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Summary record of the 2959th meeting

Held at the Palais Wilson, Geneva, on Friday, 15 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 (continued) (CCPR/C/AGO/1, CCPR/C/AGO/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Angola resumed places at the Committee table.*
2. **The Chairperson** invited the Committee to continue to put questions to the delegation of Angola.
3. **Ms. Motoc** said that non-governmental organizations in Angola were required to complete complicated registration procedures and were, on occasion, censored by the State. What measures had been taken to address the applicable legislation, mentioned in 2005 by the former Special Representative of the Secretary-General on human rights defenders, Ms. Jilani? While some progress appeared to have been made, the procedure was not in line with the Covenant.
4. The Committee was concerned that not only the freedom of association but also the freedom of expression of human rights defenders appeared to be hampered by the laws in force. Some journalists who had acted as witnesses in some legal cases had faced imprisonment; a number of figures, including the author of *Blood Diamonds*, had been imprisoned, while other human rights defenders had been prosecuted and persecuted.
5. With regard to the rights of the child, she observed that children accused of witchcraft were frequently handed over to religious authorities for exorcism, which could prove detrimental to their health. Although she realized that the issue was complex from a cultural viewpoint, it would appear to be a problem of general education with regard to witchcraft. She wished to know how it was that society had not taken a position with regard to such children and what the Government intended to do in order to address the situation.
6. **Mr. Kälin** said that the written replies to question 21 on the list of issues had contained useful information. With particular reference to the situation of journalists and the press, he observed that while freedom of expression could be limited, the Committee's concern was with the nature of those limitations, how they were applied and whether they were in accordance with the Covenant.
7. With regard to freedom of expression and the press, he noted that paragraph 85 of the written replies indicated that there was no provision that would provide grounds for the incarceration, intimidation or harassment of journalists by the authorities. However, article 74 of the Press Act appeared to refer to "the crime of abuse of freedom of press" and some of the language used in the applicable legislation appeared somewhat open to interpretation. How was that crime defined? In addition, article 25 of the National Security Act of 2010 criminalized "outrage against the President", which was a broad notion. How did the authorities interpret article 25? He asked the delegation to provide instances of when that article had been applied, or when alleged outrages had been investigated but dismissed. Furthermore, in view of allegations that critical journalists were confronted with investigations, prosecutions and even sanctions on grounds of defamation, he would like further information on how that issue was addressed. What did defamation entail in practice? Did robust criticism amount to defamation? Lastly, he requested further information on arrests and prosecutions of journalists, in addition to attacks and threats against journalists by non-State actors or unknown individuals. Had any arrests been made, investigations conducted or prosecutions brought in such cases, and if so, under what

circumstances? What measures had the State taken to protect journalists and prevent such attacks?

8. Question 25 of the list of issues addressed the alleged harassment and intimidation of members of the National Union for the Total Independence of Angola (UNITA). The Committee had requested information on investigations and prosecutions undertaken in such cases; in particular, it wished to know whether criminal investigations had been undertaken in relation to the list of nine cases of killing or disappearance in Huambo province in 2010 published by UNITA, which the latter argued were politically motivated, and in relation to the killing of one of the party's municipal secretaries in Benguela province in 2011.

9. Also in connection with article 25, he asked for further clarification on the regulations governing the dissolution of political parties that did not obtain a given percentage of the vote. Paragraph 86 of the report indicated that political parties were "dissolved voluntarily, pursuant to a resolution of the competent governing body or a court decision" under certain conditions; could the delegation clarify what was meant by the word "voluntarily" in that context? In addition, was it in the public interest to dissolve parties that obtained less than 0.5 per cent of votes cast in national elections? He also asked whether it was really sufficient for one political party to bring legal action against a rival political party in order to obtain its dissolution; if that were the case, it gave cause for serious concern. How was the legislation in question applied?

10. **Ms. Waterval** said that the State party had explained the challenges it faced with regard to birth registration and the efforts made to overcome them, in cooperation with various actors. What steps would it take in order to eliminate that problem in the future?

