UNITED NATIONS **A**

General Assembly

Distr.
GENERAL

A/HRC/7/4/Add.4
29 February 2008

Original: ENGLISH

HUMAN RIGHTS COUNCIL
Seventh session
Agenda item 3

PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT

Report of the Working Group on Arbitrary Detention

Addendum

MISSION TO ANGOLA*

* The summary is being circulated in all official languages. The report itself, contained in the annex to the summary, and the appendices are being circulated in the language of submission only.

GE.08-11122 (E) 050308

Summary

The Working Group on Arbitrary Detention visited Angola from 17 to 27 September 2007 at the invitation of the Government. The Working Group travelled to Luanda, Cabinda (Cabinda Province) and Dundo (Lunda Norte Province), where it held meetings with Government authorities, civil society representatives, the diplomatic community and representatives of United Nations agencies. It visited nine detention facilities, including prisons, police stations, the holding cells of the Directorate of National and of Provincial Criminal Investigation, as well as two transit centres for immigrants. The Working Group could not visit the military prison in Cabinda Province and Viana Immigration Detention Centre near Luanda, since the Military Commander and the Director had not received the required authorization by the Ministry of Defence and of the Interior. The Working Group conducted private interviews with around 400 detainees.

The present report describes the institutional and legal framework in the context of deprivation of liberty and human rights against the background of Angola's colonial history and of 27 years of civil war since independence in 1975. To a certain extent, this history explains the shortcomings observed by the Working Group. The institutions governing deprivation of liberty are dominated by the Ministry of the Interior, under whose authority the National Police, the Gendarmerie, the National Directorate of Prison Services and the Service for Migration and Foreigners operate.

Although the legacy of civil war is still visible and poses tremendous challenges to the country, the Government has embarked on a process of comprehensive judicial reform, which is partly implemented with the assistance of United Nations agencies and has already produced positive results. The Working Group would like to welcome the efforts undertaken by the Government and its commitment to cooperation with international human rights mechanisms, as also evidenced by its invitation to the Working Group.

The legal reforms are accompanied by institutional changes. A National Human Rights Institution, the Office of the Ombudsman, an internal Police Oversight Service and also Provincial Human Rights Committees, albeit not yet fully operational, have been established. The Government is also making considerable efforts to increase the number of prosecutors and of the current 14 municipal courts in the country's 165 municipalities to 48. In order to check the legality and duration of detention, the Attorney General has decided to place State Attorneys in every prison. An increasing number of law students obtain their degree each year and civil society organizations are allowed to visit police detention facilities. New prisons have been built or are currently under construction.

Despite all efforts undertaken by the Government, the Working Group notes the necessity of further legal and institutional reform in Angola to ensure that an effective system of administration of justice is put in place. The Working Group is concerned about the weak role judges play in the current system, which is dominated by the Ministry of the Interior and the prosecution. Judges are not involved in verifying the lawfulness of detention during the criminal investigation. The decision to legalize detention after arrest is taken by a magistrate of public prosecution, whose orders can only be quashed by the Attorney General. In addition, the habeas corpus procedure before the Supreme Court entrenched in the Constitution is cumbersome and ineffective. The Working Group concludes in the present report that there is no

genuine right to challenge detention orders which would satisfy the requirements of article 9 of the International Covenant on Civil and Political Rights. During its visit, however, the Working Group received encouraging indications from the Government that it is considering broadening the role of judges and bringing the situation into conformity with article 9 of the Covenant.

The Working Group further expresses concerns that the rule according to which a person arrested on suspicion of having committed an offence must be presented before the magistrate of public prosecution generally on the same day, in any event no later than five days after the arrest, is virtually never adhered to. In spite of the legal requirement that the first interrogation be conducted by a public prosecutor, it is a common phenomenon that police investigators are the first to interrogate the suspect. Pretrial detainees often remain in detention after the expiration of the authorized time limit.

The police operate in an environment where no defence counsel is available to most detainees, which also has a negative impact on the quality of the work done by prosecutors, who in practice often tend to ex post facto legalize police misconduct such as unlawful interrogation and incriminations based on confessions taken only by a police investigator. In this context, and because of the shortage of lawyers, the right to access to a lawyer and a corresponding legal aid system as guaranteed by the Constitution exists only in theory.

In the prevailing criminal appeal procedure, convicts who were in pretrial detention are dissuaded from appealing since they are obliged to remain in detention even if they have received a suspended sentence of imprisonment or fully served a prison term pending the appeal. Even if acquitted by the court of first instance, the accused have to remain in preventive detention in the event of an appeal by the prosecution. No public hearing is conducted in criminal appeals before the Supreme Court. Only the prosecutor, but not the accused, his defence lawyer or the victim of the crime is present. The Working Group considers this situation amounts to an infringement of the principle of equality of arms. In view of long-running trials, insufficient legal control exercised by prosecutors and an overly powerful police force, which also adds to the prevailing situation of overcrowded prisons, the Working Group concludes that, despite the efforts undertaken by the Government, no effective system is in place which can prevent arbitrary detention from occurring.

The Working Group is particularly concerned about the situation of minors in conflict with the law in the country. Although not criminally liable, minors below the age of 16 could be sent to prison at the instigation of judges and the prosecution. In case of doubt, the ultimate burden of proof regarding their age lies with the minors. With the exception of a maximum sentence of imprisonment, there is no special juvenile justice system applicable to minors between the age of 16 to 18 or 18 to 21 years. They are detained together with adults irrespective of their age and face the same harsh conditions in detention, making them susceptible to sexual abuses as was reported to the Working Group.

The deficient institutional and legal framework also entails a lack of complaint procedures to obtain an effective remedy. The continuation of detention after finishing the term of imprisonment is a pressing problem. The Working Group is specifically concerned by credible allegations received and its own observations made about torture and other forms of ill-treatment to extract confessions during the crucial early stage of the proceedings.

Although the military does not enjoy any jurisdiction to arrest, detain, prosecute or sentence civilians, the Working Group has received credible information that civilians are at times detained incommunicado at military institutions and are not produced before a judge. Military court rulings are not subject to the control of the civilian Supreme Court and no mechanism has been established to resolve conflicts of competence between civil and military courts.

In the present report, the Working Group further expresses its concern that the new Immigration Act makes detention mandatory prior to expulsion for a significant part of illegal immigrants.

