



# ANGOLA

## AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW 34<sup>TH</sup> SESSION OF THE UPR WORKING GROUP, OCTOBER 2019

### FOLLOW-UP TO THE PREVIOUS REVIEW

During its second Universal Periodic Review (UPR) in October 2014, Angola accepted 192 recommendations and rejected 34.<sup>1</sup> Despite Angola's rejection of important recommendations on the creation of a National Human Rights Institution<sup>2</sup> and on freedom of expression, peaceful assembly and association,<sup>3</sup> Amnesty International has noted a slight improvement in the enjoyment of civil and political rights. The authorities have allowed peaceful demonstrations to take place in some provinces and provincial courts have dismissed a few cases of judicial prosecution of human rights defenders and journalists.

Angola accepted recommendations to ensure prompt, thorough and impartial investigations into cases of human rights violations and excessive use of force by security forces and bringing those responsible to justice.<sup>4</sup> However, Angola has not implemented these recommendations. On the contrary, new cases of human rights violations and excessive use of force by security forces have emerged and authorities continue to fail to hold those suspected of criminal responsibility for human rights violations to account.

Angola also accepted recommendations to provide water supply and sanitation facilities in rural communities.<sup>5</sup> Amnesty International is disappointed, however, that Angola has not implemented this recommendation, and rural communities, particularly traditional communities in southern Angola, live in periods of prolonged drought without access to water and food.

Angola accepted recommendations to improve infrastructure and standards of living, to ensure broad public access to quality education and health services in the rural areas,<sup>6</sup> and to promote and protect the rights of peasants and other people working in rural areas.<sup>7</sup> Amnesty International regrets that Angola has not complied with these recommendations.

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<sup>1</sup> Human Rights Council, *Report of the Human Rights Council*, 6 March 2015, A/HRC/28/11/Add.1.

<sup>2</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review - Angola*, 5 December 2014, A/HRC/28/11, recommendations 135.12-135.25 (Uruguay, Egypt, France, Gabon, Ghana, Greece, India, Indonesia, Kenya, Mali, Rwanda, South Sudan, Togo, Tunisia).

<sup>3</sup> A/HRC/28/11, recommendations 135.30 (Estonia), 135.31 (United States of America), 135.32 (Sweden), 135.33 (Norway), 135.34 (Australia).

<sup>4</sup> A/HRC/28/11, recommendations 134.114 (France), 134.115 (Germany), 134.116 (Sweden), 134.119 (USA), 134.120 (Switzerland).

<sup>5</sup> A/HRC/28/11, recommendations 134.143 (Bolivia), 134.144 (Spain)

<sup>6</sup> A/HRC/28/11, recommendations 134.138 (Uzbekistan), 134.139 (Thailand).

<sup>7</sup> A/HRC/28/11, recommendations 134.140 (Bolivia).

Angola accepted recommendations to ratify various international human rights conventions, most notably the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;<sup>8</sup> the International Convention for the Protection of all Persons from Enforced Disappearance;<sup>9</sup> the International Convention on the Elimination of All Forms of Racial Discrimination;<sup>10</sup> and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.<sup>11</sup> Amnesty International is disappointed that Angola has not ratified any of these documents.

## THE NATIONAL HUMAN RIGHTS FRAMEWORK

Amnesty International has noted an improvement in the enjoyment of some civil and political rights. Specifically, the authorities have allowed peaceful demonstrations in some provinces and provincial courts have dismissed a few cases of judicial prosecution of peaceful protestors, human rights defenders and journalists.

Amnesty International welcomes the Constitutional Court's decision to declare unconstitutional the Non-Governmental Organization Presidential Decree that sought to monitor the registration and financial support of NGOs. Amnesty also welcomes the adoption by Parliament in January 2019 of a new Penal Code which removes the provision on "vices against nature" which had been widely interpreted as a criminalization of same-sex relationships. The new Penal Code goes further and criminalizes discrimination against people based on sexual orientation.<sup>12</sup>

## PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

### Human rights violations by police and security forces

Despite some improvements in civil and political rights protection, the police and security forces continue to carry out arbitrary arrests and detentions. Many of the cases of arbitrary arrest, detention and ill-treatment have been against demonstrators, but security forces have also targeted individuals who were not involved in the demonstrations.

