

February 2013

HUMAN RIGHTS COMMITTEE COUNTRY REPORT

Angola

Independent information for the 107th session

of the Human Rights Committee (HRC)

**HUMAN RIGHTS LITIGATION AND INTERNATIONAL ADVOCACY
CLINIC
AND HUMAN RIGHTS PROGRAM
UNIVERSITY OF MINNESOTA**

CRITICAL ISSUES

Right to Life (Article 6)

Preventing and punishing excessive use of force with firearms by law enforcement and security forces

Enacting and enforcing comprehensive licensing legislation

Providing disarmament and reintegration programs to demilitarize the population

PROPOSED QUESTIONS FOR THE GOVERNMENT OF ANGOLA

1. Each year from 2007–2012, there have been reports of extrajudicial killings by police officers and other government agents using small arms and light weapons (SALW). In paragraph 7 of the List of Issues, the Committee asked the government to respond to the allegations that several people have been arbitrarily or unlawfully killed by police officers or soldiers.¹ The Replies from the Government of Angola, however, respond only to the killing of 45 illegal minors in September 2009.² What is being done to prevent and investigate the ongoing killings and attacks by police and soldiers outside of the context

¹ Human Rights Committee, List of Issues to be taken up in connection with the consideration of the first periodic report of Angola (CCPR/C/AGO/1), adopted by the Committee at its 105th Session, 9- 27 July 2012, ¶7, U.N.Doc. CCPR/C/AGO/Q/1/ (21 Aug. 2012) [hereinafter List of Issues].

² Human Rights Committee, List of Issues to be taken up in connection with the consideration of its initial report of Angola (CCPR/C/AGO/Q/1), adopted by the Committee at its 105th Session (9 to 27 July 2012) Addendum Replies from the Government of Angola, ¶21-27, U.N.Doc. CCPR/C/AGO/Q/1/Add.1 (5 Feb. 2013) [hereinafter Government Replies].

of detention of illegal immigrants? Please explain what laws, regulations and training protocols are being implemented by military and police officials to prevent the misuse of force with SALW that results in extrajudicial killings. Has the training implemented in 2009 been modified to address this continued misuse of police-issued firearms? Please provide information on the degree of force police were authorized to use when breaking up demonstrations under the “special case” of protests in Luanda in 2011 described in paragraph 90 of the Replies of the Government of Angola.³

2. Please explain existing and proposed legislation to license and regulate SALW, including the type of registration, and type of marketing of weapons allowed? What governmental entities are responsible for implementing these standards? Please provide information on whether the government’s response to human rights abuses by private security companies in the diamond mining areas, as noted in paragraph 14 of the List of Issues,⁴ includes regulating the possession of weapons of war by private security companies?

3. What disarmament and demobilization programs are being implemented to encourage disarmament and the reintegration of former soldiers into civilian life? Please describe the training, meetings, and workshops being utilized to further these goals.

4. What steps have been taken to improve the processing of information regarding the possession and trafficking of arms by civilians and criminals? Please describe the steps the government is taking to prevent the illicit transfer of SALW to neighboring countries.

5. In its report on the Implementation of the United Nations Plan of Action to Combat the Illicit Traffic of SALW in 2011–2012, the Angolan government indicated its plan to update the draft law concerning SALW. Has that law been updated?

I. INTRODUCTION AND BACKGROUND

Angola has made significant strides in the past decade to address issues related to SALW. In an attempt to implement the United Nations Programme of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons (UNPoA), Angola has created the National Commission for the Materialization of the Programme of Action and the National Commission on the Disarmament of the Civilian Population.⁵

With the peace declaration in April 2002, Angola began the long process of demilitarization, especially of members of the National Union for the Total Independence of

³ *Id.*, ¶90.

⁴ List of Issues, ¶14, *supra* note 1.

⁵ *Report on Angola's Implementation of the Plan of Action on Small Arms and Light Weapons*, United Nations Programme of Action Preparatory Committee, 2010 [hereinafter 2010 Report].

