

# ANGOLA

## @Will the new government protect human rights?

Angola's first multi-party elections are to be held on 29 and 30 September 1992. The new government will face the enormous task of healing the wounds of 16 years of civil war and promoting economic and social development, none of which will be possible unless it ensures respect for fundamental civil and political rights and freedoms. It is a matter of vital importance that the two main political parties, the *Movimento Popular para a Libertação de Angola* (MPLA), People's Movement for the Liberation of Angola, in power since independence in 1975, and the former armed opposition movement *União Nacional para a Independência Total de Angola* (UNITA), National Union for the Total Independence of Angola, as well as other parties entering candidates for election in September, act now to propose and promote a program for effective guarantees to protect human rights both now and in the future.

On 6 May 1992, almost a year after the government and UNITA signed the Peace Accords for Angola, on 31 May 1991, to end their 16-year conflict, Amnesty International published a report entitled *Angola: an appeal for prompt action to protect human rights* (AI Index: AFR 12/02/92). The report showed how the human rights provisions of the Peace Accords had been violated and documented scores of politically-motivated killings. The present report updates this and details further human rights abuses by both sides. It also outlines steps required to prevent further human rights violations in Angola.

The Peace Accords have still not been fully implemented, and human rights abuses are still occurring with apparent impunity. Further releases of political prisoners took place between May and July but many others who ought to have been released a year ago in accordance with the peace agreement remain unaccounted for; prisoners are said to have been deliberately killed or tortured by the police, and both the government and UNITA have complained that their supporters have been arrested and beaten by their political opponents. Amnesty International is now renewing its appeal for prompt action to protect human rights both immediately and after the elections in September 1992. Since the Peace Accords were signed human rights issues have been the subject of intense debate in Angola but, sadly, human rights principles have been distorted into weapons in a political war of words. It is important that the truth about the serious violations which occurred both before and after the Peace Accords came into force should be known - but it is even more important that this knowledge be used constructively to formulate adequate guarantees to ensure that these violations do not recur. Amnesty International is therefore calling on all parties to include a commitment to undertake specific measures to protect human rights in

their election manifestos - not for the sake of scoring political points but in order to raise the level of debate about the ways in which human rights may be protected in the future.

## **I. Recent reports of political violence and human rights abuses**

In May 1992 Amnesty International warned that "without prompt action to prevent further killings and to promote respect for human rights there may be an escalation of violence which would endanger the Peace Accords".

The implementation of the accords is the responsibility of the *Comissão Conjunta Político-Militar* (CCPM), Joint Political-Military Commission, which is composed of equal numbers of government and UNITA representatives, as members, and of representatives of the governments of Portugal, the Russian Federation and the United States of America as observers. A United Nations (UN) representative also participates in CCPM meetings. The UN Angola Verification Mission (UNAVEM), which had monitored the withdrawal of the Cuban troops who had been assisting the government, had its mandate extended, as UNAVEM II, to monitor the implementation accords. Another body, the *Comissão Mista de Verificação e Fiscalização* (CMVF), Joint Verification and Monitoring Commission, was established with the same composition and UN involvement as the CCPM, to which it reports. It has groups of monitors in each province and its responsibilities include preventing, verifying and investigating possible violations of the cease-fire.

A major factor in the precarious security situation in Angola lies in the Peace Accords themselves. CCPM decisions are made on the basis of consensus between the UNITA and government representatives on the CCPM and each party is therefore able to forestall any decision which it believes might damage its immediate political interests. As a result, the CCPM has failed to investigate violations of the human rights provisions of the accords and politically-motivated crimes have escaped the course of justice. This has generated a sense of impunity among those responsible for the violations.

Secondly, although the government police were made responsible for maintaining law and order under the Peace Accords, the police have insufficient resources to cope with an unprecedented rise in violent crime, including political violence and they have had little training in protecting human rights. Police neutrality was to be guaranteed by police monitoring groups consisting of equal numbers of government and UNITA representatives and assisted by 400 UN police experts<sup>1</sup>. However, police monitoring groups were not fully in place until June 1992.

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<sup>1</sup> The UN is also monitoring the cease-fire and the elections which are to take place on 29 and 30 September 1992.

