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**Corruption in Angola, Money-Laundering in Portugal
and the Impact on Human Rights***

By Rafael Marques de Morais

Introduction

Rather than addressing corruption in Africa in general, this brief paper focuses on a particular case study, Angola. The rationale for this analysis lies in the paradoxical combination of the following factors: for the past decade, the country has had the fastest growing economy in the world¹; it is the third-largest economy in Sub-Saharan Africa; it ranks among the most corrupt regimes worldwide² and has some of the lowest levels of human development³. In recent years, the national oil company Sonangol and Politically Exposed Persons (PEP's) have invested billions of euros in the European Union, particularly in Portugal.⁴

On February 14, the National Assembly passed Angola's 2013 state budget - the largest ever, to the tune of US \$69 billion. This unprecedented budget and the country's steady economic growth have the potential to transform the lives of Angolans. It is estimated that two-thirds of the 19 million Angolans still live on less than US \$2 a day.

¹ http://www.economist.com/blogs/dailychart/2011/01/daily_chart

² Angola ranks 157 in the Corruption Perception Index by Transparency International, which includes 174 countries. <http://cpi.transparency.org/cpi2012/results/>

³ Angola ranks 148 in the United Nations Human Development Index, which includes 187 countries. <http://hdrstats.undp.org/en/indicators/103106.html>;

⁴ The European Union establishes as PEP's "the natural persons who are or have been entrusted with prominent public functions and immediate family members, or persons known to be close associates, of such persons." <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32005L0060:EN:NOT>

A closer inspection of the state budget highlights a disturbing pattern, repeated from previous years, of open corruption and investments in the police, military and intelligence apparatus, in such a way as to result in repression and human rights abuses.

For a better understanding of the phenomenon, this presentation highlights, first, the country's legal framework on corruption and the institutional initiatives and responses to the scourge. It then addresses corruption in the public and private sector, how they intersect, overlap and impact on both human rights and development. Finally, it provides recommendations on how the European Union can help to fight corruption in Angola.

The Legal Framework and International Efforts

In November 2009, President José Eduardo dos Santos reiterated that corruption was the country's biggest problem and announced a "zero tolerance" policy against it. Within six months, the National Assembly passed comprehensive legislation to combat corruption. The "Law on Administrative Probity" harmonized the previous legislation that had been dispersed in a number of different laws since 1990. The law prohibits public servants from receiving gifts, money, assets or other economic benefits, such as a commission, a percentage or reward in a business deal. Moreover, the Penal Code makes it a criminal offence for private enterprises to engage in private business ventures with public officials. Angola has also incorporated into its domestic laws the Southern Africa Development Community's (SADC) "Protocol Against Corruption," the African Union's "Convention on Preventing and Combating Corruption," and the United Nations' "Convention against Corruption."

The reality, however, is one of institutional practices that run counter to any idea of political will and legal order to tackle corruption, especially at the high echelons

of power. A climate of impunity pervades the country's political and economic structures, despite some improvements in the legal framework.

President Dos Santos has maintained the status quo by earmarking substantial funds, in the budget for the presidency, for two of his children's private television and marketing companies. This year's allocation reaches US \$110 million, in a flagrant show of corruption and nepotism.⁵ This is besides endowing his inexperienced son José Filomeno dos Santos with a US \$5 billion purse from the country's oil revenues, as the de facto head of the controversial Angolan Sovereign Wealth Fund. By law, the father's appointment of the son is a clear case of nepotism and corruption.

Recently, the state newspaper Jornal de Angola, the only daily paper in the country, celebrated Forbes' ranking of President José Eduardo dos Santos's daughter, Isabel dos Santos, as the first female billionaire in Africa. It stated that it was a testament to how the government was fighting poverty and making Angolans rich.⁶ Yet, a brief investigation undertaken by the author demonstrates how her fortune derives from her father's presidential decrees for her family's benefit and illicit enrichment. In one particular case, in 2006, the state bought 49 percent of the shares in the cement company Nova Cimangola, for US \$74 million, and soon after those shares were transferred to her business portfolio.⁷ The state lost what it had invested.

