



Pro Bono Practices and Opportunities in Angola¹

INTRODUCTION

Angola is a constitutional republic that, up until 1975, was under Portuguese colonial rule. Having gained independence, the country was then subject to the Angolan Civil War between MPLA (Movimento Popular de Libertação de Angola), FNLA (Frente Nacional de Libertação de Angola) and UNITA (União Nacional para a Independência Total de Angola) which ended in 2002.² Since then, the country has embarked upon constructing new constitutional foundations; it held multiparty parliamentary elections in 2008 and approved a new constitution in January 2010. Angola's most recent general elections were held in 2012 and the Electoral Manifesto and Government Program of the MLPA committed to prioritise its actions towards consolidation of peace and strengthening of democracy.

Angola is now considered a key international economic player given its vast resources of oil, diamonds and other natural resources. Due to increased foreign investment there are many social infrastructure projects.³ As a country in which legal assistance programs are developing, there is a need in Angola for increased resources and state support in order to improve provision of pro bono legal services and overall access to justice.

OVERVIEW OF THE LEGAL SYSTEM

The legal system in Angola is based on Portuguese civil law. The executive branch of government comprises the President who serves as head of state and government, the Vice President and the Ministers. The legislative branch is composed of the National Assembly, a unicameral body consisting of 220 deputies elected under a party list proportional representation system with authority to draft, debate, and pass legislation.⁴ The President, who is both Chief of State and Head of Government, is vested with the power to appoint all senior ministers in the country, including all judicial figures.⁵

The Justice System

Constitution & Governing Laws

Following from a civil conflict from 1975-2002, the National Assembly of Angola approved a new Constitution of the Republic of Angola ("CRA") in January 2010 which guarantees the fundamental rights and freedoms of its people.⁶

The Courts

Angola's judiciary system was recently subject to a comprehensive review and restructure as a result of the enactment of Law 2/15, of February 2, 2015. This new judicial framework established different types

¹ This chapter was drafted with the support of Vieira de Almeida & Associados.

² ANGOP - Angola Press News Agency (Angola Press), available at http://www.portalangop.co.ao/angola/en_us/portal/informacoes/angola/sobre-angola/2013/4/21/History.78b9b662-b1df-4dff-b899-a4d2bd9de697.html (last visited on September 4, 2015).

³ The Observatory for the Protection of Human Rights Defenders, available at <https://www.fidh.org/International-Federation-for-Human-Rights/Africa/angola/angola-they-want-to-keep-us-vulnerable-human-rights-defenders-under#> (last visited on September 4, 2015).

⁴ US Department of State: Country Report on Human Rights Practices 2014 - Angola, June 25, 2015. See http://www.ecoi.net/local_link/306242/429621_en.html (last visited on September 4, 2015) (hereinafter Angola 2014).

⁵ The Observatory for the Protection of Human Rights Defenders, available at <https://www.fidh.org/International-Federation-for-Human-Rights/Africa/angola/angola-they-want-to-keep-us-vulnerable-human-rights-defenders-under#> (last visited on September 4, 2015).

⁶ Constitution of the Republic of Angola (hereinafter, CRA).



of courts and other elements of a new judicial infrastructure which are yet to be implemented. There are now three levels of judicial courts in Angola: (i) the Supreme Court (*Tribunal Supremo*); (ii) the Courts of Appeals (*Tribunais da Relação*); and (iii) the Provincial Courts (*Tribunais de Comarca*).⁷

The High Courts of Angola, expressly recognized under the Angolan Constitutional Law, consist of the Constitutional Court (*Tribunal Constitucional*), the Supreme Court, the Court of Audits (*Tribunal de Contas*) and the Supreme Military Court (*Supremo Tribunal Militar*).⁸ The court of final appeal is the Supreme Court with 21 seats. The Supreme Court decides questions of law and is a court of common jurisdiction as well as the highest appeal court for cases unrelated to the constitution.