The following calendar of incidents since April 1992 illustrates the way in which human rights abuses, which should be the subject of impartial and independent investigation, have become weapons in a continuing battle for power in Angola. Although the CCPM and the cease-fire monitoring groups have investigated some of the incidents they have not ensured that those suspected of perpetrating violations of the accords are brought to justice.

On 13 May 1992 the police organized a press conference at which two prisoners said that they had killed seven people, including six Portuguese nationals, who had been camping on a beach 100 kilometres south of Luanda, the capital, in late April 1992. The two suspects said a member of UNITA's security service had given them a large sum of money and ordered them to kill Portuguese aid workers because UNITA was "fed up" with the Portuguese government. UNITA denied these claims. A third suspect was arrested in July and the police are apparently continuing their investigations.

The policy of organizing carefully staged press conferences at which journalists question suspects before they have been charged or tried is common practice in Angola and is of concern to the extent that it may undermine the principle that people should be presumed innocent until they have been proved guilty and violate their right to a fair trial. This particular case was reminiscent of an incident in January 1992 when four European tourists were killed in Huila province<sup>2</sup>. UNITA subsequently arrested a man named Celestino Sapalo and held a press conference at which he claimed that he was a government security agent and that a local government official had paid him to carry out murders to foment political unrest. UNITA initially refused to hand Celestino Sapalo over to the police but eventually, at the end of April 1992, they delivered him and another person suspected of committing the same crime into police custody. The two have not yet been charged and there have been reports that they are only being held in custody for their own protection.

A police sergeant, Augusto Ernesto, was reportedly killed by an off-duty major in the government army on 7 June 1992. Sergeant Augusto Ernesto was on duty at an electoral registration post in the Icolo e Bengo municipality when the major and over a dozen of his relatives and associates arrived and pushed their way to the front of the queue of people waiting to register. When Augusto Ernesto remonstrated with him, the major and his companions reportedly arrested the sergeant, took him back to the major's home in the Calumbo district, beat him and shot him dead. No inquiry into the killing appears to have been conducted by the police or judicial authorities or by the monitoring groups set up under the Peace Accords, but the major is said to have been demoted. Other similar incidents have been reported in the past and the failure to investigate them and bring those responsible to justice has encouraged a contempt for the police and the rule of law.

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<sup>2</sup> See *Angola: an appeal for prompt action to protect human rights* (AI Index: AFR 12/01/92)

UNITA has complained on several occasions that UNITA members or officials have been attacked or imprisoned for political reasons. In Luanda, during the visit of Pope John-Paul II to Angola in June 1992, over 40 people were rounded up in security operations and accused of illegal possession of arms. Seven were government soldiers, but most were UNITA members or supporters. On Sunday 7 June police arrested two UNITA journalists and their driver at *Praia do Bispo* (Bishop's Beach) in suburban Luanda where a papal mass was due to be held. Constança Olinda Culanda, who worked for UNITA's radio station, and Jofre Justino, a reporter for UNITA's newspaper, *Terra Angolana*, and their driver, Domingos Cachio, were accused of illegal possession of weapons which had been found in the car they had travelled in. They were tried on 9 June and acquitted. The owner of the car, a senior UNITA official, confirmed that he had lent them the car and that the arms were his - senior UNITA officials are permitted to carry weapons for their own protection. UNITA complained that the journalists and other UNITA members, including 12 of its soldiers, had been arrested for purely political reasons. All those arrested were subsequently released uncharged.

In addition to the arrests which took place in Luanda, UNITA complained that a number of its officials in various provinces, including two Brigadiers and two of its provincial secretaries, had been attacked by government police and by soldiers outside the areas to which they had been restricted under the cease-fire provisions of the Peace Accords.

