

**ANGOLA  
SUBMISSION TO  
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COMMISSION ON  
HUMAN AND  
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# CONTENTS

<a href="#">Amnesty International submission to the African Commission on Human and Peoples' Rights .....</a>	<a href="#">4</a>
<a href="#">Part I: Introduction.....</a>	<a href="#">4</a>
<a href="#">Part II: Substantive Provisions.....</a>	<a href="#">5</a>
<a href="#">Preamble: Promotion of international cooperation .....</a>	<a href="#">5</a>
<a href="#">Article 1: Legislative and other measures to give effect to human rights.....</a>	<a href="#">6</a>
<a href="#">Article 5: Torture and cruel, inhuman and degrading punishment or treatment.....</a>	<a href="#">9</a>
<a href="#">Article 6: The right to security of the individual and prohibition of arbitrary arrest and detention.....</a>	<a href="#">10</a>
<a href="#">Article 9: Right to information and freedom of expression.....</a>	<a href="#">11</a>
<a href="#">Article 11: Right to freedom of assembly.....</a>	<a href="#">12</a>
<a href="#">Article 12 (4) and (5): Prohibition of mass expulsion of non-nationals.....</a>	<a href="#">12</a>
<a href="#">Articles 14, 16 and 18: the right to property, right to enjoy the highest attainable state of physical and mental health; and the protection of the family.....</a>	<a href="#">13</a>
<a href="#">Article 62: Submission of periodic reports.....</a>	<a href="#">15</a>
<a href="#">Part III: Recommendations for action by the State under review.....</a>	<a href="#">15</a>
<a href="#">Appendix: Amnesty International documents for further reference.....</a>	<a href="#">18</a>

# ANGOLA

## AMNESTY INTERNATIONAL SUBMISSION TO THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

51<sup>st</sup> Ordinary Session of the African Commission on Human and Peoples' Rights, April 2012

### PART I: INTRODUCTION

Angola acceded to the African Charter on Human and Peoples' Rights (henceforth African Charter) in 1990 and submitted its first periodic report to the African Commission on Human and Peoples' Rights (henceforth African Commission) in October 1998. Since then the country has emerged from a 27 year-long civil war and has established a number of institutions in order to achieve the promotion and protection of all human rights enshrined in the constitution and in human rights treaties ratified by the government. These include the Office of the Justice Ombudsman; the Parliamentary Commission on Human Rights, Petitions, Complaints and Citizens' Suggestions; the Office of Human Rights of the Ministry of Justice and a Constitutional Court which was established on 25 June 2008. In addition in March 2010 the State Secretariat for Human Rights was created.

The country also recently revised its Constitution. The Constitution of the Republic of Angola of 2010 – the third since the country's independence – states that, "The Republic of Angola shall promote and defend the basic human rights and freedoms of individuals and members of organised social groups and shall ensure respect for them and guarantee their implementation through the legislative, executive and judicial powers, their organs and institutions."<sup>1</sup> It enshrines a number of human rights, which it states must be interpreted in accordance with the Universal Declaration of Human Rights, the African Charter and international human rights treaties ratified by Angola.<sup>2</sup> In addition the Constitution states 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.<sup>3</sup>

Despite positive steps towards the promotion of human rights and Angola's apparent commitment to these rights, Amnesty International is concerned that Angola has failed to comply with its human rights obligations in terms of the African Charter by carrying out and allowing human rights violations within its territory. The organization is particularly concerned that the country has not complied with its obligations under articles 1, 5, 6, 9, 10, 12, 14, 16, 18 and 62.

In this submission, Amnesty International provides information regarding Angola's observance of its human rights obligations in terms of the African Charter on

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<sup>1</sup> Article 2(2) of the Constitution

<sup>2</sup> Article 26(2)

<sup>3</sup> Article 26(3)

Human and Peoples' Rights and highlights the organization's concerns about the failure of Angola to comply with its human rights requirements. The organization also makes a number of recommendations for action by the Angolan government in each of the areas of concern.