Conditions of detention, affecting the right to a proper defence, are alarming in the holding cells of the Directorate of National Criminal Investigation and at Cacuaco Prison in Luanda as well as in the Provincial Prison in Condueji in the Province of Lunda Norte, all of which the Working Group has visited. Prison riots occurred in the latter in September and October 2007, respectively. The Working Group deeply regrets the loss of life and injuries sustained, and welcomes the fact that measures were taken promptly by the Government to address the situation and to prevent it from occurring in the future. A Commission of Inquiry was established immediately after the riots and rapidly presented its findings and recommendations. The Working Group expresses its hope that the recommendations will be implemented and that the remedies for the concerned will be effective.

On the basis of its findings and in order to help prevent arbitrary detention from occurring, the Working Group makes a number of recommendations to the Government in the field of inspection and control of prisons and other detention facilities, with respect to the situation of minors in detention, regarding the legal framework governing pretrial detention and the inefficient habeas corpus procedure, with respect to the establishment of guidelines and criteria concerning the eligibility of non-judicial public authorities to sit on the bench of criminal courts, as to the prison administration and the preferable subjection of military court decisions to the civil Supreme Court with respect to the exercise of military jurisdiction.

Annex

REPORT OF THE WORKING GROUP ON ARBITRARY DETENTION ON ITS MISSION TO THE REPUBLIC OF ANGOLA

(17-27 September 2007)

CONTENTS

CONTENTS (*continued*)

I. INTRODUCTION

1. The Working Group on Arbitrary Detention, which was established pursuant to Commission on Human Rights resolution 1991/42 and whose mandate was assumed by the Human Rights Council by its decision 1/102 and extended for three years by resolution 6/4 of 28 September 2007, visited Angola from 17 to 27 September 2007 at the invitation of the Government. The Working Group's delegation was headed by the Chairperson-Rapporteur of the Working Group, Ms. Leïla Zerrougui (Algeria), and composed of its member, Mr. Seyed Mohammad Hashemi (Islamic Republic of Iran), members of the Working Group's secretariat and the country desk officer for Angola from the Office of the High Commissioner for Human Rights in Geneva, and two interpreters.

2. During its visit, the Working Group enjoyed the cooperation of the Government to which it would like to express its gratitude. It would also like to express its thanks to the United Nations Human Rights Office in Angola for facilitating the visit of the Working Group. Finally, it wishes to thank the civil society representatives for their assistance to the Working Group's visit and fact-finding efforts.

II. PROGRAMME OF THE VISIT

3. The Working Group visited the capital, Luanda, and the cities of Cabinda (Cabinda Province) and Dundo (Lunda Norte Province). As is standard practice, the Working Group also visited various detention facilities where persons are deprived of their liberty, including Viana Prison, Cacuaco Central Prison, and the holding cells of the Directorate of National Criminal Investigation (DNIC) in Luanda. In Cabinda, the Working Group visited the holding cells of the Directorate of Provincial Criminal Investigation (DPIC) and of a police station, the transit centre for immigrants run by the Service for Migration and Foreigners (SME), and Cadeia Provincial Prison in Yabi and the Central Prison in Cabinda. In Dundo, it visited the Provincial Prison at Condueji, the detention centre of DPIC, and a transit centre for immigrants. The Working Group conducted private interviews with around 400 detainees.

4. During its mission, the Working Group held meetings with the following authorities in Luanda: the Vice-Minister for Foreign Affairs, the Vice-Minister of the Interior, the Vice-Minister of Justice, the Attorney General, the President of the Supreme Court, the Angolan Ombudsman, Prison Directors and other representatives of the National Directorate of Prison Services, the Provincial Police Commander and the Director of DNIC, and other authorities. In the Provinces of Cabinda and Lunda Norte, the Working Group was able to meet with the Provincial Governors, the Presidents and judges of the Provincial Courts, Public Prosecutors, the Provincial Delegates of the Ministry of the Interior, the Directors of the DPICs, the Directors of the SME, and other authorities. In addition, the Working Group met with the Provincial Delegate of the Ministry of Justice, the Provincial Military Commander, the Military Prosecutor, the Director of the Military Judicial Police and the Director of the Provincial Prison in Cabinda. The Working Group further met with the President of the Angolan Bar Association, with representatives of the civil society in the three cities, the diplomatic community and representatives of United Nations agencies in Luanda.

5. The Working Group could visit all detention facilities it had requested, with two notable exceptions, namely the military prison in Cabinda Province, and Viana Immigration Detention Centre, since the Military Commander and the Director had not received the necessary authorization to grant access by the Ministry of Defence and of the Interior, respectively.

6. Apart from these two incidents, the Working Group was granted access to the other detainees it had chosen at random and could conduct private interviews with them.

III. INSTITUTIONAL AND LEGAL FRAMEWORK

7. Angola has found its peace only in 2002 after 27 years of civil war since independence from colonial rule in 1975 which was preceded by yet another 14 years of guerrilla war against the Portuguese.

8. A peace agreement for the Province of Cabinda was reached later on 1 August 2006.

9. It is against this background of colonial legacy and civil war that the institutional and legal framework, which is still in the process of reform and development, has to be seen in a democratic society in transition.

A. Institutional framework

1. Political system

10. According to the Preamble of Revision Law 23/92,[1] amending the Constitutional Law of 1991 after the September 1992 elections, the Republic of Angola "is a democratic State based on the rule of law …."

11. The President is Head of State and Government (the Council of Ministers), which is politically responsible to the President and the National Assembly. Parliament consists of a unicameral National Assembly, whose 223 members are elected by universal, equal, direct, secret and periodic suffrage, according to a system of proportional representation at the national and provincial levels.

12. In September 2008, Angola will be holding its first parliamentary elections in 16 years. Although dates have not been officially announced yet, there are strong indications that presidential elections will follow in 2009. These will only be the second round of elections ever to be held in the country following the 1992 elections, after which Angola plunged back into civil war.

[1] The Constitutional Law of Angola, Law 12/91 of March 1991 ("the Constitution"), was revised by Law No. 23/92 of 16 September 1992, which consists of a proviso with 14 articles ("Revision Law 23/92").

2. Judiciary

13. Article 125 of the Constitution foresees the existence of the Supreme Court, Provincial Courts and Municipal Courts. Parliament has also made use of its constitutional competence to establish Military Courts. Articles 134 and 135 of the Constitution regulate the scope of competence and the composition of a Constitutional Court, which has not yet been created, so that the Supreme Court assumes the powers and functions of a Constitutional Court, in accordance with article 6 of Revision Law 23/92.