Political tension increased in July 1992. Three people were killed and 10 others wounded in the provincial capital of Malanje between 12 and 15 July. Accounts of the incidents differ according to political perspective, but it appears that there was an exchange of gun and mortar-fire between UNITA soldiers and government troops after UNITA activists who were trying to gather support in a suburb whose inhabitants were mainly MPLA supporters were attacked by members of the public. The Joint Political-Military Commission visited the area and ordered the soldiers to return to their assembly areas and arranged for the confiscation of unauthorized weapons. The Joint Political-Military Commission noted that the Police Neutrality Monitoring Groups had not acted correctly and ordered that they should be "revitalized" and that the soldiers should return to the areas to which they had been restricted under the Peace Accords. However, another clash between the two sides in early August 1992 brought the death toll to at least nine. This was the second major violation of the cease-fire agreement. The first occurred in April 1992 after a government policeman killed a UNITA soldier in disputed circumstances in Chongoroi, Benguela province. In reprisal, about 40 armed UNITA soldiers left their assembly area in Quilengues, Huila province, attacked the police station and other buildings and abducted the local government administrator and several policemen. The abducted officials were released a few days later and the policeman accused of killing the UNITA soldier was arrested. He has not yet been tried.

Manuel Matias, Augusto Kapekula, eight other former UNITA soldiers and three civilians were arrested on the evening of Sunday 26 July 1992. Some had been on their way to a funeral and others were arrested at the place where the funeral was being held. According to government sources, soldiers attached to the presidential barracks at Futungo de Belas in Luanda had chased and stopped the vehicle in which some of the detainees had been travelling after it entered a security area near the presidential complex which is out of bounds to unauthorized vehicles. They said that some of the occupants were carrying light weapons. Those arrested were held in the presidential barracks for the night and transferred to a police station the next day. A UNITA representative alleged that the detainees had been tortured and postponed a scheduled Joint Political-Military Commission visit to Huila and Huambo provinces because of the incident. UNITA said that Manuel Matias' had suffered temporary paralysis of one arm as a result of being tightly handcuffed, while Augusto Kapekula had received a heavy blow in the face with the butt of a gun. Government sources, while admitting that some force may have been used in arresting the suspects, denied that they had been tortured and said that a UNITA representative had confirmed publicly that they had not been ill-treated in detention. The detainees were released uncharged on 29 July.

Political violence has continued in Cabinda, an oil-rich Angolan enclave between the Republics of Zaire and the Congo, where separatist groups are fighting for independence. Two armed factions of the *Frente da Libertação do Enclave de Cabinda* (FLEC), Enclave of Cabinda Liberation Front<sup>3</sup> abducted foreigners and Angolans in July and held them for several days before releasing them. Some FLEC representatives have threatened to expel non-Cabindans and called on Cabindans not to vote in the elections at the end of September 1992.

During the weekend of 26 and 27 July 1992 three people were killed and several others were injured in a wave of political violence in Cabinda city. On 29 July police in Cabinda are reported to have shot dead an oil company employee. João Evangelista Mbathi was said to have been deliberately shot and killed by a police patrol as he waited at a bus stop for an oil company bus at 4.30 p.m. on Wednesday 29 July in the Fourth of February suburb of Cabinda city. Pro-independence sources have claimed that he was deliberately targeted because police habitually suspected oil company employees of supporting FLEC. The *Polícia Judiciária*, Criminal Investigation Police, who assist the procuracy in investigating crimes, are reported to have undertaken an inquiry into the killing but the results have not been published.

## **II. Political prisoners released since the May 1991 Accords**

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<sup>3</sup> A front of FLEC factions and other separatist groups was formed in late 1991 under the name of *Frente da Libertação do Estado de Cabinda*, Cabinda State Liberation Front.

## **for Angola**

On 11 July 1992, almost a year after the 31 July 1991 deadline for the release of prisoners under the Peace Accords, UNITA released a group of 20 prisoners, including government military personnel and civilians, of whom 12 returned to Luanda. As on previous occasions when prisoners were released, they had been preceded by political disputes between the parties. A new deadline, 31 July 1992, was set for the release of all remaining prisoners.

Under the Peace Accords, all prisoners detained in the context of the conflict were to be released and the releases were to be verified by the International Committee of the Red Cross (ICRC). Soon after the accords were signed, the Joint Political-Military Commission decided that the releases should be completed by 31 July 1991. However, by that date, amidst mutual recriminations, a total of only about 500 had been released by both sides.