11. **Mr. Vardzelashvili** said that Angola had been one of the first African countries to enact a Freedom of Information Act, in 2006. However, some international non-governmental organizations had reported that access to information was somewhat limited and that ministries were empowered to censor materials that might become public. He invited the delegation to comment on whether that was the intended result, or the result of malpractice. In addition, he noted that while the new State Security Act was a clear improvement on the previous legislation, some of the definitions that it contained remained unclear, such as the definition of defamation. It would be helpful to know how the State-owned media were managed. Who appointed the directors of those media, and how were they financed? Lastly, in view of reports that the National Electoral Commission was dominated by the ruling party, he asked the delegation to explain how the composition of the Commission was regulated by law.

12. **Mr. Flinterman** said that he wished to further specify the question he had raised previously concerning the status of the Covenant in the domestic legal order of Angola. He had received the clear impression that the scope of freedom of expression, association and assembly as protected by the national Constitution was less than that provided for in the Covenant. The Covenant made clear that any restriction of those three core freedoms in any democratic society must be necessary, serve certain aims spelled out in the Covenant and be proportionate with the aims served. He therefore asked whether it was clear to the judiciary and to government departments that constitutional restrictions of those three core democratic freedoms should be applied fully in accordance with the Covenant.

13. **Mr. Shany** said that he would appreciate further information on the appointment process applying to Supreme Court judges, whom he understood were currently appointed by the President for life. Were there any methods to ensure their independence prior to selection, and was there any previous consultation?

14. **Mr. Iwasawa** said, in connection with the point raised by Mr. Flinterman, that there was a gap between the protection of human rights under the Constitution of Angola and that under the Covenant.

15. **The Chairperson** said that that was certainly an important question. He would be interested to learn the background against which the legislation on the crime of outrage against the President had been adopted in 2010. He invited the delegation of Angola to reply to the oral questions raised by the Committee at the previous meeting, in connection with questions 1 to 17 on the list of issues.

16. **Ms. Januario** (Angola), in response to the question raised by the Chairperson in respect of the National Human Rights Institution and the Office of the Ombudsman, said that not all the data were available on the website. In 2010, the Office of the Ombudsman had received 35 complaints, of which 15 had been dismissed for insufficient grounds, 5 had been referred to the Office of the Public Prosecutor and 20 had been referred to other institutions and resolved. In 2011, 469 complaints had been received, of which 100 had been dismissed for insufficient grounds, 18 had been referred to the criminal courts and 351 had been referred to other bodies. The 2012 data were not yet available. However, the Office was receiving some 20 written and oral complaints on a daily basis in 2013. The main issues raised were in connection with land rights, property and housing issues, pretrial detention and immigrants' issues and complaints.

17. The draft resolution on the ratification of the United Nations Convention against Transnational Organized Crime and the protocols thereto had been ratified by Parliament, and a national observatory would be established. Although there were currently no specific legal provisions on trafficking, various aspects of trafficking were covered under the existing criminal law and the legal provisions applicable to foreigners. In addition, Angola ran a cooperation programme with the Comunidade dos Países de Língua Portuguesa (CPLP) and the Southern African Development Community (SADC), in the context of which it undertook joint work against trafficking. Angola had launched its first massive anti-trafficking campaign in 2010, when it had hosted the Africa Cup of Nations. Angola was strengthening its anti-trafficking institutions; in addition, it provided training to agents and officials, including 300 police officers, and conducted awareness campaigns in schools, particularly in border provinces. Moreover, it had established agreements on the exchange of information with Brazil and with China, with which there appeared to be trafficking links. Although there were no purpose-built centres for potential victims of trafficking, the Government had agreements with other centres that provided shelter for victims, in northern and southern Angola.

18. There were currently some 10 human trafficking cases before the national courts. One case, involving sexual exploitation, was under investigation in both China and Angola. A sentence was due to be handed down in another case involving labour exploitation. No news had been received in respect of cases of child victims of trafficking. There appeared to be a network in Zaire province involving the Democratic Republic of the Congo and Angola; there had been allegations of trafficking for the purpose of sexual exploitation and labour exploitation in Cunene province. A child who had disappeared from a church in Luanda had been found in Namibia. The police had no record of the alleged case involving 30 women in Cabinda. The emphasis in Angola was placed on the creation of prevention mechanisms, and on education.

