

**Republic of Angola**

**Joint Submission to the UN Universal Periodic Review (UPR)**

**34<sup>th</sup> Session of the UPR Working Group**

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**Joint Submission By:<sup>1</sup>**

The Lutheran World Federation (LWF); ACM Kwanza Sul: Young Christian Association; Building Communities Association (ACC); Co-operation for the Development of the Emerging Country (COSPE); Community Action for the Development of Angola (ACDA); Mãos Livres (Lawyers Association); Association of Mutual Support for Angola (AMPA); There are no Orphans of GOD Association (ANOD); Ame Naame Omuno Association (YEAR) (I am also a person); Women and Children Association (AMC); MBAKITA: The Kubango Agricultural Charity Mission, Inclusion, Technologies and Environment; Development, Reintegration and Community Solidarity Action (ADRSC); and the Jesuit Refugee Services (JRS).

**Contact persons:**

Mr. Malungo Muana Germano, Advocacy Officer, The Lutheran World Federation Luanda-Angola

LWF Angola

Condomínio Ocean Ville nº 138, CP 1606, Talatona, Luanda / Angola

Tel: +244 932 720099 or +244 912176231

Email: [malungo.germano@lutheranworld.org](mailto:malungo.germano@lutheranworld.org)

Website: <https://www.lutheranworld.org/content/angola>

Mr. Emmanuel Gore

Advocacy Officer, Global Rights Based Approach Programme, Lutheran World Federation – Geneva

150 Route de Ferney, 1211, Geneva

Tel. +41 (0) 22 791 63 65; Email: [Emmanuel.gore@lutheranworld.org](mailto:Emmanuel.gore@lutheranworld.org)

Website: [www.lutheranworld.org](http://www.lutheranworld.org)

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<sup>1</sup> Full contact details and Logos of all the submitting organizations are annexed to the report.

## EXECUTIVE SUMMARY

1. This report is a joint submission by thirteen non-governmental organizations to inform Angola's third cycle UPR) process. The report considers the state's performance with regards to its obligations under international human rights and humanitarian law and treaties and conventions, and regional legal bodies that Angola is a party to as well as national constitution of Angola and other domestic legislative and policy frameworks. It highlights key human rights concerns affecting the State. The report is cognizant of the institutional, policy and legislative reforms undertaken by Angola since its independence.
2. Angola became a sovereign and independent state on 11<sup>th</sup>/November/1975 and was accepted as a member of the United Nations on 1<sup>st</sup>/December/1976. Moreover, Angola is a signatory to or acceded to several human rights treaty bodies and conventions which form the bases for its obligation under international human rights and humanitarian law.<sup>2</sup> The human rights values are properly incorporated in the revised National Constitution of the Republic of Angola (2010). The constitution also provides safeguards for good governance, rule of law and effective management of public resources. In addition, efforts to promote human rights in the Republic of Angola has led to establishment of several human rights legislative framework and policies, such as the Land Law of Angola (2004) that regulates access and use of land and the National Development Plan which aims to promote the country's socio-economic and territorial development. The NDP is a prospective and multiyear plan covering the national, sectoral and provincial levels, with a view to implement the country's long-term development strategy as set out in the Long-term Strategy (ELP) for Angola 2025.
3. There is also the Angola mining code (2011) that provides basic legal framework and guidelines to mining activities in the extractive industry, and several other instruments that safeguard the rights of the child, for example, or women human rights, among many other national legal human rights framework and policies. However, many challenges remain, in particular with their effective implementation in Angola, in part due to lack of capacity, misplaced Governance priorities, corruption, underdevelopment and lack of institutional presence in rural areas.
4. This submission examines some of these challenges specifically with regards to access to justice, land rights; business and human rights; rights of the child; women human rights, violence against women and gender equality; rights of indigenous peoples and minority issues; and rights of refugees. These thematic priority issues are briefly explained and then

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<sup>2</sup>Convention against Torture and Other Cruel Inhumane or Degrading Treatment or Punishment and its Optional Protocol; International Covenant on Civil and Political Rights and its second Optional Protocol on Abolition of Death Penalty; Convention for the Protection of All Persons from Enforced Disappearance; Convention on the Rights of the Child and its first and second Optional Protocols; Convention on Elimination of all Forms of Discrimination against Women; International Convention on the Elimination of All Forms of Racial Discrimination; International Covenant on Economic, Social and Cultural Rights; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; Convention of the Rights of Persons with Disabilities; and the African Charter on Human and Peoples' Rights.

accompanied by respective recommendations to the Government of the Republic of Angola on how to improve these issues and the human rights situation on the ground going forward.

