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宗教或信仰自由问题特别报告员

阿斯马·贾汗吉尔的报告

增 编

对安哥拉的访问 * **

* 本报告的内容提要以所有正式语文分发。报告本身载于内容提要附件，仅以原文分发。

** 为纳入关于本主题的最新信息，本报告的提交迟于规定的截止日期。

内容提要

本次评估的历史和政治背景是：安哥拉在 1975 年独立之后经历了一场长达 27 年的内战，而在此之前又有一场长时间的反殖民主义斗争。2002 年，安哥拉人民解放运动(人运)政府与争取安哥拉彻底独立全国联盟(安盟)签署了和平协定，结束了这场冲突，但却无法扭转这场冲突对安哥拉及其基础设施所造成的破坏，据称这场冲突至少造成 50 万人死亡，并在当时留下了数百万国内流离失所者。虽然于 2006 年 8 月 1 日签署了一项和平与和解谅解备忘录，但在卡宾达飞地，由卡宾达飞地解放阵线领导的武装斗争仍然持续不断，虽然激烈程度要低的多。

在如今的安哥拉，许多人可以自由信奉宗教或信仰；在这方面，在安哥拉社会有一定程度的容忍。然而，特别报告员注意到一些令人关切的问题。

虽然 1992 年的《安哥拉宪法》载列了宗教或信仰自由权利，但关于宗教、良心和信仰自由的第 2/04 号法律却对在宗教上处于少数地位的群体进行歧视，对希望取得合法地位的宗教群体实行严格的注册规定。一些宗教群体未能得到合法地位，而另一些宗教社区则根本不可能得到合法地位。特别报告员感到欣慰的是，政府愿意考虑改革这项法律。特别报告员承认安哥拉宗教群体泛滥所造成的问题，但注意到，法律注册不应取决于对某一信仰的实质内容的审查，也不应取决于繁琐的形式上的规定。

在卡宾达，当局压制了民间社会表达反对意见，但天主教内的冲突仍在继续，这一冲突导致了安全部队对破坏被认为与仍与人运政府有联系的卡宾达主教的任命的人进行暴力、恐吓、骚扰和逮捕。据报告，卡宾达天主教会领袖也遭到暴力或暴力威胁。

特别报告员在访问期间研究的令人关切的问题还有：丑化穆斯林的媒体报告和政府官员的言论、被控从事巫术的儿童的治疗、清真寺和其他礼拜场所的关闭、对“Radio Ecclésia”电台的行政上的规定、以及对遭到任何形式的拘留者的处境的关切。特别报告员在本报告中研究了这些问题，最后提出了一系列建议。

Annex

**REPORT OF THE SPECIAL RAPPORTEUR ON FREEDOM OF RELIGION OR
BELIEF, ASMA JAHANGIR, ON HER MISSION TO ANGOLA
(20 TO 27 NOVEMBER 2007)**

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction	1-5	4
II. Domestic legal framework on freedom of religion or belief	6-12	4
III. International legal framework on freedom of religion or belief	13-14	6
IV. Respect for freedom of religion or belief in Angola	15-43	7
A. Religious demography	15	7
B. Thematic issues of concern	16-43	7
1. Registration of religious communities.....	16-24	7
2. Promoting religious tolerance.....	25-26	11
3. Freedom of religion or belief in Cabinda	27-35	11
4. Accusations of witchcraft against children.....	36-39	15
5. Closure of mosques in Luanda and other places of worship	40-41	17
6. Radio Ecclésia	42-43	17
7. Persons under any form of detention.....	44	18
V. Conclusions and recommendations	45-55	18

I. INTRODUCTION

1. The Special Rapporteur on freedom of religion or belief conducted an official visit to Angola at the invitation of the Government from 20 to 27 November 2007.
2. The Special Rapporteur wishes to thank the Angolan Government for its invitation and for the cooperation extended to her during the visit. She also wishes to thank civil society and religious representatives for their information and opinions that they shared with her. She is particularly indebted to the invaluable assistance of the Office of the High Commissioner for Human Rights in Angola.
3. The Government's invitation represents a commitment to transparency, in the area of freedom of religion or belief, and also allows outside scrutiny of its human rights record. It may be viewed in the context of Angola's election to the Human Rights Council in May 2007. The Special Rapporteur welcomes the voluntary pledges and commitments filed when submitting its candidature. The Working Group on Arbitrary Detention visited Angola in September 2007 (see A/HRC/7/4/Add.4) and other special procedures mandate holders are scheduled to conduct further country visits.
4. As part of her visit the Special Rapporteur spent five days in Luanda and two days in Cabinda. In Luanda she met with the President of the National Assembly, the President of the Supreme Court, the Vice-Minister of Interior, the Vice-Minister of Justice, the Director of the National Institute for Religious Affairs, the Head of the Department of Religious Affairs, the Deputy Minister of Culture, the Attorney General, the National Children's Institute, the National Institute for Research and Educational Development and the Deputy Governor of Luanda. She also travelled to Cabinda and met with the Deputy Governor, the Police Commander, the President of the Provincial Supreme Court and the Director of the National Children's Institute.
5. The Special Rapporteur was also privileged to meet with members of civil society, including non-governmental organizations, in both Luanda and Cabinda, the United Nations Country Team, members of different faith communities, religious leaders, academics, journalists and diplomats. She visited places of worship, including churches and mosques. She also visited Viana Immigration Detention Centre in Luanda and a separate immigration holding centre.