By the end of 1991 the ICRC had monitored the release of a total of 904 prisoners held by the government. The ICRC had also inspected government prisons in all 18 provinces to check that no others prisoners who qualified for release were being held. They said that they found none, although they had noted that the cases of some criminal suspects contained political elements. In April 1992 the government released three other prisoners who it had initially claimed did not qualify for release under the Peace Accords. The three had been convicted of espionage in 1989: the death sentences of two of them had been commuted in 1991 and the third had been serving a 23-year prison term.

By February 1992 UNITA said that it had released a total of over 3,000 people, but that most of these had chosen to remain in UNITA-controlled areas. It released 30 more prisoners in March 1992. Some of those who did return to their places of origin after their release and others who escaped from UNITA custody have spoken of many other prisoners still being held or being coerced or intimidated into declaring that they wished to remain in UNITA-controlled areas.

In May 1992 the ICRC supervised the release of Afonso Mateus Catumbo, a government soldier who was captured by UNITA in 1988 and who had been held in Jamba, UNITA's headquarters in southeastern Angola. Afonso Catumbo said that he had escaped from a UNITA prison in March 1992 and presented himself to a UN monitors in the southern town of Mavinga. Apparently the monitoring team had returned him to UNITA custody on the understanding that he was on a list of prisoners due to be released in late April 1992. Afonso Catumbo showed journalists scars on his arms which he said were caused by being tied up very tightly for 18 days after he had been returned into UNITA custody. He mentioned the names of other captured government soldiers imprisoned with him who had not been released.

Adelino Manassas da Silva Neto, a São Toméan medical doctor who had been captured in 1979 and had subsequently worked in a hospital in Jamba, was allowed to leave Jamba in May 1992 and is now living freely with his family. Amnesty International was concerned that he was being held in Jamba against his will<sup>4</sup>.

On 11 July 1992, for the first time since the Peace Accords were signed, the list of 20 prisoners whom UNITA was about to release was published in a newspaper. Previously the names of only a few of the prisoners were published - those who had spoken to journalists after their release. Of the 20, eight were said to have chosen to remain in Jamba and the rest arrived in Luanda on 12 July. Among them were a pilot, Francisco Manuel Gaspar "Kito", and a soldier, Captain Luis Bernardo. Two other prisoners who had escaped from Jamba in February 1992 said that some of their fellow prisoners, including Francisco Gaspar, Luis Bernardo and Artur José David, a civilian, had not been presented to the ICRC when it visited Jamba to list prisoners held there. Artur José David was one of the eight released prisoners who remained in Jamba.

In early July 1992 the Joint Military-Political Commission decided that all remaining prisoners should be released by the end of the month. However, there were no reports of further releases by mid August. UNITA had a list of 450 prisoners which it claimed were recently seen in government prisons. Previously UNITA had said that thousands were still unaccounted for, but recognized that some may have been among several thousand released under government amnesties prior to the May 1991 Peace Accords. For its part, the government has said that thousands of people who had been arrested or captured by UNITA had not yet been released. The names of prisoners not yet released have not been made public by either side.

Amnesty International is concerned that many prisoners arrested on account of their links with UNITA "disappeared" in government custody, particularly in the late 1970s and early 1980s. A number were reported to have been killed in 1977 and 1978 when many hundreds of prisoners were extrajudicially executed following a coup attempt by the former Interior Minister, João Bernardo Alves, "Nito Alves", on 27 May 1977.

### **III. Prisoners still held by the government and recent reports of ill-treatment**

Thousands of political prisoners were released in amnesties in 1989 and 1990, in addition to over 900 released under the May 1991 Peace Accords. Those who are held at present

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<sup>4</sup> See *Angola: an appeal for prompt action to protect human rights* (AI Index: AFR 12/01/92)

include people who are alleged to have committed politically motivated crimes since May 1991. They include, for example, UNITA members accused of killing four government airforce officers in the southern city of Lubango on 15 March 1992<sup>5</sup>. Government sources stated that UNITA has insisted that they should not be tried until new military courts are set up under the Angolan Armed Forces, a single army composed of government and UNITA troops which is still being created. The cases of other people serving sentences for criminal offences, but with political elements, include several people imprisoned for embezzling funds from state companies are reported to have been convicted on false evidence provided by their corrupt superiors.