19. **Mr. Diamantino da Conceição** (Angola) said that during 2012, some 210 cases involving crimes allegedly perpetrated by prison staff had been registered, leading to 155 disciplinary charges and 31 convictions. Parole had been granted to 1,001 prisoners in 2011–2012; in 2013 to date, parole had been granted to 410 prisoners.

20. **Mr. Cristovão** (Angola) said that in 2009, the Government had created an interministerial committee to study the phenomenon of children accused of witchcraft, particularly in connection with the Church. There had been 30 complaints registered in connection with such children in 2010, 12 in 2011 and 5 in 2012; none had been registered in 2013 to date. Some 90 per cent of cases occurred in the northern provinces. Although the causes of the accusations were unclear, the interministerial committee had indicated that the number of accusations appeared to have fallen as the result of awareness-raising campaigns and that other measures, including measures to combat poverty and improve living conditions, appeared to be having a positive impact. In addition, that committee had analysed other aspects of the phenomenon, including the social and emotional impact produced on the children accused and the possible incidence of violence against them.

21. The State took a multidisciplinary approach to tackling the problem and had created the National Council for Children, an independent coordinating body on child protection issues, in which the United Nations Children's Fund (UNICEF) played a role; complaints were passed through that body to the Office of the Public Prosecutor. Legislation (Act No. 25/11) on the integrated protection of children had been enacted, that would ensure that accused children were given proper protection.

22. **Mr. Pombal** (Angola) said that protection for the inviolable right to life was enshrined in the Constitution and that living conditions had improved considerably in the country in recent years. From 2000 to 2012, the rates of general mortality, child mortality and maternal mortality had all dropped significantly, and life expectancy had risen from 38 years to 54 years over the same period. The gross domestic product (GDP) growth rate stood at 3.7 per cent, while GDP per capita had risen from US\$ 1,000 in 2000 to US\$ 6,412 by 2012. Unemployment had stood at 26 per cent in 2012. The poverty index had dropped from 70 per cent in 2003 to 36 per cent by 2012.

23. **Mr. Bambi** (Angola), referring to communication No. 1128/2002 (CCPR/C/83/D/1128/2002), said that currently Mr. Rafael Marques de Morais fully enjoyed his civil and political rights and was carrying out his activities as a journalist. Pursuant to the Constitution, Mr. Marques de Morais was entitled to initiate legal proceedings to seek compensation for the damages he had allegedly suffered. With regard to communication No. 711/1996 (CCPR/C/68/D/711/1996), the Government was still awaiting new developments in that case and would provide the Committee with further information at a later date.

24. **The Chairperson** said that an important part of the problem regarding the two cases in question was that the State party had not cooperated with the Committee. He wished to know whether the Angolan courts would entertain Mr. Rafael Marques de Morais' claim based on the fact that the Committee had found that his rights had been violated.

25. **Mr. Carneiro Manguiera** (Angola) said that it would be difficult to provide any further information, and that his Government had paid sufficient attention to the cases to ensure that they were properly dealt with. All citizens were free to initiate legal proceedings. Mr. Marques de Morais could therefore take the necessary steps to seek compensation if he wished to do so, and the Committee could support him in that process.

The meeting was suspended at 11.05 a.m. and resumed at 11.35 a.m.

26. **Mr. Carneiro Manguiera** (Angola) said that the country's judicial system comprised 25 municipal courts, 18 provincial courts (which were divided into sections), the Supreme Court and the Constitutional Court. The Government planned to establish 73 additional municipal courts by 2017. In some cases, the territorial jurisdiction of municipal courts extended to other nearby towns, and the judge travelled to those towns to hear cases there. Efforts were under way to create the necessary infrastructure to offer arbitration as a form of alternative dispute resolution. A bill establishing a system of mediation was being

drafted, and it was hoped that it would be adopted in 2013. The Government was working in cooperation with the Bar Association to inform the public about the justice system and provide legal advice in an effort to improve access to justice.

