



ARQUIVO DE
IDENTIDADE
ANGOLANO



ASSOCIAÇÃO ÍRIS
ANGOLA



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**Submission to the Committee on Economic, Social and Cultural Rights
Pre-Sessional Working Group (74th Pre-Session)
Review of the Republic of Angola**

About submitting organizations

Arquivo de Identidade Angolano (AIA) is a group of Angolan feminist women LGBTIQ (Lesbian, Bisexual, Transgender, Intersex and Queer) who celebrate the multiple identities of women and create content about gender and sexuality in the Angolan context.

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Dmitri Fernandes is an independent social activist working for the rights of key populations, with a focus on people who use drugs and lesbian, gay, bisexual, transgender and intersex (LGBTI) people in Angola.

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Introduction

1. We write in advance of the 74th pre-session of the Committee on Economic, Social and Cultural Rights (CESCR) regarding its review of the Republic of Angola's compliance with the International Covenant on Economic, Social and Cultural Rights (ICESCR). This submission addresses discrimination on the basis of sexual orientation and gender identity; barriers lesbian, gay, bisexual and transgender and other gender-diverse (LGBT) people face in accessing their rights to sexual and reproductive health, including access to comprehensive sexuality education and gender-affirming care, and education; and the lack of government-generated data on LGBT.

Non-discrimination (arts 2(2), 6, 7, 11, 12, 13, 15)

1. The International Covenant on Economic, Social and Cultural Rights (ICESCR) clearly prohibits discrimination on the basis of sexual orientation and gender identity in the application of the rights guaranteed in the ICESCR under article 2(2) and General Comment 20.
2. Under domestic law, article 23(2) of the Constitution prohibits discrimination. Article 212 of the Penal Code (Law 38/20 of 11 November 2020) imposes a penalty of up to

two years in prisons for discrimination on the basis of sexual orientation, including in employment.

3. However, these laws, particularly article 212, are not effectively implemented in Angola as LGBT people continue to face high levels of discrimination. In one survey of over 1,000 men who have sex with men (MSM) in five provinces found that 33% did not have a job in the last 12 months, 18% were victims of violence, 17% suffered violence from police officers, 19% suffered unlawful detention (at least one night in jail), only 12% received proper legal aid to solve issues of stigma and violence.¹
4. Further, LGBT people rarely report incidents of discrimination to the police, and in the rare instances when they do report, LGBT people assert that the police refuse to register the grievances.²
5. To date, we as organizations working with the LGBT community are unaware of any cases where article 212 of the Penal Code has been applied to address discrimination against LGBT people. We are trying to support the first case of this kind, but still waiting for judgment (process n° 7377/022-2, B vs PP).

We recommend the Committee ask the Republic of Angola the following:

6. Please provide any quantitative and qualitative data on the application of Article 212 of the Penal Code to provide redress to LGBTIQ+ people for discrimination since its enactment.
7. Please provide information on the specific steps taken to raise awareness of Article 212 amongst the public, law enforcement, prosecutors, judiciary and other relevant personnel in Angola.
8. What steps has Angola taken or plans to take to draft prosecutorial or judicial guidelines on how to apply Article 212 of the Penal Code.

Sexual and reproductive health (SRH) (art 2(2), 12)

SRH needs of key populations

9. Article 12 of the ICESCR requires states to provide for the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, including Sexual and Reproductive Health (SRH). Article 77 of the Constitution of Angola guarantees the right to health.