5. This report is based on primary data collected by eleven NGO members of the civil society UPR coalition through nationwide community consultations, focus group discussions and interviews carried out between October and November 2018. The data was collected from key members of the communities, including Catechists, Pastors, Teachers, Nurses, Doctors, Midwives, Hunters, fishermen, community leaders and elders as well as women, youth and children. Also interviews were conducted with community based non-governmental organizations (CBOs), and with officials from Government Ministries and state institutions to corroborate the information that was gathered from the communities.

## **1. ACCESS TO JUSTICE AND RULE OF LAW**

6. Access to justice and equality before the law is a right guaranteed in the Constitution of the Republic of Angola (CRA). However, the Angola justice sector continues to confront many challenges with upholding the rule of law and ensuring all Angolans have equal access to justice and due process before a competent court. Justice is mostly compromised by lengthy due process that contribute to delay of verdicts on both civil and criminal court cases as a result of lack of capacity. For example, there has been drastic reduction in the number of judges, prosecutors and magistrates as well as technical support staff and clerks in some courts, which has negatively affected the decisions to conclude court cases. This in turn has increased expenses for court cases including high fees that litigants have to pay to lawyers to expedite due process for their cases, but which most cannot afford due to economic constraints and high cost of living.
7. Furthermore, lack of infrastructure development and absence of courthouses and facilities in certain provinces means that rule of law cannot be adequately served, with plaintiffs having to travel across provinces for many hours to reach a courthouse in order to file a lawsuit. This is in addition to the fact that most administrative servants do not have appropriate means of transportation to commute to their workstations, while most existing facilities also lack accessibility areas for people with physical disabilities to ensure equal access to judicial services. In the Province of Zaire, for example, the Attorney General's Office does not have its own facilities in the municipalities. Moreover, the province of Zaire has eight (8) Judges but only one Judge is an expert on the matters of Civil Procedural Law. But the Judge in question resides and works in the municipality of Soyo, where most of the civil lawsuits can be filed, thus making it difficult for non-resident constituents and their legal representatives to have access to justice.
8. As a result, this incurs additional costs of transportation that leads to withdrawals of proceedings both from the lawyers and their clients. The issue of court staffing and lack of capacity is therefore a major contributing factor to hampering procedural justice. In absence of public defenders, they are often replaced by court officials, most of whom are law enforcement officials who are not qualified or mandated by law to preside over lawsuits. Access to justice is further compounded by lack of civic education of the overwhelming majority of population on judicial processes, and different criminal and civil laws of the Republic of Angola and how these guarantee their rights of access to justice and equality

before the law. Additionally, rampant corruption practiced by public officials, including in the justice sector further stifles effective access to justice.

## **Recommendations to the Government of the Republic of Angola**

- a. Facilitate and fill courts across the country with trained judges, prosecutors and court officials to ensure swift due process and conclusion of lawsuits, as well as ensure access to justice is free and based on equal footing as stipulated in the Constitution of the Republic of Angola. The Government is also strongly encouraged to strengthen the capacity of the BAR Association to provide free legal assistance to the public.
- b. Improve the justice infrastructure by building more courthouses and justice facilities that are accessible to all including persons with disabilities to ensure easy and equal access to justice by all.
- c. Embark on robust civic education through mass media, radio, and television on all aspects of the Angola domestic law and criminal justice system as well as sensitize the public on their rights regarding access to justice as enshrined in the National Constitution and other relevant domestic legislative and policy frameworks to promote a strong legal culture in the country.

