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Summary record of the 2957th meeting

Held at the Palais Wilson, Geneva, on Thursday, 14 March 2013, at 10 a.m.

Chairperson: Sir Nigel Rodley

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Initial report of Angola (CCPR/C/AGO/1; CCPR/C/AGO/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Angola took places at the Committee table.*
2. **Mr. Carneiro Manguera** (Angola) said that during the long period of armed conflict it had been impossible to create the necessary conditions for the effective implementation of the Covenant. However, the country had been at peace for the past 10 years and was making steady progress in the protection of fundamental rights and guarantees. The new Constitution adopted in 2010 reaffirmed the principles of human rights, democracy and the rule of law. A commission for the reform of justice and law had been established to address the lack of infrastructure and qualified personnel in the justice system. That commission had drafted various legislative proposals, including one on expanding the powers of municipal courts, which were currently being considered by parliament. Court officials were being trained in information technology with a view to modernizing the courts. The former Ministry of Justice had been replaced by the Ministry of Justice and Human Rights, thereby ensuring closer links between the justice system and the promotion and protection of human rights.
3. Pursuant to the Constitution, the domestic courts applied international legal instruments, including the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights and other instruments to which Angola was a party, even when those instruments had not been invoked by the parties to the case. He cited two court decisions, one in which the court had made reference to the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights, and another in which the court had referenced the Covenant. An intersectoral commission for the drafting of human rights reports had been established, in order, inter alia, to strengthen partnerships with civil society organizations and bodies of the United Nations system.
4. The Constitution guaranteed equality for all citizens. Laws had been passed on the participation of women in political life, on the protection and development of children and on combating domestic violence. The right to life was respected and protected in Angola in accordance with the Constitution, and the death penalty had been abolished. It was neither the Government's policy nor practice to commit summary or arbitrary executions. While torture and other cruel, inhuman and degrading treatment were not yet classified as offences under the Criminal Code, which was currently being reformed, they were prohibited under the Constitution. Codes of conduct for the police and the Armed Forces provided for the criminal responsibility of members who engaged in such acts. In September 2012, the inhuman treatment of prisoners had resulted in the immediate suspension of the director of the prison in question and other officials involved, and the case had been referred to the Counsel-General's Office for prosecution. Victims of torture at the hands of law enforcement officials could lodge complaints before a specialized department of the National Criminal Investigation Directorate. Both the police and the Armed Forces had internal mechanisms to deal with cases of abuse and corruption.
5. Conditions in prisons had improved significantly, and new prisons were being built to address the problem of overcrowding. Prison staff received training in human rights, and prisoners' family members, human rights defenders, foreign diplomats and international human rights observers had free access to prisons and prisoners. A process was under way to establish a computerized prison system database that would include biometric data on prisoners.

6. Alleged systematic sexual violence against women immigrants during repatriation procedures was not part of State policy, and the Government had strengthened its cooperation with several specialized international agencies to prevent and combat such practices. A multisectoral team, which included a United Nations representative, had concluded that those allegations were unfounded.

7. Freedom of expression was guaranteed by law. The Constitution limited that freedom in the case of expression that damaged the reputation of others or was intended to incite action contrary to public order. The Government was confident that the provision was in line with article 19 of the Covenant. Freedom of religion and worship was also guaranteed in Angola. However, thousands of religious organizations had sprung up in recent years, and a multisectoral commission had concluded that many of those organizations engaged in practices that were unlawful, immoral or contrary to public order. Some of them took advantage of vulnerable persons who could not support their families, resulting in the phenomenon of children engaging in witchcraft. A number of children had also been manipulated by adults to commit criminal offences. Those children were tried in special juvenile courts. There were plans to open re-education centres for minors in conflict with the law by the end of 2013. The majority of child labourers worked in the informal sector. In order to combat the problem, a programme had been established to create and strengthen child protection networks in all provinces throughout the country.

8. General elections had been held three times in the country, most recently in 2012. National and international observers had deemed those elections free and fair. The National Assembly had adopted a law requiring government officials to submit a declaration of their assets to the Counsel-General's Office. Financial operations and economic transactions had been made more transparent through the country's Stand-By Agreement with the International Monetary Fund.

9. **Ms. Majodina** requested further information on specific cases in which the Covenant had been applied by ordinary courts. She wished to know how the courts intervened to provide redress for victims of offences such as domestic violence and to punish perpetrators of rights violations. She asked whether judges and lawyers had been made aware of the provisions of the Covenant. The Committee had found violations of the Covenant by Angola in its Views on two individual communications. Given that the Committee had not received any submission from the State party under the follow-up procedure since 2006, she wished to know whether the State party was taking account of those Views and the recommendations made therein.