## PART II: SUBSTANTIVE PROVISIONS

### PREAMBLE: PROMOTION OF INTERNATIONAL COOPERATION

In the preamble to the African Charter member states, amongst other things, reaffirm their pledge to "coordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa and to promote international cooperation having due regard to the Charter of the United Nations and the Universal Declaration of Human Right". Amnesty International is therefore concerned about Angola's apparent unwillingness to cooperate with international human rights bodies and organizations, including the African Commission, in the promotion of human rights in the country. Contrary to the provisions of Article 62 of the Charter, Angola has failed to submit its periodic reports to the African Commission since 1998 and has not complied with decisions of the African Commission taken against it.<sup>4</sup>

The country has also been unwilling to cooperate with UN bodies. 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.<sup>5</sup> 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 addition, Angola has also failed to extend an invitation to UN Special Rapporteur on the right to housing as a component of the right to an adequate standard of living despite a number of requests. In fact, during the Universal Periodic Review, the country rejected a recommendation to extend a standing invitation to all UN human rights special procedures.

Furthermore, a number of international human rights organizations attempting to enter the country, including Amnesty International, have been unable to obtain visas. Amnesty International delegates attempted to travel to Angola every year

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<sup>4</sup> Decisions were taken in Communication No: 159/96 - *Union Inter Africaine des Droits de l'Homme, Federation Internationale des Ligues des Droits de l'Homme, Rencontre Africaine des Droits de l'Homme, Organisation Nationale des Droits de l'Homme au Sénégal* and *Association Malienne des Droits de l'Homme au Angola*; and Communication 292/2004 Institute for Human Rights and Development in Africa/Republic of Angola

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

since 2008, but were not provided visas to carry out human rights research in the country. It was only in January 2012, that the organization was informed visas would be provided to the delegates.

The organization is not the only one that has had problems obtaining visas. In August 2010, immigration authorities at Luanda's international airport refused entry into Angola to delegates of various civil society organizations who were to attend the Civil Society Forum of the Southern African Development Community (SADC), planned around the SADC Heads of State Summit. Arrangements had been made for them to receive visas upon arrival at the airport. Two Mozambican journalists who were to cover the Summit were also refused entry, despite having valid visas.

#### ARTICLE 1: LEGISLATIVE AND OTHER MEASURES TO GIVE EFFECT TO HUMAN RIGHTS

Angola has ratified a number of human rights treaties and enshrined most of the rights contained in these treaties into the Constitution. However, Amnesty International is concerned to note that not all the rights enshrined in the African Charter have been included in the Angolan Constitution. Furthermore, in many cases legislation to give effect to human rights contained in ratified treaties and the Constitution is lacking. Angola has also passed, and is in the process of passing, some national laws which violate the rights contained in the African Charter. Torture, cruel, inhuman and degrading treatment and punishment

Article 36 of the Constitution contains a prohibition against torture and ill-treatment. However, this prohibition has not yet been enacted into national law.<sup>6</sup> Nor has Angola ratified the Convention against Torture as recommended by the Robben Island Guidelines,<sup>7</sup> though it has undertaken to do so publicly at least twice.<sup>8</sup> In addition, some provisions of the national law relating to the police are contrary to international human rights law and may encourage the use of torture, cruel, inhuman and degrading treatment. 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. This provision is contrary to the provisions of

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<sup>6</sup> The Penal Code is currently under revision and the most recent version of the draft Penal Code which Amnesty International has had access to criminalises torture, but it is not clear when this law will be passed.

<sup>7</sup> Committee for the Prevention of Torture in Africa, Robben Island Guidelines, Part I, A(b)

<sup>8</sup> 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>). The pledge was reaffirmed in May 2010 for its re-election to the HRC in June ([http://www.un.org/ga/search/view\\_doc.asp?symbol=A/64/775](http://www.un.org/ga/search/view_doc.asp?symbol=A/64/775)).

international human rights law which states that police officers should not carry out unlawful orders.<sup>9</sup> Furthermore, ill-treatment, insults or violence against detainees are permissible under the Regulations in the case of resistance, flight or attempted flight.

#### Right to freedom of expression

Article 40 of the Constitution enshrines the right to freedom of expression and to receive information. However, Amnesty International is concerned that a number of existing and proposed legislation place restrictions on this right. Article 40 (4) states that anyone committing an infraction in the course of exercising their freedom of expression shall be held liable, including criminally. This article effectively places criminal sanctions on defamation cases and entrenches the imposition of prison sentences for defamation contained in Angola's Criminal Code, which is currently being revised. The draft Criminal Code however, also has provisions criminalising defamation.