II. DOMESTIC LEGAL FRAMEWORK

6. The right to freedom of religion or belief is enshrined in Angola's 1992 Constitution. Article 8 (1) of the constitution enunciates that the Republic of Angola is a secular state and there shall be separation between the state and churches. Article 8 (2) provides that religions shall be respected and the state shall protect churches, places and objects of worship, provided

they abide by the laws of the state.¹ Article 18 provides that all citizens shall be equal under the law and shall enjoy the same rights and be subject to the same duties, without distinction as to religion. All acts aimed at jeopardizing social harmony or creating discrimination or privileges based on those factors shall be severely punishable by law.

7. Article 21 states that fundamental rights in the Constitution shall not exclude others stemming from the laws and applicable rules of international law. Constitutional and legal norms related to fundamental rights shall be interpreted and incorporated in keeping with the Universal Declaration of Human Rights, the African Charter on the Human and Peoples' Rights and other international instruments to which Angola has adhered. In the assessment of disputes by Angolan courts, those international instruments shall apply even where not invoked by the parties.

8. Article 45 states that freedom of conscience and belief shall be inviolable. The Angolan state shall recognize freedom of worship and guarantee its exercise, provided it does not conflict with public order and the national interest. Furthermore, article 52 provides that the exercise of the rights, freedoms and guarantees of citizens may be restricted or suspended only in accordance with the law if such constitute a threat to public order, community interests, individual rights, freedoms and guarantees, or in the event of the declaration, a state of siege or emergency. Such restrictions shall always be limited to necessary and adequate measures to maintain public order, in the interest of the community and the restoration of constitutional normality. On no account shall the declaration of a state of siege or state of emergency affect the freedom of conscience and religion.

9. The limitations clauses in article 18 of the Constitution ("provided [religions] abide by the laws of the state") and article 45 of the Constitution ("provided [worship] does not conflict with public order and the national interest") may be regarded as inconsistent with internationally established human rights norms. Article 18 (3) of the International Covenant on Civil and Political Rights states that "freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals, or the fundamental rights and freedoms of others."

10. In general, vague expressions in domestic laws may lend themselves to very broad interpretation which, in turn, may lead to extensive intervention by the State and hence excessive restrictions on freedom of religion and belief. The Human Rights Committee, in its General Comment No. 22 (1993), declared that restrictions on the freedom to manifest religion

¹ Following independence, a new political and social system was adopted, based on Marxist ideology, redesigning new forms of regulation between the new State and the Church(es). The Catholic Church ceased to be privileged in State/Church relations, as had been the case during the Portuguese Colonial period when the State religion had been catholicism (see booklet on religious life in Angola published by INAR, 2007).

or belief are permitted only if they are prescribed by law, are necessary to ensure public safety, order, health or morals, or the fundamental rights and freedoms of others, and are applied in a manner that does not vitiate the right to freedom of thought, conscience and religion. The Committee has also stated that restrictions must only be applied for the purposes for which they were prescribed and they must relate directly to the specific objective they are to serve, and be proportional to that objective. Restrictions may not be imposed for discriminatory purposes or in a discriminatory manner.

11. Law no. 2/04 on freedom of religion, conscience and worship revoked executive decree 46/91. The law defines religious worship (article 2) and clarifies the notion of secularism and equality of treatment which involve a clear separation between the state and religious institutions. All religious institutions are to be treated equally (article 3). The law also provides that freedom of conscience includes the right to have a religion or none and to change religion (article 4). The law recognizes the principle of non-discrimination because of religious belief in employment (article 5). It provides that the exercise of religion is lawful and that there is no requirement for official authorization except when practicing a religion in places of worship which could disturb the public order and social peace (article 6 (2)). According to the law, the Government Ministries in charge of the question of religion are the Ministries of Culture and Justice.

12. Colonial-era legislation bans all non-Christian religious groups from Angola. Whilst this legislation has not been repealed, it is no longer enforced. However, in March 2004, the Minister of Justice warned that these laws could still be enforced against any radical groups advocating terrorism or public disturbances.

III. INTERNATIONAL LEGAL FRAMEWORK

13. Angola is a State Party to the International Covenant on Civil and Political Rights and its Protocols, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, and the Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography. It has not ratified the Convention on the Elimination of all forms of Racial Discrimination, the Convention on the Protection of the Rights of all Migrant Workers and Members of their families or the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

14. The Special Rapporteur is guided by other relevant declarations, resolutions and guidelines produced by various United Nations bodies, including by the General Assembly, the Human Rights Committee, the former Commission on Human Rights and the Human Rights Council. The most important of these instruments for the mandate are the Universal Declaration of Human Rights (UDHR; articles 2, 18 and 26) as well as the 1981 Declaration on the

Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981 Declaration).

IV. RESPECT FOR FREEDOM OF RELIGION OR BELIEF IN ANGOLA

A. Religious demography

15. Precise figures for membership of the different religious faiths are not available due to the fact that the last census was held in 1970 and also the volatility of the population movements. The current population has been estimated as 15.5 million. Christianity is the religion of the vast majority of the population, with Roman Catholicism as the largest single denomination with approximately 55 per cent of the population. The major Protestant denominations are also present, along with a number of Brazilian and indigenous African Christian denominations. The largest Protestant denominations, which include Methodists, Baptists, Evangelicals, Anglicans and Pentecostals, claimed to be represented by approximately 30 per cent of the population. Syncretic religious groups exist, the largest of which was the Kimbanguist Church, whose followers believe that mid-twentieth century Congolese pastor Joseph Kimbangu was a prophet. There are no precise figures of the number of Muslims in Angola although one estimate reports that 2.5 per cent of the population are Muslims.² The Ministry of Justice currently recognizes 85 religious denominations.