14. The court structure is regulated in more detail by the Law on a Unified Justice System.[2] The Supreme Court enjoys national competence in criminal, civil and administrative matters, in habeas corpus procedures as court of first and last instance, and also functions as an electoral court. In criminal matters, it functions as an appeal and review court and deals with appeals from the Provincial and Municipal Courts.

15. Currently, there are 19 Provincial Courts in the 18 Angolan Provinces. They have generic competences in all civil, administrative and criminal matters and jurisdiction within the territory of each Province. The competence between Provincial and Municipal Courts, both courts of first instance in criminal matters, is delimitated according to the gravity of the crime and cost of civil cause.

16. Out of 165 municipalities, only 14 have a functioning court, with jurisdiction usually confined to the boundaries of the municipality. Most of their judges are laypersons. Until the establishment of a Municipal Court, Provincial Courts assume their jurisdiction within the territory of the respective municipalities, unless it has been provided for by law to transitionally extend the jurisdiction of a Municipal Court to other municipalities.

17. According to article 132 of the Constitution, the High Council of the Judicial Bench is the highest body supervising and disciplining the judicial bench. The Law on a Unified Justice System provides that judges are accountable for their jurisdictional activity at the end of each year.

3. Ministry of the Interior

18. The Angolan National Police, including the Rapid Intervention Police, the Gendarmerie, the National Directorate of Prison Services, as well as the Service for Migration and Foreigners (SME), are subject to the authority of the Ministry of the Interior. That means that all civilian detention facilities are under the overall supervision of this Ministry.

19. The National Police is tasked with prevention and investigation of crimes. Criminal police investigators are discharging their duties at the DNIC and the DPICs.

---

[2] *Lei do Sistema Unificado de Justiça*: Laws 18/88, Law 20/88 of 31 December and Decree 27/90 of 3 September 1990. As at April 2003 there were 0.7 judges per 100,000 persons. According to the information received from the Chief Justice of the Supreme Court, the number of judges in the whole country is about 200.

20. Police stations and the DNIC and DPICs have holding cells where arrested persons can be detained.

21. The constitutional supervision of the Angolan National Directorate of Prison Services was conducted by the Ministry of Justice until 1988, when this competence was transferred to the Ministry of the Interior for reasons related to the civil war.

22. The national legal framework for the penitentiary system has largely been inherited from Portuguese colonial times. New penitentiary legislation and regulations, drafted with the technical assistance of Spanish experts, are presently under scrutiny of the Legal Office of the Ministry of the Interior. The draft laws are inspired by the United Nations Standard Minimum Rules for the Treatment of Prisoners and aimed at ensuring a higher degree of compliance with international obligations.

23. According to Government information, the total number of detainees in Angola is about 13,000. Detainees on remand and convicted prisoners are held together in prison, as are adults and juveniles, men and women.

24. Official prison visits are conducted by the Office of the Attorney General after prior announcement to the prison authorities. There have also been prison visits by the President of the Supreme Court accompanied by the Ombudsman.

25. Illegal immigrants liable for expulsion can either be detained at police stations pending their deportation, transferred to Luanda to Viana Immigration Detention Centre, or are taken for a short period of time to an open facility.

4. Office of the Attorney General and Prosecution

26. Article 135, paragraph 2, of the Angolan Constitution establishes the Office of the Attorney General as an independent State organ. The Attorney General may order investigations into police misconduct. His Office is hierarchically structured and comprises 242 prosecutors nationwide, 45 of which are provincial prosecutors in the 18 Provinces and the remainder acting on municipal levels. Prosecutors, also when performing the functions of magistrates legalizing an arrested person’s pretrial detention, are answerable to the Attorney General and the High Council of the Ministry of Justice Bench (rather than the High Council of the Judicial Bench as Angola’s judges are).

5. Armed forces

27. Military prosecutors under the Directorate of Military Investigation and military tribunals prosecute and try military crimes. The Supreme Military Court was created by Law 5/94 of 11 February 1994. Before the adoption of a Constitution in 1992, there was a military chamber within the Supreme Court composed of military judges and prosecutors which enjoyed competence over crimes against the security of the State and military offences committed by military personnel. The Angolan Armed Forces also operate detention facilities on military compounds.

28. According to Angolan military laws, particularly the Military Justice Penal Code and the Military Penal Code, only military and paramilitary personnel, including the police, can be indicted before military courts. Civilians cannot commit military crimes and common law crimes committed by military personnel are also exclusively tried in civilian courts. No civilian may be detained in military detention facilities; they may be arrested by military personnel if caught in the commission of a crime *in flagranti*, however, have to be handed over to civilian authorities as soon as possible and must under no circumstances be detained at military detention facilities.

6. Ombudsman

29. The Office of the Ombudsman was established in April 2005 and is currently headed by a former Minister of Justice. His functions were previously performed by the Attorney General.

30. The Office of the Ombudsman is an independent public body with the purpose of defending the rights, freedoms and guarantees of citizens and of ensuring by informal means the justice and legality of public administration.

31. The Ombudsman cannot take mandatory decisions. His competences comprise visits to prisons and ascertainment of prisoners' human rights conditions. He submits reports to the National Assembly biannually.

B. Legal framework of detention

1. International human rights treaty obligations

32. Article 15 of the Constitution establishes that Angola respects and applies, inter alia the principles of the United Nations Charter. The State's commitment to international norms is reflected in article 21 of the Constitution. It stipulates: "1. The fundamental rights provided for in the present Law shall not exclude others stemming from the laws and applicable rules of international law. 2. Constitutional and legal norms related to fundamental rights shall be interpreted and integrated harmoniously with the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights and other international instruments to which Angola is a Party. 3. In the assessment of disputes by Angolan courts, those international instruments shall apply even where not invoked by the parties."

33. Angola has ratified four of the seven principal international human rights instruments,[3] including the International Covenant on Civil and Political Rights and its First Optional Protocol

[3] The International Covenant on Civil and Political Rights (ICCPR), 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 (CRC), 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, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and their respective Protocols, if any.

and the Convention on the Rights of the Child and its Optional Protocols. Amongst the Conventions not signed and ratified is the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

34. In its voluntary pledges and commitments submitted to the President of the General Assembly when presenting its candidature to the Human Rights Council for the term 2007 till 2010, the Angolan Government has, however, pledged to accelerate the process of ratifying the three outstanding principal Conventions.

2. Constitution

35. The Constitution contains a number of pertinent safeguards in its Bill of Rights. Article 23 contains a prohibition of torture, while article 36 guarantees that no citizen may be arrested or put on trial except in accordance with the law, and that all accused enjoy the right to defence and to legal aid and counsel.