In March 2011 parliament passed a Cybercrime law. This law also included criminal sentences for defamation and contained other provisions that posed a serious threat to freedom of expression. Amnesty International was particularly concerned that the restrictions on the right to freedom of expression in the cybercrime law did not meet the requirements of legality, necessity and proportionality. In addition the provisions on terrorism and espionage were formulated in such a sweeping manner that they would have encompassed legitimate forms of expression, particularly in the absence of any defence of legitimate public interest. Although this law was withdrawn in May 2011 there are reports that an amended version may still be passed into law after further discussion. Moreover, some of the provisions of this proposed legislation appear to have found their way to the draft Criminal Code.

Article XII (1) of the African Commission Declaration of Principles on Freedom of Expression in Africa states that sanctions for defamation should never be so severe as to inhibit freedom of expression and the Resolution on repealing criminal defamation laws in Africa calls on states "to repeal criminal defamation laws or insult laws which impede freedom of speech".<sup>10</sup> The section of the Angolan constitution and the national laws relating to defamation are therefore not consistent with Angola's obligations under the African Charter and do not give effect to these rights.

#### Prohibition of mass expulsions of non-nationals

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<sup>9</sup> 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.

<sup>10</sup> The African Commission On Human And Peoples' Rights, Meeting At Its 48th Ordinary Session, Held In Banjul, The Gambia, From 10 – 24 November 2010 Achpr/Res169(Xlviii)2010

The Constitution requires the expulsion of non-nationals with authorisation to reside in the country to be determined only by a judicial ruling.<sup>11</sup> It does not however prohibit mass expulsions of non-nationals in accordance with the African Charter.

#### Right to highest attainable standard of health

The Constitution does not contain an explicit recognition of the right to “the highest attainable standard of physical and mental health” as recognised in the African Charter and the International Covenant on Economic Social and Cultural Rights (ICESCR), to which Angola is a party.<sup>12</sup> The Constitution merely recognises the right to live in a healthy environment<sup>13</sup> and to health care.<sup>14</sup> This is not the same as the right to the highest attainable standard of health and falls below the right enshrined in the African Charter.

#### Right to adequate housing

Although the African Charter does not expressly recognise the right to adequate housing and right not to be forcibly evicted, the African Commission has stated that, “the combined effect of Articles 14, 16 and 18(1) reads into the Charter a right to shelter or housing”.<sup>15</sup> The Angolan authorities therefore have an obligation to give effect to this right through legislative and other measures.

The 2010 Constitution enshrines the right to housing for every citizen.<sup>16</sup> However Angola has not enacted legislation which guarantees the right to adequate housing and in particular the right not to be forcibly evicted. Despite Angola’s undertaking to take appropriate legislative steps to advance security of tenure,<sup>17</sup> national laws enacted in 2004<sup>18</sup> and 2007<sup>19</sup> do not provide such guarantees; in fact the Land Laws diminish the level of protection from forced evictions which existed prior to their enactment. Under the Civil Code, rights over land could be acquired through long-term occupation;<sup>20</sup> however, the new Land Law makes it illegal to acquire land in this manner.

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<sup>11</sup> Article 70 (4)

<sup>12</sup> Acceded to on 10/01/92

<sup>13</sup> Article 39

<sup>14</sup> Article 21, 35(6) and 77

<sup>15</sup> The Social and Economic Rights Action Centre and the Centre for Economic and Social Rights v. Nigeria, African Commission on Human and Peoples' Rights, Comm. No. 155/96 (2001). This was reiterated in Communications 279/03 – Sudan Human Rights Organisation & The Sudan 296/05 – Centre on Housing Rights and Evictions/The Sudan.

<sup>16</sup> Article 85

<sup>17</sup> In line with the Istanbul Declaration on Human Settlements and the Habitat Agenda of 1996.

<sup>18</sup> The Land Law and Law of Territorial and Urban Management (*Lei da Terra* and *Lei de Ordenamento do Território e do Urbanismo* respectively)

<sup>19</sup> The Housing Law (*Lei de Base de Fomento Habitacional Lei 3/07*)

## ARTICLE 5: TORTURE AND CRUEL, INHUMAN AND DEGRADING PUNISHMENT OR TREATMENT

In 2007 Amnesty International published a report, *Above the Law: Police Accountability in Angola* (Index: AFR 12/005/2007), which documented cases of human rights violations by the police including torture, cruel, inhuman and degrading treatment. The report raised concern regarding the Angolan authorities' failure to bring perpetrators of such violations to justice and called on them to bring an end to police impunity. However, to date no one has been brought to justice in respect of some of the cases mentioned in the report, including the case of Francisco Levi da Costa below. Furthermore, since the publication of the report there have been further reported cases of torture, cruel, inhuman and degrading treatment by police and military officials, including during popular demonstrations that occurred in Luanda in 2011.

