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Human Rights Issues Regarding Angola Submitted by Human Rights Watch to the UN Human Rights Committee

February 2013

This memorandum provides an overview of Human Rights Watch's main concerns with respect to the human rights situation in Angola. We hope it will inform the Committee's preparation for its review of the Angolan government's compliance with its obligations under the International Covenant on Civil and Political Rights ("the Covenant").

Angola submitted its first report on the Covenant on February 17, 2011. Human Rights Watch's submission documents sexual violence, torture and other ill-treatment during expulsions of migrants; arbitrary detention for alleged national security crimes in the enclave of Cabinda; violations of the rights to freedom of expression and the media; and violations of the right to peaceful assembly.

Sexual Violence, Torture, and Other Violations during Expulsions of Migrants (Articles 7, 10 and 13 of the Covenant)

Since 2003, the Angolan authorities have regularly violated the basic rights of expelled migrants, most of whom are citizens of the Democratic Republic of the Congo (DRC). Since 2004 United Nations agencies and special rapporteurs, international and local nongovernmental organizations, and the African Commission on Human and Peoples' Rights

have presented credible allegations of serious human rights violations during mass expulsions of irregular migrants from Angola, including torture and inhumane treatment, theft and denial of property rights, and sexual violence.

Between 2009 and 2011 Human Rights Watch interviewed 100 victims of abuses experienced during expulsions. We documented alarming patterns of serious human rights violations perpetrated by members of several branches of the Angolan police forces against Congolese migrants in Lunda Norte and Cabinda.¹

Women and girls, most of whom were rounded up at informal markets and in residential areas, gave Human Rights Watch consistent descriptions of patterns of sexual abuse and in many cases were able to identify the individuals responsible. Most of the reported abuses took place in detention facilities in Lunda Norte, or in jails or prisons used as transit centers exclusively for migrants. Victims and witnesses said that while in detention, groups of members of various security forces repeatedly demanded sex from female detainees and threatened them with beatings or death, or offered food in exchange.

The often-appalling detention conditions – overcrowded cells, and a lack of food, drinking water, and sanitation facilities – contributed to pressure on victims to submit to sexual exploitation. Children often witnessed sexual abuses against their mothers and other female inmates.

Human Rights Watch also found that beatings, torture and degrading and inhuman treatment of migrants were common practices during roundups, transportation to detention facilities and in custody.

Human Rights Watch found no evidence that Angolan officials were ordered by their superiors to commit these serious crimes, but accounts from victims and eyewitnesses show widespread participation from among

¹See Human Rights Watch report, “If You Come Back We Will Kill You: Sexual Violence and Other Abuses against Congolese Migrants during Expulsions from Angola,” May 2012, <http://www.hrw.org/reports/2012/05/20/if-you-come-back-we-will-kill-you>

the different Angolan security services involved in expulsion operations. These security officials routinely abused their authority and powers, particularly to sexually exploit migrant women and girls in their custody, and there was a lack of effective oversight to prevent such abuses from taking place. Victims identified abusers from a broad range of security forces, including several branches of the police, immigration officials, and armed forces, and identified a number of police jails and transit prisons where such abuses had been committed.

To date the Angolan government has not carried out any thorough, credible, and impartial investigations into allegations of serious abuse of migrants by its security forces during expulsions from Angola, has continued to deny the veracity of the allegations, and failed to prosecute alleged perpetrators. Human Rights Watch is concerned that instead of conducting a credible investigation and pursuing justice for the victims of sexual violence, the government has continued to routinely portray allegations of rape by Congolese migrants as exaggerated accounts or isolated incidents. And despite pledges it made when it sought membership in the UN Human Rights Council in 2007 and 2010, Angola has still not ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Rights of Migrant Workers.

Angola's new law against domestic violence, which entered into force in June 2011, for the first time specifically criminalizes acts of sexual violence. The law defines sexual violence more broadly than in previous legislation, and establishes any "serious offense against the physical or psychological integrity" as criminal conduct. The new draft Criminal Code, which has yet to be approved in parliament, includes the same definition of sexual violence as in the domestic violence law, and establishes prison terms of up to 10 years for "sexual aggression with penetration." However, as of this writing, regulating by-laws to the law against domestic violence that are necessary to fully implement the law have yet to be promulgated.