36. Articles 37 and 38 require that preventive (or pretrial) detention be regulated by law, which establishes time limits. Any preventive detainee must be taken before a competent magistrate of public prosecution to legalize the detention and be tried within the period provided for by law or released.

37. Article 39 stipulates that no citizen may be arrested without being informed of the charge at the time of arrest. Article 40 guarantees the right to access to family and article 41 the right to appeal. To prevent any abuse of power through imprisonment or illegal detention, a writ of habeas corpus may be presented to the competent legal court by the person concerned or any other citizen in accordance with article 42, paragraph 1. Paragraph 2 of this same article foresees the regulation of the right to habeas corpus by law. According to article 43, citizens have the right to contest and take legal action against any acts that violate their constitutional or other rights.

3. Substantive criminal law

38. The Angolan Penal Code is currently under consideration by the Council of Ministers. This undertaking forms part of the ongoing reform of the judicial sector in Angola, which began in 2003.

39. According to the present Penal Code, time spent in pretrial detention has to be accounted for in the event of a sentence of imprisonment; in case of failure to pay a fine imposed in a criminal sentence, the daily rate for such fines is converted into two days' imprisonment.

4. Criminal procedure

40. As part of the administration of justice reform, the Government has also launched a process leading to the revision of the Angolan Criminal Procedure Code.

41. Pretrial detention regarding criminal investigations in Angola is regulated by Law 18/A/92 of 17 July 1992[4] and the Criminal Procedure Code. Magistrates of public prosecution legalize arrests and detention during the criminal investigation.

42. Arrested persons suspected of having committed a crime must be transferred to a prison or to the holding cells of DNIC or of the DPICs and presented before the magistrate of public prosecution, as a rule, on the same day, in any event no later than five days after the arrest. In exceptional circumstances, for example in the event that a magistrate of public prosecution is not readily available, the suspect may be held for up to five days before presented before such magistrate. The police investigators may conduct the first interrogation of the suspect alone if he was caught *in flagranti* of committing a crime. Otherwise, the first interrogation is only lawful if conducted by a prosecutor. The presence of a lawyer is only mandatory if the suspect has appointed one.

43. For certain types of crime, the ordering of pretrial detention by the magistrate of public prosecution and its renewal or extension is mandatory, for suspects of ordinary crimes carrying a punishment of imprisonment between one and two years, if they are "relapsing criminals or vagrants or the like", in all other cases of more than two years, or always in the event of crimes against the security of the State. In all other cases, the magistrate of public prosecution may resort to pretrial detention with limited discretion on sufficient grounds. The Working Group has been informed that persons involved in a traffic accident are customarily taken into pretrial detention. During the period of pretrial detention, the prosecution must finish the investigation and indict the accused, if it sees sufficient grounds, failing which the detainee must be released.

44. The period of pretrial detention differs in the respective cases. It may be renewed not more than twice. The following table provides information on the applicable periods:

	Initial period of pretrial detention	Period of extension (possible twice)	Maximum period of pretrial detention
Alternative 1	30 days	45 days	120 days
Alternative 2	45 days	45 days	135 days
Alternative 3	90 days	45 days	180 days

45. The law does not provide for the involvement of a judge until the commencement of the trial. If the time limit set for detention on remand has expired, the prosecutor is obliged to inform the Attorney General, the only State organ competent to instruct the release of the person concerned, and is obliged to do so accordingly. The defence lawyer of the detainee is able to apply to the Attorney General for release. The law also provides that if the National Directorate of Prison Services authorities do not honour the release order, they may be subject to disciplinary and criminal sanctions under section 291 of the Penal Code.

46. Criminal sentences can be appealed by the convict or the prosecutor. The Attorney General can instruct the prosecutor to appeal.

---

[4] *Lei da Prisão Preventiva em Instrução PreparatóriaI* - the "Law on Pretrial Detention".

47. All criminal appeals reach the Supreme Court directly, except for appeals to municipal court sentences of more than one year of imprisonment or 40,000 Kwanzas, which go to the Provincial Courts.[5]

48. Defence lawyers must file written briefs within eight days after notification of appeal. The prosecution, as the rule, is not obliged to file a brief, but to present oral arguments.

49. Prisoners are not automatically released by prison authorities once they have finished their sentences. A judge has to order the release.

50. Prisoners in Angola are eligible for early release after having served half of their sentence. If the penitentiary services consider that an early release on parole is warranted, they submit the case to the Prison Commission, which examines all circumstances and provides the competent prosecutor with a recommendation. A judge takes the final decision. In practice, there are only very few cases of prisoners who are released on parole. According to information received from the Ministry of Justice, it is the intention of the Government to improve the situation with the adoption of the new Penal Code.

5. Access to legal counsel and legal aid

51. The Legal Aid Act requires the State to appoint a defence counsel ex officio and to bear all costs for all accused who have not chosen any or are not able to cover the fees. No one can be tried without defence, failing which the verdict is null and void.

52. Defence lawyers appointed by the court are obliged to appear in court and conduct the defence. Due to the lack of a proper budget, they often receive compensation by the State, which has been characterized as symbolic by judges the Working Group met. There is a shortage of lawyers throughout the country in general with five lawyers per 100,000 persons, of whom about 90 per cent are based in Luanda. In most provinces there are no lawyers at all. With the help of civil society, two lawyers have recently started practising in each of the Provinces of Cabinda and Lunda Norte.

6. Juvenile justice

53. Minors are criminally liable from the age of 16 and can be deprived of their liberty under section 69 of the Penal Code. Only in Luanda is there a special juvenile court for minors below the age of 16. In the context of the current reform of the Criminal Procedure Code, it was proposed to lower the age of criminal responsibility to 14. The Working Group was informed by government representatives during its visit that no final decision had been taken on this controversial proposal.

54. Minors below 16 in conflict with the law are presented by a prosecutor before the President of a Provincial Court and interrogated. Since there are no special rehabilitation centres for juveniles in Angola, they are usually handed over into the custody of their parents or guardians

[5] Articles 20 and 33 of the Law on a Unified Justice System.

after interrogation by the President of the court. When juveniles under this age are suspected of having committed a serious crime, they can nevertheless be detained, as was evidenced by two examples the Working Group was confronted with.

7. Detention of foreign citizens

55. A new Immigration Act came into force on 30 October 2007, replacing the former immigration laws dating back to 1994.

56. The Immigration Act differentiates between judicial and administrative expulsion. It makes the detention of foreign citizens at the Immigration Detention Centre compulsory, if they are subject to judicial expulsion, according to a non-exhaustive catalogue of grounds. Certain groups of foreigners can only be expelled by judicial decision.