10. She asked whether the action plan on human rights had been launched, and if so how it was being implemented. She hoped that the Office of the Ombudsman would play a vital role in protecting human rights, and that its establishment was not merely cosmetic as alleged. She asked if the Office provided human rights training, received complaints or investigated alleged human rights violations. She wished to know what means were at its disposal to carry out its functions, and she expressed concern about the Office's independence and impartiality.

11. **Ms. Waterval** requested statistical data on the number of victims of domestic violence, and asked if there were shelters for those victims. She asked whether there were any programmes to raise awareness of domestic violence, and whether police officers and social workers were trained to detect signs of such violence. According to information before the Committee, the regional office responsible for preventing domestic violence had a budget of only US\$ 2,000 per month. She asked the delegation to comment on that matter, and to give a time frame for the adoption of regulations to implement the laws on domestic violence.

12. It was very alarming that girls were being forced into early marriages, and she asked what the Government planned to do to prevent that practice. While she understood that the Government did not discriminate against individuals on the ground of their sexual orientation, she wished to know if those persons were subjected to discrimination by society. In relation to abortion, she asked what was meant by the phrases “clinical and therapeutic circumstances” and “incompatible situations ... that will endanger the child’s normal development” used in paragraph 32 of the replies to the list of issues (CCPR/C/AGO/Q/1/Add.1). She wished to know whether those circumstances covered pregnancies resulting from rape or incest, and she asked about the composition of the Medical Board that decided on interruptions of pregnancies in such cases. She urged the State party to decriminalize abortion.

13. **Ms. Motoc** noted with satisfaction that Angola had ratified the Convention on the Rights of Persons with Disabilities in 2012 and asked what means were available to the State party to implement that Convention. The right to vote and stand for election was restricted under the Constitution and the Electoral Act in the case of persons who were legally defined as incapacitated or recognized as mentally ill. The Committee considered those provisions to be discriminatory and wished to know what might be done about that situation. She expressed particular concern about women and children with disabilities and wished to know how many persons with disabilities were living in Angola and what could be done to place them on an equal footing with other individuals.

14. **Mr. Kälin** said that the Committee had not implied that summary and arbitrary executions were part of State policy; rather, the issue at hand was that of killings by police officers or members of the Armed Forces, which could occur in any country and might or might not be arbitrary. In the light of allegations that killings by police officers or soldiers were rarely investigated, he requested statistical information on the number of such cases investigated and prosecuted and the outcome of any ensuing legal proceedings.

15. It was alleged that in September 2009, 45 persons had been buried alive in a tunnel because they had been suspected of operating an illegal mine. He asked whether an independent investigation into that event had been conducted and, if so, what the results had been. He wished to know how large an area had yet to be cleared of landmines and what steps would be taken in that regard. He asked what the Government’s policy was on the proliferation of small arms and how it planned to address the issue.

16. **Mr. Iwasawa** asked whether the Angolan courts were obliged, under article 26, paragraph 2, of the Angolan Constitution, not only to use the Universal Declaration of Human Rights as an aid to interpret the law, but also to apply it directly.

17. **Mr. Flinterman** said that the Committee wished to know in what way civil society organizations had been consulted during the preparation of the State party’s report. Clarification as to the status of the Covenant in domestic law would also be appreciated. Specifically he asked whether the provisions of the Constitution would prevail over the Covenant even if they afforded less protection. The judiciary and the population at large needed to be fully aware of the contents of the Covenant, and he would like to know what steps the Government was taking to ensure that they were. He also wished to know whether there was a general law upholding the principle of equality and outlawing discrimination and, if that was not the case, whether the Government intended to enact one.

18. **Mr. Shany** said that the Committee had been informed that the Ombudsman’s reports were not widely circulated among the general public or members of parliament. Clarification of the matter would be appreciated. The Committee had also received reports that, despite being banned, polygamy was still widely practised in Angola. The Committee wished to know whether the polygamy laws were being adequately enforced and what

measures the Government intended to take to eradicate the practice. Information on the prospects of the bill to decriminalize abortion would also be appreciated.

19. **Mr. Fathalla** said that the Committee would like the delegation to comply with the request for “information on all cases when the Covenant was applied by domestic courts, whether or not invoked by the parties, and also about cases when it was not applied due to non-compliance with the Constitution” made in the first paragraph of the list of issues (CCPR/C/AGO/1). He wished to know why, if the Angolan courts applied the provisions of the Covenant, they made no direct reference to them, as reported in the written replies to the list of issues, paragraph 2 (CCPR/C/AGO/Q/1/Add.1). He also requested clarification regarding the statement in paragraph 3 of the replies, namely that “Regarding the implementation of the treaties of which Angola is a member, in conjunction with national interests, policies, strategies, programmes and action plans have been adopted to enforce the Fundamental Rights and Freedoms of the Citizens.” He was concerned that the wording allowed for those rights and freedoms to be limited according to “national interests”, which was a very broad concept.

