

UA 76/00

Unfair trial

31 March 2000

ANGOLARafael Marques - freelance journalist

Freelance journalist Rafael Marques is on trial for "defamation of the President". Amnesty International is concerned that his trial is being conducted unfairly, before a judge who apparently has no legal training. He is expected to be sentenced on 31 March 2000. If he is imprisoned, Amnesty International will consider Rafael Marques a prisoner of conscience, imprisoned for exercising his right to freedom of expression.

In an article for the weekly newspaper *Agora* in July 1999, Rafael Marques wrote that, as Head of State and president of the ruling *Movimento para a Libertação de Angola* (MPLA), Movement for the Liberation of Angola, President José Eduardo dos Santos was responsible for destroying the country and promoting corruption and incompetence in state institutions. He was arrested in October, and after ten days held incommunicado and a further month in prison he was released on bail, charged with "defamation of the President" under both the press law (Law N° 22/91 of 15 June 1991) and the amendments to the law of crimes against the security of the state (Law N° 22-C/92 of 9 September 1992) which carry a maximum sentence of two years' imprisonment.

The trial began at Luanda Provincial Court on 9 March, after an unsuccessful appeal by Rafael Marques's lawyer for the charges to be thrown out. It was immediately adjourned until 21 March, pending the outcome of an appeal by Rafael Marques's co-defendants, the director and chief editor of *Agora*, Aguiar dos Santos and António José Freitas. The two men apparently face different charges in connection with the article. When the trial resumed, the judge ordered members of the public, including journalists, non-governmental organisation representatives and foreign diplomats, to leave the court, and proceedings have continued in secrecy behind closed doors.

Rafael Marques's lawyer appealed to the Supreme Court the next day, on the grounds of procedural irregularities. When he was not allowed to read his appeal the following day, he walked out of the court in protest, and was disbarred for six months. Rafael Marques has not been allowed to choose a replacement lawyer, and when he rejected a public defender offered by the court the judge reportedly ordered an untrained court official to take over his defence. The case was adjourned until 28 March.

When the trial resumed, Rafael Marques was allowed to call only one witness, who was ordered to leave the court when he testified that he thought the charges against Rafael Marques were unconstitutional.

During the proceedings on 28 March, which reportedly went on for 11 hours, the two prosecution witnesses, both government officials, claimed that Rafael Marques had broken the press law and accused him of tarnishing the image of the President and of the government; of demoralising the army with his articles and consequently harming the war effort; and of being obsessed with bringing down the government. The prosecutor asked the judge to consider adding a charge of "destabilising of the army" and urged him to pass the highest possible prison sentence on Rafael Marques.

BACKGROUND INFORMATION

Since the resumption of full-scale war in Angola between government forces and UNITA in December 1998, the Angolan authorities, to silence criticism are increasingly using legal procedures to silence criticism. During 1999 over 20 journalists were taken in for questioning in connection with their work; a few have been detained for longer periods and formally charged.

During a debate on freedom of the press in the National Assembly in January 2000, an MPLA parliamentarian threatened the life of Rafael Marques, saying that if he did not change his behaviour he "would not live to be 40". Rafael Marques is 28.

RECOMMENDED ACTION: Please send telegrams/faxes/express/airmail letters in Portuguese or your own language:

- expressing concern that Rafael Marques has been arrested and put on trial solely for exercising his right to freedom of expression;
- expressing concern that his trial has not conformed with international standards for fair trial, or with Angolan law, and that it appears the court is neither independent nor impartial;
- expressing concern that the charges against Rafael Marques appear to be politically motivated, intended to silence his criticism of government policy;
- expressing concern that the trial is being conducted in secrecy behind closed doors;
- expressing concern that Rafael Marques was denied the right to appoint defence counsel of his choice, after his lawyer was disbarred, and that the only witness he was allowed to call was ordered to leave the court after stating that the charges against Rafael Marques were unconstitutional;
- expressing concern that neither the judge nor the court official assigned to defend Rafael Marques are trained legal professionals;
- saying that, if convicted and imprisoned, Amnesty International will consider Rafael Marques a prisoner of conscience

APPEALS TO:

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and to diplomatic representatives of Angola accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 12 May 2000.