Another prisoner, José Alberto Ferreira Pinto "Zeca Siberia", who was tried in 1984 on charges of diamond smuggling and complicity in a plot to undermine the government, remains in custody in Namibe province. He was sentenced, in an unfair trial, to 16 years' imprisonment which he had recently been serving in Bentiaba prison camp in Namibe province. The other defendants in the same trial, some of whom had also been serving 16-year sentences, were all released before May 1991. Government officials informed Amnesty International that José Alberto Ferreira Pinto had not been released because he had not paid a fine. In December 1991 a doctor had certified that he required medical treatment that could not be obtained locally for head and spine injuries. He apparently sustained these as a result of severe beatings he received while undergoing interrogation after his arrest in 1983. On 7 August 1992 he was granted a conditional release from prison and returned to Luanda to undergo a medical examination.

Some prisoners are reported to have been tortured and at least one has been killed in police custody.

Two prisoners in Bentiaba prison camp, José Domingos Neto "Dolizi", a former soldier, and Emílio Diogo de Carvalho "Dilson", are reported to have been badly beaten by guards in late May 1992. They are among a group of about 40 people suspected of violent criminal offences. Although they have not been tried, they are serving prison terms imposed under a law allowing sentences through strictly administrative procedures. Law Number 3/88 of 9 April 1988, which was introduced at a time when violent crime was increasing, allows the detention without trial or the right of defence of suspected criminals for periods of five years which are renewable to a maximum of 15 years. This law is inconsistent with Article 28 of the Angolan Constitution and with international human rights standards, which guarantee the right to defence. If the detainees had access to legal advice they could challenge the legality of their detention under Article 30 of the Constitution which guarantees the right to appeal to a court against acts which violate provisions of the Constitution.

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<sup>5</sup> See *Angola: an appeal for prompt action to protect human rights* (AI Index: AFR 12/92/01).



Special police in the diamond mining area in the northeastern province of Lunda Norte are reported in recent months to have tortured or ill-treated prisoners suspected of stealing diamonds. Prisoners in Lucapa, the provincial capital, were reportedly badly beaten during interrogation, tightly hand-cuffed for long periods and held in cells with no windows. A pregnant woman was among the prisoners reported to have been beaten. One prisoner who was arrested in March 1992 was said to have been beaten and then shut up in an old industrial refrigerator. These prisoners were held in a prison known by the acronym SIV/SPE. In Lunda Norte diamonds are exploited by the state company, ENDIAMA, which works closely with a Portuguese company, *Sociedade Portuguesa de Empreendimentos* (SPE). SIV stands for *Segurança Industrial e Vigilância* (Industrial Security and Protection).

There have been several reports in recent months of deaths in police custody. One prisoner was reported to have been tortured and then shot. Amnesty International was informed that Francisco dos Santos Queirós, aged 21 years of age, was arrested at his home in Luanda on 27 May 1992 by three men in civilian clothes who were described as police informers and who accused him of being a member of a gang of car thieves. The three men took him to the 10th Squadron, a police station in Bairro Cazenga, a suburb of Luanda, where he died the next day. An autopsy is said to have revealed that he had been subjected to severe beating to the head, that his genitals had been mutilated, and that he was shot.

#### **IV. Prisoners still held by UNITA**

Among those still being held by UNITA against their will are dozens of UNITA dissidents - UNITA members who are suspected of opposing UNITA's policies or leadership. The Peace Accords called for the extension of government administration to areas controlled by UNITA, but Jamba and the area surrounding it remains under UNITA's full control. As a result, the monitoring groups set up under the Peace Accords could play no role in preventing or investigating the deliberate and politically-motivated killing of Pedro "Tito" Chingunji and his brother-in-law Fernando Wilson dos Santos, former senior UNITA officials who had been arrested in Jamba in 1988 and 1986 respectively and accused of plotting to overthrow Jonas Savimbi, UNITA's leader<sup>6</sup>. UNITA admitted in late March 1992 that they and members of their families had been summarily executed in November 1991.