## **2. LAND RIGHTS**

9. The Angolan Government's initiative to diversify the economy through agriculture is commendable. But at the same time this has nonetheless caused many adverse effects especially on rural communities. For example, article 9, 2 of the Land Law stipulates regarding acquisition and use of rural ancestral land that "the lands of rural communities may be expropriated for public utility to be petitioned, with fair compensation." Article 37, paragraph 4 of the same Land Law further states that no one shall occupy the lands of the communities unless the communities voluntarily freed up the land, and that only the State in the interests of all Angolans can occupy a land or grant a land to a private entity, but only after community consultations and free, prior and informed consent. However, since the launch of the initiative to diversify the economy through agriculture, many businessmen have gone to rural areas asking for land to develop agricultural projects, but most of these entrepreneurs do not respect the procedures established in the Constitution of the Republic of Angola and the Land Law on land acquisition and use.
10. Moreover, most cases of land rights violations and illegal land acquisition and use in the Republic of Angola are allegedly perpetrated by powerful actors or businessmen affiliated with the ruling party. These actors often acquire rural community land through the use of forceful evictions facilitated by intermediaries in the Government at both the national and provincial levels (Administrators, Governors, Members of Parliament or Army Generals etc.) and sometimes false promises are made to the communities that are later dishonored.
11. The Government of the Republic of Angola has taken some positive steps to mitigate land related conflicts between rural communities and businesses through a Presidential Order No. 14/18 which established an Inter-Ministerial Committee mandated with registering and

demarcating rural communal land, and legalizing land acquisition and use by third parties. The Committee which is coordinated by the Minister of State and Chief of Staff of the President of the Republic and assisted by a Technical Group comprising the Secretaries of State of the different Ministries, has since embarked on several activities ushering in its work. This included identifying 18 municipalities that would serve as pilot for commencing their work; setting up a working group for border demarcation of community lands; embarking on an ongoing community survey regarding land redistribution; and building capacity of the members of the committee on the use of GPS, and GIS in reading and interpretation maps, and handling of tablets. While these efforts are positive steps forward, the committee has been slow in completing its mandate which runs only for two years, with already one year having elapsed while the work remains in preparatory phase. Moreover, civil society is invited to make its contribution to the committee's work, but are excluded from the implementation process.

### **Recommendations to the Government of the Republic of Angola**

- a. Ensure businesses and investors adhere to the Law, including the provisions of the Constitution and the Land Law in all their business activities relating to rural communal land acquisition and use, and conduct adequate and inclusive community consultations and free, prior and informed consent prior to communal land acquisition and use.
- b. Prosecute and hold accountable those implicated in facilitating illegal land acquisition and use, and establish a more participatory, multidisciplinary and more transparent national land management policy, with a national mechanism and system for monitoring land concessions, including a regulation to define the just compensation provided for in Article 15, paragraph 3, of the Constitution.
- c. Accelerate the process of demarcation of communal rural lands so that the work is completed in 2 years as foreseen in Presidential Decree No. 14/18.
- d. Extend a standing invitation to the Special Rapporteur on the Right to a Fair Housing in order to obtain an independent opinion and advice on the development of legislation and policy in accordance with international Law on relocation of communities from ancestral land to accommodate a business activity.

### **3. BUSINESS AND HUMAN RIGHTS**

12. According to Article 16 paragraph 1 of the Angolan Mining Code, mining activities must always take into account the customs of the communities in the areas where the mining activity is being carried out. Mining activities must also ensure that they contribute to sustainable social and economic development of the communities in whose areas the mining company operates. However, mining activities in the diamond areas have often contributed to increasing rather than reducing poverty of the local populations. Many communities suffer from housing damage as a result with some having been forced to abandon their villages because of mining activities, without any compensation or rehousing as stipulated in the Angolan Mining Code, and the Charter of the Africa Union. According to the Angolan Mining Code Article 17, local populations whose houses have been damaged or affected

leading to their relocation or displacement because of mining activities, are entitled to be rehoused by the respective concession holder. Rehousing process must respect the habits, customs, traditions and other cultural aspects inherent to the affected communities, as long as they do not contradict the constitution. On the other hand, according to article 21 of the Charter of the Africa Union, the right of self-determination must be exercised by people in relation to their riches and natural resources, and in the event of adverse effects, affected communities shall be entitled to legitimate recovery of their property and to adequate compensation.