Mass expulsions of migrants continued in 2012 in Angola's regions bordering the Democratic Republic of the Congo. Angolan security forces have continued to conduct violent roundups of undocumented migrants, which are often followed by administrative expulsion. Migrants arrested and threatened with expulsion are not provided the opportunity to challenge their arrest and deportation.

In a particularly serious incident, on March 23, 2012, three Congolese migrants died in the Cadeia Civil in Cabinda, allegedly of asphyxiation in an overcrowded cell. The prison has been used as a transit jail for migrants for many years. The police opened an investigation into the alleged responsibility of three immigration officials for the deaths. However, at this writing Human Rights Watch is not aware of the outcome of the investigation.

Human Rights Watch acknowledges the Angolan government's recent commitments to increase effective protection of the rights of migrants from abuse, particularly the building of new detention facilities. In Cabinda, for example, a new transit prison for migrants was inaugurated in June 2012, which will have a magistrate permanently present on the premises.

Human Rights Watch urges the Committee to question the government of Angola on the efforts it has made to address these violations, including the progress and outcome of any government investigations.

Arbitrary Detentions in Cabinda (Article 9 of the Covenant)

An intermittent conflict with a separatist movement persists in the enclave of Cabinda, despite a 2006 peace agreement. Since 2009, Human Rights Watch has documented cases of arbitrary arrest, torture in military custody, and unfair trials against alleged members or sympathizers of the separatist movement, the Front for the Liberation of the Enclave of Cabinda (FLEC), as well as human rights defenders and civil society activists, all of whom have been charged with alleged crimes against the security of the state.

Human Rights Watch documented several recent cases of arbitrary arrests and mistreatment of individuals in military custody:

- On September 25 and 27, 2012, security agents arrested two teachers in Cabinda city – Cornélio Sambo and Venâncio Chicumbo – and accused them of authoring and distributing a pamphlet calling for a boycott of the August 2012 elections on the grounds that Cabinda was not part of Angola. Sambo told Human Rights Watch that under the pressure of severe beatings by military and security agents at the Angolan Armed Forces headquarters in Cabinda, he had falsely accused Chicumbo. Both detainees were brought before a magistrate after being transferred from military to police custody six weeks later, and were released without charges on 9 and 15 November respectively without any charges.*
- On November 22, 2012, security forces in Cabinda city arrested 12 men of different nationalities under suspicion of national security crimes, arms possession and illegal stay in Angola. Nine of them, including two Angolans, David Bicuri and Eduardo Pongo Muanda; four Congolese nationals, Francisco Mananga Gomes, Akanza Ntoto, Boyeye Marc Eyoko, and Mbuasi Kitunta François; one Belgian, Kadete Lekumu; and two French nationals, Ilunga Mukendi and Richard Nsabwa Mukendi; are currently in custody at a private residence belonging to senior security officials. They were only able to meet a lawyer of their choice on December 22. According to the lawyer, Arão Tempo, who is chair of the Angolan Bar Council in*

Cabinda, after their arrest they were first tortured by Angolan security agents at a police border post, then held incommunicado, and on December 12 were interrogated by the prosecutor without the presence of their lawyers. In January 2013, Tempo received several veiled death threats and warnings to drop the case. The men currently face possible extradition to the DRC.

Human Rights Watch encourages the Committee to request information from the government on the legal basis for the continued detention of the nine men detained in Cabinda and to remind the government of its responsibility to ensure that anyone arrested or detained is provided full due process rights, including freedom from torture or ill-treatment, prompt access to a lawyer and family members, being promptly brought before a judge, and being released or tried in accordance with international fair trial standards.

Freedom of Expression (Article 19 of the Covenant)

The media face a broad range of restrictions that hamper the right to free expression and encourage self-censorship. The state media and a number of private media owned by senior officials are ruling party mouthpieces in which censorship and self-censorship are common.

In addition, the 2006 Press Law and the criminal code provide criminal penalties for defamation and similar offenses, such as “abuse against press freedom.” To date the necessary by-laws and other complementary laws to the 2006 press law that would at least partially lift excessive administrative restrictions on private radio and television stations and allow community radio broadcasting have not been passed by parliament.

In addition, the revised national security crimes law that came into force in November 2010 includes new potentially abusive provisions, such as the crime of “outrage against the president” and other organs of sovereignty.