B. Thematic issues of concern

1. Registration of religious communities

16. A number of Christian groups as well as the Muslim community in Angola have not been granted recognition to date, despite having submitted several applications for registration. The Muslim community which has still not been legally recognized submitted a second request for legal status in March 2006, since the first application submitted in 2004 was according to the authorities improperly prepared.³ The Special Rapporteur was informed that efforts were made by the Ministry of Culture and the Ministry of Justice in early 2007 to try to unify the Muslim community in order to assist the latter with its application for registration, although no decision on the application was reported to have been received by the end of 2007. Other religious minorities have no chance of recognition according to current registration requirements.

² Available online at http://www.islamicpopulation.com/angola_muslim.html.

³ See also letter of the Special Rapporteur dated 19 June 2006 and response of the Angolan Government dated 6 October 2006 (A/HRC/4/21/Add.1, paras. 18-19).

17. The process of formal recognition of religious institutions in Angola began with the publication of Executive Decree no. 9/87 which conferred legal personality on twelve churches. Pursuant to a subsequent legal amendment introduced by Executive Decree 46/91 religious institutions were required to submit a series of documents for their official recognition. The requirements were again amended by Article 9 of Law no. 2/04 on freedom of religion, conscience and worship which established strict criteria for registration of religious organizations. According to this law, a religious group must have at least 100,000 adherents to qualify for registration. Further requirements include that those persons must be adults and reside in the national territory as well as that signatures must be recognized by a notary and be from two thirds of the total of the provinces of Angola. Religious organizations seeking registration must provide general background information to register, such as name of the religious confession, the main body of its doctrine, the main acts of worship, discipline and hierarchy within the religious organization. Religious groups are required to petition to the Ministry of Justice and for legal status, whilst the Ministry of Culture at the request of the Ministry of Justice is tasked with carrying out relevant inquiries.⁴

18. Legal status enables religious groups to act as juridical persons in the court system; it entitles religious communities to build places of worship, exempts religious communities from customs duties, entitles the community to open bank accounts, secures their standing as officially registered denominations and means that such communities can be fully fledged partners with the Government. The Special Rapporteur notes the existence of some confusion amongst elements of the authorities and media as to the legal consequences of not being registered. For example at a meeting held on 23 November 2007, the Police Commander of Cabinda asserted that unregistered religious associations were in effect illegal.⁵

19. According to the Ministry of Culture the rationale behind the registration requirements of the above law and in particular the minimum membership requirement was to tackle the proliferation of religions in Angola.⁶ In recent years throughout Angola hundreds of religious organizations have emerged. Information provided by the Government indicates that whilst 85

⁴ Law no. 2/04 articles 9(1), 9(4) and 11(1).

⁵ See also Angolan Press Agency report of 17 July 2007 referring to unregistered religious associations in Angola as being “illegal”.

⁶ The law was passed by Parliament with 134 votes in favour, two abstentions and no votes against following a great debate. The Parliament’s Commission on Constitutional and Juridical stated that the law was capable of moderating the appearance and proliferation of churches and associations with religious nature stating that some churches practice rites contrary to public order and the national interest and do no more than explore the conscience and religious feelings of the Angolan people with profitable aims in mind, see “Angola passes law on freedom of conscience”, Angola press agency, 2 March 2004. The Vice-Minister of Justice explained that a national process of consultation took place in drawing up the law.

religious groups have been recognized in Angola, at least a further 757 religious organizations are seeking registration. Fragmentation of religious organizations frequently occurs. The Government attributes the proliferation of religions in Angola to a number of factors including the legal protection of freedom of religion or belief in the Constitution following a period of Marxist-Leninist rule, the lack of a system in place to deal with registration pursuant to decree 46/91, poverty caused by a civil war and earlier war of independence, the erosion of traditional structures and individualism that was promoted by displacement to the cities as well as to recent immigration.

20. A Governmental provincial commission for analyzing the religious phenomenon in the country's capital was established on 17 July 2007 in Luanda. According to the commission's spokesperson, the law stipulates the right of speech, conscience or worship as long as the congregations obey the regulation, but the Government's concerns focus on the emergence of about 800 "illegal churches", with doubtful practices and conduct. According to the spokesperson, many churches are engaging in business and other activities instead of preaching the gospel. The official considered the situation as intolerable since some congregations worship in inadequate places and he indicated that a multi-sector work team will be created in order to enforce the laws.⁷ The Special Rapporteur requested but was not provided with any of the reports of the provincial commission.

21. In a 1997 report, the Special Rapporteur's predecessor Mr. Abdelfattah Amor elaborated on religious sects as follows: "In actual fact, the fairly widespread hostility towards sects can be largely explained by the excesses, the breaches of public order and, on occasion, the crimes and despicable conduct engaged in by certain groups and communities which trick themselves out in religion, and by the tendency among the major religions to resist any departure from orthodoxy. The two things must be treated separately. Sects, whether their religion is real or a fiction, are not above the law. The State must ensure that the law – particularly laws on the maintenance of public order and penalizing swindling, breach of trust, violence and assaults, failure to assist people in danger, gross indecency, procurement, the illegal practice of medicine, abduction and corruption of minors, etc. – is respected. In other words, there are many legal courses open and they afford plenty of scope for action against false pretences and misdirection. Beyond that, however, it is not the business of the State or any other group or community to act as the guardian of people's consciences and encourage, impose or censure any religious belief or conviction" (E/CN.4/1997/91, para. 99).