The Constitutional Court functions as a high court for matters relating to judicial power and jurisdiction and performs constitutional review of legislation and government acts.⁹

There is also a Court of Audits which is responsible for matters related to public finances.¹⁰ The Court of Audits has seven judges and began hearing cases in 2003. The Court of Audits has co-equal status with the Supreme Court and therefore no reviews of the Court of Audits decisions are performed by the Supreme Court. For questions with a constitutional nexus, the Constitutional Court may review the decisions of the Court of Audits.¹¹

The court system in Angola has been criticised for being subservient to political direction and interference from high ranking politicians. Indeed, despite the 2010 Constitution, the President of Angola has the right to overrule any ministerial decision by Presidential decree.¹² The capacity of the courts is limited by a lack of human resources resulting in high legal fees, case backlogs and members of the judicial system being underpaid, overworked and more susceptible to accept bribes.¹³

Appointed vs Elected Judges

Judges of the Supreme Court are appointed by the President of Angola on the recommendation of the Supreme Judicial Council following competitive submissions by judges, public prosecutors and jurists. The President and Vice-President of the Supreme Court serve a non-renewable seven-year term of office.¹⁴

The Constitutional Court comprises 11 members appointed from among jurists and judges for a non-renewable seven-year term. The President nominates four judges, the National Assembly elects four judges, the Supreme Judicial Council elects two judges and one judge is elected by competitive submission of curricula.¹⁵

⁷ Courts and Social Transformation in New Democracies: An Institutional Voice, available at <https://books.google.co.uk/books?id=9XRGDP5sMe0C&pg=PA223&lpg=PA223&dq=angola+access+to+legal+aid&source=bl&ots=x4LG5xWXvJ&sig=IrViQ0WFnElogzBKhmjAhiHF0&hl=en&sa=X&ved=0CEAQ6AEwBWoVChMlu7Co98KAxwIVB80UCh0iYQMF#v=onepage&q=angola%20access%20to%20legal%20aid&f=false> (last visited on September 4, 2015).

⁸ CRA, Article 176.

⁹ Id.

¹⁰ Angola, supra n.2 at 31.

¹¹ Id.

¹² Transformation Index BTI 2014, available at <http://www.bti-project.org/reports/country-reports/esa/ago> (last visited on September 4, 2015).

¹³ US Department of State 2013 Investment Climate Statement – Angola, available at <http://www.state.gov/e/eb/rls/othr/ics/2013/204590.htm> (last visited on September 4, 2015).

¹⁴ CRA, supra n. 3. Article 181.

¹⁵ CRA, supra n. 3. Article 180.



The Practice of Law

Education

Angola's legal education is a post-secondary program that spans five years in total.¹⁶ From the existing recognized institutes and universities, Angola has three well established law schools: the *Universidade Católica de Angola*, *Universidade Agostinho Neto* and *Universidade Lusíada de Angola*.¹⁷ However, the Angolan government has been engaged in increasing the number of institutions and universities across the country, including those offering legal education. Certain universities are currently engaged in initiatives aimed at increasing the number of qualified lawyers in the country.

Law students are required to pass examinations and serve an 18 month apprenticeship as a trainee working alongside qualified lawyers before being admitted to the Bar.¹⁸ During the apprenticeship, trainees have limited powers and authority to practice law. Shorter apprenticeship regimes are also recognized for lawyers qualified in other jurisdictions (three months for qualified lawyers with a Roman-Germanic legal education and six months for qualified lawyers with an Anglo-Saxon legal education).

