2013) which was sent by Chair-Rapporteur of the Working Group on Arbitrary Detention; the Chair-Rapporteur 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; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. This communication dealt with the alleged incommunicado detention of Mr. **Emiliano Catumbela "Ticreme"** and alleged arbitrary arrests and excessive police actions of eight other human rights defenders during their participation in a vigil. . We appreciate the reply, received from your Excellency's Government, on 9 July 2013.

A previous joint allegation letter was also sent to your Excellency's Government on 26 April 2013 (A/HRC/24/21), by the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteurs on the promotion and protection of the right to freedom of opinion and expression; the rights to freedom of peaceful assembly and of

association; and the situation of human rights defenders. In this communication, concern was expressed regarding the alleged arrests of 18 individuals who intended to participate in a peaceful protest. We acknowledge the reply received on 30 September 2013.

According to the information received:

On 22 November 2013, at approximately 10 pm, it is reported that an estimated 213 individuals were detained by the National Police for distributing pamphlets around Luanda regarding information which had been leaked alleging that security forces had killed Mr. Alves Kamulingue and Mr. Sebastião Cassule in custody. It is further alleged that several members of the CASE-CE leadership, including the party secretary general and Member of Parliament, Mr. Lionel Gomes, were detained at the 9th Police Unit in Sambizanga. Whilst many of the detainees were released the following afternoon, approximately 60 individuals remain in detention, including Messrs Xavier Jaime, Chiconda Alexandre and Américo Chivukuvuku.

It is further indicated that on the night of 22 November 2013, Mr. de Carvalho, along with seven other individuals, was reportedly distributing the above-mentioned pamphlets in the neighbourhood of Coqueiros. Shortly after midnight, the group were allegedly surprised by soldiers who ordered them to stop what they were doing and made them stand on the pavement at gunpoint. After approximately 45 minutes, a vehicle is alleged to have arrived on the scene bringing more soldiers, whereupon Mr. de Carvalho was shot twice in the upper body by one of the soldiers.

It is also reported that the remaining seven individuals were taken to a police station and were released the next morning.

On 23 November 2013, a demonstration was called in memory of Mr. Alves Kamulingue and Mr. Sebastião Cassule. It is alleged that, at 9am in front of the Santana Cemetery, police officers opened fire on the demonstrators also used tear gas and water cannons to disperse the demonstration. One protestor was shot twice in the leg and he was refused medical treatment when he was brought by other demonstrators to a medical clinic in Rangel. He was later treated at a different medical centre. Moreover, an unidentified youth was also shot at the same location.

It is also reported that the police stopped and arrested Mr. Zola Bambi, a lawyer working for the legal aid organization Maos Livres. He was placed in a police van where he was allegedly mistreated and threatened by the police officers.

Serious concern is expressed at allegations that demonstrations to protest serious abuses of power by state security forces may have been met with excessive use of force by security forces. Grave concern is expressed at allegations that security forces may have been involved in the killing of Mr. de Carvalho. Further grave concern is expressed at allegations regarding the killings of Messrs Alves Kamulingue and Sebastião Cassule whilst in police custody. Profound concern is expressed at allegations that all three may

have been targeted due to their peaceful and legitimate work in defence of human rights in Angola.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency's Government to the international principles and norms applicable to the present case. We would like to refer to article 6 of the International Covenant on Civil and Political Rights (ICCPR), which Angola acceded on 10 January 1992, which provides that every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life. Furthermore, we would also like to refer to the principle 9 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, (resolution 1989/65 Economic and Social Council) which underlines that Governments shall undertake a "thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances (...)". It should be noted that "the purpose of the investigation shall be to determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death. It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses."

We would also like to draw your Excellency's Government's attention to Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, "Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms." Furthermore, Principle 5 provides that, "Whenever the use of force and firearms is unavoidable law enforcement officials shall, (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate object to be achieved; (b) Minimize damage and injury, and respect and preserve human life; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment and (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment" (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990).

Moreover, we would like to remind your Excellency's Government of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990). In particular, principle 12 provides that "everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the UDHR and the ICCPR, Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14." These provisions restrict the use of firearms to situations of violent assemblies and provide that force and firearms may only be used as a last resort when unavoidable and require exercising the utmost restraint.

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.
- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.
- 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.

In addition, we would like to refer to the 2006 report to the General Assembly (A/61/312) of the then Special Representative of the Secretary-General on the situation of human rights defenders and in particular to paragraph 98 which states that "in conformity with article 15 of the Declaration [on Human Rights Defenders], the Special Representative urges States to ensure that law enforcement agencies and their members are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies, including the Declaration on Human Rights Defenders, the Code of Conduct for Law Enforcement Officials and other relevant treaties, declarations and guidelines. The Special Representative also advises all States

that all allegations of indiscriminate and/or excessive use of force by law enforcement officials should be properly investigated and appropriate action taken against the responsible officials”.

We would also 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 ICCPR, 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 further like to appeal to your Excellency's Government to refer 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.

We would also like to refer to article 22 of the ICCPR, which provides that “Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”.

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.”

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 above summary of the case accurate?
2. Has a complaint been lodged on behalf of the victims?
2. Please provide information concerning the legal grounds for the use of force before and during the above-mentioned demonstration and how these measures are compatible with international human rights law.
3. In this connection, please provide details of the legal grounds for the detention of individuals who had been posting pamphlets in anticipation of the demonstration.

4. Please indicate what measures have been taken to ensure that the legitimate right to meet and assembly peacefully is respected and that the physical and psychological integrity of those exercising this right is guaranteed.

5. Please provide the details, and when available the results, of any investigation, and judicial or other inquiries carried out in relation to the deaths of Mr de Carvalho, Mr. Alves Kamulingue and Mr. Sebastião Cassule. In the event that the alleged perpetrators are identified, please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

7. Please indicate what measures have been taken by your Excellency's Government to protect the life and security of the members of the CASA – CE.

8. Please clarify whether compensation has been made available to the victims' families.

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 person 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.

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freedom of opinion and expression

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