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Angola

Submission to the UN Universal Periodic Review

Seventh session of the UPR Working Group of the
Human Rights Council

February 2010



Executive summary

In this submission, Amnesty International provides information under sections B, C and D as stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*:¹

- Under section B, Amnesty International raises concern over shortcomings of national legislation with regards to forced evictions and policing standards.
- Section C highlights Amnesty International's concerns about human rights violations, specifically forced evictions, intimidation and harassment of human rights defenders, attacks on freedom of the press, suppression of freedom of expression and association, particularly in the province of Cabinda, as well as human rights violations by the police including arbitrary detention, torture and other ill-treatment, death in detention and extrajudicial executions.
- In section D, Amnesty International makes a number of recommendations for action by the government in each of the areas of concern.

¹ Contained in Human Rights Council Decision 6/102, Follow-up to Human Rights Council resolution 5/1, section I adopted 27 September 2007.

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B. Normative and institutional framework of the State

Angola has ratified a number of international human rights treaties and its Constitution of 1992, which is currently under revision, guarantees 'fundamental human rights and freedoms'. All laws in the country are subordinate to the Constitution and must uphold the principles contained in it. Furthermore, the Constitution provides that the provisions of treaties ratified by the state should be applied by the courts even when not invoked by the parties to the dispute. However, in practice the courts only refer to national laws and the authorities have failed to enact the provisions of international treaties ratified by the State into national law.

The failure to enact provisions of international human rights law into national law has led to a situation where the national normative and institutional framework contributes to the violation of human rights in the country. An example of this is in the area of forced evictions. Angola is party to the International Covenant on Economic, Social and Cultural Rights. However, it has not enacted legislation which protects the right to adequate housing and in particular the right not to be forcibly evicted. The Constitution also does not enshrine this right. Despite Angola's undertaking to take appropriate legislative steps to advance security of tenure,² national laws enacted in 2004 do not provide such guarantees; in fact these laws diminish the level of protection from forced evictions which existed prior to their enactment.³ Under the Civil Code, rights over land could be acquired through long-term occupation;⁴ however, the new Land Law makes it illegal to acquire land in this manner. Those who occupy land without title stand to be evicted if they fail, within three years of the publication of the relevant regulations, to apply for right to occupy the land.⁵ Furthermore, these laws do not specifically provide for protection from eviction while the application is pending.

In addition, some provisions within the normative framework of the State, particularly those relating to the police, are contrary to international human rights law and standards. For example, the Disciplinary Regulations of the Angolan National Police require complete obedience to orders. According to the Regulations, if the subordinate considers that obedience could result in some form of injury, the officer can mention this to their superior in private. If the superior officer insists, the subordinate must carry out the action, but may request a copy of the order in writing. Amnesty International is concerned that this provision is contrary to the provisions of international human rights law and standards which state that police officers should not carry out unlawful orders.⁶ The Regulations further state that the use of weapons by police is permitted when absolutely necessary in order to repel aggression or attempted aggression against oneself or one's place of work or [...] whenever requested by superiors in order to maintain public order or carry out

² In line with the Istanbul Declaration on Human Settlements and the Habitat Agenda of 1996.

³ The Land Law and Law of Territorial and Urban Management (*Lei da Terra* and *Lei de Ordenamento do Território e do Urbanismo* respectively)

⁴ Article 1528 of the Angolan Civil Code

⁵ Article 84 *Lei da Terra de Angola*

⁶ Article 2 of the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; Article 5 and 8 of the UN Code of Conduct for Law Enforcement Officials, principle 26 of the Basic Principles on the Use of Force and Firearm for Law Enforcement Officials, and Article 3 of the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

arrests. Ill-treatment, insults or violence against detainees are permissible in the case of resistance, flight or attempted flight. These provisions are in serious breach of international human rights standards, which require that the use of force be exceptional and proportional, with firearms being used only to protect life.⁷ They contribute to cases of excessive use of force, torture and ill-treatment, deaths in custody and extrajudicial executions. The situation is exacerbated by the fact that although the Constitution contains a prohibition against torture and ill-treatment, this prohibition has not been enacted into national law. Angola has not yet ratified the Convention against Torture, though it has undertaken to do so.⁸