20. **Mr. Ben Achour** said that article 21 of the Angolan Constitution could be interpreted as stating that the international instruments to which Angola had adhered took precedence over the Constitution, in which case it was a positive model for other constitutions. He asked whether the Angolan courts interpreted the article that way. He also enquired about the rights of the opposition and opposition parties in Angola. Were they explicitly or implicitly recognized in the Constitution?

21. **Mr. Vardzelashvili** said that the Committee had received reports that some NGOs and human rights organizations had been denied the licences they needed to operate in Angola. He asked the delegation to give its views on the licensing regulations and to indicate whether the Government was planning to review them. With regard to early marriages, the State party had reported that 1.3 per cent of the population were in such unions. He wished to know how accurate that figure was and what the Government’s response had been.

The meeting was suspended at 11.15 a.m. and resumed at 11.45 a.m.

22. **Mr. Carneiro Manguiera** (Angola) said that there was a hierarchy within the legal order: first there was the Constitution, then international legal instruments, then domestic law. Treaties were acceded to without reservations provided they were in line with the Constitution, as was the case of the Covenant. Domestic legal provisions, such as those on rights and freedoms, similarly had to conform to the Constitution. In that way the courts could directly apply the provisions of the Covenant, as well as domestic law, and interpret situations in the light of the Universal Declaration of Human Rights.

23. A national training institute for the judiciary ensured that all judges, prosecutors and lawyers nationwide received proper legal training, including human rights training. A judicial council, which was completely independent of the executive, was responsible for appointing, disciplining and removing judges. The Ombudsman was elected by the National Assembly. The Ombudsman’s Office received an adequate budget and had branches in each province as well as in the capital. The Office had a relatively high profile since the current Ombudsman was the Chair of the Association of African Ombudsmen and Mediators.

24. Government officials and members of NGOs served together on local human rights committees across the country, and a national programme for human rights was being implemented. Agreements had been signed by the Ministry of Justice and Human Rights with the Ministry of Education, as well as the Ministry of the Interior and the Armed Forces, to have human rights education incorporated into the school curriculum and training programmes for security personnel. The Ministry of Justice was also addressing domestic violence, which was a major problem in Angola. A special court for domestic violence

cases had been set up, and legislative initiatives were under way. Early marriage was another serious issue. As a deeply ingrained custom, early marriage was seen by many as a social obligation even though it was prohibited by law. Monitoring the practice in all areas of the country was difficult, but some headway had been made especially by presenting the practice in the context of the rights of the child. The principle of equality was enshrined in the Constitution, but measuring discrimination against homosexuals in society was difficult. Cultural attitudes seemed to be changing, however: for example, the portrayal of two same-sex couples in a soap opera on Angolan television had not been condemned by the viewing public.

25. The review of the bill to decriminalize abortion was still under way. Powerful and influential religious groups and NGOs opposed the initiative. The Government was working to achieve greater consensus on the matter, and the bill should be discussed in parliament within the next two years. Abortions could be justified on medical grounds, such as when the foetus was severely deformed or the mother's life was in danger, or in proven cases of rape or incest. With regard to the rights of persons with disabilities, such persons could be divested of their rights, including the right to vote, only if their diminished mental capacity was clinically attested to by judicial authorities.

26. Underlining that the State party considered the right to life to be sacrosanct, he said that allegations that members of the Armed Forces had killed 45 diamond miners in 2009 were unfounded. The State party was faced with a heavy influx of irregular immigration as people entered Angola from neighbouring countries in search of diamonds. As a rule, they were neither professional miners nor engineers and did considerable damage to the countryside by digging deep and dangerous pits in which they were frequently buried by collapses. They were creating temporary communities beyond the control of the authorities and having a major impact on the country. The State party was engaged in dialogue with neighbouring States and working with civil society to achieve the twin objectives of stemming the inward flow of irregular migration and protecting lives.

27. Years of conflict had left 80 per cent of the country strewn with anti-personnel mines and many Angolans had been maimed by them. Former guerillas now in the Armed Forces were helping to locate minefields but the total number of mines left to decommission was unknown. Demining operations had begun even before the signing in 2002 of the Luena Memorandum of Understanding but the problem would not be resolved in the short term. About 15 per cent of fertile land was unusable because of mines, which had a major impact on efforts by the State party to achieve food self-sufficiency.