¹ INLS, UNC, & FHI360. (2018). Relatório Final: Mapeamento Programático e Prevalência de VIH e outras ITS entre Populações Chave de Angola: Estudo PLACE. Available at <https://www.fhi360.org/sites/default/files/media/documents/resource-linkages-portuguese-angola-report-june%202018.pdf>

² US State Department. 2022 Country Reports on Human Rights Practices: Angola (2022). Available at <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/angola/>

10. We welcome the government's strategic plan to raise adolescents' awareness of issues related to SRH and the implementation of a sexuality and reproductive health education programme.³
11. However, there is currently no specific strategic or action plan specifically focused on the SRH of key populations. There had been a draft of a specific strategic plan for the SRH of key populations for 2018-2022. However, it was never promulgated.
12. A specific strategic and action plan focused on key populations is critical in ensuring their access to affordable, quality SRH services as without a specific focus on the needs of key populations their particular health needs are not addressed.⁴

We recommend the Committee ask the Republic of Angola the following:

13. Is there a specific strategic plan for the SRH of key populations? What steps have been taken to develop or implement a specific strategic plan for the SRH of key populations?

Comprehensive sexuality education

14. Access to comprehensive sexuality education is critical for the health and wellbeing of adolescents, including young LGBT people. This Committee has stated that the right to sexual and reproductive health entails "a right to education on sexuality and reproduction that is comprehensive, non-discriminatory, evidence-based, scientifically accurate and age appropriate".⁵ Further, this Committee has urged States to adopt legal and policy measures to guarantee all individuals access to comprehensive sexuality education.⁶
15. Lack of access to comprehensive sexuality education and information by adolescents who are LGBT has been linked to low self-esteem, higher rates of depression, suicide and homelessness.⁷
16. We welcome the Ministry of Education's addition of comprehensive sexuality education to the primary and secondary school curricula.⁸ However, based on our work with the Ministry of Health's National Institute of HIV (INLS) in training teachers and health professionals on comprehensive health, sexual orientation and gender identity, the curriculum does not include sexual orientation and gender identity

³ Committee on Economic, Social and Cultural Rights. Sixth periodic report submitted by Angola under articles 16 and 17 of the Covenant, due in 2021 (8 June 2023), para. 224.

⁴ SADC. Regional Strategy for HIV Prevention, Treatment and Care and Sexual and Reproductive Health and Rights Among Key Populations (2017).

⁵ Committee on Economic, Social and Cultural Rights, General Comment No. 14 (2000), para. 9.

⁶ Committee on Economic, Social and Cultural Rights, General Comment No. 22 (2016), paras. 28 and 63

⁷ Committee on the Rights of the Child, General Comment No. 20 (2016), para. 33

⁸ Committee on Economic, Social and Cultural Rights. Sixth periodic report submitted by Angola under articles 16 and 17 of the Covenant, due in 2021 (8 June 2023), para. 244.

issues leaving out age-appropriate information critical for the wellbeing of young LGBT people.

17. Further, based on our work with young LGBTI people, there is ineffective implementation of the current comprehensive sexuality education as there is a lot of resistance from educators to aspects of the current CSE curriculum, including menstrual health and family planning, especially in outside areas of the capital and remote areas.

We recommend the Committee ask the Republic of Angola the following:

18. Please provide information on the topics covered in the comprehensive sexuality education curriculum, including topics related to sexual orientation and gender identity.
19. What steps have been taken to ensure the effective implementation of the current comprehensive sexuality education, including topics related to menstrual health and family planning.

Access to gender-affirming health care

20. This Committee has recognized the right of transpeople to access affordable sexual and reproductive and other health services.⁹ This includes gender-affirming care, such as gender reassignment surgeries and hormone replacement therapy. The right to health is further guaranteed in the Constitution under article 77.
21. Despite this, gender reassignment surgery or hormone replacement therapy are unavailable in Angola. Trans people are able to access these services in South Africa but the cost of the travel and treatment is prohibitive for most trans people in Angola.¹⁰
22. Further, there is no clear legal process by which transpeople in Angola are able to change their gender marker on official documentation making it difficult for trans people to access work.¹¹

Questions

23. What steps have been taken to make gender affirming care, including gender affirming surgeries and hormone replacement treatment, available in public hospitals. Please provide details on funding available for gender affirming treatment.

⁹ Committee on Economic, Social and Cultural Rights, General Comment No. 22 (2016), para. 15.