Angola (UNITA).⁶ Of the 100,000 UNITA combatants who moved into designated quartering areas, 5,000 were hired as national police or military.⁷ All were provided with identification cards, travel authorizations, salary (based on rank), and food assistance.⁸ Once home, former combatants received reinstallation kits.⁹ Reintegration was to be overseen by the Institute for the Socio-Professional Reintegration of Ex-Combatants.¹⁰

Aiding returning combatants in their return home was quickly followed by a national effort to disarm former military members.¹¹ However, due to continued concern that weapons stashes existed throughout the country,¹² the Angolan government initiated the above-mentioned Programme of Action for the Disarmament of the Civilian Population.¹³ This Programme has created police-community forums and joint policing operations, organized public events to raise awareness about lethal weapons, and held disarmament seminars for NGOs, citizens, government officials, and religious groups on the UNPoA implementation.¹⁴

In addition to raising public awareness, the government collected over 74,000 weapons from 2008–2010, mostly through voluntary surrender.¹⁵ Communities received rewards of household items when members surrendered weapons.¹⁶ In April 2012, in the central province of Bie, police seized illegal firearms from the local population,¹⁷ while civilians surrendered 119 firearms to local police in the northern province of Bengo.¹⁸ From April 2011 to September 2012, about 2,000 weapons were surrendered to the military and national police.¹⁹ These collections of civilian firearms are still taking place throughout the country.

⁶ *Forgotten Fighters: Child Soldiers in Angola*, Human Rights Watch, Vol. 15, No. 10 (April 2003), available at <http://www.hrw.org/sites/default/files/reports/Angola0403.pdf> [hereinafter *Forgotten Fighters*].

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Coming Home: Return and Reintegration in Angola*, Human Rights Watch, Vol. 17, No. 2 (March 2005), available at <http://www.hrw.org/sites/default/files/reports/angola0305.pdf>.

¹¹ *Report on Angola's Implementation of the Plan of Action on Small Arms and Light Weapons*, United Nations Programme of Action Preparatory Committee, 2008 [hereinafter 2008 Report].

¹² *Id.*

¹³ *Id.*

¹⁴ 2010 Report, *supra* note 5.

¹⁵ *Id.* at 4.

¹⁶ *Id.*

¹⁷ *Angola: Police Seize Firearms in Illegal Possession of Civilians*, ALL AFRICA (April 23, 2012), <http://allafrica.com/stories/201204240228.html>.

¹⁸ *Angola: Over 100 Firearms Surrendered in Bengo*, ALL AFRICA (April 22, 2012), <http://allafrica.com/stories/201204230104.html>.

¹⁹ *Report of the Republic of Angola on the Implementation of the United Nations Plan of Action to Combat the Illicit Traffic in Small Arms and Light Weapons in 2011-2012*, available at <http://www.poa-iss.org/CASACountryProfile/PoANationalReports/2012@5@Angola-PoA-2012-E.pdf> [hereinafter 2012 Report].

An additional issue Angola faces is an ongoing conflict with armed separatists in the Cabinda province.²⁰ The Front for the Liberation of the Enclave of Cabinda (FLEC) has challenged the claim that Cabinda is a province of Angola since Angola gained independence from Portugal in 1975.²¹ The end of the civil war in 2002 did not resolve this issue and FLEC maintained that Cabinda's status was not resolved.²² Even after a 2006 peace agreement with a segment of FLEC, there has been sporadic fighting and the misuse of weapons against civilians by members of the Angolan army²³ and FLEC.²⁴ A recent example of misuse by FLEC is a 2010 attack which resulted in the death of three Togo football players who were traveling in Cabinda.²⁵ Six others were injured when FLEC militants fired on the team using machine-guns.²⁶

In early April 2012, FLEC made overtures regarding peace talks with the Angolan government to end the armed conflict.²⁷ The leader of FLEC, Henrique N'Zita Tiago, contacted the central government in Luanda about negotiating a peace treaty, but it was not clear if Tiago had the full backing of the entire FLEC group.²⁸