Continuing Legal Education ("CLE") Credit for Pro Bono

The Angolan Bar Association, *Ordem dos Advogados de Angola* ("OAA") does not currently offer any CLE programs for its members.¹⁹

Licensure

Once students graduate from law faculties, there are no further examinations required. Instead they must serve an apprenticeship with qualified lawyers (as described above) and must work on at least 15 criminal cases and 12 civil cases. At the end of the apprenticeship, trainees are required to prepare and submit to the OAA a professional ethics and conduct assignment, and their supervising lawyers are required to report to the OAA on the merits of their application to the Bar.²⁰

Governing Body

OAA membership is mandatory for lawyers and only lawyers and trainee lawyers admitted into the OAA may practice law.²¹ Founded in 1996, the OAA functions as a self-regulatory body with the status of a public interest organization under Angola law. The OAA derives its status as self-regulatory from the Advocacy Law (Lei da Advocacia) of 1995 which established that the legal profession will be regulated by the Advocacy Law and the rulemaking of the OAA.²² The mandates of the OAA include, inter alia, representing the interests of legal professionals, regulating the conduct of lawyers and assisting the government in legislative drafting. The OAA also maintains a comprehensive legal library of case law, commentaries and legislation, much of which is accessible online.²³

¹⁶ United Nations Office on Drugs and Crime, Access to Legal Aid in Criminal Justice Systems in Africa: Survey Report, 2011 (hereafter UNODC Survey Report 2011).

¹⁷ Angola 2014, supra n. 2. at 24.

¹⁸ International Bar Association Human Rights Institute Report. "Angola: Promoting Justice Post-Conflict July 2003" (hereinafter IBAHRI Angola), available at <http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=0CC0QFjACahUKEwjPysezzyYHHAhWHbhQKHecxAZo&url=http%3A%2F%2Fwww.ibanet.org%2FDocument%2FDefault.aspx%3FDocumentUId%3D8ee32437-024f-45c6-9c71-8a9c68d9b921&ei=mnC5Vc-VIIfdUefjhNAJ&usq=AFOjCNEo-NbTrwiQkuWNFZF9SC4dDQ4tuA> (last visited on September 4, 2015).

¹⁹ Angola 2014, supra n. 2. at 2.

²⁰ Angola 2014, supra n. 5. at 21.

²¹ Statute of the Bar Association, Article 41.

²² Lei da Advocacia (Law no. 1/95, of January 6, 1995) at art. 1, available at <http://www.oaang.org/content/lei-advocacia-1> (last visited on September 4, 2015).

²³ Available at <http://www.oaang.org/> (last visited on September 4, 2015).



Demographics

The number of lawyers per capita is extremely low. Following independence in 1975, it was reported that there was one judge, one prosecutor and about 15 lawyers in the whole country.²⁴ Since then the number of lawyers has increased dramatically. According to the OAA, there are approximately 1,000 lawyers in Angola out of a population of circa 21 million.²⁵ The low number reflects the dislocation caused by the long period of civil strife which led to relatively high levels of emigration of skilled professionals.²⁶ As of October 2014, there were in the region of 300 public prosecutors in Angola.²⁷

There continues to be a severe shortage of lawyers in Angola. Many Angolans struggle to get divorced or obtain legal assistance in a variety of civil and criminal matters due to the low number, and therefore lack of availability, of qualified lawyers. According to OAA statistics, some provinces with more than a million inhabitants have just a handful of lawyers. Lawyers tend to be concentrated in Luanda, the capital, and other large provincial centers.²⁸

LEGAL RESOURCES FOR INDIGENT PERSONS AND ENTITIES

Right to Legal Assistance

In Civil Proceedings

The OAA is responsible for providing access to the law. The State is obliged to ensure that public defense is made available to individuals with insufficient financial resources to obtain their own legal representation at all jurisdictional levels.²⁹

In Criminal Proceedings

The State has a constitutional duty (under Article 67(5) of the 2010 Constitution)³⁰ to provide free legal aid to defendants in criminal proceedings or to prisoners who are unable to appoint a lawyer for financial reasons.³¹

State-Subsidised Legal Aid

The OAA is responsible for organizing and providing legal aid to citizens who are financially unable to hire a lawyer. All financial resources available to the OAA are funded directly by the Angolan government.³²

²⁴ Courts and Social Transformation in New Democracies: An Institutional Voice, available at <https://books.google.co.uk/books?id=9XRGDP5sMe0C&pg=PA223&lpg=PA223&dq=angola+access+to+legal+aid&source=bl&ots=x4LG5xWXvJ&sig=IrViQ0WFnElogzBKhmjAhiHF0&hl=en&sa=X&ved=0CEAQ6AEwBWoVChMlu7Co98KAXwIVB80UCh0iYQMF#v=onepage&q=angola%20access%20to%20legal%20aid&f=false> (last visited on September 4, 2015).