### **Francisco Levi da Costa**

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 the men for four consecutive days. Allegedly, Francisco Levi da Costa was beaten on his 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 was arrested in connection with his death.

Torture, including rape, has also been reported in connection with mass expulsions of non-nationals from Angola. In November 2011 the Special Representative of the UN Secretary-General on Sexual Violence in Conflict called on the governments of Angola and the Democratic Republic of Congo (DRC) to investigate reports of sexual violence during mass expulsions carried out by the two countries in 2009 and to bring the perpetrators to justice. Reports of mass expulsion from Angola accompanied by torture, cruel, inhuman and degrading treatment continued in 2010 and 2011 with at least 6 000 people reporting to local NGOs and UN bodies that they had suffered sexual violence during expulsions in 2011. Despite the call from the UN Secretary-General on Sexual Violence and concern raised by a number of international human rights organizations and bodies, no one has been brought to justice for these violations. The Robben Island Guidelines recommends states parties to the African Charter to combat impunity for torture including by ensuring that "those responsible for torture or ill-treatment are subject to legal process."<sup>21</sup> Angola has therefore failed to comply with its obligations in terms of the African Charter to promote, protect and fulfil the right not to be subjected to torture, cruel,

<sup>20</sup> Article 1528 of the Angolan Civil Code

<sup>21</sup> Part I E

inhuman and degrading treatment.

#### ARTICLE 6: THE RIGHT TO SECURITY OF THE INDIVIDUAL AND PROHIBITION OF ARBITRARY ARREST AND DETENTION

Between 1 April 2009 and November 2010, over 280 members of the Commission of the Legal Sociological Manifesto of the Protectorate of Lunda Tchokwe in Lunda Norte were arbitrary arrested by police. The majority of those arrested were released without charge after various lengths of detention. However, 33 members were charged with crimes against the state under a law<sup>22</sup> which Amnesty International criticised as vague and subject to misuse by authorities. This law was revoked in December 2010, however the 33 members remained in arbitrary detention without trial until the Supreme Court ordered their release in March 2011. They were not awarded any compensation for their unlawful detention. Two other Commission members, Mário Muamuene and Domingos Capenda, detained in October 2010, were sentenced to one year's imprisonment for rebellion in March 2011. Although the sentence expired in October 2011, they remained in prison until 17 January 2012 when they were released after a number of complaints regarding their continued detention by the Commission.

The Commission was started in 2007 and advocates for a special status of the Angolan provinces of Lunda Norte, Lunda Sul, Moxico and Kuando Kubango which they see as not part of Angola, but a separate country known as the Lunda-Tchokwe Kingdom. While Amnesty International takes no position regarding their claims, the organization is concerned about the arbitrary arrests and detentions members of this commission have been subjected to and which reportedly continue to occur. This is just one example of the numerous cases of arbitrary arrest and detention carried out by law enforcement officials in Angola. Police have on a number of occasions carried out arbitrary arrests of individuals and human rights defenders including during forced evictions and demonstrations. There have also been a number of politically-motivated arrests in Cabinda. In most of the cases of arbitrary arrest individuals have been held for varying lengths of time before being released without charge. In Cabinda individuals have been arbitrarily arrested due to their peaceful expression of their opinions regarding the situation in Cabinda, have been charged with crimes against the state and either conditionally released or sentenced to imprisonment after what Amnesty International considered unfair trials.<sup>23</sup>

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<sup>22</sup> Article 26 of the Law on Crimes against the Security of the State, Law 7/78 of 26 May. This Article read, "all and every act, not foreseen in the law, that puts at risk or could put at risk the security of the state will be punishable ..."

<sup>23</sup> For further information see: *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; *Unfair Trial of Fernando Lelo* (AFR 12/008/2008), 22 September 2008; *Angolan activists jailed over attack on Togo football team*, 3 August 2010

Although the African Commission has stated that states should ensure that those unlawfully arrested and detained are enabled to claim compensation,<sup>24</sup> claiming compensation is not practically possible in Angola as the majority of the people cannot afford the cost of litigation and the courts do not function effectively. None of those arbitrarily arrested and detained by authorities have therefore been compensated for the unlawful arrests.