13. Many human rights abuses, and non-compliance with social obligations on the part of mining companies have been observed in the following diamond areas: Lunda-Sul Province, Cafula, Luele, Muandondji, Kashita, Muakajinga, Sapapa, Sambaia, where the biggest project of Kimberlito of Angola is being implemented by the Company Catoca. In the Province of Lunda-Norte, the affected villages are: Sachindele, Kashinakaji, areas which are being explored by Wuari and Luarica companies. Some of the human rights violations that have been allegedly committed by businesses in these areas include, torture and intimidation of community members in Cafula and Sapapa with a view to force community members out of these areas, which are being explored by the company; water pollution of the rivers: Tchikapa, Saurimo, Lunda-Sul Province, Tchihumbwe River, Lunda-Norte Province in Lukapa municipality, Kashinakaji, Satchindele and Maludi districts in Lunda-Norte Province. Water pollution of rivers is caused by the mining activities of Wuari and Luarica. In addition, fishing activities of communities in Sapapa, Cafula, and Samusseleka have equally been negatively affected by the mining activities of Luaxi Catoca.
14. The Luaxi Catoca project has also allegedly contributed to restriction of freedom of movement of community members and their goods in villages such as Muandondji, Kashita, Samusseleka, Samatamba, Sapapa, Cafula and Muakajinga, in the province of Lunda-Sul, with up to 1,605 families affected including 302 men, 323 women, and 980 children. Moreover, company personnel are also allegedly involved in sexual exploitation and abuse of women in return for provision of employment opportunities, which reportedly took place in particular in the Kafula and Itengo settlements. Other labor rights related violation by the same company allegedly include forced and child labour and unjustified dismissal of local employees. This is in addition to many allegations of sexual exploitation and abuse by the staff of the Luaxi project (Luele area), particularly in the Kafula and Itengo settlements, forced and child labour and unjustified dismissal of workers in mineral companies.

### **Recommendations to the Government of the Republic of Angola**

- a. Take concrete measures to ensure mining companies respect their human rights obligations as provided for in the Mining Code and other regional and international human rights norms, including on their responsibility to contribute to social and economic development of the communities in which mining activities are taking place, through construction of schools, medical centers and facilities, and water points and so on.
- b. Prosecute and bring to justice mining companies and their security agents responsible for human rights abuses in diamond areas.

- c. Enforce strict ethical guidelines for companies to implement with a view to protect labor rights, rights of the child against labor, and women and girls from sexual abuse and exploitation and hold violators accountable.

#### **4. RIGHTS OF THE CHILD**

15. The Republic of Angola has instituted several national policies and legislative framework to protect the rights of the child, based on its commitment to the convention on the rights of the child and its two optional protocols, and the Charter of the African Union's provisions on the rights of the child. These rights are primarily enshrined in the National Constitution of the Republic of Angola and the eleven (11) child protection commitments adopted by the Angolan Government at its third National Forum on Children held in 2007 with a view to creating a more protective environment for children. The eleven commitments are currently included in the Law on the Protection and Integral Development of Children, in its Article 50, and address issues related to the child's life expectancy at birth; food and nutrition security; birth registration; early childhood education; primary education and vocational training; juvenile justice; prevention and reduction of the impact of HIV and AIDS on families and children; preventing and combating violence against children; social protection and family skills; the child and the media, sports culture and children at the national level and in state's fiscal budget. However, these policies have been difficult to implement as protection of the rights of the child continue to be lagging behind in Angola.
16. Angola continues to be among one of the countries with highest infant mortality rates where approximately 156 children die in every one thousand live births. Moreover, considerable number of children continue to suffer from acute malnutrition and remain food insecure, with birth registration equally continuing to pose a serious challenge in particular in rural areas such as in Maquela do Zombo, Uige provinces. Early childhood education is another area where the rights of the child has not been adequately protected or prioritized in Angola. Despite some progress made by the Government of Angola through the National Early Childhood Policy, in which 83 pre-school educators, 242 child custodians and 50 trainers were trained to provide pre-school education for the whole country, only 11% of children aged 3 to 5 have access to pre-school education. The same applies to primary education, where about 22% of children in Angola are still outside of the education system.
17. With regards to the rights of the child in relation to access to justice, some progress has been made by the Government in particular in prevention of juvenile delinquency. The Government has conducted training of staff, and appointed members of the Tutelary Commissions of Minors in the provinces of Luanda and Huila. In order to prevent the institutionalization of vulnerable children, 160 mothers were integrated into the Tutelages' project in the provinces of Bié, Luanda and Malanje, 1,660 children were integrated into host families and 157 children were reintegrated into their biological families. However, provisions on accessibility of special child to justice services in the country are still insufficient, creating risks of social exclusion for many of them. In relation to health, children (aged 0-14) living with HIV/AIDS are prevalent estimated around 27,000 children, with only 3,800 receiving treatment amounting to only 14%. There are up to 5,500 cases of new infections. Likewise, violence