Journalists have been regularly arrested, detained, harassed and questioned by the authorities while trying to cover protests in Luanda and

elsewhere, and have been targeted with both threats and official offers to cooperate with the ruling party.²

Some journalists who have criticized the government are facing criminal charges, some pending for years. In October 2011, a court imposed a one-year suspended sentence and US\$100,000 in damages on William Tonet, the director of the private weekly newspaper *Folha 8*. Tonet's appeal was pending at this writing. On March 12, 2012, police raided *Folha 8*'s office and confiscated the paper's equipment, presenting a search warrant on state security charges of alleged "outrage against the president." Human Rights Watch is not aware of any developments in this case.

Officials have also used defamation laws to deter human rights reporting in the country. In January 2012, Manuel Helder Vieira Dias, known as "Kopelipa," minister of state and long-term head of the president's Military Office (recently renamed Security Office), and six other generals and senior officials, all shareholders of the private security company Teleservice and the diamond company Sociedade Mineira do Cuango, filed a defamation lawsuit in Portugal against anti-corruption campaigner and human rights activist Rafael Marques.

The lawsuit was in response to a complaint filed by Marques in November 2011 at the Angolan attorney-general's office in Luanda against a number of Angolan officials, including nine generals of the Angolan Armed Forces, alleging they were responsible for over 100 documented serious human rights abuses, including killings, rape and torture, in the diamond-rich Lunda Norte province. A Luanda court only heard four victims of abuses who testified on cases documented by Marques and shelved the case in June 2012. Traditional authorities (*sobas*) from the Lunda provinces have since requested a reopening of the investigation.

On February 11, 2013, the Portuguese attorney-general dismissed the complaint against Marques and his Portuguese editor, "Tinta da China," who had also been sued for defamation, for lack of evidence, and in compliance with the fundamental right to free expression.

²See Human Rights Watch report, "Angola's Upcoming Elections: Attacks on the Media, Expression and Assembly," August 1, 2012, <http://www.hrw.org/reports/2012/08/01/angola-s-upcoming-elections>.

Rafael Marques has been regularly threatened for documenting cases of high-level corruption in Angola involving the presidency and a broad range of senior officials. His anti-corruption blog (www.makaangola.org) has suffered a series of apparently targeted “denial of service” attacks in 2011, which effectively undermined public access to the website, even if temporarily.

While no suspicious killing of a journalist has been reported since 2010, independent journalists and civil society activists frequently allege that they receive threats against their physical integrity delivered directly – via anonymous phone calls or phone text messages – or indirectly – through open or veiled warnings to family members, or through attacks on their residences. They also say that periods of more open threats alternate with offers from government officials to “cooperate.”

On June 10, 2012, unknown individuals entered the residence of José Manuel Gimbi, a human rights lawyer and the Voice of America stringer in the enclave of Cabinda, while he was not at home. The attackers ransacked the house and stole laptops, hard drives, and documents linked to his work. Gimbi has been repeatedly targeted for his work for several years. On October 28, 2011, unknown armed individuals with walkie-talkies threatened Gimbi's children at his residence during his absence and were heard threatening him with unspecified harm. Police investigations into both incidents remain inconclusive, and local police officials told Human Rights Watch they doubted that the events occurred.

On several occasions between April 27 and 30, 2012, unknown individuals tried to assault the residence of Coque Francisco Mukuta in the Cazenga neighborhood in Luanda.³ Mukuta, now working for Voice of America, has co-authored a book on the demonstrations since 2011, which was published in March 2012 in Brazil. On March 20, 2012, Mukuta had received handwritten threats directed at him at home. The threats were on a pamphlet signed by an alleged youth group for the

³See Human Rights Watch report, “Angola’s Upcoming Elections: Attacks on the Media, Expression and Assembly,” August 1, 2012, <http://www.hrw.org/reports/2012/08/01/angola-s-upcoming-elections>.

defense of peace in Luanda's Cazenga neighborhood. Mukuta said that police deployed some agents for his protection, but the police investigation into the threats remains inconclusive to date.

Human Rights Watch urges the Committee to call on the Angolan government to prevent further intimidation and harassment of journalists and activists, drop politically motivated charges against journalists and others for crimes against the security of the state under article 25 of the 2010 national security law, and revise the law so that it is in conformity with international standards regarding the rights to free expression and peaceful assembly. The Angolan government should also decriminalize defamation and related offenses in the Press Law, the new draft Criminal Code and related legislation.