22. The Human Rights Committee in its general comment No. 22 (1993) provided the following guidance: "The terms 'belief' and 'religion' are to be broadly construed. Article 18 is

⁷ Angola Press agency 17 July 2007 reports that the provincial commission was established following a meeting between Luanda's Governor and the Minister of Justice, the Minister of Home Affairs and the Minister of Culture.

not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility on the part of a predominant religious community.” Furthermore, the Human Rights Committee reiterated that article 18 of the ICCPR “protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief” (para. 2).

23. In accordance with the foregoing reasoning, the Special Rapporteur also interprets the scope of application for freedom of religion or belief in a broad sense, bearing in mind that manifestations of this freedom may be subject to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. Ms. Rosalyn Higgins, currently President of the International Court of Justice and a former member of the Human Rights Committee during the drafting of General Comment No. 22, “resolutely opposed the idea that States could have complete latitude to decide what was and what was not a genuine religious belief. The contents of a religion should be defined by the worshippers themselves; as for manifestations, article 18, paragraph 3, existed to prevent them from violating the rights of others” (CCPR/C/SR.1166, para. 48).

24. Both Commission on Human Rights resolution 2005/40 and Human Rights Council resolution 6/37 urge States “to review, whenever relevant, existing registration practices in order to ensure the right of all persons to manifest their religion or belief, alone or in community with others and in public or in private”. The Special Rapporteur would like to reiterate that registration procedures should be easy, quick and should neither depend on reviews of the substantive content of the belief nor on extensive formal requirements (E/CN.4/2005/61, paras. 56-58).⁸ Furthermore, requiring high minimum membership levels or a lengthy existence in the country concerned are not appropriate criteria for registration.

⁸ Whilst welcoming UNICEF’s excellent report “Impact of Accusations of Witchcraft against Children in Angola: Analysis from the human rights perspective” and UNICEF’s work with children accused of witchcraft, the Special Rapporteur notes that one recommendation in that report appears to be inconsistent with international standards. Page 29 of the above report provides that “[s]ome of the practices offered by the pleiad of new churches and sects make it necessary to confront their activity with the norms which regulate the activity of religious groups and with the principles that should be respected as the basis for their legalization and functioning. Disrespect for these principles and rules, which is happening in the case of children being accused of witchcraft, should immediately give rise to a combined operation by the legal authorities and the police, as well as the Ministries of Justice and Culture”. The report continues that the Government should therefore “readjust its procedures for the registration and legalization of new churches”. This text appears to be inconsistent with international standards pertaining to registration of religious associations as outlined in the relevant sections of the present report, see above paras. 16-23 and below paras. 46-48.

2. Promoting religious tolerance

25. Regrettably, Angola is also affected by a dominant global trend of associating Muslims with international terrorism. A number of private media reports have linked Muslims in Angola to issues of national security and international terrorism. A headline from the newspaper *A Capital* dated 28 July 2007 reads “False preaching and illegal immigration in cahoots against national security”. Through various reports in the same weekly, the assumed danger against national security is linked to illegal diamond traffic, to protestant sects and to the Muslim community. Hints have at other occasions been made about the potential terrorist threat represented by the latter. It is in this context that certain observers are concerned about a possible wave of xenophobia in the country. An article in *Semanario Angolense* dated 24 September to 1 October 2005 is headlined: “How the slow penetration of Islam can be an entry point for terrorism”.

26. In addition, high ranking Government officials have reportedly stigmatized followers of Islam in the private press. The former National Director for Religious Affairs is reported to have referred to the growth of churches and sects in the country as a sickness and that “one form of this sickness is Islam” (*A Capital*, 29 January 2005 to 5 February 2005, p.11). The President of the National Assembly told the Special Rapporteur that most of the illegal migrants in the country are Muslims, many of whom are involved in counterfeiting and money laundering. The Vice-Minister of Interior indicated that the Muslim community is not controlled in the country and that Muslims prefer to indulge in violations of the law to camouflage their identity. The Special Rapporteur was provided with no evidence of the above.

3. Freedom of religion or belief in Cabinda

27. While the Angolan Civil War ended in 2002, a low level armed separatist struggle persists in the north of the enclave of Cabinda and the province remains heavily militarized.⁹ The armed conflict for secession led by the Front for the Liberation of the Enclave of Cabinda

⁹ North of the Chiloango river, confrontation between the Angolan Armed Forces and FLEC forces loyal to Nzita Tiago is reported as continuing, causing victims among military and civilians. Male inhabitants - aged between 15 and 60 years old - of ten villages in the central region of Cabinda were reportedly forced by the Angolan armed forces to leave their houses in the night of 31 August 2007 and forcibly displaced to a location in Cochiloango plain. This operation apparently targeted populations supporting FLEC, the pro-independence movement that has not recognized the peace agreement signed between the Government of Angola and the Forum of Cabinda one year ago. The separatist conflict in Cabinda is related to the fact that Cabinda became a colony of Portugal in 1885 more than three hundred years later than the rest of Angola was colonized, after the Treaty of Simulambaco in 1885. This Treaty recognized Cabinda’s special status as a semi-autonomous state. Angola and Cabinda were however united in 1956 without negotiations with Cabinda.