27. The High Council of the Judicial Power was an independent body that was chaired by the President of the Supreme Court and was composed of 21 judges and lawyers elected by parliament. It was responsible for investigating all allegations of corruption in the justice system. Thus far it had heard three cases of corruption, but the accusations had not been proved in any of the three cases. The justice reform initiative begun in 2004 was in its third and final phase and would be completed by November 2014. Several bills had been submitted to parliament as part of that process, some of which were subject to public consultations, including the reforms of the Civil Code and the Criminal Code. The latter had been in force since 1888 and was thus in clear need of a thorough review.

28. There were no traditional courts in Angola. Rather, the State worked in partnership with traditional leaders to address social issues. However, only the Angolan courts had the authority to take decisions on the conviction and sentencing of individuals. The courts did take traditional customs into consideration when issuing decisions; nevertheless, in cases where there was a conflict between the law and traditional practice, such as the matrilineal inheritance practices followed in the North of the country, the courts would apply the law.

29. In recent years, the Government had made great efforts to improve living conditions in rural areas, including by clearing mines, building schools and health centres and repairing roads and railways. Paradoxically, the improved transportation infrastructure had led to a massive migration flow from rural areas to the capital, where the population had increased threefold over the previous 10 years. The State was unable to build infrastructure at a rate fast enough to keep pace with the population growth in Luanda.

30. Migrants were prohibited from settling in certain areas of the city that the State had reserved for economic development projects. In some cases migrants had ignored those restrictions, and the projects had ground to a halt because the area had been overrun by slums, where people lived in substandard conditions without proper infrastructure. The Government was therefore required to resettle those persons, providing them with parcels of land and help with building their homes. In many cases, the shacks built on reserved land were not even inhabited, and people simply took advantage of the situation to obtain housing in resettlement areas such as the Zango housing project, which currently comprised 15,000 units of social housing for resettled persons. Minimum living conditions were already in place, and services such as electricity, water and telephone lines would be added gradually. Each housing unit in Zango was built at a cost of US\$ 8,000 to US\$ 10,000 and was offered to resettled persons free of charge. Nova Cidade de Kilamba was a different housing development that currently comprised 3,400 apartments, which were sold for between US\$ 60,000 and US\$ 180,000. The Government planned to build an additional 80,000 or so apartments throughout the country. Citizens would be able to purchase those homes directly, rent them or conclude a rental-purchase agreement whereby they paid for the home over a period of 15 to 20 years without having to obtain a mortgage.

31. Domestic law set out conditions on the establishment of associations. Since the 1990s a number of applications had been submitted by associations that wished to exercise fiscal control over Government actions. Because such activities were beyond the remit of associations, authorization had been denied in those cases. Citizens who wished to hold public demonstrations could do so, provided they submitted a request 72 hours in advance indicating the time and place of the demonstration. Requests could be denied if they were not submitted within the indicated time frame, if the proposed location was deemed inappropriate for such activities, or if the demonstration posed a security threat.

32. Freedom of the press was freely exercised in the country. Many different print publications, television stations, and commercial and community radio stations operated in the country, and they were free to criticize the Government without being subjected to any form of any censorship. At the same time, journalists could be held liable for their actions. One example was the case of the *Folha 8* newspaper, which had published a digitally altered photograph of the President and other high-level officials supposedly engaged in criminal acts, thereby damaging the State's reputation. The National Council for Social Communication and the National Union of Journalists, both of which were independent bodies, were free to issue their opinions on such matters.

33. A parliamentary inquiry into attacks on members of UNITA allegedly carried out in 2010 had found that the allegations were without foundation. Political parties that failed to attain more than 0.5 per cent of votes at national elections were liable to be dissolved under electoral law. Only the Constitutional Court could rule on the dissolution of a political party, although parties themselves could also, in accordance with their statutes, decide to dissolve themselves. On occasion, parties that had been dissolved were able to reconstitute themselves under another name. There were currently 78 legalized political parties and 10 coalitions in the State party. To date, 22 political parties had been dissolved. All political parties were represented on the National Electoral Commission.