In general, the demobilization and SALW collections in the majority of Angola are successful examples of efforts made by the National Commission for the Materialization of the Programme of Action and the National Commission on the Disarmament of the Civilian Population. However, there is further work for the government. Three areas in particular are stalled after the government's initial positive steps: (1) providing adequate training of and exercising proper control over police officers and the military to prevent extrajudicial killings and other human rights violations committed with small arms, while also bringing to justice officers who have committed such crimes; (2) updating legislation on private purchasing, ownership, and licensure of small arms; and (3) negotiating a peaceful solution with Cabinda separatists, and the disarmament and reintegration of former military members.

²⁰ *Country Profile Angola: The Long-Lasting Conflict in Cabinda*, Genocide Watch (March 6, 2012), <http://www.genocidewatch.org/angola.html> [hereinafter *Country Profile Angola*]; Emilie Iob, *Oil-Rich Cabinda Still Waits for Independence from Angola*, VOICES OF AMERICA (September 26, 2012), <http://www.voanews.com/content/cabinda-still-waits-for-independence/1515340.html>.

²¹ *Id.*

²² *Id.*

²³ *See infra*, notes 69–71, and accompanying text.

²⁴ *Id.*

²⁵ *Three Dead After Gun Attack on Togo Football Team*, BBC NEWS (Jan. 9, 2010), <http://news.bbc.co.uk/2/hi/8449978.stm>.

²⁶ *Id.*

²⁷ Tom Burgis, *Cabinda Peace Call Offers Glimmer of Hope*, FINANCIAL TIMES (April 6, 2012).

²⁸ *Id.*

II. STATE OBLIGATIONS WITH REGARD TO SMALL ARMS AND LIGHT WEAPONS

A. State Obligation Not To Violate the Right to Life with Small Arms and Light Weapons

*A state's first duty under the SALW Principles is negative: not to violate the right to life in its officials' acts or omissions regarding the use of small arms and light weapons. Second, a state must regard the standard of necessity and proportionality in the use of force by law enforcement.*²⁹

1. Proper Education and Control of Armed State Agents³⁰

Nongovernmental organizations have documented a persistent problem of extrajudicial killings by law enforcement officials using SALW.³¹ In May 2007, police officers unlawfully shot and killed two youths,³² and in 2008, a shooting involving police officers and the President of UNITA resulted in the death of a 14-year-old boy.³³ In both cases, authorities claimed that investigations were continuing, but no further information was provided by the government to Amnesty International.³⁴ In January 2009, police in Luanda were accused of killing three male youths arrested without warrants.³⁵ The victims were taken to a field adjacent to the Special Transit Police Station and shot.³⁶ Also in January 2009, a police officer shot and killed Joaquim

²⁹ Prevention of Human Rights Violations Committed with Small Arms and Light Weapons, endorsed by Sub-Com. on the Promotion and Protection of Human Rights res. 2006/22, U.N. Doc A/HRC/Sub.1/58/L.11/Add.1 at article 1 (24 Aug. 2006) [hereinafter *SALW Principles*].

³⁰ *Id.*, at article 3 ("In order to prevent the violation of human rights committed with small arms, Governments and State agents shall ensure strict enforcement of the rules and regulations they adopt, including a clear chain of command over all officials authorized by law to use force and, in particular, small arms. Governments shall ensure that arbitrary or abusive use of force carried out with small arms, including but not limited to force used by any State agent, is punished as a criminal offence.")

³¹ See *Angola Report: Human Rights in Republic of Angola*, Amnesty International (2007), available at <http://www.amnesty.org/en/region/angola/report-2007> [hereinafter 2007 AI Report]; *Angola Report: Human Rights in Republic of Angola*, Amnesty International (2008), available at <http://www.amnesty.org/en/region/angola/report-2008> [hereinafter 2008 AI Report]; *Angola Report: Human Rights in Republic of Angola*, Amnesty International (2009), available at <http://www.amnesty.org/en/region/angola/report-2009> [hereinafter 2009 AI Report]; *Angola Report: Human Rights in Republic of Angola*, Amnesty International (2010), available at <http://www.amnesty.org/en/region/angola/report-2010> [hereinafter 2010 AI Report]; *Angola Report: Human Rights in Republic of Angola*, Amnesty International (2011), available at <http://www.amnesty.org/en/region/angola/report-2011> [hereinafter 2011 AI Report].