It is through this kind of corrupt schemes that a successful investment formula is being internationalized by Angolan PEP's. As an illustration, some reputable Portuguese investors had to associate themselves with Isabel dos Santos to gain

⁵ For more information on the President's budget allocations to his children see <http://makaangola.org/2013/01/24/do-presidente-para-a-sua-familia-a-vala-de-drenagem/?lang=en>

⁶ See the article which title, in English, is "Angola: Always Moving Upwards." http://jornaldeangola.sapo.ao/19/42/angola_sempre_a_subir

⁷ The purchase was made official by the Council of Ministers' Resolution 78/06, and recently Isabel dos Santos admitted her control of Ciminvest, the company that benefited from the shares, in her CV filing to the Portuguese Securities and Exchange Commission (CMVM).

access and privilege in the Angolan market. In return, the same partnerships yielded joint investments in Portugal, and vice-versa. A case in point is that of billionaire Américo Amorim who had joined ventures with Isabel dos Santos in Nova Cimangola and Banco BIC. Meanwhile, Isabel dos Santos entered into the shareholding structure of Portuguese oil company Galp, funded by Sonangol and through Américo Amorim, and both have established Banco BIC in Portugal as well. Isabel dos Santos is, by EU and international definition, a PEP.

Undaunted, President Dos Santos has also kept the tradition of reappointing government officials and public managers who are under criminal investigation for serious corruption crimes.⁸ By doing so, he grants them immunity from prosecution and therefore total impunity. This is President Dos Santos' way of leveraging his power on the ruling elite, by letting them rob the country at will, and keeping them from jail.

But the blunt and open way in which the President is enriching his own family has heightened tensions within the regime. From being the guardian of the corrupt, the President is fast becoming the greatest liability for his own entourage.

From this brief overview, it is clear that any anti-corruption legislation can be enforced only when the President himself is subjected to the law. This means the functioning of checks and balances among state institutions, an autonomous judiciary, and freedoms of press and expression to mirror civil society's scrutiny over the powers that be. In spite of having held peaceful elections last year, the Angolan political regime lacks such failsafe guarantees for a functioning democracy.

Hence, international mechanisms to combat corruption and systematic human rights abuses in Western Europe and the United States can serve as important

⁸ See the author's article on the subject at <http://makaangola.org/2012/06/21/english-the-next-vp-and-the-legalization-of-corruption/?lang=en>

deterrents. A string of current high profile criminal investigations of senior Angolan government officials and immediate family members in Portugal, for money-laundering, fiscal fraud and other illicit activities provide a critical reminder. Government officials plunder their country and let their people suffer while stashing much of their ill-gotten gains in Europe. It is essentially in Europe that African leaders and their families try to emulate and surpass the richest and the vain in everyday spending on luxury goods. For this to happen, Angolan PEP's need, for instance, corrupt banking channels, corrupt European government officials, businesspeople and lawyers to facilitate, partner with and legitimize such operations.

Overlapping Public Office with Private Business Interests

In much of Africa, government officials try to conceal their private business dealings through the use of proxies.

But in Angola, on the contrary, government officials and other relevant public officials openly overlap their public duties with their private business interests, and often use their offices to advance their business dealings. In a public statement, for instance, the Office of the Attorney-General acknowledged that Attorney-General João Maria de Sousa is the co-owner of Imexco, a private company that has done business with his office, and prospers as a supplier to the government.⁹ The office justifies this illegal situation as the attorney's general legal entitlement as a citizen.¹⁰

The most tragic example of such overlapping has occurred in the diamond-rich areas of the Lundas, in the northeast of Angola. Nine generals, led by the

⁹ Angop. "PGR Lamenta Violação do Segredo de Justiça", February 25, 2013. http://www.portalangop.co.ao/motix/pt_pt/noticias/politica/2013/1/9/PGR-lamenta-violacao-segredo-Justica-Portugal,c03aaf71-b58d-457c-93bd-ff3a4bb14006.html

¹⁰ In 2009, the author wrote to President Dos Santos on the illegal business activities of the current Attorney-General. <http://makaangola.org/2009/11/01/carta-ao-presidente-de-angolaletter-to-the-president-of-angola/?lang=en>

minister of State and head of the Military Intelligence Bureau at the Presidency, general Manuel Hélder Vieira Dias “Kopelipa”, are the shareholders of the diamond mining company Sociedade Mineira do Cuango and of the private security company Teleservice. On behalf of these companies, private security guards, often supported by the Angolan Armed Forces, have been committing atrocities in the region against local communities and artisanal miners. Among the gruesome abuses suffered regularly by the local people of the Lundas are extortion, torture, unlawful imprisonment, and murder.