The news of the killings increased fears for other UNITA dissidents who, according to various independent sources, have been prevented from leaving Jamba. In May 1992 another name was added to the list of those being held in Jamba against their will. Bela Malaquias, a 33-year-old journalist working for UNITA's radio station, was ordered to go to

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<sup>6</sup> See *Angola: an appeal for prompt action to protect human rights* (AI Index: 12/01/92).

Benguela to report on a public meeting addressed by UNITA's leader, Jonas Savimbi. After the meeting Bela Malaquias entered a UNITA aeroplane which she evidently thought was to take her back to Luanda, but the pilot was ordered to go to Jamba. Bela Malaquias had been living in Jamba until early 1992 when she and her husband were sent to Luanda to work at the offices which UNITA set up there after the May 1991 Peace Accords. In Luanda she contacted members of her family including a brother who defected from UNITA some years ago. In doing so she apparently defied implicit or explicit UNITA instructions to its officials not to have private contacts with members of their families who are not UNITA members.

In July 1992 Jorge Valentim, UNITA's Information Secretary, told journalists that he had sent Bela Malaquias to Jamba in her professional capacity. When journalists asked why she had not contacted her family, Jorge Valentim replied by asking the journalists whether they informed their families every time they travelled. Journalists who visited Jamba on 12 July said that they had asked to see Bela Malaquias but were told that she was not available.

Two of Bela Malaquias' relatives, her sister Germana, known as "Tita", and her father, Nelson, a mathematics teacher, are also restricted to Jamba. Members of the Malaquias family in Luanda appealed for "Tita" and Nelson Malaquias to be allowed to travel to Luanda but a UNITA official is reported to have replied that Nelson Malaquias could not be released from his duties. "Tita" Malaquias narrowly escaped being killed in 1983. She and other women suspected of opposing UNITA's policies or leadership were accused of being witches. Most of these women and some of their young children were among at least 12 people publicly burned alive on the parade ground in Jamba on 7 September 1983. "Tita" Malaquias was reprieved at the last minute but imprisoned for over a year instead.

After publishing some details about the killing of Pedro "Tito" Chingunji and others in its May 1992 report, *Angola: an appeal for prompt action to protect human rights*, Amnesty International obtained a copy of the *Summary of Findings* by the Commission of Inquiry into the Deaths of the Chingunji and dos Santos Families which UNITA set up on 11 March 1992. The commission of inquiry found that the killings were carried out on the instructions of the former Interior Minister Miguel N'zau Puna on 12 and 13 November 1991. Miguel N'zau Puna, in contrast, denied this and cited the killings as one of the reasons for his disaffection from UNITA and its leader, Jonas Savimbi. He said that the killings had taken place in late July or early August 1991.

The commission, which was chaired by Jeremias Chitunda, Vice President of UNITA, reported that it heard testimony from 20 witnesses and enjoyed full access to all records and files held by UNITA. However, the report gives no details of the commission's working methods. In contrast, a properly established commission of inquiry would be composed of members who are independent of the institutions or agencies under investigation and their personal safety would be guaranteed. In addition, the means for

protecting the safety of witnesses would be publicly announced in advance and witnesses would have the right to legal counsel and other legal rights. Among other fundamental requirements, the commission's methods of work would be made public in advance of its proceedings as well as in its final report which would also contain the information on which it based its findings.

Jeremias Chitunda, the chairman of the commission, was reported to have been tried with Pedro "Tito" Chingunji, Fernando Wilson dos Santos and others in February 1989 and found guilty, on the basis of tenuous evidence and without the right of defence, of complicity in a plot against Jonas Savimbi. Jeremias Chitunda was among those who were subsequently released but this experience compromised his ability to conduct an investigation impartially and without fear for his own safety. In this and in other ways, UNITA's commission of inquiry did not fulfil the fundamental requirements of independence and impartiality and its findings must therefore be regarded, at most, as inconclusive.

## **V. Amnesty International's recommendations**

In its previous report, *Angola: an appeal for prompt action to protect human rights*, Amnesty International called on the government and UNITA to reaffirm, publicly, their commitment to the human rights provisions of the May 1991 Peace Accords and to declare that all reports of violations or abuses of these rights and freedoms will be investigated and punished. However, as this report has shown, human rights violations are continuing.