C. Promotion and protection of human rights on the ground

Introduction

Despite Angola's voluntary pledge to protect and promote human rights at the national level, made in the context of its election to the UN Human Rights Council in 2007, human rights continue to be violated in the country.⁹ The authorities have not only failed to prevent third parties from carrying out forced evictions, but have also ordered such evictions to be carried out. Police have participated in these forced evictions sometimes using excessive force and firearms against those resisting evictions, human rights defenders and, on some occasions, journalists covering the evictions. Police have also committed other human rights violations, including arbitrary arrests and detentions; torture and ill-treatment; deaths in custody and extrajudicial executions. The situation is exacerbated by the lack of effective accountability mechanisms within the police and the near impunity enjoyed by the police. Human rights defenders have been subjected to harassment with threats being made to the continued existence of their organizations. One human rights organization has been banned and the United Nations Office for Human Rights was closed. Cases of suppression of freedom of expression and association have occurred, particularly in the province of Cabinda and at least one journalist remained in prison for almost a year after an unfair trial.

Forced evictions

Since 2001, over 13,000 families have been forcibly evicted from various neighbourhoods in the capital of Luanda.¹⁰ These evictions were typically carried out without prior notification or consultation, without due process and often with recourse to excessive use of force. In all the cases police assisted or protected soldiers, municipal officials and private security guards carrying out the evictions.

Since the end of the war in 2002, reconstruction efforts have created new roads, hospitals, and other sorely needed infrastructure, but these projects have had a heavy human cost. Forced evictions to make way for such developments have targeted the poorest neighbourhoods and affected families that are among the least able to assert their rights and seek recourse from the justice system. Only a few families have been compensated for their losses. Some were re-housed about 30-40 kilometres from the city; however, the vast majority have been left to fend for themselves. Many have been the victims of repeated forced evictions and hundreds of families remain without shelter, living in the ruins of their former homes.

Between early 2006 and June 2009 there were fewer forced evictions and on a smaller scale than in the preceding five years. However, thousands of families remained at risk and there were reports that small-scale

⁷ Article 3 of the UN Code of Conduct for Law Enforcement Officials

⁸ Angola pledged to ratify the Convention against Torture in the context of its election to the UN Human Rights Council in 2007. See Angola's Annex to the letter dated 3 May 2007 from the Permanent Representative of Angola to the United Nations addressed to the President of the General Assembly (<http://daccessdds.un.org/doc/UNDOC/GEN/N07/331/59/PDF/N0733159.pdf?OpenElement>).

⁹ Angola's voluntary pledges to promote human rights contained in its Annex to the letter dated 3 May 2007, *supra*

¹⁰ See also Amnesty International reports: *Angola: Mass Forced Evictions in Luanda – a call for a human-rights based housing policy* (AFR 12/007/2003), *Angola: Lives in ruins -- forced evictions continue* (AFR 12/001/2007); *Angola: Journalists Arrested during Forced Evictions* (AFR 12/011/2007) and *Angola: Amnesty International's Briefing to the United Nations Committee on Economic, Social and Cultural Rights, 41ST Session, November 2008*

forced evictions had spread to other provinces in the country. In July 2009, over 3,000 families (an estimated 15,000 people) were forcibly evicted from the neighbourhoods of Bagdad and Iraque in Luanda. These evictions were on a larger scale than had occurred previously. Government officials in this case, as in the other cases, justified their actions by stating that those forcibly evicted had illegally occupied the land and built their homes on land earmarked by the government for development. However, some claimed that they had legal title to the land.