²⁵ Instituto Nacional de Estatística (INE) “Resultados preliminares do censo geral – 2014”.

²⁶ Angola: Promoção da Justiça Pós-Conflito, INTERNATIONAL BAR ASSOCIATION HUMAN RIGHTS INSTITUTE (“IBA”), 23 (Jun. 2003), available at http://www.ibanet.org/Human_Rights_Institute/Work_by_regions/Africa/Angola.aspx (last visited on September 4, 2015).

²⁷ Angola 2014 supra n. 2. at 34.

²⁸ Ordem dos advogados leva serviços às áreas mais longínquas do interior. JORNAL DE ANGOLA, Aug. 9, 2011.

²⁹ CRA, supra n. 3. Articles 195-196.

³⁰ CRA, supra available at <http://www.comissaoconstitucional.ao/> (last visited on September 4, 2015).

³¹ CRA, supra n. 3. Article 67; Law 15/95, of November 10, 1995.

³² CRA, supra n. 15.



Eligibility Criteria

Financial Means

An indigent is required to apply for certification of inability to pay by making a statement of poverty (*atestado do pobreza*) addressed to the presiding judge to prove eligibility for legal aid.³³ Upon presentation of the certificate to the OAA, the OAA appoints a lawyer and pays the lawyer certain fees that have been pre-established.³⁴ However, the OAA's ability to provide such legal assistance is limited by the number of Angolan lawyers who have signed up for the program and the number of trainees (who are required by Angolan law to provide legal assistance within the scope of their limited powers and authority and their competence and experience) and the experience of such trainees.

Practitioners in the OAA program are typically in private practice and accordingly perform such legal assistance for reduced remuneration, as a public service or as a supplement to their fee-paying clients. In 2011, the Angolan government began to consider establishing a Public Defender Institute (*Instituto de Defesa Pública*) which would be staffed with full-time public defenders and receive an exclusive mandate from the government to deliver legal assistance to indigent people.³⁵ However, the process towards establishment and rollout of the Public Defender Institute throughout the country has been slow.

Mandatory Assignments to Legal Aid Matters

Qualified lawyers are approached by the OAA when a legal aid case arises but are not obligated to accept such matters. On the contrary, trainee lawyers are required by law to provide legal aid within the scope of their limited powers and authority.

The OAA pays a reduced fee to lawyers who take on legal aid matters. In 2002, the OAA paid lawyers to provide legal services to approximately 629 clients, an increase from 614 clients in 2001.³⁶

Unmet Needs & Access Analysis

The Ministry of Justice and Human Rights acknowledged that access to lawyers, in particular in rural areas of Angola remains a problem. There are only 22 municipal courts for 163 municipalities and although offices of legal counsel have been established in most municipalities to increase access to justice, there remains a lack of prosecutors or judges resulting in the local police taking on such roles, despite not having received the relevant training.³⁷ Furthermore, the difficulty of applying for legal aid has resulted in the failure of a number of potential applicants to apply for legal assistance. Lawyers have also been reluctant to take on legal aid cases due to the slow pace at which cases progress and the lack of payment.³⁸

³³ Access to Justice in Africa and Beyond: Making the Rule of Law a Reality 2007. Penal Reform International and the Bluhm Legal Clinic of the Northwestern University School of Law. Chicago, Illinois.

³⁴ Joint Executive-Decree 46/97, of November 7, 1997 and OAA Order on legal fees available at <http://www.oaang.org/content/instrutivo-sobre-honorarios> (last visited on September 4, 2015).

