

# Fighting Corruption in Angola and its Dysfunctions

Rafael Marques de Morais | UFOLO STUDIES  
CENTER FOR GOOD GOVERNANCE, Angola

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Last November, I was part of a group travelling between the towns of Muconda and Luau in the eastern Angolan province of Moxico when, after driving more than 60 kilometres without seeing a living soul, we came across a man herding cattle.

The herdsman told us that the owner of the cattle had been accused of witchcraft and sentenced to a fine of 30 cows, which were now being delivered to the soba, the traditional authority or headman. In this man's village, justice is dispensed by the soba, who appoints a witch doctor – a *kimbandeiro* – to judge the merits of allegations of witchcraft or sorcery. The *kimbandeiro* deemed the accused to be guilty, imposed a 'fine' in cattle which he and the soba then shared out between themselves, and the alleged victim. This gives every appearance of collusion between the soba and *kimbandeiro* to enrich themselves.

I could speak at length about how certain traditional beliefs and customs are as much an unwelcome mainstay of Angolan society as corruption and how intertwined they are. But we are here to discuss corruption, a blight that affects every part of the lives of those affected.




Imagine if across Angola, justice could be dispensed by a single, internally coherent, independent, impartial, judicial institution, based on the rule of law, guided by common sense and good faith. That is not the case today. To achieve this, the country's anti-corruption campaign would need to be far more extensive and transformative.

Five years ago, what the post-modern philosopher Jean-François Lyotard called "the dominant narrative", was mute when it came to corruption in Angola. Anyone who denounced acts of corruption was treated as a criminal or a foreign agent, a traitor to their country. Until the evidence became undeniable.

Corruption in Angola, as elsewhere in Africa, did not just enrich the country's political leaders, their partners in the West also derived considerable benefit. Some of Europe's least economically productive countries, such as Portugal, saw their economy boosted thanks to injections of capital illegally diverted from the Angolan treasury. In those days, mutual benefit guaranteed discretion.

Angola has changed. And the "dominant narrative" changed with it. President João Lourenço deserves praise for speaking out (and making it possible for others to speak out) against institutionalized corruption. But his government is not immune to criticism for its slowness in introducing essential and far-reaching reforms – in both sovereign institutions and public administration.




Transforming public administration for the benefit of all Angolans would be an impossible task without root-and-branch reforms to ensure institutions are staffed by morally responsible individuals with a proven record of honesty and integrity, whose appointment or hire is based on competence and merit.

Corruption cannot be allowed to continue to determine who gets jobs or promotions, who can earn a living wage or live well, while making it too easy for privileged individuals and their beneficiaries to selfishly enrich themselves.

Today, the issue at hand is not whether corruption exists or whether it ought to be tackled, but rather which are the best measures to adopt to achieve the most efficient result. This is the key question in Angola right now. The evolution that has brought us this far poses new problems and demands new solutions. I refer to two specific obstacles which have stalled the fight against corruption in Angola. Firstly, a dysfunctional legal system; secondly, inverted nationalism.

Otto Mayer, a 20th Century German Law Professor, coined the saying: 'constitutional law passes, administrative law remains', theorizing that the legal norms affecting everyday life are not necessarily altered by political change. The same principle can be applied to relations between the political and the judicial powers. The politicians in government may have changed, but the judiciary remains the same. In

A line art illustration on the left side of the page. The top part shows a soldier in profile, wearing a helmet and a uniform with a belt. The bottom part shows a woman in profile, wearing a headscarf and a patterned dress. The lines are simple and overlapping.

troubled times this can be an advantage, but it is a disadvantage when the new government aims to carry out far-reaching reforms. In today's Angola the justice system itself is an obstacle to reform.




# Courts unfit for purpose

How can Angola fight corruption effectively when the institutions of Justice and members of the Judiciary - accessories to state capture and the systematic looting of the public purse in the past - remain unchanged. They have neither the capacity nor desire to move with the times. Judicial process, such as it is, still operates in accordance with antiquated bureaucratic practices susceptible to corruption.

At the heart of this dilemma is the Supreme Court, which has operated as a court of first instance in a considerable number of corruption cases. In theory, the Supreme Court is the court of final appeal, where decisions involve intellectual deliberation about complex technical legal questions. It is not the appropriate court to hear, and decide upon, complex factuality in criminal cases in the first instance.


However, current Angolan legislation – specifically Article 289 of the Code of Criminal Procedure – confers immunity on the elite of the former kleptocracy except for serious crimes, which are automatically referred to the highest court. This protection extends to all members of parliament, government ministers, secretaries of state and functionaries of similar rank, as well as the more than 2,000 Generals in the Angolan Armed Forces, serving national police commissioners and, of course, higher court judges.