Right to Peaceful Assembly (Article 21 of the Covenant)

Since 2009, Human Rights Watch has documented the regular disruption by Angolan security forces of peaceful demonstrations organized by different organizations to protest a variety of grievances, including forced evictions, arbitrary detentions in Cabinda, corruption, pension claims for demobilized soldiers and presidential guards, and other issues. Most of those protests were announced in advance, as required by Angolan law, and the protests were peaceful.

Since March 2011 security forces and agents in civilian clothes have violently cracked down on a series of peaceful protests.⁴ In numerous cases, plainclothes agents violently attacked observers and journalists covering the events. In a number of cases, police arbitrarily arrested protesters, some of whom were prosecuted and sentenced to prison sentences. Police also briefly detained journalists and confiscated their equipment in an apparent attempt to prevent them from reporting. Human Rights Watch also documented several cases in which jailed protesters were forced to make statements to the state television, *Televisão Pública de Angola* (TPA), while in custody. Organizers of an anti-government youth protest movement

⁴See "Angola: Stop Repression of Anti-Government Protests," Human Rights Watch news release, September 5, 2011, <http://www.hrw.org/news/2011/09/05/angola-stop-repression-anti-government-protests>.

organizing rallies in Luanda and Benguela have been targeted with anonymous death threats via phone text messages, abductions, intimidation, and severe beatings by unidentified individuals. The main perpetrators of violence during protests have been groups of armed individuals, who have acted with complete impunity, and appear to be security agents in civilian clothes.⁵ Between March 2011 and July 2012, the threats and armed attacks against protest leaders by these plainclothes security agents – who are known in Angola as “caenches” (“muscle men”) or “militia” – continually increased. They included attacks against protesters in their private residences, abductions, and two possible enforced disappearances.

Protesters and other victims of violence around the protests have filed numerous complaints with the police. Human Rights Watch is not aware of any credible police investigation or prosecution of perpetrators.

In one particularly serious case, on May 27 and 29, 2012, Isaias Cassule and António Alves Kamulingue, organizers of a former presidential guard protest joined by war veterans, disappeared after a rally organized in Luanda on May 27.⁶ In July 2012, the families of the victims filed a complaint with the police under the guidance of the human rights organization *Maos Livres* (“Free Hands”). In December 2012, the Angolan government, after a meeting with family members, announced an investigation. Human Rights Watch is not aware of any progress in the investigation since then.

The following incidents illustrate the numerous attacks on peaceful protests documented by Human Rights Watch in 2011 and 2012.

- On December 22, 2012, police cracked down on a protest rally in Luanda demanding an official explanation on the whereabouts of Isaias Cassule and António Alves Kamulingue, the protest organizers who were apparently forcibly disappeared in May 2012, and arrested five protesters and three bystanders. They were released on

⁵See “Angola: End Violence Against Peaceful Protests,” Human Rights Watch news release, December 7, 2011, <http://www.hrw.org/news/2011/12/07/angola-end-violence-against-peaceful-protests>.

⁶See “Protesters Detained, Disappeared,” Human Rights Watch news release, July 5, 2012, <http://www.hrw.org/news/2012/07/05/angola-protesters-detained-disappeared>.

December 28 after a judge acquitted them for lack of evidence. One of the detained protesters, Alemão Francisco, told Human Rights Watch that while in custody in a police jail, criminal investigation police agents threatened and intimidated him to give an interview to the state television, TPA.

- On July 14, 2012 – six weeks before general elections on August 31, police briefly detained 11 young activists and two Angolan journalists – Coque Mukuta, a stringer for the Portuguese language service of Voice of America, and Isaac Manuel, a journalist for the Portuguese state television, Rádio Televisão Portuguesa (RTP) – at a peaceful youth protest against President Dos Santos at Luanda's São Paulo market. In statements posted on the internet, two activists said that some of the detainees were mistreated by police agents, and were interrogated about their alleged links to opposition parties. Despite pressure on detainees while in detention, they refused to make statements that the protests were organized by the opposition on state-owned TPA or on TV Zimbo, a private television station owned by senior officials close to the presidency.
- On June 20, 2012, at least 50 war veterans were arrested during a spontaneous demonstration through the city center of Luanda to claim long overdue pensions and social benefits. They were later released without charges. After a previous protest by war veterans on June 7, the authorities had promised to address their claims promptly, but have failed to do so.
- On March 10, 2012, a dozen plainclothes security agents carrying wood and metal clubs, knives and pistols, attacked a crowd of 40 demonstrators and a number of bystanders in Luanda's Cazenga neighborhood, severely injuring three protest organizers. On the same day, security agents in plainclothes attacked two politicians of the opposition party Bloco Democrático in Luanda's city center, while in Benguela police dispersed a crowd of around 60 peaceful protesters and arrested a protest organizer, a human rights activist, and a bystander. A court convicted the three on March 17 and sentenced

each to 45 days in prison on charges of disobedience and aggression against police agents.