Now that the elections provided for under the Peace Accords are at hand, Amnesty International is extending its appeal to all those who will be contesting the elections and urging them to put forward detailed programs spelling out concrete, effective steps for the protection of human rights in the future so that these can be scrutinized and debated by the electorate. In this way, those who are elected to govern Angola may be challenged by the public and by opposition parties if they fail to keep the promises they made as candidates. Only by ensuring that fundamental civil and political rights are protected can the new government hope to reconcile former enemies and provide a framework for social and economic development.

Amnesty International is also appealing to Angolan organizations which are concerned about human rights to demand of those seeking legislative and presidential office a comprehensive program for the effective protection of human rights.

A sound human rights program would, among other things, meet some of the following requirements.

## **1. A basic framework for human rights protection**

A sound framework already exists in the human rights treaties to which Angola is a party. Angola ratified the African Charter on Human and Peoples' Rights in October 1990 and became a party to the International Covenant on Civil and Political Rights in January 1992. Some of the provisions of these treaties were incorporated into the Angolan Constitution when it was revised in March 1991 and into other laws promulgated at the same time. However, the Constitution provides scope for some fundamental rights and freedoms to be restricted by subsidiary legislation to an extent inconsistent with internationally recognized human rights standards. One of the most important tasks facing the new government will be to incorporate fundamental rights which have been omitted from the Constitution - for example, a specific prohibition of torture and other cruel, inhuman or degrading treatment or punishment - in national law and practice. It must ensure that the Constitution, legislation and practice are consistent with the letter and spirit of the international human rights treaties to which Angola is a party<sup>7</sup>.

The existing framework would be given additional strength if Angola were to ratify other international human rights treaties, particularly the UN's *Convention against Torture or other Cruel, Inhuman or Degrading Treatment or Punishment*.

## **2. Law enforcement officials**

Human rights violations are less likely to occur if law enforcement agencies - the army, the police and the prison services - are made accountable for their actions to the people whose rights it is their duty to protect. Over the years, the UN has adopted a number of codes and declarations to prevent the kind of human rights violations mentioned in this report - arbitrary arrest, detention without trial, ill-treatment and torture, extrajudicial executions, excessive use of force and firearms. These include:

- The *Standard Minimum Rules for the Treatment of Prisoners and Procedures for the Effective Implementation of the Rules*;
- The *Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*;
- The *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*;

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<sup>7</sup> In a document entitled *Angola: human rights guarantees in the revised Constitution* (AI Index: AFR 12/04/91) published in June 1991, Amnesty International analysed the human rights provisions of the revised Constitution and pointed out where these fell short of international human rights standards.

- The *Code of Conduct for Law Enforcement Officials* and the *Guidelines for the effective implementation of the Code of Conduct for Law Enforcement Officials*,
- The *Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*,
- The *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*; and
- The *Rules for the Protection of Juveniles Deprived of their Liberty*.

All law enforcement officials should have a basic knowledge of the rights it is their duty to protect. Middle and senior ranking officials should be given a thorough understanding of the human rights standards as they are responsible for ensuring that the standards are scrupulously met. The *Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials* requires that law enforcement officials should be "adequately remunerated and provided with appropriate working conditions", that "effective mechanisms shall be established to ensure the internal discipline and external control as well as the supervision of law enforcement officials" and that "particular provisions shall be made ... for the receipt and processing of complaints against law enforcement officials made by members of the public, and the existence of these provisions shall be made known to the public".

### **3. The Judicial System**

The independence of the judiciary is a vital element in the protection of human rights in general. In particular, judicial independence is necessary to protect the principle of equality before the law, the rights of all those accused of crimes to be presumed innocent until proved guilty and the right to a fair and public hearing by a competent, independent and impartial tribunal established by law.

Supreme Court Judges are currently appointed and dismissed by the President of the Republic. Neither the revised Constitution nor the Law on the Unified System of Justice, Law No 18/88 of 31 December 1988, specify that judges enjoy security of tenure, to prevent judges being dismissed at the will of the executive or legislative branches of government. Nor does the law set out any principles for the selection of judges.