Harassment and intimidation of human rights defenders

Since 2006, human rights defenders in Angola have worked under increasing tension and the space to carry out their work appears to be closing.¹¹ On 20 July 2006, the authorities banned Mpalabanda (*Associação Cívica de Cabinda*), a human rights organization operating in the province of Cabinda, alleging that it incited hatred and violence. Mpalabanda was the only human rights organization operating in Cabinda at the time and was involved in documenting human rights violations committed by both the government and members of the opposition group, the *Front for the Liberation of the Cabindan Enclave* (FLEC). The banning of Mpalabanda was followed by the arrest and detention of journalist and human rights defender Raul Danda on 29 September 2006. He was arrested at Cabinda City airport on suspicion of being in possession of documents calling for secession of Cabinda province and containing words considered injurious to the President. Raul Danda was held without charge for well over the 48 hours allowed by national law before being charged with instigating, inciting and condoning crimes against the security of the state. He was then transferred to the Civil Prison (*Cadeia Civil*) in Cabinda, from where he was released on 27 October 2006 pending a trial. The trial, however, never took place as he was given an amnesty in 2007 as part of the peace process in Cabinda province. Amnesty international believes nonetheless that Raul Danda was arrested solely for the peaceful exercise of his right to freedom of expression and his membership of the banned human rights organization, Mpalabanda.

Despite Angola's pledge to promote and protect human rights, as part of its candidature for the Human Rights Council in 2007, the situation for human rights defenders has not improved. In April 2007, the Director General of the Technical Unit for the Coordination of Humanitarian Assistance (*Unidade Técnica para a Coordenação dos Assuntos Humanitários*, UTCAH) accused four prominent NGOs -- the Association for Justice Peace and Democracy (AJPD), Open Society Foundation, Mãos Livres and SOS-Habitat -- of using human rights to justify their activities while inciting people to violence, and threatened to ban them. He reiterated these threats in May 2007.

In May 2008, the authorities closed down the United Nations Office for Human Rights in Angola despite having pledged a year earlier to work more closely with this Office.¹² The authorities justified their actions by stating that the Office was not part of the Office of the High Commissioner for Human Rights (OHCHR), but of the UN Observer Mission in Angola (MONUA) and had been allowed to remain in the country at the end of the peace-keeping mission in 2002. Despite its lack of legal status as OHCHR in Angola, it had been recognised as such including by the authorities who referred to it as "the Office of the United Nations High Commissioner on Human Rights in Angola" when they pledged to work more closely with it.

In September 2008, legal proceedings began in the Constitutional Court to close down the Association for Justice Peace and Democracy (AJPD). The authorities alleged that AJPD's founding documents included provisions that were contrary to national law. The organization had existed since 2000 and had received public recognition from the authorities as a legitimate association. AJPD had been providing human rights training to the police and had organised human rights seminars in which government authorities had participated in their official capacity. In March 2009, the Constitutional Court decided it was not competent to hear the case and sent it to the Supreme

¹¹ For further information see the following Amnesty International documents: *Angola: Human rights organization banned* (AFR 12/006/2006); *Angola: Arbitrary arrest/ possible prisoner of conscience* (AFR 12/008/2006), 4 October 2006; *Angola: Further Information on UA 267/06* (AFR 12/008/2006) 4 October 2006, *Arbitrary Arrest/ Possible Prisoner of Conscience*, 31 October 2006; *Angola: Open letter to EU regarding situation of human rights defenders in Angola* (AFR 12/009/2007); *Angola: Intimidation* (AFR 12/007/2008), 5 September 2008 ; and *Angola: Stop the Continued Harassment, Intimidation and Closure of Human Rights Organizations* (AFR 12/006/2008)

¹² Pledge number 5 under the sub-heading, "To promote and protect human rights at the national level".

Court for adjudication. Although AJPD continues to operate, the threat against its existence and that of other human rights organizations in the country continues.