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It makes no sense. There are thousands of people protected by immunity from prosecution, and any case against must proceed directly to the Supreme Court. This is a loophole that lawmakers need to close. Although these measures were only intended to protect functionaries while carrying out their official duties, the Angolan Supreme Court continues to apply them to people who have long since retired, or otherwise vacated those positions. We would argue for an amendment to the current legislation interpretation so that all criminal corruption trials are initially heard by courts of the first instance, to prevent the Supreme Court from being swamped by cases it is not even equipped to hear.

The degree of dysfunction in the Supreme Court has been well documented. One simple example: of the approximately 340 Supreme Court staff, half are domestic staff such as maids, nannies, cooks, gardeners, and drivers allocated to the homes of the Supreme Court judges. In short, at least half the staff on the books of the Supreme Court have no role whatsoever in the judicial process. Even after retirement, each judge has the right to retain five domestic staff, paid for by the state.

These elite group privileges were further augmented by a presidential decree just last year (69/21) which grants to the Office of the Attorney General of the Republic and the court system a share of 10% of the liquid value of assets recovered by judicial process. The incentive, which grants judges a personal financial

A line art illustration on the left side of the page. The top part shows a person wearing a helmet with a circular visor, possibly a soldier or a police officer. Below that, there is a profile of a person's head and shoulders, looking to the right. The lines are simple and overlapping, creating a layered effect.

benefit from applying fines and sanctions, is incompatible with any notion of neutrality or impartiality in dealing with corruption cases. This alone [violates established constitutional and legal principles](#).

As a result, conditions are legally in place for magistrates and judges to become the newest members of the oligarchy. It is, quite simply, legalized corruption.

Real justice is unattainable. While whistle-blowers who report corrupt practices have ceased to be treated as troublemakers, and no longer face trumped-up charges in show trials worthy of an operetta, the show itself goes on. The only difference is that the trumped-up charges and show trials are now aimed at a handful of lesser ranking officials.

Is it any surprise then that the Office of the Attorney-General of the Republic recently announced that it had initiated more than 700 criminal cases for corruption? We don't doubt the number, but at the same time we recognize that quite possibly not even 10% of them will make it into court and only a tiny number will face judgement.






# Incompetence or obstruction?

Other countries express concern that even when Angola initiates corruption cases, the judicial process fails to follow the due process, such as ensuring automatic sharing and updating of information with its partners. For example, for International Anti-Corruption Day on December 9th, 2021, the [United States imposed sanctions on three politically-exposed Angolan nationals](#): Isabel dos Santos, General Manuel Hélder Vieira Dias Júnior (known by his nom-de-guerre “Kopelipa”) and General Leopoldino Fragoso do Nascimento, along with their spouses and minor children.

Another named individual on that sanctions list was General Nascimento’s wife, Amélia Maria Coelho da Cruz Nascimento, who had died six months earlier. But Angola had failed to pass on that information to the United States and so it remains on the sanctions list to this day.

The justification given for sanctions against the two Generals was their shady business dealings with Chinese middleman Sam Pa. Yet the US seems not to have been informed that [Sam Pa's principal associate was Manuel Vicente](#), the former Chairman of Angola's state oil company Sonangol, a notorious figure who is currently immune from prosecution in Angola due to his having secured election to parliament. Vicente was




the head of Sonangol when some **THIRTY BILLION DOLLARS** in foreign exchange failed to make it into the coffers of the national treasury. Allegedly millions upon millions of dollars were diverted to offshore shell companies linked to President dos Santos, his family and political allies.

It is a matter of public record that José Eduardo dos Santos wrote three times to the Angolan Attorney-General stating his availability to be interviewed so that a formal statement could be taken in the case. He received no reply, so sent them a sworn written statement, but again received no acknowledgement. Why? Disorganization? Procedural failures? Incompetence? Obstruction?

In the United States, where better-organized agencies have rigorous procedures for ensuring due process, they are keen to help Angola fight corruption, but confusion abounds thanks to the disarray on the Angolan side. For example, the individuals named on the US sanctions list have yet to face criminal charges in Angola, yet the fact they are on the US list is used as official justification for freezing the retirement salaries which the two Generals, pending a trial and sentence, legally remain entitled.

Two years ago, criminal proceedings were officially opened against another Angolan General, Higino Carneiro, charged with specific acts of corruption while serving as Governor of Luanda Province. In theory, judicial process was underway and on course.

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However, nothing happens to General Carneiro. To date, his immunity has not been withdrawn, none of his assets has been seized and, despite sufficient evidence that led him to be charged by the prosecution, the General continues to hold on to his seat in the legislature.

The illustration consists of two overlapping line-art figures. The upper figure is a person wearing a wide-brimmed hat and a jacket, looking towards the right. The lower figure is a profile of a person's head and shoulders, also looking towards the right. The lines are thin and grey, creating a minimalist, sketch-like effect.