34. The Government was establishing a national birth registry and planned to have a network of registry offices, with 1 to every 40,000 inhabitants, in place by 2015. If that goal was achieved, the Government estimated that the births of around 80 per cent of the population would be registered by 2017. To facilitate those plans, the entire system needed to be modernized and regulations requiring that the registration of a person's birth be made in the place where the person was born needed to be relaxed.

35. Judges were appointed to the Supreme Court upon successfully passing a public competitive examination. Their subsequent official appointment by the President was a formality. Judges of the Supreme Court elected the President of the court, a post generally held until retirement at the age of 70. There was no interference by the public administration in the appointment of judges to any court.

36. **Mr. Bouzid** asked whether the high cost of legal expenses constituted an impediment to access to justice in the State party. He also asked for more information on how the system of legal assistance functioned. Finally, reports before the Committee said that there was a chronic shortage of lawyers in the State party, which also hampered access to justice.

37. **Mr. Rodríguez-Rescia**, noting that free legal assistance in criminal cases was provided by a private association of lawyers, asked whether the State party intended to establish a system of public defence counsel. He also wished to know whether the State party intended to ratify the International Labour Organization's Indigenous and Tribal Peoples Convention, 1989 (No. 169).

38. **Mr. Vardzelashvili** asked whether the Government was authorized to inspect the statutes of NGOs applying for registration and whether the latter could be denied registration merely on the grounds that they intended to monitor Government activities. He also wished to know what purpose was served by dissolving political parties that failed to pass the 0.5 per cent voting hurdle in national elections. He asked the delegation to clarify whether the organizers of public demonstrations were required merely to notify the authorities of their intention to hold such public assemblies, or whether they were obliged to request authorization to do so.

39. **The Chairperson** asked why legislation prohibiting insults against the President had been introduced in 2010. He also wished to know whether it was true that NGOs

monitoring Government activities were not entitled to be registered as civil society organizations. Finally, he asked whether judges were immune from criminal prosecution.

40. **Mr. Carneiro Manguiera** (Angola) confirmed that there was a severe shortage of lawyers in Angola and said that most of the practising ones were based in Luanda. No criminal trial could take place without defence counsel. If the defendant could not afford counsel, the court appointed a lawyer, whose costs the defendant was not bound to pay. The State party was considering the institution of a public system of free legal assistance in the context of broader judicial reform.

41. Turning to the question of the ratification of ILO Convention No. 169, he said that the State party had a diversity of ethnic and linguistic groups but no indigenous minorities. There was therefore no need for differentiated justice to cater for such minorities. He underlined that where customary law was contrary to the laws of the State, the latter prevailed.

42. Authorization for demonstrations and other public meetings was required and could only be denied in cases stipulated by the law. Similarly, the registration of NGOs, as indeed of trade unions and political parties, was governed by specific legislation and was not left to arbitrary decisions by officials. More than 800 NGOs operated in the State party.

43. The 2010 law prohibiting insults against the President was a matter of common sense and a means of ensuring respect for the highest institution in the land. The appropriate mechanisms were available to citizens who wished to express criticism of the President. The judiciary could take disciplinary measures against judges suspected of having committed crimes.

44. **The Chairperson** said that the State party had made impressive progress in the years since hostilities in the country had come to an end and noted that the death penalty had been abolished even before Angola had ratified the Covenant. As a rule, the Committee needed to know not simply whether a particular law was in place, but whether it was compatible with the provisions of the Covenant. The Committee would address a range of issues in its concluding observations to the dialogue with the State party. Sources of concern included: the duration of detention in police custody; uncertainty regarding the criteria employed for refusing to register NGOs and authorize public meetings; the lack of recourse to individual communications under the first Optional Protocol to the International Covenant on Civil and Political Rights; the treatment of immigrants; and problems related to child welfare and sorcery.

The meeting rose at 1.05 p.m.