Violation of freedom of expression – defamation cases against journalists

Journalists in the country, especially those based in Luanda, have faced harassment and in some cases been imprisoned as a result of defamation cases brought against them by government officials. In October 2007, the Provincial Court of Luanda sentenced Felisberto da Graça Campos, Director of the weekly newspaper, *Semanário Angolense*, to eight months' imprisonment for defamation and injury to a former Minister of Justice (now the Justice Ombudsman). In July 2009, the Director of the newspaper, *A Capital*, was reportedly called in for questioning by the Criminal Police on suspicion of having committed the crimes of abusing the media and attacking the honour and dignity of the head of state. These accusations were based on a complaint by the Public Prosecutors Office against the Director regarding an article that appeared in the paper criticising the President of Angola. No decision had been made regarding this case at the time of writing.

Suppression of the rights to freedom of expression and association in Cabinda Province

The suppression of freedom of expression and association has been most acutely evident in the province of Cabinda.¹³ In February 2005, a new Bishop for Cabinda was appointed from outside the province. This provoked violent protests from many who disapproved of the appointment of a bishop from outside the province. In August 2006, the government and the Cabindan Forum for Dialogue (*Forum Cabindés para o Diálogo*, FCD) signed a Memorandum of Understanding for Peace and Reconciliation in Cabinda to end the armed conflict in the province. However, the armed forces of the Front for the Liberation of the Cabinda Enclave (*Frente de Libertação do Enclave de Cabinda – Forças Armadas*, FLEC-FAC), the non-governmental group Mpalabanda and some members of the Catholic Church rejected the agreement on the grounds that it had been signed by a former President of the FCD who had been expelled from the organization and therefore no longer represented its views. It is within this context that suppression of freedom of expression has occurred in Cabinda.

There have been reports of cases of arbitrary arrest and detention of those peacefully expressing disapproval at the peace process or the appointment of the Bishop. In a few cases, those suspected of membership of the Front for the Liberation of the Cabinda State (FLEC – *Frente de Libertação do Estado de Cabinda*)¹⁴ have been held without charge or trial for long periods in contravention of national and international human rights law. Charges of crimes against the state have been used against those peacefully expressing their disapproval of the peace process or suspected of membership of FLEC.

On 15 November 2007, former Voice of America (VOA) correspondent José Fernando Lelo was arrested by members of the Angolan Armed Forces (*Forças Armadas de Angola*, FAA) at his place of work in Cabinda City, on suspicion of planning a rebellion. He was flown to Luanda where he was held for three months without charge in the military wing of the São Paulo Prison. His arrest followed accusations that he had met with six soldiers in the neighbourhood of Buco Zau on 12 July 2007 and provided them with money and materials for a rebellion. The six soldiers were also arrested and charged with attempted armed rebellion and military crimes. On 19 September 2008, Fernando Lelo was sentenced to 12 years imprisonment for crimes against the state, despite the fact that the six soldiers had stated before the military judicial police on 28 November 2007 that they did not know him. Fernando Lelo remained in prison until 21 August 2009. Amnesty International considered the trial of Fernando Lelo to have been unfair for several reasons: Fernando Lelo, a civilian, was arbitrarily arrested and detained by military officials contrary to Angolan law. He was held without charge for more than three months, in violation of national law and international human rights treaties to which Angola is a party. He was then tried by a

¹³ For further information see the following Amnesty International reports: *Above the Law: police accountability in Angola* (AFR 12/005/2007); *Angola: Unfair Trial of Fernando Lelo* (AFR 12/008/2008); *Angola: Arbitrary arrest/torture* (AFR 12/007/2007), 20 July 2007 and *Angola: Further Information on UA 189/07* (AFR 12/007/2007, 20 July 2007) and *Arbitrary Arrest/Torture* (AFR 12/00/2007); 25 July 2007.

¹⁴ In 2007 FLEC changed its name from Front for the Liberation of the Cabinda Enclave (*Frente de Libertação do Enclave do Cabinda*) to Front for the Liberation of the Cabinda State (*Frente de Libertação do Estado de Cabinda*). The acronym remains the same. The armed wing of this group is referred to as FLEC-FAC.

military court that had no authority under the law to try him, and he was convicted on the basis of information allegedly obtained through torture of the six soldiers. During his time as a correspondent for VOA radio, Fernando Lelo wrote articles critical of the Memorandum of Understanding for Peace and Reconciliation in Cabinda and the peace process. The charges against Fernando Lelo appeared to have been politically motivated and he appeared to have been convicted solely for the non-violent expression of his opinions, including his criticism of the Angolan government.