- Between 28 January and 1 March 2019, the security forces arbitrarily arrested 62 people, including activists from the Independence Movement of Cabinda (*Movimento Independista de Cabinda – MIC*) and their family members and colleagues.<sup>13</sup> Their arrest and detention were in connection with their involvement in a peaceful protest held on 1 February to mark the 134<sup>th</sup> anniversary of the signing of the Treaty of Simulambuco.<sup>14</sup> On 27 February, the Cabinda High Court ruled that 51 detainees should remain in detention while 13 others were released provisionally pointing out that their arrest at their home without a warrant had been illegal.
- On 1 March 2019, activists and family members of the 51 remaining detainees gathered to protest their continued detention. The police arrived and assaulted the protesters with kicks and punches. The police arrested 11 people without a warrant but released them hours later without charges. Seven of those arrested were

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<sup>8</sup> A/HRC/28/11, recommendations Italy (134.10), Denmark (134.17), Ghana (134.19), Kenya (134.21), Togo (134.33), Tunisia (134.34).

<sup>9</sup> A/HRC/28/11, recommendations Ghana (134.19).

<sup>10</sup> A/HRC/28/11, recommendations Viet Nam (134.7), Gabon (134.18), Mexico (134.26), South Africa (134.32), Tunisia (134.34).

<sup>11</sup> A/HRC/28/11, recommendations Philippines (134.4), Burkina Faso (134.13), Ghana (134.19).

<sup>12</sup> The New Penal Code, which took effect on 23 January 2019, rescinded references to "vices against nature" that were part of the colonial Penal Code of 1886.

<sup>13</sup> Amnesty International, *Angola: Sixty-two activists, protesters arbitrarily held*, 12 February 2019. Available: <https://www.amnesty.org/en/documents/afr12/9804/2019/en/>

<sup>14</sup> The Portuguese Crown and the Cabinda native authorities signed the Treaty of Simulambuco establishing Cabinda as a Protectorate of the Portuguese Crown.

hospitalized due to the police beatings.

- Between September and October 2018, law enforcement agents used excessive force and ill-treated over 300,000 nationals from the Democratic Republic of Congo during Operation Transparency (*Operação Transparência*) aimed at forcibly expelling them from Angola,<sup>15</sup> in particular from illegal diamond mines in Lunda Norte and Lunda Sul provinces. The mass deportation of Congolese nationals resulted in serious human rights violations by security forces on both side of the border, including six deaths, sexual violence and harassment, bodily frisking and theft of belongings.<sup>16</sup>
- Amnesty International has received reports of the killing of 92 people in Luanda, in the municipalities of Cacuaco and Viana, carried out by agents of the Criminal Investigation Service between April 2016 and November 2017 in circumstance which appear to be unlawful.<sup>17</sup> Suspected of criminal behaviour, the victims were extrajudicially executed without investigation or trial. As far as Amnesty International is aware, no police officer or security agent has been brought to justice for these killings, the excessive use of force, ill-treatment, or arbitrary arrests and detentions.

### Land disputes in rural areas

The *Constitution of the Republic of Angola* recognizes collective and customary land ownership and use: "The state shall respect and protect the property and any other rights of private individuals, corporate bodies and local communities, and temporary civil requisition and expropriation for public use shall only be permitted upon prompt payment of just compensation under the terms of the Constitution and the law."<sup>18</sup> Similarly, the *Land Law* protects rural community rights to the lands under their occupation, whether for habitation and other uses, or self-administration and self-management.<sup>19</sup> It further asserts that the State should respect and protect the land rights of rural communities, including those that are based in customary land use; these lands can only be expropriated for the public benefit with just compensation.<sup>20</sup>

The *Environmental Law* requires projects which by their size, nature or location, may have a significant negative impact on the natural or social environment, or implications for environmental and social equilibrium, to undergo a process of "Environmental and Social Impact Evaluation in which are determined its social, environmental, economic viability and the methods for neutralizing or minimizing its effects".<sup>21</sup>

Despite these legal guarantees and its international obligations, Angola continues to fail to protect communities from losing their communal lands to commercial farming. The authorities have failed to enforce legal requirements before evictions, including environmental and social impact assessments, public consultations, and free, prior and informed consent by the affected communities, as well as provide adequate relocation and fair compensation.

Since the end of the civil war, commercial farmers have expropriated without any form of compensation more than 750km<sup>2</sup> of Tunda dos Gambos, a communal pastoral reserve which includes Vale de Chimbolela and some parts of Parque de Bicular, in Gambos and Chibiya municipalities, Huila province. As a result, food security and livelihoods in the pastoralist communities scattered in Cunene, Huila and Namibe provinces have been greatly diminished.<sup>22</sup>

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<sup>15</sup> United Nations - Office of the High Commissioner, *Mass expulsions from Angola have put thousands of Congolese at risk in DRC*, 26 October 2018. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23784&LangID=E>

<sup>16</sup> United Nations - Office of the High Commissioner, *Mass expulsions from Angola have put thousands of Congolese at risk in DRC*, 26 October 2018. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23781&LangID=E>

<sup>17</sup> Rafael Marques de Morais, *Angola's Killing fields – a report on extrajudicial executions in Luanda, 2016 – 2017*. Available at: <https://www.makaangola.org/wp-content/uploads/2018/02/EXTRAJUDICIAL-KILLINGS-IN-ANGOLA-2016-17.pdf>

<sup>18</sup> *The Constitution of the Republic of Angola*, Article 37:2.