against children, domestic violence and sexual and gender based violence are a serious concern as these practices are accommodated by the culture.

### **Recommendations to the Government of the Republic of Angola**

- a. Redouble efforts to implement all policies and legislative framework aimed at comprehensive protection of the rights of the child in Angola at the top of which are the eleven commitments the Government adopted as comprehensive child protection policy.
- b. Take concrete measures to prioritize the health of the child through appropriate budgetary allocation and availing of resources, expertise and to reduce child mortality rate and remove Angola from countries with high mortality rate, and make birth registration of children obligatory and bring birth registration facilities closer to the people in the rural areas.
- c. Increase efforts to provide access to quality and free education to all children, including children aged 0-4 and children with disabilities; improve judicial services to juvenile children; and consolidate efforts to reduce children living with HIV/AIDS.

## **5. WOMEN HUMAN RIGHTS, VIOLENCE AGAINST WOMEN AND GENDER EQUALITY**

18. The Constitution of the Republic of Angola establishes clear principles that protect equality between men and women (Articles 21, 23, 26 and 35 of the CRA) and condemns violence against women. Law no. 25/11 Against Domestic Violence contains measures for the application of the Principle of Prevention and Combating Violence, as well as measures to support and guarantee the rights of victims in situations of violence. These measures include social aspects, awareness-raising campaigns, prevention, education, victim assistance, women's empowerment and the fight against crime affecting the family environment, as well as gender equality, respect for human dignity and individual freedoms. Despite the adoption of legal instruments and several initiatives to protect and promote women's rights, there is still a significant gap in fulfilling women's human rights and gender equality on the ground. For instance, between 2016 and 2018, Angola registered more than 62 thousand cases of complaints of domestic violence according to data from the National Directorate of DH. In 2017 and 2018, a total of 170 cases of domestic violence were reported every day throughout the country. The province of Benguela in 2018 recorded 536 cases of violence against women compared to 448 in 2017.
19. Furthermore, recent community consultations carried out in the municipalities of Ganda and Cubal reveal that there is fundamental failure to implement measures to protect victims of sexual and gender based violence, with evident lack of centers and medical facilities to shelter and provide treatment and psychosocial support as provided for in law the 25/11. There are also many cases of denials due to social stigma, as well as over reliance in customary laws to



resolve domestic violence against women, and sexual and gender based violence. Customary law is deemed inadequate to provide justice and redress and in certain cases is regarded as counterproductive and cause more harm to the victim (woman), by for instance obliging her to remain silent, and accepting violent abuse to safeguard cultural, religious, and family values. Concern with gender inequality in access to land was also raised. While Angolan law recognizes equality between men and women in access to land, many traditions in Angola do not allow women to own land. In some rural communities in Moxico Province for example, men have finally accepted that their wives have access to land, that is, through the work of the Lutheran World Federation, but more civic education to promote gender equality not least with regards to access to land is still required.