57. Detention prior to administrative expulsion from the country is mandatory, if foreign citizens do not have the necessary stay or residence permit for their designated areas of stay.

IV. POSITIVE ASPECTS

58. Drawing on its long-standing experience, the Working Group has been able to identify three main root causes that could lead to arbitrary detention: the general context of a country with its specific problems and achievements, the legislative and institutional framework governing deprivation of liberty, and the lack of efficient remedies and impunity.

59. The legacy of 27 years of civil war in Angola is still visible, posing tremendous challenges. Pressing social needs on all levels of society and the required rebuilding of the infrastructure in the country compete with the need to reform the system of administration of justice. However, thanks to the natural resources in the country, the Angolan Government has sufficient financial means to implement legal and institutional reform, including capacity-building. Development goes hand in hand with human rights protection and promotion.

A. Commencement of judicial reform

60. The Working Group was informed that the Angolan Government has initiated a process of comprehensive justice reform, which shows a commitment to improve the situation concerning deprivation of liberty. Such institutional reforms were already envisaged in the amended Constitution of 1992. The reforms, however, were put on hold when Angola descended into civil war again.

61. The situation is different nowadays. The Feijo' Commission, created in 2003, identified short-, medium- and long-term reform goals for the justice sector. In 2005, an intersectorial Commission coordinated by the Ministry of Justice has begun implementing the action plan. The Working Group welcomes the signing of a memorandum on the Joint Project on Support to the Judicial Sector Reform and Modernization in September 2006 between the Government of Angola, the Office of the High Commissioner for Human Rights, the United Nations Development Programme and the United Nations Children's Fund. Project implementation is scheduled to last three years and comprises four components, namely, general support to the ongoing reform process, modernization of judicial institutions, support to the National Training

Institute for Magistrates, and legislative reform, in particular with a view to the preparation of draft laws, including a new Law on the Unified Justice System and on the Office of the Prosecution.

62. The Working Group considers that the Government's current commitment to reform is visible as it has already produced results and further reform projects have been put on track. The Government's commitment is also reflected by its invitation extended to the Working Group and other Special Procedures mandate-holders of the Human Rights Council. However, the Working Group would like to stress that in order for the ongoing reform to be effective, the legislative process must be transparent so that interested circles can participate and the stakeholders concerned are involved.

B. Activities in the field of human rights

63. Angola was elected on 17 May 2007 to a three-year term on the Human Rights Council. Its willingness to cooperate with international mechanisms is also evidenced by the voluntary pledges undertaken by the Angolan Government when submitting its candidature for membership, including the acceleration of ratification of the Convention against Torture and other United Nations Conventions on human rights and its plans to ratify others. Its voluntary pledges also envisage the promotion of the rule of law, access to justice and reconciliation and the promotion of legislative measures in order to better harmonize the domestic legal order with Angola's international legal obligations in the field of human rights. The Vice-Minister of Foreign Affairs explained during a meeting with the Working Group that the Government would like to see Angola become a State which fully respects, promotes and implements human rights but that there are still structural obstacles.

64. The Government has established a National Human Rights Institution and the Office of the Ombudsman. The Human Rights Department of the Ministry of Justice has created Provincial Human Rights Committees nationwide. These Committees, coordinated by Provincial Delegates of the Ministry of Justice, are entrusted with decentralized responsibility for human rights promotion and protection, but are not yet fully operational, as the Working Group has been informed. The Working Group would like to encourage the Government to further strengthen them. The Office of the High Commissioner for Human Rights has a country office in Angola, whose technical cooperation programme also includes a contribution to the judicial reform process.

C. Improving the institutional framework of administration of justice

65. The Government is endeavouring to put 48 functioning municipal courts into place and to increase the number of prosecutors throughout the country.

66. Institutional reform has also resulted in the creation of the Office of the Ombudsman. After his visit, still in his capacity as former Minister of Justice, to Cacuaco Prison in Luanda together with the President of the Supreme Court, the former Minister secured the release of some 200 prisoners who had been illegally detained. The visit programmes to police stations conducted by the Angolan Bar Association and to prisons by the Standing Committee on Human Rights (9th Commission) of the National Assembly could also be important means of preventing arbitrary detention, if the Government were to strengthen these institutions by

providing the necessary structure. Another positive aspect the Working Group would like to highlight is the training programmes for the police on respect for human rights and the rule of law carried out in cooperation with the United Nations and several civil society organizations and the creation of the Police Oversight Service in 2005, which conducts visits to police stations.

67. The Government has also taken steps to address the serious shortage of lawyers in Angola in general, especially those specializing in criminal law. About 100 to 150 law students at public universities and 50 to 80 at private ones obtain their law degrees every year and have been nominated to serve as interns in the various institutions. The Working Group encourages the Government to continue and step up its efforts.

68. In order to verify the legality of detention and its duration, the Attorney General has also decided to place a State Attorney in every prison. So far, this decision has only been implemented at Viana Prison in Luanda; however, the Working Group was informed by many prisoners that they are not aware of the existence and role of this official. In the provinces, State Attorneys are still attached to the courts and DPICs.

D. New detention centres and improving prison conditions

69. The Government has further started to address the sometimes appalling conditions of detention. Viana Prison outside Luanda with a capacity of 1,221 detainees and Cadeia Provincial Prison in Yabi, Cabinda Province have been built. DNIC in Luanda will receive new premises and a new prison in Dundo is currently under construction.

E. Civil society involvement

70. The Working Group, finally, notes with appreciation that the Bar Association is organizing the provision of legal aid at the DNIC in Luanda. Representatives of non-governmental organizations are permitted to visit detention facilities of the police, such as the Association for Justice, Peace and Democracy (AJPD) subject to an oral agreement. The organization is, however, not authorized to access Cacuaco Prison.

V. ISSUES OF CONCERN

A. Access to detention facilities

71. The Working Group wishes to express its dissatisfaction with regard to the two detention facilities forming part of the mission programme (the military prison in Cabinda and Viana Immigration Detention Centre), which it was unable to visit because the Military Commander and the Director had not received the necessary authorization from the Ministry of Defence and of the Interior, respectively. It would like to stress that during the preliminary consultations with the Angolan Permanent Mission in Geneva and with a delegation representing almost all the authorities involved in administrative and judicial deprivation of liberty, it informed them on the Working Group’s terms of reference, the places it would like to visit and the authorities it wished to meet, and handed over a list of detention facilities including military prisons. The Working

Group received assurances prior to the mission that it would be granted unrestricted access to all places it would like to visit and to all persons it would like to meet. Furthermore, the Working Group was accompanied during the entire mission by government officials from the Ministry of Foreign Affairs and the Attorney General's office.

