
ADVANCE UNEDITED VERSION

Human Rights Committee

Concluding observations on the initial report of Angola, adopted by the Committee at its 107th session (11 – 28 March 2013)

Prepared by the Committee

1. The Committee considered the initial report submitted by Angola (CCPR/C/AGO/1) at its 2957th, 2858th and 2959th meetings (CCPR/C/SR. 2957; CCPR/C/SR. 2958 and CCPR/C/SR 2959), held on 14 and 15 March 2013. At its 2975th meeting (CCPR/C/SR. 2975), held on 27 March 2013, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the initial report of Angola and the information presented therein. It expresses appreciation for the opportunity to initiate a constructive dialogue with the State party's high level delegation on the measures that the State party has taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/AGO /Add.1) to the list of issues which were supplemented by the oral responses provided by the delegation and for the supplementary information provided to it in writing.

Positive aspects

3. The Committee welcomes the adoption by the State party, in February 2010, of the new Constitution of the State party which contains provisions on human rights and abolishes the death penalty.

4. The Committee welcomes the ratification by the State party of the following international instruments:

- (a) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 24 March 2005;
- (b) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, on 1 November 2007;
- (c) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 11 October 2007.

Principal matters of concern and recommendations

5. While noting that the Covenant takes precedence over national laws, the Committee is concerned that the Covenant was invoked and applied by domestic courts only in a few cases (art. 2).

The State party should take measures to raise awareness of the Covenant and its first Optional Protocol among judges, lawyers and prosecutors to ensure that its provisions are taken into account by domestic courts.

6. While welcoming the accession by the State party to the Optional Protocol to the International Covenant on Civil and Political Rights and the State party's commitment to implementing the Committee's Views adopted thereunder, the Committee regrets the lack of information on measures taken to implement the Committee's Views concerning complaints related to the State party (art. 2).

The Committee urges the State party to cooperate with the Committee in the follow-up to its Views, to implement such Views and to provide information on measures taken in this regard.

7. The Committee regrets that the law on the Office of the Ombudsman does not provide the guarantees necessary to ensure its independence and that the Office does not have an appropriate mandate to address human rights issues (art. 2).

The State party should revise the Ombudsman Law to ensure that it complies with the Paris Principles (General Assembly resolution 48/134, annex) or establish a new national human rights institution with a broad human rights mandate in line with the same principles.

8. Although the Constitution guarantees the principle of equality (article 23), the Committee notes with concern that the State party has not adopted a general law on equality and non-discrimination. The Committee is concerned at the discrimination faced by persons with disabilities in the State party, in particular article 12 of the Electoral Law, which prevent persons with disabilities from fully exercising their right to electoral rights (art. 2, 16, 25).

The State party should consider adopting a general law on equality and non-discrimination in order to effectively protect all citizens and persons living in its territory from discrimination. It should take appropriate measures to protect persons with disabilities from discrimination, including with regard to their electoral rights. It should also raise the awareness of the population on the rights of persons with disabilities.

9. The Committee notes with concern that women remain under-represented in public and political affairs, in particular in the Government and in the Judiciary. The Committee regrets the lack of information on the representation of women in the private sector (art. 2 and 3).

The State party should strengthen its efforts to increase the participation of women in political and public affairs as well as in private sectors, if necessary, through temporary special measures to give effect to the provisions of the Covenant. The Committee urges the State party to include in its next periodic report, disaggregated statistical data on the representation of women in the private sector.

10. While noting the adoption of Law 25/11 of 14 July 2011 Against Domestic Violence, the Committee is concerned at the persistence of gender-based violence in the State party which results, in some cases, in deaths. The Committee is also concerned at the lack of statistical data on victims of gender-based violence, the investigations carried out,

the prosecutions and sanctions imposed, as well as about the low number of shelters for victims and rehabilitation services provided to victims (art. 3, 6 and 7).