20. In terms of health, women in rural communities who participated in the consultations revealed that they continue to encounter difficulties with access to safe deliveries, especially at night time as health facilities and maternal wards remain scarce in particular rural areas. Women also said that they lack information on family planning, while they having reduced access to contraceptive means, which were previously free but have since been commodified. There are also issues with lack of awareness in rural communities and in schools about sexual and reproductive health. Moreover, difficult access to drinking water, in certain areas, where women travel 18 km in search of water also make women vulnerable to sexual assaults. Lack of vaccines and health prevention measures in rural areas also contribute to health risks to women. For instance, in the first quarter of 2018, there was an outbreak of Malaria in the municipality of Ganda was that resulted in 38,786 cases, with 97 deaths.

### **Recommendations to the Government of the Republic of Angola**

- a. Consolidate measures and policies to improve women human rights situation on the ground in particular against domestic violence and sexual and gender based violence.
- b. Criminalize harmful practices and sensitize traditional leaders, to discourage certain cultural, traditional and religious beliefs and practices that contribute to violence against women by increasing the dissemination of Law 25/11 on violence and discrimination against women.
- c. Accelerate the establishment of facilities for rapid response and intervention for the protection of women, and to viably and comprehensively provide support to women victims of abuse, domestic violence and sexual and gender based violence.

## **6. RIGHTS OF INDIGENOUS PEOPLES AND MINORITY ISSUES**

21. The Herero populations of the Southwest of Angola constitute a minority scattered between the Southwest of the Province of Huila, the Province of Namibe and the Northwest of the Province of Cunene. Unlike the San, the Herero are all Bantu, with the exception of two known groups. The Herero of the Southwest of Angola are mainly the Vakuvale, the Vahakavona and the Vandzimba. Vakuvale people are mostly found in the Namibe Province, with some in Huila, while the Vahakavona are mostly residing in south-west of Huila, more concretely in the Municipality of Gambos, as well as the Northwest of Cunene, in the

municipality of Kuroka. The Herero are primarily herding populations and their dedication to the management of livestock and trading with farming communities is existential. As such these minority communities and indigenous groups rely on rainfall for subsistence farming as means of their livelihoods, while the pastoralists rely on access to grazing land and water points for their cattle that serve as the basis for their peaceful co-existence and mutually beneficial economic transactions with their neighboring communities. However, with the impact of continuous droughts between 2012 and 2016, agro-pastoral planar populations, especially the Vamwila, Ovawambo and others have exhausted their swap reserves, and are calling on the Government to protect their right to life.

### **Recommendations to the Government of the Republic of Angola**

- a. Carry out an in-depth study of the existential situation of these minority groups and indigenous peoples and develop a program of assistance and support for their livelihoods and right to existence and life.
- b. Modernize their livelihoods and substance farming and cattle raring so that they can cope and thrive with changing climatic conditions as well as means to generate economic income through farming and cattle keeping.
- c. Create Basic Basket Program for the whole of the South-West of Angola, as systems of resilience and food security reserves that vulnerable members of these communities can rely upon during adverse environmental effects, resulting from draughts, cyclones, and other natural disasters.

## **7. RIGHTS OF REFUGEES**







22. The rights of refugee in Angola is regulated by Law No. 10/15 of 17 June 2015 on the Right of Asylum and Refugee Status. This instrument replaced Law No. 8/90 of 26 May 1990 Law on the Status of Refugees, which regulated refugee rights in Angola from 1990 to 2015. At the international and regional level, the Republic of Angola has ratified the Geneva Convention on the Refugee Statute of 28 July 1951, the New York Protocol Relating to the Status of Refugees of 31 January 1967 and other regional instruments. Currently, Angola is home to about 70,000 refugees and asylum seekers. The Government of Angola has set a good example, including refugees in its development plan.
23. However, one of the main problems faced by refugees in Angola relates to acquisition of official documentation and permits. With the change of law, the mandate of the COREDA (Committee for the Recognition of Right of Asylum in Angola) was terminated and the National Refugee Council (CNR) was created. This has led to the end of issuing and renewing refugee cards, which in turn resulted in restriction of refugees to access services and fundamental rights and freedoms, such as to employment, free movement, registration of telephone chips, opening bank accounts, and birth registration of children born in Angola.