72. With respect to the visit to Viana Immigration Detention Centre, the Working Group would like to highlight that during the meeting with the Vice-Minister of the Interior the day before the visit, it received assurances that there would be no obstacles. The Working Group could observe through the fence that detainees wanted to talk to the delegation, a request that was denied.

B. Necessity of further legal and institutional reform

73. Despite all efforts, the present institutional and legal framework governing the aspect of deprivation of liberty is still flawed. Strong institutions are necessary for an effective system of administration of justice to function. Their competences must be clearly defined, their powers delimitated from and balanced against each other and the independence of the judiciary guaranteed. A legal framework has to be in place that makes these institutions accessible and their functioning transparent. To this end, the State also has to provide appropriate financial means. In the Angolan context, these goals are far from having been achieved. Legislation and institutions are inherited from colonial times. They are not always in compliance with the requirements of international human rights instruments the Republic of Angola has subscribed to or even with the Angolan Constitution.

74. The current system of criminal justice is dominated by the Ministry of the Interior, which has the police, the Gendarmerie, the National Directorate of Prison Services, as well as the Service for Migration and Foreigners (SME) under its authority. In this system, where basically all powers related to the administration of justice are concentrated in a single Ministry, judges play a weak role, since they are not involved in verifying the lawfulness of detention or any other measures taken during the criminal investigation.

C. Strengthening the role of the judiciary in criminal proceedings and reforming the habeas corpus procedure

75. The Working Group stresses that under international human rights law deprivation of liberty is subject to certain conditions and, even if initially lawful, becomes arbitrary if its legality cannot be contested in court in proceedings affording fundamental due process rights, so that persons arbitrarily arrested and detained are able to obtain an effective remedy. The experience made by the Working Group shows that this is not the case in Angola.

76. The decision to legalize detention after arrest or to extend the period of pretrial detention is taken not by a judge but by the magistrate of public prosecution, who is subject to the hierarchical order of the High Council of the Ministry of Justice Bench rather than the High Council of the Judicial Bench as Angola's judges. Pretrial detention is sometimes legalized even without the physical appearance of the suspect. The Working Group is particularly concerned by the fact that the detention order of the magistrate of public prosecution and its extension cannot be challenged in court during the whole investigation phase. Because judges are involved at a very late stage of the proceedings when the trial commences, only the

Attorney General is competent to quash the detention order of the magistrate of public prosecution. However, because of his role in the trial, the Attorney General lacks the requisite requirements of impartiality as required by article 9 of the International Covenant on Civil and Political Rights to which Angola is a party. Since the prosecution has an interest in keeping the accused in custody, decisions to that effect are rarely overturned; moreover, because the lawfulness of the detention is not assessed by the court, even the time limit prescribed by law is often not respected. The Working Group received encouraging signs from the Vice-Minister of Justice during its mission that the Government was discussing during the ongoing reform of the justice sector the possibility of having a judge rather than a magistrate of public prosecution legalize detention, and supports the Government in its efforts to bring the procedure into conformity with article 9 of the Covenant.

77. The habeas corpus procedure before the Supreme Court, which could provide an effective remedy for the persons concerned to challenge the legality of their detention, is cumbersome and ineffective. As far as is apparent, it has been used only twice since the independence of Angola and no decision on the merits was taken. The provisions in the Criminal Procedure Code dealing with habeas corpus stem from colonial times and have been subject to contradictory interpretation. They do not provide an effective remedy for applicants. The Working Group concludes that there is no genuine right to challenge detention orders which would satisfy the requirements of article 9 of the Covenant.

D. Adherence to legal rules governing and control of authorities conducting criminal investigations

78. The Working Group has received information that the rule according to which a person arrested on suspicion of having committed an offence must be presented to a magistrate of public prosecution on the same day of the arrest, save for exceptional cases is virtually never adhered to. The Working Group also took note of the fact that it is a common practice that police investigators are the first to interrogate the suspect in the absence of a prosecutor at variance with legal requirements. The majority of municipalities do not even have prosecutors or lawyers, as a result of which the police bears sole responsibility for the criminal investigation.

79. The Working Group has observed many instances of excessive pretrial detention beyond the time limits provided for by law. Detainees are often remanded for months and sometimes years.

80. The police have unsatisfactory working conditions. Given the legacy of wartime, some officers do not have enough experience in the administration of justice and are not fully aware of their present constitutional role in a relatively novel democratic society. The Government has identified the problem as is apparent from its voluntary pledges for membership in the Human Rights Council, where the training of police officers in human rights is mentioned.

81. The police operate in an environment where no defence counsel is available to most detainees. This also has a negative impact on the quality of the work of prosecutors, who in practice often tend to ex post facto legalize police misconduct such as unlawful interrogation and incriminations based on confessions obtained only by a police investigator.

E. Guaranteeing access to defence counsel and legal aid

82. The right of access to a lawyer and a corresponding legal aid system, as guaranteed by the Constitution, exists only in theory. Legal assistance is only available during the trial stage and sometimes the accused do not enjoy the benefit of defence counsel at all. Due to a serious shortage of qualified defence lawyers, especially in the provinces, tribunals appoint court clerks, civil servants and even prison officers or policemen as public defenders. In the view of the Working Group, the majority of these persons are not able to act in the interests of the accused. It would like to stress that this situation needs to be urgently addressed.

F. Establishing a functioning court system

83. Only 14 out of 165 municipalities have municipal courts and there is still a shortage of qualified judges in the country. As a consequence, the administration of justice at the provincial level is largely carried out by traditional authorities. Their customary jurisdiction is, however, limited and they are not competent to order detention, a factor which adds to a large backlog of criminal cases. In such circumstances, it is difficult to ensure a fair trial and compliance with the prescribed time limits when the defendant is in detention.

84. The Working Group has further received reliable information that police officers frequently sit on the bench as assessors. This amounts to a serious violation of the right to a fair trial. The Working Group understands that the Angolan Constitution requires that criminal trials be conducted by three judges and that it is difficult to ensure the presence of a judge in every Angolan municipality. The Working Group considers, however, that it would be preferable that only one judge conduct the trial if this is the only way to avoid having authorities who obviously lack the necessary independence and impartiality (or the necessary qualifications) round out the composition of a criminal court.

