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6 June 2013

Dear Attorney General João Maria de Sousa

As leading democracy, human rights, and anti-corruption organizations, we are writing to express our concern about recent judicial actions taken against the Angolan journalist and human rights activist, Mr. Rafael Marques de Morais.

These actions appear to be part of a wider pattern of criminalization of investigative journalism in Angola, as recently noted by Navi Pillay, the United Nations High Commissioner for Human Rights, during her recent mission to Angola. Pillay observed that: "the law on defamation is a threat to investigative journalism [...] freedom to investigate and expose possible abuses should not be undermined by heavy-handed actions, threats and intimidation on the part of the authorities."

On 3 April 2013, Mr. Marques was summoned by telephone to be interrogated by the Organized Crime Unit of the National Police in Luanda, Angola. According to Mr. Marques, his interrogator informed him that he had been indicted in January 2013 on charges of defamation related to his book, *Blood Diamonds: Corruption and Torture in Angola*, published in Portugal in 2011. The book documents widely reported allegations of homicides, torture, forced displacement of civilian settlements and intimidation of inhabitants of the diamond-mining areas of Angola's Lundas region.

Prior to the interrogation, Mr. Marques had not been informed of this indictment and he was summoned without a warrant. During his interrogation, he did not have the benefit of legal representation. The

interrogator questioned Mr. Marques about his book and referenced a large file of evidence, which Mr. Marques was not allowed to view. Further complicating the situation, the Organized Crime Unit is not the authorized body to handle defamation charges within the National Police.

Most recently, Mr Marques was informed that his case had been transferred to the National Department of Investigations and Penal Action and that this Department was conducting a number of preliminary investigations against him. The understanding of the relevant authorities appears to be that under current Angolan law, the nature and content of such investigations do not need to be disclosed to the accused or their legal counsel.

The complainants in the new indictment are civilian business partners of Angolan generals, including the three former Joint Chiefs of Staff of the Armed Forces, State Governors, and a serving Minister of State and Head of the Intelligence Bureau of the President. All are shareholders and/or directors of a diamond mining company and its private security contractor, the alleged perpetrators of the crimes outlined in the *Blood Diamonds* book.

In 2012, these Angolan generals filed a criminal defamation lawsuit against Mr. Marques in Portugal related to the same publication. The Portuguese Prosecution Service chose not to pursue the matter in February 2013, with the Prosecutor stating: “the author’s intention is clearly not to offend, but to inform.” The plaintiffs are now pursuing a private prosecution in Portugal for libel and defamation against Mr. Marques and his publisher, seeking a total of 300,000 euros (US \$390,000) in damages.

The previous and current cases in Portugal against Mr. Marques are a matter of public record. Thus any libel case against Mr. Marques in Angola threatens the principle of double jeopardy, which under Angolan law constitutes a peremptory defence. Other issues raised include the relevant statute of limitations, the right to legal representation, and other due process standards in both Angolan and international human rights law. Most importantly, the government must formally inform Mr. Marques of the charges against him, so that he can prepare a proper defence on legal grounds.

This would not be the first defamation charge that Angolan authorities have brought against Mr. Marques. In 2000, he was sentenced to six months in prison and ordered to pay damages for defamation against the President of Angola, José Eduardo dos Santos. The United Nations Human Rights Committee later found in the case of *Rafael Marques de Morais v. Angola* (Communication No. 1128/2002, UN Doc CCPR/C/83/D/1128/2002, 2005) that the judgment had violated Mr. Marques' rights, and they ordered Angola to pay him damages, stating: “*the author is entitled to an effective remedy, including compensation for his arbitrary arrest and detention, as well as for the violations of his rights under articles 12 and 19 of the Covenant. The State party is under an obligation to take measures to prevent similar violations in the future.*”

In light of the above, we believe that the alleged charges of defamation and libel against Mr. Marques are politically motivated, and we strongly urge you to ensure that Angola respects its international commitments on human rights and anti-corruption by dropping the charges.

Furthermore, in accordance with Angolan law, we urge you to undertake a full investigation into the serious human rights abuses in the Lundas documented in Mr. Marques’ book.

Respectfully yours

Fatou Jagne Senghor, Director for West Africa, Article 19

António Ventura, President, Associação Justiça, Paz e Democracia (AJPD)

Susan Valentine, Africa Programme Coordinator, Committee to Protect Journalists

Andrew Feinstein, Director, Corruption Watch UK

Tutu Alicante, Executive Director, EG Justice

Dr. Daniel Calingaert, Executive Vice President, Freedom House

Simon Taylor, Director, Global Witness

Dr Salvador Freire dos Santos, President, Associação Mãos Livres

Nani Jansen, Senior Legal Counsel, Media Legal Defence Initiative

Carl Gershman, President, National Endowment for Democracy

José Patrocínio, Coordinator, OMUNGA

Karim Lahidji, President, Fédération internationale des ligues des droits de l'homme (FIDH) & Gerald Staberock, l'Organisation Mondiale Contre la Torture (OMCT) on behalf of The Observatory for the Protection of Human Rights Defenders, a joint programme of FIDH and OMCT

Christian Mounzeo, President, Rencontre pour la paix et les droits de l'homme (RPDH)

William Bourdon, President, Sherpa

Casey Kelso, Director, Policy, Campaigns and Outreach, Transparency International

Art Kaufman, Senior Director, World Movement for Democracy