(*Frente para a Libertação de Enclave de Cabinda*, FLEC) has been underway in the territory since Angola's independence in 1975. In 2004, FLEC, the Church, and civil society organizations set up the Cabinda Forum for Dialogue (FCD) to enter into dialogue with the Government for peace in Cabinda. On 1 August 2006, a Memorandum of Understanding for Peace and Reconciliation in Cabinda was signed between the Government of Angola and the President of the FCD, Bento Bembe. This memorandum was however rejected by FLEC and other members of civil society who did not recognize the legitimacy of Bento Bembe, former FCD president, who was expelled from the organization in April 2006.

28. Bishop Filomeno Vieira Dias was nominated to take over as bishop for the Cabinda diocese in February 2005 by Pope John Paul II and in June 2006 sworn in. His nomination has been marred by controversy with some members of the Church expressing discontent at having a bishop who is not from Cabinda and instead closely connected to the Government. In this report the Special Rapporteur takes no position on the appointment of Bishop Filomeno Vieira Dias, but does instead focus on the fallout following the Bishop's appointment. Numerous incidents contributed to maintain a tense situation in the Catholic diocese. On 17 May 2006, seven priests who had celebrated the Eucharist with the Youth Commission in Cabinda's central cathedral, contrary to a prohibition from the new General Vicar, were subsequently suspended for disobedience by the Vatican.¹⁰ A reconciliation mass was reportedly held on 14 May 2006 aimed at "reunifying" the Catholic Church of the enclave. Worshippers reportedly ignored the call not to attend mass. Security forces were reported to have beaten and arrested a number of persons in the cathedral.

29. Police officers arrested and detained Voice of America correspondent Fernando Lelo on 14 May 2006, as he photographed police officers beating members of a Catholic congregation attending the special reconciliation mass in the cathedral in Cabinda city. He was taken to the Provincial Directorate of Criminal Investigation (*Direcção Provincial de Investigação Criminal*, DPIC) where he had his camera and tape recorder confiscated and he was reportedly beaten. He was later released without charge. Mr. Lelo was again arrested at his place of work, whilst no longer a Voice of America correspondent, on 15 November 2007 in Cabinda by the military police and was transferred to Luanda where he has been held in military detention apparently accused of inciting rebellion. Concerns have been expressed about the possible connection between both arrests as well as about the fact that Mr. Lelo was not compensated by the authorities for having been arrested and assaulted by the police in May 2006.

¹⁰ As of late November 2007 the suspensions of three had been lifted. Meeting on 31 October 2007, the Catholic Bishops of Angola and São Tomé (CEAST) reconfirmed that the suspended priests would have to accept the nomination of the bishop of Cabinda, named by the highest Catholic Authority, the Pope, or could face excommunication according to Canonic Law.

30. In July 2006, the Provincial Court banned Mpalabanda (*Associação Cívica de Cabinda*), one of the few human rights organizations operating in Cabinda, stating it had illegal political aims and had fostered disobedience – including protests against the new Bishop of Cabinda – and violence. It was reported that during the previous month a number of human rights activists were arrested outside the Sé Cathedral, during an investiture ceremony for the new Bishop. The Provincial Government reportedly demanded on 11 June 2006 as a condition for the release of the President of Mpalabanda, a signed document in which he committed the organization not to use the Church as a sanctuary for meetings of Mpalabanda.

31. About twenty persons associated with the Noah's Ark Movement and loyal to the suspended priests were reportedly arrested and detained for openly opposing the nomination of Bishop Dias. A first wave of arrests between July 2005 and January 2006 reportedly resulted in seven persons being arrested and detained. A second wave of arrests and detentions occurred between 17 and 19 October 2006 and further individuals were arrested at other times. Angry crowds gathered at the bishop's palace in protest against the above detentions in October 2006 and against the suspension of the seven priests. In chapels where members of the Movement gathered there was a police presence. On 15 October 2006, security forces surrounded Santiago chapel. Furthermore, individuals have also been put under house arrest for a number of hours when the President of Angola traveled to Cabinda, most recently in August 2007. In May 2007, protests in Cabinda against the Catholic bishop, promoted mainly by the Noah's Ark movement and the Apostolic Movements, continued to fuel the conflict within the church. The bishop accused these movements of violently preventing the faithful from attending masses and threatening bloodshed. Police intervened on 14 and 21 May 2007 against protesters at the *Imaculada Conceição* parish, where pro-independence priest Jorge Casimiro Congo had been serving.¹¹ On 7 May 2007, a parish priest and the General Vicar broke into the chapel of *São Lourenço* and cut short an unauthorized prayer service held by a local catechist.