Recently, the generals sued the author of this article in a Portuguese court, for exposing them in a searing report “Blood Diamonds: Corruption and Torture in Angola” as being morally responsible for crimes against humanity committed in the Lundas. In February, the generals lost their case as the Portuguese Public Prosecutor’s Office dismissed the criminal complaint on the grounds that the information contained in the report was of public interest and protected by freedom of expression. Nonetheless, the officers admitted being the rightful shareholders of such companies. In spite of their clear involvement in gross human rights violations, and blatant acts of corruption, these same generals continue to use the proceeds of their crimes to invest and enjoy life in the European Union, particularly in Portugal. In Angola, Teleservice continues to protect some E.U. embassies and multinationals.

Angolan diamonds remain much sought after in the European Union and in the United States. The Angolan regime is still a leading member of the Kimberley Process, the system supported by the United Nations to root out blood diamonds from the international markets.

International Complicity

What makes corruption so dispiriting in Angola and swiftly wears down local initiatives to address it are the levels of international complicity. In 2011, the

International Monetary Fund (IMF) revealed that US \$32 billion went missing from the State's accounts from 2007 to 2010.¹¹ The government justified the diversion of the funds on Sonangol's quasi-fiscal operations, and that such funds, from oil revenues, were not deposited into the treasury accounts as required by law.¹² A legal requirement has been in place since 1989, establishing the procedures for Sonangol to deposit the oil revenues, taxes and royalties into the treasury's accounts.¹³ Furthermore, Sonangol had to submit yearly financial reports to the Court of Audits, as required by law.¹⁴ The company's executives failure to comply with this law for years, is a criminal act sanctioned by the President. The IMF ignored the Angolan legislation and legitimized the impunity of the individuals directly responsible for the looting of the funds. President dos Santos, as head of the executive, and vice-president Manuel Vicente, the CEO of Sonangol at the time, are the main culprits for the missing funds and, ultimately bear criminal and civil responsibility for the illicit diversion of the funds.

The IMF helped the government dampen the outrage by stating that “for sure, there will be excellent technical explanations” for the missing US \$32 billion.¹⁵ And for sure, the Angolan government put forward some “technical explanations.” It said that Sonangol used US \$18.2 billion for “housing projects, railway rehabilitation, infrastructure for special economic zones, and [...] other infrastructure.” This vague justification was enough for the IMF, who also did not care that further US \$4.2 billion remained unaccounted for. It also raises further questions about why Sonangol, a state-owned enterprise, is bypassing the Finance Ministry and taking on direct responsibility for projects that properly

¹¹The author is writing further about the IMF on Angola, in a chapter for an upcoming book. International Monetary Fund. “Angola—Fifth Review Under the Stand-By Arrangement”, IMF Country Report No. 11/346, December 2011:9. www.imf.org/external/pubs/ft/scr/2011/cr11346.pdf

¹² Presidency's statement of January 17 2012.

¹³ See Diário da República, I Série, nº17, 1989:130.

¹⁴ Lei Orgânica e do Processo do Tribunal de Contas (Lei 13/10), Art.

¹⁵ Jornal de Angola, January 21, 2012.

should fall within the remit of the Angolan government ministries responsible for infrastructure.

Without a credible and detailed explanation or an independent audit, the IMF proceeded to make a final payment to Angola under a previous loan agreement, thus giving a clear indication to the regime that looting of its people's resources is not a problem. This level of corruption is staggering, by all standards – US \$32 billion amounts to 25 percent of the country's gross domestic product. This degree of international complicity is no less appalling. What can Angolan anti-corruption laws accomplish in the face of such complicity from the world's leading financial institutions? The European Union has major influence on the board of the IMF and it has remained quiet about this case.

The rationale for this international complicity seems to be justified by the fact that Angola has shown some improvement in key indicators during the past decade. In fact, the country's corruption perception ranking has improved and human development indicators have showed some progress.

But this reasoning is disingenuous because of two main reasons. Firstly, the baseline for comparison was extremely low, as Angola had just gotten out of a decades-long civil war, which destroyed much of its infrastructure and left the country in a disastrous humanitarian situation. One can argue that this is a tough starting point, but it is also a baseline from which the slightest improvement takes on an exaggerated significance.

Secondly, Angolan's exponential economic growth, based on high oil prices in the international markets, brought the country an astounding stream of revenue, which could not fail to bring some level of improvement to its much-needed population. The fact that the improvement in human development indicators is only so slight should be seen as a sign of how poorly those revenues have been

used to the benefit of the people, the more so given the astonishing levels of corruption within the Angolan regime.