³² 2007 AI Report, *supra* note 31.

³³ 2008 AI Report, *supra* note 31.

³⁴ *Id.*

³⁵ *2010 Human Rights Report: Angola*, U.S. Dept. of State (April 8, 2011), available at <http://www.state.gov/j/drl/rls/hrrpt/2010/af/154330.htm>.

³⁶ *Id.*

Manuel Machado during a confrontation with a group of youths in Sambizanga, Luanda.³⁷ By the end of 2009, the police officer identified as Machado's killer, Jose Inacio Rene, had not been tried.³⁸

Angola made revisions to police policy in 2009 and created a model for policing which regulated the use of force.³⁹ But that same year, eight young men were shot by a group of police officers.⁴⁰ While the officers involved in the shooting maintained that they only returned fire upon the group of young men, eye witnesses reported that the young men were killed after they were in police custody.⁴¹ The witnesses said that the youths were told to lie on their stomachs on the ground, and it was only then they were shot.⁴² The seven police officers involved in the shooting were arrested in late 2009 and went to trial for murder in 2010.⁴³ In early 2011, all were convicted and sentenced to 24 years imprisonment.⁴⁴

Cases of extrajudicial killings by police officers using SALW continued to be reported during 2010, 2011, and 2012.⁴⁵ In late January 2010, Roberto Yava Chivondu was shot by a police officer in Namibe province as he rode home on his motorbike.⁴⁶ The officer who shot Chivondu was convicted and sentenced to 20 years in prison.⁴⁷ In August 2010, when a number of youths were being beaten by police in Benguela province, Jorge Euclia attempted to protect his little brother who was in that group.⁴⁸ Euclia was shot three times in the stomach by a police officer.⁴⁹ Euclia survived the attack, but the government denied that the police officer had shot him; the government did not undertake an investigation, and no one was arrested for the shooting.⁵⁰

In May 2011, William Marques Luís and Hamilton Pedro Luís were found dead in Angola's capital, Luanda, after they had been arrested without a warrant by several police officers.⁵¹ The recovered bodies of both men showed signs of torture as well as multiple gunshot wounds.⁵² Later that summer, Valentino Abel was shot and killed by a police officer when the

³⁷ *Id.*

³⁸ *Id.*

³⁹ 2009 AI Report, *supra* note 31.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ 2010 AI Report, *supra* note 31.

⁴⁴ 2011 AI Report, *supra* note 31; *see also* *Angola Police Officers Jailed for 24 Years for Killings*, BBC NEWS (March 22, 2010).

⁴⁵ 2010 AI Report, *supra* note 31; 2011 AI Report, *supra* note 31; *Amnesty International Report 2012: The State of the World's Human Rights*, Amnesty International (2012) at 62-64, available at <http://www.amnesty.org/en/region/angola/report-2012> [hereinafter 2012 AI Report].

⁴⁶ 2010 AI Report, *supra* note 31.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ 2011 AI Report, *supra* note 31.

⁵² *Id.*

officer began shooting indiscriminately during an altercation.⁵³ Abel, who was not involved in the original altercation, died after being shot three times by the officer.⁵⁴ In all three deaths, no information was provided by the Angolan government as to legal proceedings against the accused police officers.⁵⁵ That same year, suspected members of the State Information and Security Services beat individuals and improperly used firearms and dogs during a demonstration calling for the resignation of the President.⁵⁶ Reports of the use of excessive force by authorities during government protests continued in 2012.