32. A criminal indictment was initiated against Padre Congo for alleged involvement in the assault of the apostolic administrator Eugenio dal Corso, which reportedly occurred on 18 July 2005. The accusations were not clarified in light of the fact that Padre Congo also alleges that

¹¹ *Mpalabanda*, accused the General Vicar of prohibiting a mass on 21 May 2007 in the said parish and of calling in the police. Also using the expression of "ruandization of Cabinda", *Mpalabanda* provoked an angry reaction of the Catholic Bishops' Conference of São Tomé and Angola (CEAST), which called *Mpalabanda* "not serious" and made it clear that the vicar had asked the public authorities to protect the church against aggression, but without using violence. It strictly rejected the allegation of collaboration with the political power. The official Church accused members of the afore-mentioned movements of acts of usurpation and profanation and asked for police protection of church premises. In their view, the leaders of the secessionist Catholic movements are responsible for several acts of violence that had occurred recently and called the leaders of Noah's Ark movement "criminals".

he was assaulted on the same day. It was reported that Padre Congo was “amnestied”, a result which was criticized by defence lawyers who did not have the opportunity to cross examine Eugenio dal Corso after he failed to attend court. Though Padre Congo’s suspension has been lifted, he cannot hold mass or work, having been forced to resign from the university on alleged political grounds.¹² He also reported the frequent presence of police and military around his home whenever he was suspended. He was briefly detained as he drove to a small town south of Cabinda town to attend anniversary celebrations of the (defiant) apostolic movement he had founded, claiming that the reasons for his arrest were political, which the authorities denied. His supporters gathered at the Criminal Investigation Department of the Police and the police fired shots in order to disperse the crowd injuring one person.

33. On 12 July 2007, four men¹³ were arrested during a religious mass whilst peacefully protesting against the newly appointed Catholic Bishop of Cabinda. The group of defiant Catholics demonstrated by exhibiting pamphlets and red and black scarves, symbolizing blood and grief. They were holding placards with the slogans “The Church of Cabinda is divided”, “The voice of the people is the voice of God” and “Dom Filomeno does not represent heaven for the believers”. The arrest by Provincial Criminal Investigative Police officers, prosecution and conviction by Cabinda Provincial Criminal Court on 23 July 2007 resulting in suspended sentences of three of these amounted to a clear violation of their right to freedom of religious expression. They were charged under a draconian Colonial era Decree dating from 1911, with “injuria against a public authority” and “inciting violence against a religious authority”.

34. Acts of violence and religious intolerance directed towards the leadership of the Catholic Church and church property include that the apostolic administrator for Cabinda was assaulted on 18 July 2005 by a group of young men inside the church where he was preparing for the morning mass, following which catholic priests stopped holding services until December 2005. The Bishop of Cabinda has received death threats, whilst acts of vandalism have been committed in chapels and verbal insults have been directed against priests during mass celebrations. The vehicle the Bishops of Huambo and Ndalantando travelled in was stoned on 26 June 2005 when they visited Cabinda. When the Archbishop of Angola travelled to Cabinda on 18 July, he was met at the airport by protests which became violent. The violence continued as he attempted to hold mass but was forced to leave. It was reported that in Cabinda town on 5 December 2006, opponents to the Bishop attempted to prevent the holding of a mass, asking for the reinstatement of the seven suspended priests and the reopening of two closed seminaries.

¹² Media reports indicate that the Dean of the university has come under pressure to close this branch of the university.

¹³ Their names are Pedro Maria Antonio, Paulo Mazungo, André Conde and Domingo Conde.

35. More generally, churchgoers and other residents of Cabinda with whom the Special Rapporteur met testified to human rights violations committed by the military in the countryside. They explained that in the absence of other institutions where redress could be sought, the church was the only avenue for people to bring their comments. There were first hand accounts of rape, arbitrary arrests, and extrajudicial killings allegedly committed by members of the security forces.

4. Accusations of witchcraft against children

36. Witchcraft¹⁴ is a belief that is widespread in Angola and neighbouring countries. It is valued as part of the Bantu cultural tradition and traditional beliefs. In the past, adults and some children were accused of witchcraft, but from the end of the 1990s in provinces of northern Angola an unusual number of children were observed living on the streets having been thrown out by their families. It was reported that most of the children had been accused of witchcraft, either by their parents, extended family, neighbours, pastors or soothsayers.¹⁵ After being accused and abandoned, a stigma attaches to children and they could not return to school, their village or original community.

37. In Angola, traditional churches such as Catholic, Baptist, Tocoista, and Kimbanguista churches have been joined by smaller charismatic and Pentecostal churches often led by Bakongo and Congolese pastors. These churches are known as independent or syncretic churches. A large number of the syncretic churches base their work on herbal treatments and are accepted in the communities since they have become a parallel health service to the State which has financial and operational constraints in reaching villages. Whilst not a phenomenon reported throughout the country, children accused of witchcraft are a cause for concern, given the violent, sometimes lethal retribution meted out to them by the community.¹⁶ This preoccupation is fomented by the tendency for the accusations of witchcraft to fall on children who are already in a situation of need and vulnerability. After a child accused of witchcraft was stabbed to death in 2000, Government officials and Save the Children Fund rounded up 432 street children and reintegrated 380 of them with relatives. Eleven churches were reportedly

¹⁴ US courts have found that Witchcraft and ritual are a religion as long as they occupied a place in the individual's life that was parallel to that of more conventional religions and as long as such beliefs were sufficiently widespread, see *Dettmer v Landon* 799 F.2d 929 Const Law 84.5(14) Prisons 4(14) and *Fleischfresser v Directors of School District 200* 15.F.3d 680 Const Law 84.5(3); Schools 167. In this report the Special Rapporteur would like to distinguish between the belief in witchcraft and the impact of accusations of witchcraft against children.

¹⁵ A similar phenomenon is also reported in the Democratic Republic of Congo, the Republic of Congo but is also reported to occur in a number of other countries including Nigeria.