Authoritarianism

The unremitting criminal behavior by Angolan senior officials can only be sustained by more corruption. The allocation of more than 18 percent of the current US \$69 billion State budget to defense and security is a good example.¹⁶ Much of the funds allocated to these sectors, in the past years, have not resulted in improvements in the provision of basic logistical conditions, lodging and equipment for soldiers and on-duty police officers in most of the country. Instead, a small group of high-ranking officials continue to make massive fortunes through the plunder of such funds. What the country leaders downplay is that there is growing awareness in society about the consequences of high-level corruption. The military, the police and the security apparatus are not immune to public outcry. Thus, the deplorable conditions in which the intermediate officers, the army and police rank-and-file operate have become a critical fault line, upon which the regime's stability is resting.

Also, the arbitrary use of such forces to commit human rights abuses to safeguard private business interests, further erodes the morale and the supposed unity of the army and the police as the pillars of the regime.

At the beginning of the month, more than 500 soldiers and police officers, supported by seven helicopters and lethal equipment, were used to subdue the residents of a neighborhood in Luanda, while their houses were being leveled to the ground. The land in question, as it is emerging, will serve the private interests

¹⁶ See the author's recent article on the budget allocations for the Presidency, the military and the security services at <http://makaangola.org/2013/01/21/english-a-record-budget-for-the-presidency-the-military-and-the-spoops/?lang=en>

of senior members of the Presidency. They are the only ones with the real power to command such an operation. As a consequence, more than 5,000 people were left homeless and tens were arrested. Summary trials convicted up to 40 detainees of illegal land occupation, without due process. The convicted included visitors and relatives of the evicted dwellers, who could in no circumstance be accused of illegal land occupation.

Recommendations

International complicity is the critical component for the maintenance of corruption and the authoritarian State. This is the point of leverage the European Union can effectively address to help promote changes and the rule of law in Angola.

As corrupt Angolan investments have become a lifeline for many Portuguese companies, and for more than 100,000 Portuguese citizens living and working in Angola, the Portuguese government has become hostage to the tantrums and blackmail of Angolan PEP's. The most recent threats came from the Angolan Attorney-General, general João Maria de Sousa, who is also being investigated in Portugal on suspicion of money-laundering activities. He openly threatened that the investigations would undermine the bilateral relations between the two countries.¹⁷ Meanwhile the government's propaganda mouthpiece Jornal de Angola printed vitriolic attacks against Portugal and openly recommended that Angolan investments should be directed elsewhere.¹⁸ This kind of reaction and pressure has become recurrent whenever Angolan PEP's face criminal investigations in Portugal. Their Portuguese partners also use the same

¹⁷ The Attorney-General made the statement during an interview to the Portuguese Public Television RTP. <http://www.rtp.pt/noticias/index.php?article=631043&tm=7&layout=122&visual=61>

¹⁸ http://jornaldeangola.sapo.ao/19/42/alvos_selectivos

reasoning to excuse the status quo, further justified by the country's current economic crisis.

However, these threats mask a different reality. Most Angolan PEP's are extremely dependent on Portuguese managers, lawyers and qualified employees to keep their operations running in Angola, Portugal and elsewhere. Such are the cases of Isabel dos Santos, the vice-president Manuel Vicente, general Kopelipa and many others.

The United States has already taken action to discourage Angolan PEP's from entering its financial system for money-laundering activities and to deposit ill-gotten funds into its territory.¹⁹

It is imperative that the European Union comes forth and makes clear to the Angolan regime that such threats against its member-State are unnecessary. Portuguese magistrates are simply complying with the anti-money laundering legislation, which is in keeping with the EU directives, and similar to the Angolan legislation.

It is also necessary that the European Union publicly makes clear that none of its member-States can be used as a money-laundering platform for the Angolan regime. It should reiterate that any such attempts will be promptly investigated and prosecuted, according to the E.U.'s legislation. Furthermore, it should encourage the Portuguese government to not interfere with the independence of its judiciary, and let justice run its course.

*This paper is an edited version of the presentation made at the workshop.

¹⁹ U.S. Senate Committee on Homeland Security and Governmental Affairs. Keeping 'Corruption' out of 'the' United 'States: 'Four' Case' Histories,' 2010:270-1; 305-8."