The State party should adopt a national strategy to prevent and address gender-based violence in all its forms and manifestations. In this regard, the State party should collect data to establish the magnitude of the problem, its causes and consequences on women. The State party should also adopt measures to ensure the effective application of Law 25/11 of 14 July 2011, Against Domestic Violence by domestic courts and law enforcement officials. The State party should further ensure that cases of domestic violence are thoroughly investigated and that the perpetrators are prosecuted, and if convicted, punished with appropriate sanctions, and the victims adequately compensated. Furthermore, the State party should strengthen its measures of protection and prevention, in particular by increasing the number of shelters and providing rehabilitation to victims, and should pursue its awareness campaigns among the population on the issue of domestic violence and its negative effects on women and girls.

11. The Committee is concerned that the practice of polygamy persists in the State party and regrets the lack of statistical data on this phenomenon and on its effects on women. It also notes with concern that although the minimum age of marriage is 18, there is a high percentage of Angolan children between 12 and 14 years who are in de facto marriages, in particular in the provinces of Lunda Sul, Moxico, Huambo, Bié and Malanje and in other rural areas. The Committee regrets the lack of information on concrete results achieved by initiatives taken by the State party to combat such early marriages (arts. 2, 3, 24 and 26).

The State party should take appropriate measures to ensure that its legislation effectively prohibits polygamy and is effectively implemented, and conduct awareness campaigns on its prohibition and its negative effects, among the population, in particular among women and in rural areas. The State party should also take concrete measures to ensure the application of its legislation which prohibits early marriage and ensure that all marriages are registered. The State party should further strengthen measures to combat early marriage by reinforcing the mechanisms already put in place in the provinces and by pursuing community awareness-raising strategies focusing on the consequences of early marriages. The State party should also collect data on these phenomena of polygamy and early marriages, and provide it to the Committee in its periodic report.

12. While noting information on measures taken by the State party regarding the non-proliferation of small arms, the Committee is concerned that the State party has not yet succeeded in collecting all remaining small arms illegally possessed since the end of the civil war. It regrets that the State party has not provided statistical data regarding the number of crimes committed involving small arms, investigations undertaken, prosecutions made, sanctions imposed on those responsible and measures taken to protect its population against insecurity caused by small arms. The Committee is also concerned at the continuing existence in the State party's territory, of land mines which continue to kill and injure people (art. 6).

The State party should strengthen measures to collect small arms maintained by the population and to reduce insecurity in its territory. It should further consider reinforcing its legislation in order to combat illegal possession and use of small arms. The State party should continue and strengthen its demining efforts.

13. The Committee is concerned at article 358 of its Penal Code which criminalizes abortion except in some restrictive circumstances, including when the mother's life is in danger which force pregnant women to seek clandestine abortion services that endanger their health and their lives (arts. 3 and 6).

The Committee recommends that the State party should review its legislation on abortion and make provision for exceptions to the general prohibition of abortion for therapeutic reasons and in cases of pregnancy resulting from rape or incest. The State party should ensure that reproductive health services are accessible for all women and adolescents. Furthermore, the State party should increase education and awareness-raising programmes, both formal (at schools and colleges) and informal (in the mass media), on the importance of using contraceptives and the right to reproductive health.

14. The Committee is concerned by reports of arbitrary and extrajudicial killings by security forces in the State party, in particular those which occurred in the province of Huambo in 2010 as well as during the counterinsurgency against the Front for the Liberation of the Enclave of Cabinda in 2010. The Committee is also concerned at reports of cases of disappearances of protesters which occurred in Luanda between 2011 and 2012. The Committee is further concerned at the lack of concrete and comprehensive information on investigations, prosecutions, convictions and sanctions imposed on those responsible and at the reported impunity of security forces involved in such human rights violations (art. 6).

The State party should take practical steps to put an end to impunity by its security forces regarding arbitrary and extrajudicial killings and disappearances that occurred in its territory and should take appropriate measures to prevent their occurrence. The State party should systematically and effectively investigate, prosecute and if convicted, punish those responsible and provide adequate compensation to victims and their families, and inform the Committee accordingly. The State party should expand and enhance training programs on human rights, in particular, on the Covenant to its security forces.