<sup>19</sup> *Lei de Terra, Lei n.º 9/04 de Novembro*, Article 1: C.

<sup>20</sup> *Ibid.*, Article 9: 1-2.

<sup>21</sup> *Lei de Bases do Ambiente, Lei n.º 5/98 de 19 de Junho*, Article 15.

<sup>22</sup> Manuel Luamba, Sul de Angola continua a sofrer com a seca e a fome, *Deutsche Welle*, 13 November 2018.

- In February 2016, 19 families were forcibly evicted from their land in Cunene province as part of the government's Agroindustrial Horizonte 2020 mega project. This project aimed to appropriate 76,000 hectares of fertile land without the free, prior and informed consent of the affected communities, including land west of Ombadja and Curoca municipalities, which is home to 39 communities consisting of 2,129 families with 10,675 children. These communities have historically relied on agriculture and livestock for their livelihoods. By the end of 2017, a community area of 15,000 hectares had been destroyed, including trees used for food and firewood, grass for cattle grazing, and burial sites. Consequently, the 19 families' standard of living was drastically diminished with severely reduced access to food and water.<sup>23</sup>
- The communities of Sachitemo, Capunda and Pungua in Tchicala Tcholoanga municipalities, Huambo province, had their agricultural land expropriated by a Chinese company. The communities relied on family agriculture for their subsistence, and since their eviction they have been facing significant challenges including a lack of ability to support themselves and therefore a lack of food. The company expropriated a total of 7,000 hectares, including an area of access to the Cunene River, which was of fundamental life-sustaining use for the local communities to grow their food.<sup>24</sup>

### **Precarious right to water in rural and urban areas**

The *Constitution of the Republic of Angola* and the *Water Law* declares that, as a natural resource, water is a hydric public good the right to which is "inalienable and imprescriptible".<sup>25</sup> However, contrary to both this provision and Angola's international obligations, access to drinking water – in terms of availability, quality and accessibility – remains precarious in both urban and rural areas for large numbers of people.

- In rural areas, the development of agribusiness, mining, and oil and gas projects directly hamper access to safe drinking water. De facto privatization of rivers (through diversion), lakes and water fountains (through fencing) cut people's access to water. In Lunda Norte, the mining industry has diverted Kwango River away from various communities in Kwango, Xamutemba, and Kapenda Kamulemba municipalities. Commercial farmers have fenced off rivers, lakes and fountains in Curoca (Cunene), Savate (Kwanganar municipality in Kwando Kubango) and Luangundo (Kwando Kubango). Where natural water sources are still accessible, they have been subject to pollution. Oil spills in Cabinda and Zaire provinces have contaminated water sources denying communities of their rights to water and livelihoods;
- In urban areas, the availability, quality and accessibility of water have been perennially precarious for large segments of the population. Most of the time, drinking water is both unavailable and of below acceptable quality. In addition, water supply is discriminatory with priority given to affluent neighborhoods.<sup>26</sup>

### **Right of lesbian, gay, bisexual, transgender and intersex people**

The revision of the Criminal Code removed the provision widely interpreted as a criminalization of same-sex relationships and criminalized the discrimination against people based on sexual orientation; however, LGBTI people continue to face discrimination, intimidation and harassment by both non-state actors and state actors. The authorities have failed to protect LGBTI people against homophobic violence and to hold the perpetrators accountable. The justice system has a poor infrastructure and lacks adequately trained and qualified personnel, which results in cases taking a long time to finalize. For LGBTI people, very few cases reach the courts and very few lawyers are willing to take on LGBTI cases.

<sup>23</sup> Amnesty International, *The State of the World's Human Rights*, 2018. Available at: <https://www.amnesty.org/download/Documents/POL1067002018ENGLISH.PDF>

<sup>24</sup> Maka Angola, *Empresa Chinesa expropria terras de camponeses no Huambo, 15 January 2019*. Available at: <https://www.makaangola.org/2019/01/empresa-chinesa-expropria-terras-de-camponeses-no-huambo/>

<sup>25</sup> *Lei de Aguas, nº 6/02, de 21 de Junho*, article 5; *Constitution of the Republic of Angola*, article 95.