# Theatre of the absurd

The situation is so absurd it echoes the work of Samuel Beckett: someone is waiting for a 'Godot' who never arrives, and no-one even knows who he is. In terms of justice, tackling those accused of corruption also seems to have no end, and no-one seems to know who to target or how to achieve a successful prosecution. Is this the fate of Angola's court system? That instead of being seen to deliver justice they are perceived as absurd and tragicomic empty vessels?

The 'Rule of Law' provides for all persons, institutions, and entities - both public and private - to be held accountable to laws that are consistent with international human rights norms and standards. Publicly promulgated, these laws should be enforced equally, and adjudicated independently. Democratic governance depends on a trustworthy and functional judicial system. People obey laws when they are seen to have merit and compliance is required of all, not subject to individual status or power.




# Inverted nationalism

Another absurdity is the "inverted nationalism" displayed when tackling corruption. The authorities in Angola have concentrated their attentions only on Angolan nationals, ignoring all non-nationals, be they the corruptors or corrupted, facilitators or intermediaries, regardless of past or present responsibility for or complicity in the acts of corruption. Let us be clear: the unrestrained looting of Angola's assets would not have been possible without the instigation, assistance, and collaboration of foreigners from some of the world's most advanced nation states.

Let me give you examples of two foreign 'entrepreneurs' who helped the entire ruling class of Angola into looting the country. The first is the Chinese-born Sam Pa, erstwhile boss of the China International Fund (CIF); the second is the Brazilian-born Valdomiro Minoru Dondo founder of the VMD Group. Both are dual nationals, having acquired Angolan citizenship.

Angola has yet to show any interest in following the trail of the hundreds of millions of dollars supplied by the Angolan Treasury to the CIF-Sonangol joint venture conglomerate, China-Sonangol, launched by Manuel Vicente in association with Sam Pa, not to mention the vast array of assets across numerous countries acquired under the umbrella of [Sam Pa's Queensway Group](#).




To date the Office of the Attorney-General of the Republic has not opened any official judicial proceedings against CIF-Sonangol. It seems to have settled, it appears, for the 'voluntary' surrender of some real estate assets in Angola by the CIF attorney.

Minoru Dondo meanwhile presided over an extraordinary constellation of businesses in partnership with a long list of the principal members of what we might call the 'Kleptocracy Nomenclatura', that is members of the former President's family, military Generals, government ministers, members of parliament and so on, many of whom face charges of corruption in cases under investigation. [Minoru Dondo's businesses received more than two billion US dollars](#) from the National Institute for Social Security (INSS) alone, in deals classified by prosecutors as "indicative of corruption".

There is overwhelming documentary evidence to show that Minoru Dondo set up shell companies for shady real estate projects to siphon off INSS funds. Some buildings have been seized by the authorities, yet [Minoru Dondo has suffered no legal consequences](#) to his business empire or his public reputation.

Out of the many cases under investigation, let me describe three egregious examples which have one thing in common, a significant participation by Sonangol.

First, Biocom: a joint venture with the Brazilian multinational company Odebrecht, Engenharia e Construções (40%). When Biocom came under




investigation for corruption, the 40% of Biocom owned by 'Angolan entities' was 'voluntarily' surrendered to the Institute for the Administration of State Assets and Holdings (IGAPE) along with its \$500-million-dollar debt owed to Angolan banks.

However, the 40% owned by Odebrecht has not been touched, even though the Brazilian multinational contributed no liquid assets to the operating capital for the commercial joint venture, only the fixed asset of machinery. Astonishingly the Angolan state then permitted Odebrecht to continue helming Biocom, despite its disastrous administration, with an audacious business plan that allowed it to claw back a supposed debt of 228-million-dollars owed by Biocom for that very machinery (and 'services') - in effect recovering the cost (and more) of its entire contribution, with losses borne by the Angolan State.

Another example: Biocom was set up to produce sugar - yet Odebrecht was able to obtain a line of credit from the Banco Económico for US \$80 million dollars to import sugar from Brazil, which it sold on in Angola. Did Odebrecht honour the debt? Of course not! It has added such amount to the general debt Biocom owes to a banking syndicate, which is covered by a state-guarantee endorsement.

Is it even worth mentioning that Odebrecht is a central defendant in Brazil's 'Operation Car Wash' corruption case, where evidence of its involvement in an astonishing number of acts of corruption was revealed?




Or that [Odebrecht confessed in a US court to have corrupted Angolan officials](#) to the tune of \$50 million US dollars to obtain contracts which brought it profits of some \$262 million US dollars? The USA itself benefited handsomely from the ensuing fines levied on Odebrecht.

In 2017, I asked the Office of the Attorney-General of the Republic [to investigate Odebrecht's suborning of Angolan officials](#), but nothing came of it.