15. The Committee is concerned at the absence of a definition of torture in the Penal Code which may lead to inadequate repression of the crime of torture. The Committee is also concerned at reports of torture and ill-treatment or excessive use of force by the police or security forces during arrests, in police stations and during interrogations as well as in other detention facilities. It is further concerned that there is no independent complaints authority to deal with such complaints which are currently only dealt with by a police force investigator (arts. 7 and 10).

The State party should adopt a definition of torture and explicitly prohibit torture in its Penal Code. The State party should also ensure that investigations of alleged misconduct by police officers and security forces are carried out by an independent authority. It should further ensure that law enforcement personnel receive training on the prevention and the investigation of torture and ill-treatment by integrating the Istanbul Protocol of 1999 (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) in all their training programmes. Allegations of torture and ill-treatment should be effectively investigated and the alleged perpetrators prosecuted and, if convicted, punished with sanctions commensurate with the seriousness of the crime, and victims should be adequately compensated.

16. The Committee is concerned at reports of torture, ill-treatment and human rights abuses, including sexual violence by police and security forces, on undocumented Congolese migrants during their expulsion from the State party. The Committee is also concerned at reports that such human rights violations have not been effectively investigated and that those responsible were not punished, and victims were not compensated. The Committee is further concerned at reports that undocumented migrants may be subjected to detention without recourse to a court to pronounce on its legality. Moreover, the Committee is concerned at the fact that the State party has stopped its

registration procedure for asylum seekers who may therefore be under threat of refoulement (art. 7, 9 and 13).

The State party should take all appropriate measures to guarantee that undocumented migrants are not subjected to ill-treatment and human rights abuses by police or security forces, including during their deportation. In the case of Congolese migrants expelled from the State party between 2003-2011, the State party should thoroughly investigate all cases of human rights abuses, including on cases of sexual violence, prosecute and if they are convicted, punish those responsible with appropriate sanctions and provide adequate compensation to victims. The State party should further ensure that undocumented migrants are protected against refoulement and if detained are entitled to take proceedings before a court that will decide on the lawfulness of their detention. Moreover, the State party should further re-establish its asylum procedures and proceed with the registration of asylum seekers.

17. The Committee is concerned that the State party remains a country of origin, transit and destination of trafficking in persons, in particular women and girls for sexual exploitation. The Committee is also concerned at the lack of specific legislation which prohibits trafficking in persons and at the absence of statistical data on trafficking in persons in the State party, as well as the absence of concrete results of initiatives taken by the State party to combat trafficking, such as the Child Protection Networks (art. 8 and 24).

The State party should strengthen its efforts to effectively combat trafficking in persons, in particular of women and girls. In the context of its legislative reform, the State party should include the prohibition of trafficking as a specific offence in its legislation and conduct training of all law officials as well as social workers. The State party should also investigate cases of trafficking, prosecute and if they are convicted, punish those responsible and provide compensation and protection to victims. The State party should further reinforce its cooperation with neighbouring countries and consider adopting a National Action Plan to combat trafficking.

18. The Committee is concerned at information, including from the State party, of arbitrary arrests and detentions, incommunicado detention and detention in military custody by the police or security forces in the State party, in particular of sympathizers of the Front for the Liberation of Cabinda in the Enclave of Cabinda as well as of human rights activists for alleged crimes against the security of the State. The Committee is also concerned at reports that persons have been detained for long periods in the absence of legal guarantees, in particular appearance before a judge, access to a lawyer and a medical doctor and the right to inform their family. The Committee is further concerned at the lack of clarity in the legislation on the period of pre-trial detention which may not be in compliance with the Covenant (art. 9 and 14).

The State party should take appropriate measures to ensure that no one under its jurisdiction is subject to arbitrary arrest or detention and incommunicado detention in line with the relevant provisions of the Covenant. The Committee should investigate the cases of arbitrary detentions above-mentioned, in particular those regarding sympathizers of the Front for the Liberation of the Cabinda and human rights activists. It should also take all measures including in its Code of criminal procedure which is currently under revision to ensure that detained persons enjoy all legal guarantees, in compliance with articles 9 and 14 of the Covenant.