<sup>26</sup> *Angop, Angola: Expert warns of drinking water quality, 20 Sep 2016*. Available at: [http://www.angop.ao/angola/en\\_us/noticias/sociedade/2016/8/38/Angola-Expert-warns-drinking-water-quality,4526a43e-9c02-4215-aa28-6549f8d6fe79.html](http://www.angop.ao/angola/en_us/noticias/sociedade/2016/8/38/Angola-Expert-warns-drinking-water-quality,4526a43e-9c02-4215-aa28-6549f8d6fe79.html). In March 2019, Amnesty International also interviewed civil society representatives from all over the country in Luanda. The problem of water supply in Angola is widely known and acknowledged, and regrettably a normal state of affairs.

On 10 July 2018, Arquivo de Identidade Angolano's shelter for LGBTI, better known as *No Cúbico*, in Luanda, was invaded by three men armed with knives, fire guns and a hand hoe.<sup>27</sup> Five women were sleeping in the bedroom when the break in happened. They heard the men screaming, "Where are they? We are going to kill you!" The women barricaded the door to prevent a break into their room. After an hour and a half, the men decided to leave fearing the police was arriving. The next morning, the women went to the nearest police station, *Esquadra da Camuxiba*, to report the case. Their case was, however, redirect to the Ilha Police Unit. Instead of investigating the case to identify the aggressors, the police officers questioned the women and tried to defame their shelter *No Cúbico* as a prostitution house because single women lived there. To date, the authorities have not brought anyone to justice.

## RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

**Amnesty International calls on the government of Angola to:**

### *Ratification of human rights treaties*

- In line with recommendations accepted during the previous review, promptly ratify, without making any reservation, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the International Convention for the Protection of all Persons from Enforced Disappearance; the International Convention on the Elimination of All Forms of Racial Discrimination; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families;<sup>28</sup>
- Promptly ratify the Rome Statute of the International Criminal Court, signed on 7 October 1998;
- Ensure that the provisions of all international human rights treaties, to which Angola is a party, are incorporated into domestic law.

### *Human rights violations by police and security forces*

- Carry out prompt, thorough, impartial and independent investigations into cases of arbitrary arrest and detention and ensure that any police officers found responsible for human rights violations are subjected to disciplinary proceedings and criminal proceedings as appropriate, in line with accepted recommendations from the previous review;<sup>29</sup>
- Ensure the laws, regulations and codes of conduct that regulate the functioning of the police are reformed to bring them in line with international human rights standards;
- Ensure full reparations, including fair and adequate compensation, for victims of arbitrary arrest and detention;
- For those detained pending trial, ensure that they are brought to trial within a reasonable period of time or released pending trial;
- Ensure the release of those who have been detained for a period commensurate with the length of the normal sentence for the offence.

### *Land disputes*

- Ensure adequate remedies, including just compensation and restitution, for all victims of communal land illegally expropriated by commercial farmers, mining projects and oil and gas companies;
- Issue communal land titles for traditional communities who depend on the land for their livelihoods and adequate living standards;

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<sup>27</sup> Arquivo de Identidade Angolano, *Um relato sobre Lesbofobia em Luanda*, 15 August 2018, <https://www.aia-ao.org/single-post/2018/08/15/UM-RELATO-SOBRE-LESBOFOBIA-EM-LUANDA>

<sup>28</sup> A/HRC/28/11, recommendations 134.4-134.34 (Philippines, Kenya, Ghana, Italy, Denmark, Burkina Faso, Togo, Tunisia, Viet Nam, Gabon, Mexico, South Africa and Tunisia).

<sup>29</sup> A/HRC/28/11, recommendations 134.114 (France), 134.115 (Germany), 134.116 (Sweden), 134.119 (USA), 134.120 (Switzerland).

- As envisaged in law, ensure that customary lands are not licensed to private entities, informed consent is obtained, environmental and social impact assessments are conducted, human rights due diligence is undertaken, and just compensation and effective remedies are awarded.

*The right to water in rural and urban areas*

- Invest in water retention and supply infrastructure in rural areas to ensure that communities have access to safe drinking water and water for irrigation and livestock throughout the year;
- Invest in equitable and just water supply infrastructure in urban areas to ensure non-discriminatory water access in all neighbourhoods, regardless of socio-economic status;
- In rural areas, provide effective remedies for victims of water source privatization and undertake effective law enforcement to end the violation of the right to water.

*Rights of lesbian, gay, bisexual, transgender and intersex people*

- Develop and implement a national plan to combat and prevent discrimination based on sexual orientation and gender identity;
- Promptly, thoroughly, independently and impartially investigate all allegations of attacks, arbitrary arrest and detention of persons based on their real or perceived sexual orientation or gender identity and bring suspects to justice in fair trials.