24. Under these conditions refugees faced many challenges, including becoming vulnerable to arbitrary and illegal detention in inhumane conditions without access to food and medical services while remaining under ill-treatment, with limited access to family and friends. Furthermore, many refugees (around 2,000) were also expelled during the "Transparency" operation, including children of foreign nationals born in Angola, who do not have any documentation. There is absence of any refugee support program by the Ministry of Social Action as was previously the case, while there is also absence of any policy that guarantees and recognizes the right of integration and / or voluntary return to those refugees who have terminated their refugee status (cessation clause) in Angola on the recommendation of UNHCR.

### **Recommendations to the Government of the Republic of Angola**

- a. Develop a comprehensive national action plan and policies to protect the rights of refugees to dignified living in Angola in accordance with international standards that safeguard refugee rights.
- b. Ensure full and immediate implementation of Law No. 10/15 on the Right of Asylum and Refugee Statute which guarantees the rights of refugees to access to basic services, including to justice and fair trial as well as legal documents to freely live and work in Angola.
- c. Expedite the renewal of the civil registry system to enable the registration of all refugees, including children of refugees and asylum seekers in order for these children to have access to legal status and basic services, including education.

## Annex – 1: List of submitting organizations and their contacts

Name of Organization	Focal Person Contact Information	Organizational Logo
Lutheran World Federation (LWF)	Malungo Muana Germano, <a href="mailto:malungo.germano@lutheranworl.org">malungo.germano@lutheranworl.org</a> Tel. +244 932 72 00 99	
AMPA-Associação de Apoio Mútua para Angola	Agostinho Simão <a href="mailto:Asimao60@yahoo.com.br">Asimao60@yahoo.com.br</a> Tel.+244 923 621 156	
COSPE - Co-operation for the Development of the Emerging Country	Miriam Bacchin Country Representative Benguela, Rua da Guiné 3 Telefone: +244 947257152 Email: <a href="mailto:miriam.bacchin@cospe.org">miriam.bacchin@cospe.org</a> or <a href="mailto:angola@cospe.org">angola@cospe.org</a>	
AMC- Association for Woman and Child	Filipe Nsiku Ndofula Paula <a href="mailto:ndofula5@gmail.com">ndofula5@gmail.com</a>  +244 946 661 390	
MBAKITA-Mission of Beneficence Agricultural of Kubango, Inclusive, Technology and Environment	Pascoal Baptistiny <a href="mailto:baptistinysabatiny@gmail.com">baptistinysabatiny@gmail.com</a> +244 923 822 893 +244 923 092 797	
ANO - Ame Naame Omuno Association (YEAR) (I am also a person	Gaudêncio Félix Yakuleinge <a href="mailto:gfyakuleinge@gmail.com">gfyakuleinge@gmail.com</a>	

ANOD - There are no Orphans of GOD Association	Albertina Kapitango Bibiana, <a href="mailto:albertinabfk@gmail.com">albertinabfk@gmail.com</a> Tel. + 244 991794933	
ADRSC - Development, Reintegration and Community Solidarity Action	Kiala André Bela, <a href="mailto:kaloxbela@yahoo.com.br">kaloxbela@yahoo.com.br</a> , Tel. + 244 923602902	
JRS – Jesuit Refugee Service	Mona Panda <a href="mailto:Mona.panda@jrs.net">Mona.panda@jrs.net</a> , Tel. + 244 930402561	
Mãos Livres - Lawyers Associations, Cabinda	Simão Francisco Madeca <a href="mailto:Madeca.simao@yahoo.com.br">Madeca.simao@yahoo.com.br</a> , Tel. +244 913135340	
ACM Kwanza Sul – Young Christian Association	Mauricio Londjala <a href="mailto:mauriciolondjala@gmail.com">mauriciolondjala@gmail.com</a> +244923944818 +244913622535	
ACC- Association Building the Community	Domingos Francisco Fingo <a href="mailto:Dffingo@gmail.com">Dffingo@gmail.com</a>	
ACDA	Mutuchila Munongota Daniel <a href="mailto:mutuchiladaniel@gmail.com">mutuchiladaniel@gmail.com</a> Tel:+44-9355690/+244-991830783	