85. In criminal appeals before the Supreme Court, no public hearing is conducted. Only the prosecutor, but not the accused, his defence lawyer or the victim of the crime is present. The defence counsel has to submit his arguments in a written brief within eight days. While the Working Group acknowledges different legal traditions throughout the world and considers that article 14, paragraph 5, of the Covenant does not require several instances in judicial proceedings in criminal matters or a second full trial or hearing, it is of the opinion that if a State provides for several instances, the convicted person must have effective access to each of them. The principle of equality of arms then requires that the accused and his defence counsel must be able to participate in the hearing if the law provides for the presence of the prosecutor.

86. The Working Group is particularly concerned about a further perceived shortcoming of the appeal proceedings. Convicts who were in preventive detention are discouraged to appeal since they are obliged to remain in detention pending the appeal decision even if they have received a

suspended sentence of imprisonment or fully served their prison term pending the appeal.[6] The accused even have to remain in pretrial detention if they have been acquitted by the court of first instance in the event of an appeal by the prosecution.

87. Due to the general lack of resources and infrastructure combined with other structural problems such as the shortage of trained magistrates as well as other judicial personnel, the system is unable to respond to the number of conflicts and violations generated within a society affected by years of violence. Long-running trials combined with insufficient legal control by prosecutors and an overly powerful police force have a dramatic impact on the overcrowding of prisons. The Working Group concludes that, despite the efforts of the Government, there is still no effective system in place which can prevent instances of arbitrary detention from occurring.

G. Minors in detention

88. Another issue of concern is the situation of minors who are regularly detained together with adults at police stations and prisons. The Working Group further received credible information that, although not criminally liable, minors below the age of 16 could be subjected to the same procedure and end up in jail at the instigation of judges and the prosecution, when they are suspected of having committed a serious crime. Such practice amounts to arbitrary detention without legal basis according to the categories applicable to the consideration of cases of arbitrary detention by the Working Group. It notes that the situation is currently under discussion in the Council of Ministers in connection with the reform of the Penal Code.

89. Public authorities confirmed that errors in the determination of the age of a minor might occur since many Angolan citizens have neither an identity document nor a birth certificate. The Working Group was informed of one case in which a minor below the age of 16 was taken into custody despite producing a birth certificate proving his status as a minor. In case of doubt, prosecutors refer cases of minors to a Commission comprised of psychologists and doctors with a view to the determination of their age. According to the information received, it would appear that the Commission is not independent, since it works for the prosecution, and rarely determines the age of the minor to be below 16. If that is the case, the burden of proof lies with the minors not with the State.

90. Furthermore, the Working Group is concerned that there is no special juvenile justice system and not even a special regime applicable to minors from the age of 16 with the exception that the maximum sentence of imprisonment is eight years for the 16-18 age bracket and 12 years for the 18-21 age bracket. The regime concerning prison term sentence and pretrial detention for minors is the same as for adults, and they are kept in the same detention facilities as adults, facing the same harsh conditions in detention. Because of their vulnerability, this situation leads to worse consequences, which are even aggravated, considering that the Working Group met a large number of juveniles under the age of 16 in detention mixed in with adults, some of whom reported sexual abuses by fellow inmates. The Working Group has observed that

[6] The Working Group has been informed by credible sources of one case in which the accused had pleaded innocent, but did not appeal his sentence because he would have had to stay in prison.

authorities at times confuse criminal liability and the fact that minors still require special treatment in criminal proceedings, including using pretrial detention and sanctions of imprisonment as a last resort and the necessity of separating minors from adults in detention facilities. The Working Group reminds the Government of Angola that it has undertaken obligations by ratifying the Covenant on the Rights of the Child, which defines a juvenile as a person under the age of 18 (not 16).

H. Prevention of abuses and impunity

91. Even within this already deficient institutional and legal framework, abuses occur, and those who are affected by them have no complaint procedures available to obtain an effective remedy. For example, the Working Group has been informed by authorities that the continuation of detention after finishing the respective term of imprisonment is a pressing problem in Angola.

92. The Working Group is concerned by allegations it received about torture and other forms of ill-treatment to extract confessions during the crucial early stage of the proceedings. A number of detainees at Cacuaco Prison and also at Viana Prison reported about beatings used as a punishment for and a deterrent against filing complaints regarding prison conditions or showed visible signs of torture. Some authorities the Working Group confronted with its observances categorically denied that ill-treatment was the cause of injuries and offered alternative explanations.

93. The Working Group considers the information on ill-treatment in detention received from various sources, including photos, medical certificates and testimonies, before, during and after its visit[7] to be credible, and is concerned by the denial of any such problems existing in the country by some government authorities, including the police. The Working Group expresses its further concerns that allegations of ill-treatment are hardly ever investigated and that perpetrators largely go unpunished. The police in Luanda was not able to provide statistics on police misconduct and the number of investigation procedures initiated and police officers having committed acts of ill-treatment or other human rights violations brought to justice.

94. The Working Group has received allegations of corruption within the administration of justice system. It has been informed that the release of persons wrongfully detained and the prompt handling of investigation proceedings, particularly in police stations and at the DNIC in Luanda, can depend on bribes rather than the observance of legal procedure. Such conduct is facilitated by improper detention registries that do not contain all information required for a swift and effective control of arrival, transfer or release of inmates, and the occupancy of the detention facility. In practice, there is no clear separation among the police, DPIC and DNIC authorities as to the powers to arrest, and it was reported that arrests without warrant occur and are not reported to the overseeing or legalizing authorities.

[7] The Working Group heard testimony from victims, family members of victims and was able to verify during its mission allegations submitted by civil society organizations prior to the visit.

I. Military jurisdiction

95. The Working Group is concerned that the Government did not enable it to access military detention facilities it asked to visit. Despite the fact that the Angolan armed forces do not enjoy any competence to arrest and detain civilians and contrary to assurances received from military authorities met during its visit, the Working Group has received credible allegations in Cabinda that civilians were detained incommunicado at military institutions and were not produced before a judge. Pedro Muela, Domingos Pedro Muela, José Pedro Muela and Pascoal Domingos, were detained on 31 August 2007 by the armed forces at military barracks in Cabinda, but had been released prior to the arrival of the Working Group's delegation to the province, according to the information received. The Working Group would like to stress that secret detention puts the persons concerned at risk of ill-treatment, disappearance and other serious human rights violations.

96. The Working Group was informed by the President of the Supreme Court that a civilian has no remedy available if he is wrongfully sent for trial before a military court that retains its competence, despite the strict legal prohibition on jurisdiction of military courts over civilian matters. Military court rulings are not subject to review by the civil Supreme Court. No mechanism or tribunal has been established to resolve conflicts of competence between civil and military courts.