#### ARTICLE 9: RIGHT TO INFORMATION AND FREEDOM OF EXPRESSION

Despite the inclusion of freedom of expression and the right to information in the Angolan Constitution,<sup>25</sup> the authorities continue to place restrictions on this right. Journalists face harassment and have been briefly detained and/or beaten, and had their property confiscated or destroyed while covering news stories. There have also been a number of cases of journalists being sentenced to imprisonment as a result of defamation cases brought against them by government officials.<sup>26</sup>

The suppression of freedom of expression has also been acutely evident in the province of Cabinda.<sup>27</sup> 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 FLEC have been held without charge for long periods, or subjected to unfair trials in contravention of national and international human rights law.

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<sup>24</sup> Article M(h) of the Principles and guidelines for the rights of fair trial and legal assistance in Africa

<sup>25</sup> Article 40

<sup>26</sup> For further information see: *Angola: Journalists Arrested during Forced Evictions* (AFR 12/011/2007), 30 November 2007

<sup>27</sup> 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.

#### ARTICLE 11: RIGHT TO FREEDOM OF ASSEMBLY

Article 47 of the Angolan Constitution guarantees the right to freedom of assembly and peaceful demonstrations without the need for any authorisation. However the authorities have used excessive force, including the apparent improper use of dogs, and firearms against those peacefully demonstrating. The excessive use of force has been particularly evident during the anti-government demonstrations in 2011 organised by a non-partisan group of people motivated by the Arab-spring and calling for social justice and the resignation of the President. Individuals suspected of being members of the State Information and Security Services have reportedly infiltrated the demonstrations, vandalized property and beat individuals, including journalists during these demonstrations. However, rather than arresting these alleged infiltrators, police have arbitrarily arrested and detained the protestors and journalists.

In September 2011 the Provincial Government of Luanda issued a by-law indicating the areas that could be used for assemblies and demonstrations. It excluded Independence Square, where the majority of anti-government demonstrations had taken place during the year.

#### ARTICLE 12 (4) AND (5): PROHIBITION OF MASS EXPULSION OF NON-NATIONALS

In 1996 and 2004 communications were brought before the African Commission against Angola regarding the mass expulsion of non-nationals from its territory.<sup>28</sup> In both communications the African Commission stated that the government of Angola had violated a number of provisions of the African Charter including Article 12(4) and (5). Despite these decisions and recommendations by the African Commission for Angola to redress these violations, the Angolan authorities have continued to forcibly expel non-nationals from its territory en masse and without due process. Between 2005 and 2008 there were fewer reported cases of mass expulsion of non-nationals. However, since 2008 hundreds of thousands of non-nationals, the majority of whom were from the Democratic Republic of Congo (DRC), have been forcibly expelled en masse from the country. According to the International Committee for the Development of Peoples, at least 55 000 nationals of the DRC were expelled in 2011 alone. These forcible expulsions have been accompanied by sexual violence, torture and other cruel, inhuman and degrading treatment. In 2009 there were reports of people dying of asphyxiation due to the overcrowded conditions in which they were transported to the border. The United Nations and a number of international and national human rights bodies and organizations have called on Angola to end these expulsions and bring perpetrators of human rights violations to justice. However, no one has been brought to justice to date.

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<sup>28</sup> Communication No: 159/96 - Union Inter Africaine des Droits de l'Homme, Federation Internationale des Ligues des Droits de l'Homme, Rencontre Africaine des Droits de l'Homme, Organisation Nationale des Droits de l'Homme au Sénégal and Association Malienne des Droits de l'Homme au Angola; and Communication 292/2004 Institute for Human Rights and Development in Africa/Republic of Angola

ARTICLES 14, 16 AND 18: THE RIGHT TO PROPERTY, RIGHT TO ENJOY THE HIGHEST ATTAINABLE STATE OF PHYSICAL AND MENTAL HEALTH; AND THE PROTECTION OF THE FAMILY