¹⁰ Southern Africa Litigation Centre. *Laws and Policies Affecting Transgender Persons in Southern Africa* (2017). Available at <https://www.southernafricalitigationcentre.org/wp-content/uploads/2017/08/Transgender-rights-in-Angola.pdf>

¹¹ Id.

24. What steps are being taken to provide a clear legal process for changing one's gender marker on official documentation?

Access to education (arts 2(2) and 13)

25. The ICESCR guarantees the right to education in article 13. The Constitution of Angola guarantees the right to education in article 79.
26. LGBT young people face significant barriers to accessing education. One survey found that only 19% of the transwomen in the survey were enrolled in school, with 51% entering the second cycle and 35% the first cycle, and only 1.6% reaching university.¹² Some of the barriers LGBT youth face in accessing education includes stigma and discrimination because of their cultural and gender expression being at odds with those accepted by the school.
27. We welcome the Ministry of Education's decision to "set up a coordination committee to strengthen the promotion and protection of human rights in the education and teaching system." However, as LGBT-led organizations working with the LGBT community in Angola, we were unaware of the existence of this mechanism.
28. This is in part because there is a lack of representation from the LGBT community on the coordinating committee making it unlikely that the committee will effectively be able to address the barriers facing LGBT youth in accessing education.

We recommend the Committee ask the Republic of Angola the following:

29. How many LGBTI representatives are on the coordination committee? What steps have been or are planned to be taken to increase representation of LGBTI representatives on the coordination committee.
30. What steps have been taken to address the stigma, discrimination and violence LGBT young people face in accessing education, including discrimination against LGBT youth who express their sexual orientation and gender identity.

Lack of data

31. Data is crucial to creating visibility and building an evidence base of human rights abuses and potential responses to them. Data is the basis for policy-makers and advocates to create more effective State measures for socio-economic inclusion, access to health and education, inclusion in the civic and political sphere, anti-discriminatory measures, prevention of abuses, and access to justice. Currently,

¹² INLS, UNC, & FHI360. (2018). Relatório Final: Mapeamento Programático e Prevalência de VIH e outras ITS entre Populações Chave de Angola: Estudo PLACE. Available at <https://www.fhi360.org/sites/default/files/media/documents/resource-linkages-portuguese-angola-report-june%202018.pdf>

there are serious gaps in available data to capture the lived realities of LGBT persons in Angola.

32. The Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity noted that collecting and disaggregating data is necessary for countries to fulfill their legal obligations to take active steps to eliminate human rights violations, including discrimination and socio-economic exclusion.¹³
33. In its 2016 Concluding Observations, this Committee recommended that Angola “establish a statistical data collection system to assess the level of enjoyment of economic, social and cultural rights, in particular by disadvantaged and marginalized individuals and groups, including persons living in rural areas, internally displaced persons, indigenous peoples and ethnic minorities and persons with disabilities.”¹⁴
34. The Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity recommends that States design and implement comprehensive data collection procedures to assess the type, prevalence, trends and patterns of violence and discrimination against LGBT persons.¹⁵
35. There is a lack of investment in the production of data disaggregated by sexual orientation and gender identity. For instance, the 2024 Census and the Multiple Health Indicators do not include questions related to LGBT people despite our advocacy to include LGBT-related questions in the Census.

We recommend the Committee ask the Republic of Angola the following:

36. What measures has Angola taken and will it take in the future to produce official and partnered data on the socio-economic results of LGBTI people in the country?

¹³ UN General Assembly. Data collection and management as a means to create heightened awareness of violence and discrimination based on sexual orientation and gender identity Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (14 May 2019). A/HRC/41/45.

¹⁴ CESCR. Concluding Observations Angola (2016).

¹⁵ UN General Assembly. Data collection and management as a means to create heightened awareness of violence and discrimination based on sexual orientation and gender identity Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (14 May 2019). A/HRC/41/45.