28. Turning to the scourge of firearms, which were commonly used in the committing of crimes in the State party, he said that more severe regulations governing the carrying of firearms would be put into place. An awareness-raising campaign aimed at encouraging people to turn in their weapons had led to the decommissioning of around 15,000 firearms. Subsequently, between 2009 and 2012, the State party had engaged in a campaign to purchase weapons held by private persons. The Government was currently imposing strict penalties for the illegal possession of firearms. Only small-calibre firearms could be purchased by persons with an appropriate licence. Fewer than 800 such licences had been issued to date.

29. Although the State party had not passed legislation on gender equality, the principle was taken into account at all levels of administration and government. More than 30 per cent of deputies in the National Assembly were women and several ministries in the Government were headed by women. All political parties included women in their electoral lists. Men and women were equally represented in the administration and in State-owned companies.

30. Polygamy was not recognized under the law but was nevertheless widespread. In rural areas, in particular, customary law on polygamy held sway. Such customs hampered efforts to register the birth of children. The State party was launching education campaigns aimed at discouraging the practice but faced an uphill struggle to convince the population to abandon such deeply-rooted customs.

31. Under the Constitution, all rights to political opposition were safeguarded. The State party was still in a period of transition to full democracy and at one time more than 100 political parties had been registered. Many had failed to meet the basic requirements for the establishment of political parties and had been disbanded prior to the 2008 general elections. There were still some 40 parties, some of which might yet be disbanded in cases where they had not received the required minimum number of votes. The members of active political parties enjoyed full freedom of movement throughout the country and to carry on their activities. The State did not interfere with the rights of parties, even in cases where their members disrupted law and order. All political parties were represented on the Council of the Republic. Some political parties received State subsidies for their electoral campaigns and they would be called upon by the authorities to account for how those monies had been used. Civil society had taken part in the preparation of the initial report of the State party through Fonga, the forum of Angolan NGOs.

32. **Ms. Januario** (Angola) said that the Office of the Ombudsman was independent and impartial. The Ombudsman was elected by absolute majority in the National Assembly. The Office, to which individuals could lodge complaints directly, had branches in the main provinces. It could launch investigations on its own initiative or upon request.

33. **Mr. Bambi** (Angola) said that all acts of torture were prohibited under the Constitution. An inquiry into the case of the 45 persons allegedly murdered by members of the Armed Forces in 2009 had concluded that in fact 7 persons had died and that they had been buried when an illegal diamond mine had collapsed. A complaints division had been set up within the national criminal investigation authority, to which abuses by the Armed Forces and police could be reported. The National Department of Criminal Investigation and Action played a similar role. The seven police officers charged with the murder of eight youths in the so-called Frescura case had been convicted and sentenced to 20 years' imprisonment. The case was currently in appeal.

34. **Ms. da Silva Fernando** (Angola) said that the Government was implementing a plan to combat domestic violence and protect its victims. The Ministry of Family and Women's Protection was training family counsellors and working with provincial courts to ensure that cases of domestic violence were properly dealt with. More shelters and advice centres for victims of domestic violence were being established throughout the country. Police were also receiving special training to deal with the problem, which was widespread.

35. **Ms. Motoc** said that, according to reports before the Committee, the practices of lesbian, gay, bisexual and transgender (LGBT) people were not tolerated in parts of the country where customary law was predominant. Could the delegation comment on those reports?

36. **Ms. Majodina** said that she would like to know whether the Office of the Ombudsman was authorized to refer cases directly to the courts and wondered whether the public had been made sufficiently aware of the Office's role and the entitlement of individuals to file complaints of infringements of their rights. She asked whether the State party intended to resume dialogue with the Committee with regard to two individual complaints on which the Committee had reached decisions prior to 2006. To date there had been no response from the State party on those decisions.

37. **The Chairperson** said that the delegation would be provided with the details of the cases concerned.

38. **Mr. Kälin** asked the delegation to provide full statistics on complaints lodged with the Office of the Ombudsman and other complaints mechanisms and on the ensuing investigations and their outcomes.

39. **Ms. Waterval** asked whether there were female prosecutors in the State party.

40. **Mr. Rodríguez-Rescia** welcomed assurances that the Covenant and other international treaties ratified by the State party took precedence over domestic law but asked whether provisions of the Constitution made it possible to declare them unconstitutional. Noting the high infant mortality rate and low life expectancy in the State party, he asked what measures it was taking to improve those situations and thereby to protect the right to life.

The meeting rose at 1.05 p.m.