¹⁶ <http://www.irinnews.org/report.aspx?reportid=48287>.

shut down because of reports of child exploitation and abuse and eight Congolese pastors were expelled from Angola.¹⁷ Committees on the Protection of Children set up in 2002 in Zaire Province have been regarded as effective in sensitizing and educating pastors, ultimately converting them into defenders of the rights of the child, controlling violence against children and diminishing the need for sanctions against churches that use violence as part of treatments against witchcraft. It has been reported that the number of children who are mistreated or abandoned in the province has substantially reduced.

38. The Special Rapporteur interviewed ten such children from Christian and Muslim backgrounds now living in a centre for street children in Luanda. All had been accused of being witches by their parents or relatives. The vast majority were taken to pastors, witchdoctors or traditional healers to be “cured”. Such treatment included being effectively detained, frequently for lengthy periods, in one case for two years. The treatment often included having cooking oil poured into their eyes at night-time to prevent escape, and frequently being starved, sometimes for a week at a time. One of the children was subjected to death threats and reports were received that sometimes children are injected with poison. The Special Rapporteur subsequently visited a nearby house of worship in Luanda where children are sent to be “treated”. While she was not able to meet the pastor there, she spoke with an elderly lady present who confirmed that the children observed there were witches and they had now been “cured”.

39. In its 2004 concluding observations to Angola’s report, the Committee on the Right of the Child “expressed its deep concern at the re-emergence of the persecution of children accused of witchcraft and the very negative consequences of such accusations, including cruel, inhuman and degrading treatment, and even murder. The Committee urges the State party to take immediate action to eliminate the mistreatment of children accused of witchcraft, including by prosecuting the perpetrators of this mistreatment and intensive education campaigns that involve local leaders”¹⁸. Angola’s report stated that in M’Banza Congo, the provincial capital of Zaire province, at least 23 young boys are forced to live in an orphanage run by the Catholic Church. They were thrown out of their homes for allegedly possessing supernatural powers. “Children accused of witchcraft, who are considered to fall outside the mainstream, are thought of by the community as belonging to a sect - a religious or mystical group whose teachings and hierarchy these children must obey”¹⁹. Traditional clairvoyants, healers and religious sects used

¹⁷ “Impact of Accusations of Witchcraft against Children in Angola: Analysis from the human rights perspective”, UNICEF report July 2006, p. 34.

¹⁸ Concluding observations of the Committee on the Rights of the Child adopted on 1 October 2004 (CRC/C/15/Add.246, paras. 30-31).

¹⁹ Initial report submitted by Angola to the Committee on the Rights of the Child, 4 June 2004 (CRC/C/3/Add.66, para. 137).

to submit children to the ordeal of “spiritual cures”, for example exorcism that may have led to the deaths of some children.

5. Closure of mosques and other places of worship

40. Four mosques were closed in Luanda by the police in January 2006. No Government official the Special Rapporteur spoke to was able to offer any information or clarification on the subject, other than the Deputy Governor of Luanda who asserted that the closures were due to planning reasons. None of the Government interlocutors were able to present a specific legal order for the closures. The Special Rapporteur notes with satisfaction that the mosques concerned were able to reopen of their own accord by the end of 2006.

41. A number of religious communities were severely restricted by the authorities in the exercise of their freedom of religion or belief in Cabinda. In some cases violence, threats and intimidation were also used by the Government. Furthermore, in Zaire Province eleven churches were reportedly shut down because of reports of child exploitation and abuse and eight Congolese pastors were expelled from Angola.²⁰

6. Radio Ecclésia

42. The radio station was founded by the Catholic Church in 1954 and is owned by CEAST (*Conferencia Episcopal de Angola e Sao Tomé*), the Catholic Bishop’s conference of Angola and São Tomé. Attempts by it to broadcast all over the country have been impeded by the Government and it is only able to broadcast in Luanda. In April 2005, *Radio Ecclésia*’s operators began taking steps to broadcast from five provincial capitals in addition to Luanda in order to meet the requirements of the new press law. The law, promulgated in May 2006, requires non public radio networks to have provincial radio stations in order to broadcast nation-wide.

43. Whilst visiting Angola in 2004, the Special Representative of the Secretary-General on the situation of human rights defenders received information from multiple sources indicating that the Government was obstructing, rather than facilitating, efforts by independent and privately owned radio stations to broadcast outside Luanda. The Government answered that *Radio Ecclésia* had not fulfilled all the necessary administrative requirements, such as customs regulations for importing radio equipment. However, non-governmental sources indicated that *Radio Nacional Angolense*, a State-owned radio station, has not faced such obstacles. *Radio Ecclésia* reported, inter alia, on police violence in the context of forced evictions in Luanda.

²⁰ “Impact of Accusations of Witchcraft against Children in Angola: Analysis from the human rights perspective”, UNICEF report July 2006, p. 34. The Special Rapporteur was unable to visit Zaire province due to logistical difficulties.

The Special Representative also observed a level of hostility from a number of officials with regard to the human rights programmes run by *Radio Ecclésia*. In one instance, an official in the Ministry of Assistance and Social Re-insertion justified the Government's failure to allow *Radio Ecclésia* to broadcast countrywide by complaining that it had planned to broadcast other than religious material. The Special Representative found that such pronouncements, which appear to reflect the actual policy of the Government, are clearly incompatible with the right to freedom of expression and with the Declaration on human rights defenders.

