

Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the rights to freedom of peaceful assembly and of association

REFERENCE:
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28 July 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 43/16, 43/4 and 41/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the harassment and charges brought against human rights defender and journalist Mr. Coque Mukuta**.

Mr. **Coque Mukuta** is a human rights defender, journalist and correspondent who has covered anti-government demonstrations in Angola, in particular the alleged excessive use of force by security forces against those taking part in peaceful protests and against women street sellers. He is currently a correspondent for the online newspaper Voz da América newspaper in Luanda and previously worked with Radio Despertar. He is also the author of the book *Os Meandros das Manifestações em Angola – I Volume* (The Troubled Ways of Demonstration in Angola – Book I).

According to the information received:

Prior to the charges brought up against Mr. Mukuta, he was subjected to several acts of harassment and threats. On separate occasions on the 27 April, 29 April and 1 May 2012, unidentified individuals broke into Mr. Mukuta's home. It is reported that Mr. Mukuta filed a formal complaint to the Cazenga Police Station about the first break-in on 28 April 2012, but no information about the investigation that might have been conducted was available at the time of writing this communication. Further, On 15 April 2012, Mr. Mukuta was reportedly threatened by a youth group known as Jovenes Organizados para Defesa da Paz, who left a letter at his home threatening his safety and suggesting he leaves the neighbourhood.

On 17 June 2021, the National Department of Investigation and Penal Procedure (DNIAP) of the Attorney General's Office of Angola interrogated Mr. Mukuta and charged him with abuse of "press freedom" under Chapter IV Article 74 of the Angolan Press Law. It is reported the charges against the human rights defender are in relation to an article critical of the Angolan Government's handling of widespread internal corruption, which he wrote in August 2020. The questioning came two days after Mr. Mukuta took part in a peaceful gathering outside the Attorney General's Office in Luanda on 15th June 2021, in protest against alleged judicial harassment and political persecution of journalists and media professionals.

The human rights defender remains free pending trial, however a travel ban has been imposed on him, prohibiting him from national and international travel. Mr. Mukuta must seek permission from the authorities if he wishes to leave his residence for a period of over 5 days. It is also reported that the human rights defender is under constant government surveillance.

While we do not wish to prejudge the accuracy of these allegations, we wish to voice our serious concern at the harassment and persecution against human rights defender Mr. Mukuta, which appears to be directly related to his work as a human rights defender and to his criticism of the Angolan Government. We are concerned that the charges against Mr. Mukuta directly violate his right to freedom of expression and freedom of peaceful assembly, which are enshrined in the International Covenant on Civil and Political Rights and in the new Constitution adopted by the National Assembly of Angola in January 2010.

We are also concerned that the targeting of Mr. Mukuta may form part of a wider strategy of intimidation and harassment against human rights defenders and journalists in Angola. According to reports, other human rights defenders in the country have been subject to intimidation, threats and arrests as a result of their human rights work. In the context of the upcoming general elections in 2022, we are concerned that the targeting of dissenting voices critical of the Government will inhibit and discourage human rights defenders and media professionals from carrying out their legitimate work in promoting and protecting human rights, exercising their freedom of expression and exposing potential cases of corruption, for fear of reprisals.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As 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, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide the factual and legal basis for the charges against Mr. Mukuta and explain how this is compatible with both national and international human rights law related to the freedom of expression and freedom of peaceful assembly.
3. Please provide information on whether an investigation into the break-ins on the home of Mr. Mukuta was carried out, and whether those responsible were brought to justice.
4. Please provide information on the measures your Excellency's Government is taking to ensure that, in sight of the upcoming general elections in 2022, all human rights defenders in the country are free to carry out their human rights work in a safe environment, free from any

restrictions or from fear of intimidation, threats, judicial harassment and persecution.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would respectfully like to refer to Angola's human rights obligations under international law.

Firstly, we would like to refer to Angola's obligations to protect and uphold the right to freedom of opinion and expression. We refer here to article 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Angola on 10 January 1992. Freedom of opinion (article 19 (1)) is absolute, while freedom of expression (article 19 (2)) is subject to certain limitations only, in accordance with paragraph 3 of the provision. The right to peaceful assembly is similarly enshrined in article 21 of the Covenant. Any restrictions to the rights of freedom of expression and of peaceful assembly must pursue a legitimate aim, be provided by a law that is sufficiently clear, and conform to the requirements of necessity and proportionality to achieve a restrictively defined objective.

In this context, we would like to draw the attention of your Excellency's Government to Human Rights Council's resolution 12/16, which called on States to recognise the exercise of the right to freedom of opinion and expression as one of the essential foundations of a democratic society. This right applies online as well as offline. We would also like to refer to Human Rights Council's resolution 45/18 on safety of journalists (A/HRC/RES/45/18) adopted on 6 October 2020, in which the Council expressed "deep concerned about all attempts to silence journalists and media workers, including by legislation that can be used to criminalize journalism, by the misuse of overbroad or vague laws to repress legitimate expression, including defamation and libel laws, laws on misinformation and disinformation or counter-terrorism and counter-extremism legislation, when not in conformity with international human rights standards, and by business entities and individuals using strategic lawsuits against public participation to exercise pressure on journalists and stop them from critical and/or investigative reporting."

As stated by the Human Rights Committee, the protection of journalists is particularly strong. "A free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights. It constitutes one of the cornerstones of a democratic society" (See CCPR/C/GC/34, para. 13).

We also recall that according to Article 21 of the ICCPR, "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 interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others." The 'provided by law' requirement means that any restriction 'must be made accessible to the public' and 'formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly' (CCPR/C/GC/34). Moreover, it 'must not confer unfettered discretion for the restriction of freedom of expression on those charged with its execution'. The requirement of necessity implies an assessment of the proportionality of restrictions, with the aim of ensuring that

restrictions ‘target a specific objective and do not unduly intrude upon the rights of targeted persons. The ensuing interference with third parties’ rights must also be limited and justified in the interest supported by the intrusion. Finally, the restriction must be ‘the least intrusive instrument among those which might achieve the desired result’.

Finally, we would like to recall 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, also known as the UN Declaration on Human Rights Defenders, in particular articles 1 and 2 which state that everyone has the right to promote and 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. We also wish to refer to article 5 (a) of the declaration, which provides that everyone, individually or in association with others has the right to peacefully assemble.

We also wish to refer to articles article 6 point a), of the above UN Declaration on Human Rights Defenders, which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms; and article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights. Finally, we refer to article 12 paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone 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.