Apart from the African Charter, Angola is a party to a number of international human rights treaties placing a duty on it to protect, promote and fulfil economic, social and cultural rights, including the right to property, the highest attainable state of health and the protection of the family. These include the ICESCR;<sup>29</sup> the International Covenant of Civil and Political Rights (ICCPR)<sup>30</sup> and its first optional protocol;<sup>31</sup> the Convention on the Elimination of all forms of Discrimination against Women (CEDAW)<sup>32</sup> and its optional protocol;<sup>33</sup> the Convention on the Rights of the Child (CRC)<sup>34</sup> and its optional protocols;<sup>35</sup> and the African Charter on the Rights and Welfare of the Child.<sup>36</sup> It has also signed, but not yet deposited the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.<sup>37</sup> In addition to these international treaties, the Constitution recognises the right to property;<sup>38</sup> and protection of the family;<sup>39</sup> as well as other economic, social and cultural rights. The Constitution further states that one of the fundamental tasks of the state is "to gradually create the necessary conditions required to effectively implement the economic, social and cultural rights of citizens"<sup>40</sup> and calls for the state to "adopt legislative initiatives and other appropriate measures to ensure the gradual and effective realisation of economic, social and cultural rights, in accordance with the available resources".<sup>41</sup>

Amnesty International is however concerned that despite the country's apparent commitment to the right to property, health and protection of the family, the government of Angola has violated and continues to violate these rights, by allowing forced evictions to be carried out within its territory. As stated above, although the African Charter does not expressly recognise the right to adequate housing and right not to be forcibly evicted, such a right can be read into the combined effect of

<sup>29</sup> Acceded to on 10/01/92

<sup>30</sup> Acceded to on 10/01/92

<sup>31</sup> Acceded to on 10/01/92

<sup>32</sup> Acceded to on 17/09/86

<sup>33</sup> Acceded to on 01/11/07

<sup>34</sup> Ratified 05/12/90

<sup>35</sup> Acceded to on 11/10/07

<sup>36</sup> Ratified 11/04/92 and deposited 07/10/99

<sup>37</sup> Signed 22/01/07

<sup>38</sup> Article 14, 22(a), 37 and 89(d)

<sup>39</sup> Article 35

<sup>40</sup> Article 21(c) of the Constitution

<sup>41</sup> Article 28

Articles 14, 16 and 18(1). Moreover, the African Commission has stated that, “at a very minimum, the right to shelter obliges ... government[s] not to destroy the housing of its citizens and not to obstruct efforts by individuals or communities to rebuild lost homes.”<sup>42</sup>

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, which started in 2001 prior to the end of the civil war, have been carried out to make way for such developments and 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. Over 13,000 families in the capital of Luanda alone have been forcibly evicted from various neighbourhoods<sup>43</sup>. Thousands more were evicted in other cities throughout 2010 and 2011. 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. On some occasions police also arrested and briefly detained those resisting the evictions and members of local human rights organizations, SOS-Habitat in Luanda and Association Building Communities (*Associação Construindo Comunidades* - ACC) in the southern Angolan city of Lubango, who were trying to persuade the authorities to stop the forced evictions.

Few families have been compensated for their losses. Some of those forcibly evicted in Luanda were rehoused about 30 to 40 kilometres from the city in areas lacking jobs, schools, hospitals, basic services and sanitation. In Lubango they were taken to an empty plot of land 10 kilometres from the city. Only 600 families were given tents. However, throughout the country, the vast majority of the evicted families have been left to fend for themselves. In June 2011 the government announced that over 450 families in Luanda whose homes were demolished between 2004 and 2006 were to be rehoused from September 2011, however none of these had been rehoused at the time of writing this submission. Even those who have been previously evicted are not safe from further evictions. In October 2011, at least 25 families who had previously been forcibly evicted from their homes in Lubango in March 2010 were once again forcibly evicted and had their homes in the area to which they had been relocated destroyed by members of the Lubango municipal administration community services.

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<sup>42</sup> The Social and Economic Rights Action Centre and the Centre for Economic and Social Rights v. Nigeria, African Commission on Human and Peoples' Rights, Comm. No. 155/96 (2001). This was reiterated in Communications 279/03 – Sudan Human Rights Organisation & The Sudan 296/05 – Centre on Housing Rights and Evictions/The Sudan.

<sup>43</sup> 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); Angola: Amnesty International's Briefing to the United Nations Committee on Economic, Social and Cultural Rights, 41<sup>ST</sup> Session, November 2008; and *Unjust, unlawful, unacceptable: Forced Evictions in Angola* (AFR 12/002/2009)

## ARTICLE 62: SUBMISSION OF PERIODIC REPORTS

As stated above, despite Angola's undertaking in terms of the African Charter to provide periodic reports to the African Commission every two years, the country has failed to submit its reports since 1998 and its current submission is only the second since the country acceded to the African Charter in 1990.