19. While noting efforts implemented by the State Party to reduce overcrowding and improve conditions of detention, the Committee remains concerned at the inadequate conditions of detention and the limited use of alternatives to detentions such as bail or release on parole. The Committee is further concerned that in some prisons, the separation between minors and adults is not always guaranteed. Moreover, the Committee regrets the

lack of information on mechanisms set up in prison facilities to receive and address complaints lodged by detainees (art. 10).

The State party should continue to strengthen its efforts to improve detention conditions. In particular, the State party should take measures to reduce the high percentage of overcrowding including by using alternatives to detentions. It should also ensure that in detention facilities, the principle of separation between minors and adults is guaranteed. It should further facilitate complaints by detainees regarding detention conditions or ill-treatment and take appropriate measures to investigate and sanction those responsible.

20. The Committee is concerned at the reported lack of independence as well as corruption of the judiciary, and the insufficient number of judges, lawyers, tribunals and courts, all of which may create difficulties regarding access to justice. The Committee is further concerned at the prohibitive cost of legal fees, which may prevent some citizens, in particular disadvantaged persons and those living in rural areas, from accessing justice (article 14).

The State party should strengthen the independence of the judiciary and effectively combat corruption. The State party should also increase the number of trained judges and lawyers. The State party is encouraged to implement its plan aimed at increasing the number of tribunals and courts (municipal and provincial) in order to ensure that justice is accessible to all, in particular to disadvantaged persons and those living in rural areas. It should further ensure that legal assistance is provided in all cases where the interest of justice so requires.

21. The Committee is concerned at the existence in the State party's legislation of offences which may constitute obstacles to the exercise of freedom of expression, including freedom of the press. The Committee is particularly concerned at threats, intimidations and harassment by security or police forces faced by journalists, human rights defenders and protesters during political rallies or demonstrations in Luanda (art. 19 and 21).

In line with the Committee's General Comment No. 34 (2011) on freedoms of opinion and expression, the State party should amend its legislation to protect the freedom of expression including the freedom of press. The State party should also take the necessary steps to ensure that any restrictions to the freedom of expression fully comply with the strict requirements of article 19, paragraph 3 of the Covenant, as further set out in the Committee's General Comment No. 34 (2011) on freedoms of opinion and expression. The State party should ensure the enjoyment by all of the freedom of peaceful assembly and protect journalists, human rights defenders and protesters from harassment, intimidation and violence; and investigate such cases and prosecute those responsible.

22. The Committee is concerned at legal restrictions to freedom of association, which have resulted in difficulties for non-governmental organizations to be registered. The Committee is also concerned at reports of intimidation and harassment, which some non-governmental organizations face, preventing them from effectively carrying out their activities (art. 22).

The State party should amend its legislation to remove restrictions on the establishment and registration of associations and take measures to encourage their activities and to collaborate with them. The State party should take concrete measures to protect non-governmental organizations and ensure the protection of their members from reprisals.

23. While noting explanations provided by the State party, the Committee is concerned at reports that only 31% of children under age 5 are registered and that an estimated number

of more than two millions children aged between 0 to 4 are not registered. The Committee is also concerned at information that less than 1% of parents are aware of procedures to properly register their children. The Committee further notes with concern information by the State party that a great number of adults are not registered as a result of successive wars in the State party (art. 24).

The State party should finalize the adoption of the new decree on free birth registration for all children and adults and improve its official system of birth registration. It should also conduct awareness-campaigns on birth registration procedures within communities, in particular in rural areas.

24. The Committee is concerned at the phenomenon of children being accused of witchcraft and the ill-treatment they are subjected to as a result thereof (art. 7 and 24).

The State party should take effective measures to protect children accused of witchcraft from ill-treatment and abuses and carry awareness-raising program among the population, in particular in rural areas on the negative effects of such a phenomenon.

25. The State party should widely disseminate the Covenant, the two Optional Protocols to the Covenant, the text of its first periodic report, the written responses it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations in its official language so as to increase awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The Committee also requests the State party, when preparing its second periodic report, to broadly consult with civil society and non-governmental organizations.

26. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 7, 10 and 23 above.

27. The Committee requests the State party, in its next periodic report, due to be submitted on 28 March 2017, to provide, specific, up-to-date information on all its recommendations and on the Covenant as a whole.