Human rights violations by the police

In 2003, the Angolan National Police launched a 10-year Modernization and Development Plan, aimed at improving police professionalism. Despite some improvements in police conduct since then, there have been continued reports of arbitrary arrests and unlawful detention, torture and ill-treatment, deaths in police custody, extrajudicial executions, as well as excessive use of force and firearms by the police.¹⁵

The police have on numerous occasions arrested human rights defenders, journalists, as well as those carrying out peaceful demonstrations or religious marches. On almost all these occasions the police did not have an arrest warrant and those arrested were not carrying out unlawful activities. Many of those arbitrarily arrested were detained for long periods of time and then released without having been charged. For example, in October 2008 police arrested and detained members of the Angolan Teachers Trade Union in Caxito, Bengo province. They were striking against low salaries and poor working conditions. Five were arrested at the Mission School 307, accused of coercing other teachers to join the strike. Another five teachers were arrested that week in different schools in Bengo Province. In the latter cases, the police justified their lack of arrest warrants by stating that they were obeying orders. All 10 were released two days after their initial arrest, but about five days later three of them were arrested again. The three were charged with inciting disorder, but were acquitted at the end of October 2008 by the Bengo Provincial Court due to lack of evidence.

Although there have been fewer cases of torture and ill-treatment reported in the past four years, reports persist of the practice, especially while in police custody. At least one of these cases resulted in a death in custody. In February 2007, police officers arrested Francisco Levi da Costa and two other men after a shop owner accused them of attempting to steal three boxes of fish. The police took the men to the Eighth Police Station in Luanda, where they beat them for four consecutive days. Allegedly, Francisco Levi da Costa was beaten on the head and lost consciousness, but police accused him of faking in order to be released. He died four days later in the police cell. No one has been held accountable for his death.

Police have used excessive force on various occasions when dispersing demonstrations, during forced evictions and when carrying out arrests. On a few occasions their use of force and firearms has amounted to extrajudicial executions. For example, in July 2008 a group of about seven police officers went to the area of Largo da Frescura in a white, unmarked vehicle and opened fire on eight youths, killing all of them. The police officers claimed that they had gone to the area in response to reports that a group of youths suspected of armed robbery were in that area, that the youths fired shots at them and that they were compelled to shoot back to defend themselves, killing the youths in the process. None of the police officers were injured as a result of the crossfire. However, eye-witnesses to the event stated that the armed police officers instructed the youths to lie on their stomachs, shot them while they were lying on the ground and then drove off leaving the youths. Seven police officers were arrested in connection with this incident, but to date no trial has taken place.

In the majority of cases, the authorities have failed to bring police officers responsible for human rights violations to justice; to establish the truth of what happened; and to ensure victims receive full reparation. The police accountability mechanisms have to a great extent been unresponsive to the victims and have failed to prevent human rights violations from occurring or bring police officers to justice when they do occur.

¹⁵ For further information see the Amnesty International report: *Above the Law: police accountability in Angola* (AFR 12/005/2007).

D. Recommendations for action by the State under review

Amnesty International calls on the government:

Ratification of human rights treaties

- To incorporate the provisions of international human rights standards into domestic law;
- To reform all laws and regulations in the country, particularly those related to forced evictions and policing, including by bringing them into line with international human rights laws and standards;
- To ratify all outstanding human rights treaties, in particular to accelerate the ratification of the UN Convention against Torture and its Optional Protocol.