## PART III: RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

### **Amnesty International requests the African Commission to call on the government of Angola to:**

#### *Regarding the ratification and domestication of human rights treaties*

- Incorporate the provisions of the African Charter and other international human rights treaties and standards into domestic law, particularly with regards to the prohibition on torture, the prohibition of mass expulsions of non-nationals, the right to the highest attainable standard of health and the right to adequate housing and not to be forcibly evicted;
- Ratify all outstanding human rights treaties, in particular to accelerate the ratification of the UN Convention against Torture and its Optional Protocol; Protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court on Human and Peoples' Rights; Protocol on the Statute of the African Court of Justice and Human Rights and make the required declaration that would allow access of individuals to the court;
- Reform all laws and regulations in the country, particularly those related to freedom of expression, torture, cruel, inhuman and degrading treatment and the right to adequate housing, to bring them into line with international human rights laws;

#### *Regarding the use of torture, cruel, inhuman and degrading punishment or treatment*

- Ensure prompt, impartial and thorough investigations are carried out into all suspected cases of torture and ill-treatment by the police and military officials, including those carried out within the context of the mass expulsion of non-nationals, and ensure that perpetrators of such violations are brought to justice in fair trials;
- Ensure that all officers, including commanding officers, are made fully aware of their responsibilities to protect detainees and understand that acts of torture or cruel, inhuman or degrading treatment or punishment will not be tolerated and that they are criminal offences in national law and international treaties to which Angola is party;

- Ensure reparation, including fair and adequate compensation for victims of torture, ill-treatment and other human rights violations by the police and/or their families.

*Regarding prohibition of arbitrary arrest and detention*

- End all politically-motivated arrests and ensure that police officers do not carry out arbitrary arrests and detentions, including by holding them responsible for such arrests and detentions;
- 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;
- Ensure reparation, including fair and adequate compensation for victims of arbitrary arrests and detentions.

*Regarding freedom of expression*

- Ensure that nobody is arrested for peacefully exercising their rights to freedom of expression;
- 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;
- Ensure that laws providing criminal punishment, including for alleged defamation of the head of state or other public officials, are amended or repealed.

*Regarding freedom of assembly*

- Respect, protect and promote freedom of assembly and peaceful demonstrations, including by ensuring that police do not use excessive force against peaceful demonstrators or arbitrarily arrest and detain them;
- Ensure that authorities do not unreasonably prohibit or interfere with peaceful assemblies and demonstrations.

*Regarding the prohibition of mass expulsions*

- Implement recommendations made by the African Commission in its 1996 and 2004 communications to the government of Angola, particularly to establish a Commission of inquiry to investigate the circumstances under which the non-nationals were expelled, including the reported cases of rape and torture, and ensure the payment of adequate compensation of all those whose rights were violated in the process;
- Ensure that all individuals facing possible expulsion are provided with an opportunity to plead their case before the competent national courts and are only expelled pursuant to a judicial ruling;

- Ensure that all non-nationals being expelled from the country are treated with due dignity and respect, in particular that they are not held and transported in over-crowded, unhygienic conditions, and are not subjected to torture, cruel and/or degrading treatment.

*Regarding the use of forced evictions*

- 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;
- Ensure all forced evictions are prohibited by law in Angola;
- 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;
- 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;
- 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.

## APPENDIX: AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE<sup>44</sup>

Angola to forcibly evict hundreds of families, 22 August 2011

Angola rehouses victims of forced evictions, 10 June 2011

Angola political detainees held under non-existent law, 17 January 2011

Angola to forcibly evict hundreds of families (PRE01/414/2011)

Angola: Death of Muatxihina Chamumbala in Conduege Prison and concern for the remaining 32 prisoners (AFR 12/012/2010)

Angolan activists jailed over attack on Togo football team, 3 August 2010

Angola: Benguela Provincial Authorities must not unreasonably prevent peaceful demonstration (AFR 12/006/2010)

Angola: Submission to the UN Universal Periodical Review, Seventh session of the UPR Working Group of the Human Rights Council February 2010 (AFR 12/005/2009)

Unjust, unlawful, unacceptable: Forced Evictions in Angola (AFR 12/002/2009)

Angola: Briefing for election monitors (AFR 12/002/2008)

Angola: Amnesty International's Briefing to the United Nations Committee on Economic, Social and Cultural Rights, 41<sup>ST</sup> 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

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<sup>44</sup> All of these documents are available on Amnesty International's website: <http://www.amnesty.org/en/region/angola>

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)