Between 2011 and at least August 2012, anti-government protests in Luanda were broken up by police officers carrying SALW.⁵⁷ In September 2011, police used live ammunition to disperse a protest by motorcycle taxi drivers in Kuito City, Dica province.⁵⁸ Two protesters died after being shot in the head and back, and six others were injured.⁵⁹ The officers involved appear to have suffered no consequences for the killings or use of excessive force.⁶⁰ Human Rights Watch reported that five rallies of peaceful protestors were forcefully dispersed by uniformed and plain-clothed police officers between January 2012 and April 2012.⁶¹ For example, on March 10, 2012, both uniformed and plain-clothed police officers armed with pistols dispersed a peaceful protest in Benguela using dog squads and water cannons.⁶² On February 4, 2012, when striking health workers gathered in front of the union office in Cabinda, police used water cannons and dog squads to disrupt the protest.⁶³ On June 20, 2012, squads of Rapid Intervention Police, military policemen and presidential guards used teargas and live ammunition to break up a march by war veterans.⁶⁴ Human Rights Watch could not confirm reports of three deaths.⁶⁵ On August 30, 2012, police fired shots at opposition CASA-CE party protestors approaching the national electoral commission to demand credentials to observe polling stations.⁶⁶

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Angola: Amnesty International Submission to the African Commission on Human and People's Rights* (2012), available at

http://www2.ohchr.org/english/bodies/hrc/docs/ngos/AI_Angola_HRC105.pdf

⁵⁷ *Angola: Violent Crackdown on Critics*, Human Rights Watch (April 2, 2012),

<http://www.hrw.org/news/2012/04/02/angola-violent-crackdown-critics> [hereinafter *Violent Crackdown*].

⁵⁸ 2012 AI Report, *supra* note 45.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Violent Crackdown*, *supra* note 57.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Angola: Protesters Detained, Disappeared*, Human Rights Watch (July 5, 2012),

<http://www.hrw.org/news/2012/07/05/angola-protesters-detained-disappeared> [hereinafter *Protesters Detained*].

⁶⁵ *Id.*

⁶⁶ *Angolan police arrest opposition members before vote*, Reuters (August 30, 2012),

<http://www.amnesty.org/en/news/angola-protect-free-speech-youth-activists-attacked-2012-05-24>.

In addition to police misuse of SALW in dispersing protests, there were reports of police misuse of firearms during the forced evictions of August 2011. Firmino João Rosário was reportedly shot dead by police when he attempted to stop the demolition of homes during the forced eviction of 40 families from the Viana neighborhood in Luanda.⁶⁷ Another resident, Santos António, was reportedly shot in the hand during the same incident.⁶⁸

The Angolan army has also misused SALW in the interrogation of Cabinda prisoners who were accused of rebellion.⁶⁹ Human Rights Watch interviewed lawyers who reported their clients had suffered severe injuries from firearms while in custody.⁷⁰ One detainee stated that he was threatened with weapons while in custody as members of the military interrogated him about FLEC weapons stashes.⁷¹

Journalists and activists have been threatened and attacked by unidentified plain clothed men armed with SALW. It is unclear whether the perpetrators were acting as government agents. On September 5, 2010, Radio Despertar journalist, Alberto Tchakussanga, was shot dead in his home after receiving anonymous death threats for running a program critical of the government.⁷² As of 2012, the police investigation into the murder remained inconclusive.⁷³ There are reports of multiple attacks in 2011 by unknown gunmen on the home of youth activist Jeremias Augusto, whose group runs a website documenting violence against protestors.⁷⁴ On May 23, 2012, in the second such attack in two months, 15 men in civilian clothes armed with metal bars and pistols attacked the residence of Dionisio “Carbono,” another youth protest leader, who was hosting a group of youth to discuss their new call-in radio program.⁷⁵ On June 12, 2012, youth protest organizer, Adolfo Campos, was attacked and threatened with death by two men in civilian clothes armed with a pistol and an automatic rifle.⁷⁶

⁶⁷ 2012 AI Report, *supra* note 45.