J. Detention of foreign citizens

97. The Working Group expresses its concern that the new Immigration Act makes detention mandatory for a significant part of illegal immigrants. Although it appears from the Immigration Act that the expulsion of foreign citizens must be enforced within 8 days for non-resident citizens and within 15 days for residents, which would indicate that the time limit for detention is the same, the Working Group observed that illegal immigrants are being detained for much longer periods of time, sometimes for months, even years, hence for potentially indefinite periods. It has to be recalled that detention of illegal immigrants must be the exception, not the rule, and indefinite detention is clearly in violation of applicable international human rights instruments governing deprivation of liberty.

K. Prison conditions and prison riots

98. Prisoners face harsh conditions in prisons and other detention facilities. The Working Group considers that such conditions sometimes impair a proper defence of pretrail detainees and thus violate the right to fair trial, as entrenched in article 14 of the Covenant. Detainees stay in overcrowded cells for most of the day without engaging in activities. Food and water supply is a serious problem because prison authorities suffer from budgetary constraints. The conditions in the holdings cells of DNIC, at Cacuaco Prison in Luanda and in the Provincial Prison in Condueji in the Province of Lunda Norte are alarming.

99. The Provincial Prison in Condueji is an old warehouse which was transformed into a prison and is unsuitable for detention. About three times as many detainees have to share one overheated cell with 48 sleeping places, and the Working Group observed obvious signs of starvation amongst the most vulnerable group of prisoners. One detainee was obviously in need of psychiatric treatment, which cannot be provided at the Prison. Still during its stay in Angola,

the Working Group was informed that on 25 September 2007, detainees at this Prison had staged a riot over lack of access to health treatment. Three prisoners initially managed to escape. One prisoner was caught and another successfully absconded. Tragically, a third prisoner was shot to death by police officers.

100. The Working Group was later informed that another prison riot occurred at the Central Prison in Luanda (Cacuaco), starting on 1 October 2007. The Ministry of the Interior issued a communiqué on 2 October 2007 alleging that prisoners were trying to escape, two guards were taken hostage, one of whom was seriously injured, and that the reaction of prison security forces resulted in the death of two inmates and the wounding of five others.

101. The inquiry commission set up by the Ministry of the Interior to investigate the riots at the Central Prison, made public its results on 27 October 2007. The Commission noted that, with 3,356 inmates in a detention facility built around 80 years ago with a capacity of 500 to 600 detainees, the prison was seriously overcrowded, which could be confirmed by the Working Group's delegation during its visit.

102. According to the findings of the Commission, the riots started spontaneously without premeditation. Two inmates died and seven were injured. The report recommends transferring part of the inmates to other prisons and the implementation of minor renovations to improve accommodation conditions in terms of food, water and medical care. The Commission report concluded that the Minister of the Interior will also adopt measures to discipline and eventually punish guards who maltreat detainees.

103. The Working Group deeply regrets the loss of life and injuries. It welcomes the fact that measures were taken promptly by the Government to address the situations and to prevent them from occurring in the future, particularly the rapidness with which the Commission was established and presented its findings and the indication of the Minister to adopt measures to limit abuses in prisons and to punish those officials who are responsible for them. It expresses the hope that the recommendations of the Commission will be implemented and the remedies for the concerned will be effective.

VI. CONCLUSIONS AND RECOMMENDATIONS

104. **On the basis of its findings the Working Group would like to make the following conclusions and recommendations to the Government:**

(a) The Working Group would like to receive from the Government information on the measures taken following the inspection visit of Viana Immigration Detention Centre conducted on 27 November 2007 by the Special Rapporteur on freedom of religion or belief. It would also like to receive a comprehensive report by the Government on the outcome of the investigation of the Commission of Inquiry and on the implementation of the Commission's recommendations.

(b) The Working Group recommends that the Angolan Government take immediate measures to prevent instances of arbitrary detention from occurring, which would as a side effect also redress the current situation of overcrowded prisons, by considering:

(i) To take into account more frequently the eligibility of prisoners for early release on parole;

(ii) To make provision in order to guarantee that the time limits for pretrial detention are observed;

(iii) To make use of detention on remand less frequently, for example for persons involved in traffic accidents; and

(iv) To change the laws, which require convicts having received a suspended sentence or accomplished their prison term, or persons acquitted by the court of first instance in the event of an appeal lodged by the prosecution, to remain in pretrial detention pending the outcome of the appeal to the sentence of the court of first instance.

(c) The Working Group encourages the Government to increase the frequency of inspection and control visits of State organs to prisons and other detention facilities. The Government is further invited to consider the possibility of empowering judges to conduct regular prison and detention facilities visits. It urges the Government to extend the permission of such visits to non-governmental organizations which are active in the field of promotion and protection of human rights, if they so wish and for which there have already been examples in the past.

(d) The Working Group invites the Government to pay particular attention to the situation of children in conflict with the law and encourages it to make, as part of its reform of the Criminal Procedure Code, provision for the introduction of a special justice system for minors and bring its legislation and practice as regards the arrest and detention of minors fully into conformity with articles 37, 39 and 40 of the Convention on the Rights of the Child, to which Angola is a party, and other appropriate international standards:

(i) The practice of holding minors in custody and in prisons together with adults should be urgently dealt with and avoided;

(ii) The regime in detention applied to minors should be adapted to suit their character and age wherever possible;

(iii) Immediate action is required to ensure that minors below the age of 16 are not being detained. In case of doubt, the onus of proof regarding their age should be shifted to the State.

(e) The Working Group further recommends to the Government that it reconsider the legal framework relating to pretrial detention in order to ensure that the right to challenge the legality of detention is effectively protected by a petition of habeas corpus.

(f) The Working Group requests that the Government establish guidelines and criteria to prevent non-judicial public authorities, who lack the necessary independence and impartiality, from sitting as assessors on the bench of criminal courts or performing the tasks of public defenders.

(g) The Working Group recommends separating the different agencies which have an interest in a criminal investigation from those in charge of supervision of prisons. The Working Group recommends that the prison administration be placed under the authority of the Ministry of Justice, as was the case prior to 1988.

(h) The Working Group would like the Government to consider establishing a mechanism ensuring that military court decisions are subject to the control of the civil Supreme Court with respect to the proper exercise of military jurisdiction and other possible conflicts of competence.

(i) The Working Group invites the Government of Angola to consider ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, as they provide for effective tools to prevent torture and other forms of ill-treatment.