7. Persons under any form of detention

44. The Special Rapporteur visited Viana Immigration Detention Centre on 27 November 2007, as well a separate immigration detention holding centre at the airport in Luanda and a further facility under construction. At the brand new immigration detention holding centre she visited, which contained only five detainees, conditions were good but at the other conditions were deplorable. Ninety five percent of the 165 persons detained there were Muslims, without access to a chaplain or Imam, or religious books and their dietary needs are not being met. Some detainees reported being held for two years and those interviewed also included asylum seekers even though the detention authorities on the Special Rapporteur's arrival erroneously reported that no asylum seekers were held at Viana. The vast majority of those interviewed reported that they had received no consular visit.

V. CONCLUSION AND RECOMMENDATIONS

45. **The Special Rapporteur was impressed by the courageousness of the Angolan people she met and their willingness to address many challenges they face following decades of civil war and colonialism, as well as the openness of the Government actors she met with. She recognizes that many in Angola today are able to practice their religion or belief freely and there is in this regard a measure of tolerance within Angolan Society. However, the Special Rapporteur would like to highlight the following conclusions and recommendations.**

Legal framework

46. **Article 9 of law no. 2/04 discriminates against religious minorities and is not in conformity with international standards to which Angola is a party. Viewed in conjunction with article 45 of the Constitution, it may also violate Article 18 (3) of the ICCPR. General Comment 22 provides further guidance on the concept of necessity in article 18 (3) and states that restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner.**

47. As noted earlier, the law contains stringent requirements for registration including membership of 100,000 persons who are domiciled in Angola, from two thirds of the total of the provinces of Angola. It has potential practical implications for religious communities, such as a denial of permission to build places of worship, the closure of places of worship or the prohibition of religious organizations. The Special Rapporteur recommends that the law is reformed and was encouraged by the openness of the Government to review the provisions of the law.

48. Furthermore, law no. 2/04 fails to tackle the problem of religious organizations that are involved in exploitative or engage in harmful practices. Already registered religious organizations in Angola are amongst those accused of exploiting or harming individuals. The Special Rapporteur therefore recommends that exploitative or harmful practices are instead be tackled by the criminal law, in parallel to human rights education programmes.

49. Furthermore, the Special Rapporteur recommends that the Government should review the limitation clauses in articles 18 and 45 of the Angolan Constitution with a view to bringing these provisions into line with article 18 (3) of the International Covenant on Civil and Political Rights, as required by article 2 ICCPR.

Religious tolerance

50. The Government of Angola is obliged to promote religious tolerance and the Special Rapporteur would urge that unsubstantiated statements by officials are not made to the detriment of any religious community. She notes in this regard with satisfaction the statement of President Dos Santos to the UN General Assembly on 25 September 2007 in which he said that “Ecumenism and dialogue among cultures are avenues for action that can be used for the purposes of bringing together, in peace and solidarity, the dominant religions and all the people of the world”.

Freedom of religion or belief in Cabinda

51. In Cabinda, human rights violations by the security forces continue. The Special Rapporteur received a significant number of reports of violence, intimidation and harassment and arrests by State agents of individuals perceived to dispute the leadership of the Catholic Church in Cabinda. These violations and the conflict within the Catholic Church are inter-related and represent challenges to the full enjoyment by all of the right to freedom of religion or belief. The Special Rapporteur was also concerned about the violence and threats of violence perpetrated against the leadership of the Angolan Catholic Church from individuals opposed to the appointment of the Bishop of Cabinda. She would respectfully call on the Government and other relevant parties to respect

international human rights law, particularly the right to freedom of religion or belief but also other interrelated and interdependent rights, for example freedom of expression, association, assembly, liberty and security of the person. She would furthermore urge that intra-religious dialogue between opposed religious factions is facilitated.

Children accused of witchcraft

52. On the issue of children accused of witchcraft, the Special Rapporteur was encouraged by the leadership assumed by the National Children's Institute, together with UNICEF, to address this problem but she also notes that the response to the various problems has been isolated and fragmented, aside from the Zaire situation. She looks forward to further cooperation from the Government of Angola and UNICEF. In addition, she emphasizes that further human rights education is required, together with a strengthening of the criminal justice system and revisions to the Penal Code, to bring to justice those who abuse children. As regards accusations of witchcraft she notes that the Angolan Penal Code does not prohibit defamation, slander and insult of children, whilst it does so in relation to adults although violence and abandonment are prohibited. The Special Rapporteur welcomes that the proposed new Penal Code classifies forms of violence against children as crimes of a public nature, which would allow prosecutors to bring charges in the face of the passivity of the family. She notes that the absence of Juvenile Justice Courts is one of the constraints on the functioning of the Protection Committees.

Closure of mosques and restrictions of other religious communities

53. The closure of four mosques in January 2006 amounted to an unlawful interference with the right to freedom of worship. The Special Rapporteur recommends that the Government takes greater steps to implement the Constitutional guarantee of freedom of religion or belief which includes ensuring that all branches of Government understand and respect their obligations to uphold this particular right as duty bearers. This may be achieved in part by issuing guidance and instructions to all civil servants and the provision of greater human rights education.

Persons under any form of detention

54. There is an urgent need for consular access to detainees being held at Viana immigration detention centre, as well as access for UNHCR and the International Organization for Migration. Periods of immigration detention should be reduced and conditions of detention at Viana improved. The Special Rapporteur recognizes current Government efforts to construct improved detention facilities.

Relations between the Government and OHCHR

55. Finally the Special Rapporteur recommends that the Government sign a Memorandum of Understanding with the Office of the High Commissioner for Human Rights with a view to establish an office with a full mandate of the High Commissioner, that is promotion and protection of human rights.

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