In order to guarantee the independence of the judiciary, changes in the law should be based on the UN *Basic Principles on the Independence of the Judiciary* and the *Procedures for the effective implementation of the Basic Principles on the Independence of the Judiciary*. This provides, among other things, that those selected for judicial office are persons of integrity, ability and with appropriate legal qualifications or training. It also provides safeguards against improper or unfair dismissal of judges.

Essential components of the judicial system are independent and effective prosecutors and defence lawyers. Angola should ensure that it implements the companion safeguards to the *Basic Principles on the Independence of the Judiciary*, the *Guidelines on the Role of Prosecutors* and the *Basic Principles on the Role of Lawyers*, adopted by the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders on 7 September 1990 and welcomed by the UN General Assembly on 14 December 1990.

The rights of those accused of crimes should be guaranteed in law and practice to conform with the *International Covenant on Civil and Political Rights* by providing effective protection of all the rights recognized in that treaty. The revised Constitution introduced the right of a detainee to test the legality of the detention in court, under *habeas corpus* procedures for example, but does not specifically forbid arbitrary arrest and detention or torture. Nor does it specifically guarantee the right of a suspect to be presumed innocent until proved guilty according to law or the right to a fair trial without undue delay.

#### **4. Accounting for gross human rights violations and abuses which occurred in the past**

The full restoration of human rights in Angola will not be complete unless a sincere effort is made to account for the fate and whereabouts of people who "disappeared" in the custody of the government or of UNITA. Amnesty International welcomed the government's suggestion on 10 April 1992 that a commission might be set up in connection with those who "disappeared" after the unsuccessful coup attempt in May 1977. Amnesty International has recommended that an independent and impartial commission of inquiry should be set up to gather information about all those who "disappeared" or were reported to have been deliberately killed in custody both after the May 1977 coup attempt and at other times. The commission should be composed of people with recognized independence and impartiality; it should have full powers to carry out its inquiry and, after the conclusion of its work, it should issue a public report. The main purposes of such an inquiry would be to ensure that the relatives of those who died are officially informed of the death, to assist efforts to trace those who have "disappeared"; and to recommend measures to ensure that prisoners will not "disappear" or be subjected to torture or extrajudicial execution in future. Those accused of carrying out torture, "disappearances" or extrajudicial executions should be brought to justice, their rights to a fair trial respected in accordance with Article 14 of the *International Covenant on Civil and Political Rights*.

In addition, to prevent "disappearances" and extra-legal executions from occurring in future the UN *Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions* which were adopted by the UN Economic and Social Council on 24 May 1989 should be implemented in law and in practice.

## **5. Abolition of the death penalty**

Although Angola's Constitution guarantees the right to life, it does not specifically forbid the death penalty. In Amnesty International's view the death penalty is incompatible with the right to life and the right not to be subjected to cruel, inhuman or degrading punishment. It is inherently unjust and arbitrary, however heinous the crime for which it is provided and however scrupulous the procedures by which it is enforced. The risk of error is inescapable, yet the penalty is irrevocable. The overwhelming conclusion from studies on the topic is that there is no reliable evidence that the death penalty achieves a purpose of avoiding other serious harm, for example by deterring the crimes for which it is available. Indeed, the use of the death penalty may distract societies from seeking more effective means to combat serious crime.

Amnesty International urges that the death penalty be abolished. At the very least, until such time as capital punishment is abolished, the *Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty*, adopted by the UN Economic and Social Council on 24 May 1989, should be implemented in law and in practice.

## **6. Human rights are the responsibility of everyone**

Human rights violations would be much less likely to occur if the safeguards mentioned above for law enforcement officials and the judiciary were not only incorporated into Angolan law but also implemented. However, laws and procedures are not enough. It is necessary for the public in general, but especially for national human rights organizations, political parties and the press, to be vigilant, to report on any human rights violations which come to their attention and to put pressure on the authorities to take action against all abuses.

The communications media - newspapers and magazines, radio and television - have a special duty not only to monitor and report on human rights abuses but also to inform people about their rights and how they can complain and seek redress when their rights are violated.