³⁵ Josina de Carvalho, Magistrada propõe patrocínio judiciário, JORNAL DE ANGOLA, Jan. 15, 2011.

³⁶ IBAHRI Angola, supra n. 11. at 27.

³⁷ Angola 2014, supra n. 2. at 15.

³⁸ UNODC Survey Report 2011, supra n. 9. at 11.



Alternative Dispute Resolution

Mediation and Arbitration

Alternative forms of mediation and conflict resolution have been taken into consideration as part of ongoing judicial and legal reforms to allow citizens access to justice without needing recourse to courts.³⁹

Ombudsman

Established in 2006,⁴⁰ the Office of the Ombudsman for Justice is a public and independent institution which protects human rights, freedoms and guarantees of citizens. It uses informal means to ensure that justice is served and that public administration operates within the law.^{41 42}

PRO BONO ASSISTANCE

Pro Bono Opportunities

Private Attorneys

Neither private attorneys nor law firms operating in Angola are required to provide pro bono legal services. However as members of the OAA, lawyers may be contacted by the OAA to volunteer to take on a state legal aid client if a case arises.

Legal Department Pro Bono Programs

Neither in-house lawyers nor legal practitioners employed by Angolan companies are required to participate in pro bono activities. Some pro bono programs do exist however, to which in-house lawyers contribute. For example, the Angolan Ministry of Justice and Human Rights has maintained a program with the OAA to provide free legal assistance to women who have been victims of domestic abuse.⁴³

NGOs

Local NGOs have sought to provide free legal counsel in an effort to promote and defend human rights. However, NGOs are required by law to specify their mandate and areas of activity, which hinders the ability of NGOs to engage in certain types of activities such as the provision of free legal assistance, which is reserved for Angolan law qualified lawyers/trainee lawyers.⁴⁴

University Legal Clinics & Law Students

There have been increasing efforts to implement legal aid clinic programs at Angolan universities. In 2014, the Faculty of Law at the University of Agostinho Neto established an inaugural legal aid clinic offering free legal advice in Cacucaco for the start-up of micro businesses.⁴⁵

³⁹ Implementation of African Charter, supra n. 5. at 18.

⁴⁰ Law 4/06, of April 28, 2006

⁴¹ The Observatory for the Protection of Human Rights Defenders, “Angola: They want to keep us vulnerable”, available at https://www.fidh.org/IMG/pdf/angola_obs_eng_19_mars_2015_ok.pdf (last visited on September 4, 2015).

⁴² Implementation of African Charter, supra n. 5. at 9.

⁴³ Angola 2014, supra n. 2. at 27.

⁴⁴ Angola 2014, supra n. 2. at 18.

⁴⁵ International Law and Policy Institute. “Free legal aid clinic in Cacucaco, Angola,” available at <http://ilpi.org/events/free-legal-aid-clinic-in-cacuaco/> (last visited on September 4, 2015).



Others

Recent efforts to increase resources available for pro bono work include the International Bar Association's Human Rights Institute's work with the Angolan Ministry of Justice and Angolan Secretary of State for Human Rights to improve the skills of members of the Angolan judiciary, prosecutors and lawyers in international human rights law through providing training courses.⁴⁶

Historic Development & Current State of Pro Bono

Historic Development of Pro Bono

The United Nations Observer Mission in Angola (“**MONUA**”) began in 1997 and established a system of newly graduated trainee lawyers (*estagiários*), who represented suspects in police stations in Luanda. This system ceased when the MONUA mandate ended in 1999.⁴⁷

Current State of Pro Bono including Barriers and Other Considerations

Laws & Regulations Impacting Pro Bono

Efforts are being made to strengthen the legal and justice system and improve transparency to allow for more effective pro bono work. The Law on Criminalisation of Infractions Surrounding Money Laundering was passed in January 2014⁴⁸ in an effort to combat corruption. However, public access to government information remains limited.⁴⁹

Angola, having ratified the African Charter on Human and Peoples' Rights in 1990, and formally supporting the 2004 Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System in Africa, is now under an obligation to increase access to legal aid in its criminal justice system.⁵⁰

Under Article 1 of the Advocacy Law, only lawyers who are registered with the OAA may practice law in Angola. According to the Advocacy Law, registration with the OAA is reserved to Angolan nationals.⁵¹ The Advocacy Law permits foreign nationals, with a local law degree, to apply for registration/qualification with the OAA. However, such registration/qualification is subject to the general principle of reciprocity with other countries which ultimately impairs the ability of foreign individuals to be eligible to practice law in Angola.