- On February 4, 2012, police cracked down on a protest of the health workers' union in Cabinda and briefly detained 21 strikers.
- On February 3, 2012, police dispersed a crowd of about 50 youth and family members of eight protesters who had been jailed during a peaceful protest by residents in Luanda's Cacuaco neighborhood on January 27, and arrested another 10 protesters. While those 10 protesters were released on the same day, the 8 protesters detained on February 4 were sentenced to 90 days in prison but were later released on US\$400 bail.
- On December 3, 2011, police and plainclothes security agents forcibly dispersed a peaceful rally of about 100 youth in Luanda's Cazenga neighborhood and city center, and injured at least 14 protesters, one of them seriously.
- On September 3, 2011, police agents and security agents in plainclothes forcibly dispersed a crowd of several hundred youth protesters at Luanda's Independence Square. Police arrested more than 40 protesters, 18 of whom were later convicted and sentenced to between 45 and 90 days in prison for aggression against police agents. Police also arrested a number of protesters and bystanders in front of the police court during the hearings, but the charges against the detainees were later dropped.

Since the first youth movement protest on March 7, 2011, which called on President Dos Santos to resign, threats and attacks have not just occurred during demonstrations. Organizers of the youth protests have also received death threats by phone and text message, and have been targets of abductions, harassment, and beatings in their homes and elsewhere by unknown assailants.

Human Rights Watch urges the Committee to call on the Angolan government to provide details of any investigations or prosecutions of security forces responsible for the use of unnecessary or excessive force against peaceful protesters and the arbitrary arrest, unlawful detention, and ill treatment of individuals detained while exercising their right to peaceful assembly.

Right to Vote in Free and Fair Elections (Article 25 of the Covenant)

Angola's August 31, 2012 general election took place in a more restricted environment for the media, free expression, and peaceful assembly than the first post-civil war elections in 2008. Numerous incidents of violence by apparent police in civilian clothes against peaceful protesters and activists in the months before the elections contributed to a climate of fear.⁷

The elections were generally peaceful during the campaign and on polling day, yet fell short of international and regional standards. The playing field for political parties was uneven, with unequal access to state resources; the media was overwhelmingly dominated by the ruling party, the Popular Movement for the Liberation of Angola (MPLA), in power since 1975; and the elections oversight body sided with the ruling party by not taking any action when the ruling party violated electoral laws. As during the last national elections in 2008, independent observation of the elections was seriously hampered by massive delays and restrictions in the accreditation of domestic and international observers and international journalists.

The National Electoral Commission (CNE), despite a more balanced composition than in 2008, was not able or willing to fulfill its role as an impartial oversight body. It failed to address major violations of electoral laws, including unequal access of parties to the public media and ruling party abuse of state resources and facilities, and hampered independent observation through the massively delayed, restrictive, and selective accreditation of domestic and international observers. The CNE also obstructed the accreditation of opposition officials at the polling stations,

⁷See Human Rights Watch report, "Angola's Upcoming Elections: Attacks on the Media, Expression and Assembly," August 1, 2012, <http://www.hrw.org/reports/2012/08/01/angola-s-upcoming-elections>.

leaving up to half of opposition representatives without credentials on polling day.

The police did not act impartially during the election campaign, on several occasions arbitrarily arresting opposition activists. Most were released without charges. For example, on the eve of the elections, police arbitrarily detained at least 19 opposition activists and others, including polling station officials and opposition representatives, as well as passersby during two separate protests in front of the CNE's headquarters in Luanda. Five were released without charges, fourteen people including activists of the opposition coalition Broad Convergence for Angola's Salvation-Electoral Coalition (*Convêrgencia Ampla de Salvação de Angola-Coligação Eleitoral, CASA-CE*), polling station officials, and passersby at a protest were jailed for three days and were told they may face charges for allegedly having organized an illegal campaign rally.

Human Rights Watch urges the Committee to call on the Angolan government to provide details of any steps taken to improve the human rights environment for the media, free expression, and peaceful assembly for expected upcoming local elections.