Forced evictions

- To stop all forced evictions and place a moratorium on mass evictions until a comprehensive human rights-based housing policy and a legal framework providing effective remedies are in place;
- To provide immediate assistance, including adequate housing, to those who have been forcibly evicted and who remain homeless, and to adequately compensate all victims of forced evictions;
- To ensure that all people who may be affected by evictions are accorded the legal protections to which they are entitled to under international standards, including adequate notice, consultation, due process and assurance of adequate alternative housing;
- To extend, as a matter of urgency, an invitation to the UN Special Rapporteur on the right to housing as a component of the right to an adequate standard of living to visit the country, to enable her to assist with the development of legislation and policies that would comply with international human rights law and standards.

Human rights defenders

- To respect and protect the work of human rights defenders and other members of civil society by ensuring that they are free to carry out their human rights activities without interference, in accordance with international human rights standards and Angola's voluntary pledge, made in connection with its election to the UN Human Rights Council;
- To ensure any action taken to ban human rights organizations is not politically motivated, but based on legal provisions consistent with international human rights standards.

Freedom of expression and association

- To ensure that nobody is arrested for peacefully exercising their rights to freedom of expression, association and assembly;
- To respect, protect and promote freedom of expression of journalists, in particular with regard to the well-established international human rights principle that public officials should tolerate more, rather than less, criticism than private individuals;
- To ensure that laws providing special punishment for alleged defamation of the head of state or other public officials are amended or repealed.

Human rights violations by the police

- To ensure prompt, impartial and thorough investigations are carried out into all suspected cases of extrajudicial executions, torture and ill-treatment, excessive use of force, deaths in custody and other human rights violations by the police and that perpetrators of such violations are brought to justice;

- To ensure that police accountability mechanisms are effective, transparent and responsive to the needs of the public, especially victims of human rights violations by the police and/or their families;
- To ensure reparation, including fair and adequate compensation for victims of human rights violations by the police and/or their families.

Appendix: Amnesty International documents for further reference¹⁶

Angola: Amnesty International's Briefing to the United Nations Committee on Economic, Social and Cultural Rights, 41ST Session, November 2008

Angola: Unfair Trial of Fernando Lelo (AFR 12/008/2008), 22 September 2008

Angola: Stop the Continued Harassment, Intimidation and Closure of Human Rights Organizations (AFR 12/006/2008), 05 September 2008

Angola: Intimidation (AFR 12/007/2008), 05 September 2008

Angola: Journalists Arrested during Forced Evictions (AFR 12/011/2007), 30 November 2007

Angola: Open letter to EU regarding situation of human rights defenders in Angola (AFR 12/009/2007), 31 July 2007

Angola: Arbitrary arrest/torture (AFR 12/007/2007), 20 July 2007

Angola: Further Information on UA 189/07 (AFR 12/007/2007, 20 July 2007) - *Arbitrary Arrest/Torture* (AFR 12/00/2007); 25 July 2007

Above the Law: police accountability in Angola (AFR 12/005/2007)

Angola: Lives in ruins -- forced evictions continue (AFR 12/001/2007)

Angola: Further Information on UA 267/06 (AFR 12/008/2006, 4 October 2006) - *Arbitrary Arrest/ Possible Prisoner of Conscience*, 31 October 2006

Angola: Arbitrary arrest/ possible prisoner of conscience (AFR 12/008/2006), 4 October 2006

Angola: Human rights organization banned (AFR 12/006/2006), 4 August 2006

Angola: Further Information on UA 303/05 (AFR 12/005/2005, 2 December 2005) and follow-up (AFR 12/001/2006, 25 January 2006) - *Forced Evictions/Use of Excessive Force* (AFR 12/003/2006), 16 March 2006

Angola: Further Information on UA 303/05 (AFR 12/005/2005, 2 December 2005) - *Forced evictions/use of excessive force* (AFR 12/001/2006), 25 January 2006

Angola: Forced evictions/use of excessive force (AFR 12/005/2005), 2 December 2005

Angola: Mass Forced Evictions in Luanda – a call for a human-rights based housing policy (AFR 12/007/2003)

¹⁶ All of these documents are available on Amnesty International's website: <http://www.amnesty.org/en/region/angola>