Socio-Cultural Barriers to Pro Bono or Participation in the Formal Legal System

Public concerns about formal legal system

The judicial system remains institutionally weak due to political influences in decision-making processes. Public perception of corruption⁵² and a lack of government accountability undermine the legal system's

⁴⁶ International Bar Association. “Angola Human Rights Training 2012”, available at <http://www.ibanet.org/Article/Detail.aspx?ArticleUid=bd43a75-f91b-4bb2-ad1c-acf88e18fc17> (last visited on September 4, 2015).

⁴⁷ UNODC Survey Report 2011, supra n. 9. at 22.

⁴⁸ Lei 3/14, of February 10, 2014.

⁴⁹ Angola 2014, supra n. 2. at 20.

⁵⁰ African Commission on Human and Peoples' Rights. “Resolution on the Adoption of the Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System (2006),” available at <http://www.achpr.org/sessions/40th/resolutions/100/> (last visited on September 4, 2015).

⁵¹ Article 11 of Advocacy Law.

⁵² Rafael Marques de Morais v. Angola, Communication No. 1128/2002, U.N. Doc. CCPR/C/83/D/1128/2002 (2005).



independence and reliability.⁵³ Trials at the Supreme Court have been subject to lengthy delays; in 2013, 40% of inmates were pre-trial detainees with a large proportion not having been formally charged.

Unlawful arrest and detention are serious issues, particularly in Cabinda where civil society activists are thought to often be subjected to torture or detention or in Lunda Norte which is controlled heavily by the army and private security forces.⁵⁴ Prisoners and their families have reported that prison officials demand bribes for their release.⁵⁵ While detainees have a legal right to a lawyer provided by the state, this right has frequently not been upheld.⁵⁶ Defense lawyers have also been under threat by government security forces under the pretext of national security, which has undermined credibility of such trials.⁵⁷

Pro Bono Resources

Entities engaged in pro bono

Pro bono resources in Angola are limited. The non-governmental organisation Mãos Livres has advised that Angola lacks sufficient lawyers to conduct vital government functions, much less participate effectively in pro bono.⁵⁸ Access to justice for Angolans can be further increased through government efforts to subsidize lawyers who practise law outside Luanda and who assist those unable to afford legal advice.⁵⁹

CONCLUSION

Angola has an emerging pro bono commitment that is currently engaged in creating and institutionalising a framework to facilitate access to justice. Prospective pro bono partners should engage with local organisations to identify areas in which pro bono assistance could be provided. More lawyers and a better distribution throughout the country are needed. In the long-term, an increased focus on establishing a government-run legal aid system to assist the neediest applicants by providing free or reduced-cost legal assistance would serve to improve overall access to justice.⁶⁰

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⁵³ Angola 2014, supra n. 2. at 21.

⁵⁴ Transformation Index BTI 2014, available at <http://www.bti-project.org/reports/country-reports/esa/ago> (last visited on September 4, 2015).

⁵⁵ Angola 2014, supra n. 2. at 22.

⁵⁶ Id.

⁵⁷ Human Rights Watch 2014, World Report: Angola, January 2013, available at <http://www.hrw.org/world-report/2014/country-chapters/angola> (last visited on September 4, 2015).

⁵⁸ IBAHRI Angola, supra n. 11. at 33.

⁵⁹ IBAHRI Angola, supra n. 11. at 52.

⁶⁰ IBAHRI Angola, supra n. 11. at 53.