⁶⁸ *Id.*

⁶⁹ *"They Put Me in a Hole:" Military Detention, Torture, and Lack of Due Process in Cabinda*, Human Rights Watch (2009) at 14-16, available at <http://www.hrw.org/sites/default/files/reports/angola0609webwcover.pdf>.

⁷⁰ *Id.* at 14.

⁷¹ *Id.* at 15.

⁷² *Angola's Upcoming Elections: Attacks on the Media, Expression, and Assembly*, Human Rights Watch (2012) at 10, available at <http://www.hrw.org/reports/2012/08/01/angola-s-upcoming-elections>.

⁷³ *Id.*

⁷⁴ *Angola: Protect free speech as youth activists attacked*, Amnesty International (24 May, 2012), <http://www.amnesty.org/en/news/angola-protect-free-speech-youth-activists-attacked-2012-05-24>.

⁷⁵ *Protesters Detained*, *supra* note 61.

⁷⁶ *Id.*

B. State's Due Diligence Obligation to Prevent Small Arms and Light Weapons Violations by Private Parties

The due diligence standard to protect the right to life from violence by small arms and light weapons includes the responsibility to take steps to prevent reasonably foreseeable abuses by private actors (occurring within a state's own territory).⁷⁷

As part of Angola's implementation of the UNPoA, the national government undertook a comprehensive review of existing SALW legislation in 2008.⁷⁸ The study conducted by the Angolan federal government deemed the standing legislation inadequate to address the current issues facing the country.⁷⁹

Various sources indicate that Angola has begun working on legislation, but, according to the most recent publicly available information, the proposed domestic legislation that would require stricter controls to prevent the misuse of firearms has yet to be adopted and implemented. The 2010 Report on the Implementation of the Plan of Action on Small Arms and Light Weapons noted that the government had begun drafting an amendment to legislation regarding private ownership of SALW, but the suggested changes and goal dates for ratification and implementation were not specified.⁸⁰ The government has reported developing several laws in 2010 to improve the protection and defense of citizens' rights, including Revision of the Penal and Civil Codes and the Code of Civil Procedure and Criminal Procedure, Adjustment of the Status of Confiscated and Confiscable Goods, and Draft law to amend the Law of Searches of Persons, Searches of Premises, and Arrests.⁸¹ Also, the Angolan federal government indicated it would repeal an Official Order which prohibited all imports and sales of SALW in order to make way for a new national department which would conduct all importation and regulation of small arms.⁸² This national department could be one mechanism to address the increased crime rate in urban areas that Angola's state report mentioned.⁸³ However, the regulations on importation of SALW under this new department have not been defined, and no mention of registration or licensure of civilian-owned SALW has been mentioned or proposed.⁸⁴ In a September 2012 report on the implementation of the UNPoA, the Angolan government indicated that the National Security Act was passed in July 2012, but the draft law concerning SALW was yet to be updated.⁸⁵

⁷⁷ SALW Principles, *supra* note 299, at preamble.

⁷⁸ 2010 Report, *supra* note 5.

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ Government Replies, ¶4, *supra* note 2.

⁸² *Id.*

⁸³ Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant, First Periodic Report—Angola, International Covenant on Civil and Political Rights Human Rights Committee, CCPR/C/AGO/1, at paragraph 33 (March 3, 2011).

⁸⁴ 2010 Report, *supra* note 5.

⁸⁵ 2012 Report, *supra* note 19.

III. CONCLUSION

While Angola is to be commended for its significant action in addressing SALW issues, weapons proliferation continues in much of the country as evidenced by the persistence of hidden stockpiles, weapons of war possessed by private security companies and self-protection systems, and arms in the hands of civilians.⁸⁶ The continued misuse of SALW by police officers in extrajudicial killings, the lack of up-to-date legislation on civilian purchasing and ownership of SALW, and the continued conflict in Cabinda also continue to compromise the achievement of human rights in Angola. We thank the Committee for its interest and hope that attention to SALW issues can assist in deterring future violations.

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⁸⁶ *Id.*