Far from being investigated or punished, Odebrecht was rewarded - not only allowed to continue with its mal-administration of Biocom but subsequently also awarded the contract for construction of the Cabinda oil refinery, [a \\$920 million US dollar project](#).

My second example involves the case of the Banco Espírito Santo Angola (BESA). A decade of criminal proceedings has led to its being described as a "submarine case", one of those that stay submerged for several years, emerging now and again into public view. It's hard to understand why a case that got underway in 2009 has still not been concluded in 2022, even after seven decisions by the Court of Appeal involving 14 higher court judges. Twelve years ago, under a cloud of suspicion after I published details of the corrupt schemes of Portugal's (formerly untouchable) BES bank in Angola, I was called to give evidence in Lisbon. There has yet to be even a sniff of criminal proceedings in Luanda. If a case has been opened, it is totally under water.




A line art illustration on the left side of the page. It features a profile of a person's head and shoulders, facing right. The person appears to be wearing a headpiece or a hat. Below the head, there are several overlapping, abstract shapes that resemble a map of a country, specifically Angola, with various lines and curves representing its geographical features. The entire illustration is rendered in a light blue or grey line style.

On Maka Angola I published a series of investigative reports on the BESA scandal that pointed to a [network of accomplices](#), not least the governing body of the National Bank of Angola (the central bank) as well as foreign nationals, mainly citizens of Portugal. It was an international “feast” but not everyone was caught in the net. Why did Angola leave investigation of crimes that occurred on Angolan territory and did such serious harm to Angola to be investigated and brought to trial only in Portugal, which would then be the sole beneficiary of any financial recovery? Judicial sovereignty? Surely in transnational cases, effective prosecutions should be conducted and prosecuted jointly, not just by a former colonial power.

My third example involves UNITEL telecommunications. This was the largest privately-owned company in Angola. In an unprecedented, and almost certainly illegal, manoeuvre, the National Service for the Recovery of Assets, an agency under the jurisdiction of the Office of the Attorney General of the Republic, resorted to coercive messages in an attempt to recover 25% of the holdings of UNITEL held by GENI, a company owned by General Leopoldino Fragoso do Nascimento, privately calling on him to “voluntarily” surrender his holdings “in order to avoid worsening his situation”. This is inadmissible, surely?

We now know that Sonangol funded UNITEL's start-up capital and we know its total investment in the firm. In 1998 Sonangol entered into a contract worth \$30 million US dollars with the Swedish



telecommunications firm Ericsson, for the supply and installation of a GSM 900 mobile phone system for UNITEL. This amount guaranteed Sonangol 25% of UNITEL stock and dividends which to date have been worth US 1,200 million dollars.

The circumstances around the granting of the licence certainly merit investigation, including how General Leopoldino do Nascimento, Isabel dos Santos and Portugal Telecom Ventures (since acquired by the Brazilian firm Oi), came to hold 25% of the stock apiece. But once again, Angola takes no action against the portion of the asset owned by the foreign partner. Given evidence of corruption, shouldn't the 25% formerly owned by PT (now owned by Oi) also be frozen and its representatives brought to justice for criminal association?

Let's also remind ourselves that the proposal for a "voluntary handover", as well as the term itself, has no legal basis and the Attorney-General does not have the power to make a deal like this. Any "voluntary" surrender of assets may later be claimed to have been made under duress and spark a lawsuit against the state.

Corruption can only be targeted effectively when all parties involved can be called to account, including non-nationals who are both the instigators and the beneficiaries of diverted sovereign wealth. This should be non-negotiable. Angola's judiciary should not restrict themselves only to investigating and punishing one side of the corrupt nexus.



## In conclusion

Let me end by making three quick points about the aftermath of a campaign against corruption.

Fighting corruption should not serve to usher in a new class of predators, who then use this as the basis for themselves to attempt 'State Capture'. This is not just a changing of the guard. Angola does not need or want a replacement bandit class.

Fighting corruption will not be authentic nor effective so long as malign and toxic individuals are allowed to remain in government positions.

Surely by now President João Lourenço has had enough time to evaluate his team and to master both the levers of his presidential powers and their limitations. Our impression is that complaints against named members of the current government fall on deaf ears, while cases of corruption multiply and the demoralization of the civil service gallops on unbridled.



In general, Angolans need to recognize that the country's biggest problem is not people, but the value attributed to them, to the system and to its institutions. As important as it is to report corruption, it is also fundamental to organize public administration to prevent corruption and to count on a judiciary that is both impartial and competent. I would argue that this should be the focus of social advocacy against corruption, so that future complaints don't just fall through the holes in the system. Unless the system and its institutions are reformed, radically altering the understanding of what it is to "be Angolan", I fear the country will remain hobbled by underdevelopment and once again will be exposed to state capture.

That's why it is time to start afresh, this time to deepen our effectiveness against the scourge of corruption.



**Maka**Angola