

### **3. COUNTRY REPORTS**

#### **3.1. Angola**

Angola gained its independence in 1975, after 500 years of colonialism and 14 years of armed struggle between the Portuguese and an Angolan nationalist movement that was divided into three groups, mainly based on ethnic membership or tribal affiliation. Whilst the “National Front for the Liberation of Angola” (FNLA) withdrew from the civil war in the 1980’s, the “Popular Movement for the Liberation of Angola” (MPLA) and the “National Unity for the Total Independence of Angola” (UNITA) could not reconcile their aspirations for national power and plunged the country into a war, that only ended in 2002 after 27 years of extreme brutality between (and within) the two movements with civilians feeling the brunt of the conflict in terms of casualties. While the first period of the war was heavily influenced by the Cold War – the MPLA received support from some communist countries, UNITA from some western backers – the second phase in the 1990s was funded by Angola’s abundant mineral wealth (oil, diamonds). After the end of the Cold War, the MPLA and UNITA negotiated a peace agreement that culminated in the 1992 elections. Although international observers considered these elections as generally free and fair, UNITA did not accept the (for them totally unexpected) results, and went on to claim electoral fraud and reignite the war.

Only after their leader Jonas Savimbi died in combat in February 2002, UNITA returned to the peace process laid out in the 1994 Lusaka Protocol. The war came to an official end in November 2002, after the Lusaka Protocol was fully implemented and UNITA was demilitarized. The UN Security Council subsequently lifted its sanctions against UNITA, which is in the process of being transformed from a guerrilla movement into an internationally recognized political party.

During the 27 years of horrific civil warfare, which created some of the worst social and economic conditions in the world, more than one million people lost their lives. Most of the 4,5 million internally displaced persons (IDPs) have been able over the past few years return to their homelands and more than 300 000 people were repatriated of late primarily from neighbouring countries.<sup>1</sup>

The end of the war was a necessary, but not sufficient condition for better living conditions for the majority of the 13 – 17 million Angolans.<sup>2</sup> The country still finds itself in a post-conflict scenario with a devastated infrastructure, its interior areas are considered to have one of the highest concentrations of landmines worldwide, a legacy of war that still claims many innocent victims. An entire generation had to grow up in a situation of constant, violent armed conflict that has affected the social cohesion of Angola and made reconciliation a great challenge.<sup>3</sup>

Currently, Angola ranks as a least a developed country (LDC), ranking 160<sup>th</sup> out of 177 countries on the 2005 UNDP Human Development Index. 67% of the population are living below the poverty datum line, life expectancy is at 40 years, infant and child mortality rates are among the highest in the world with 250 deaths per 1 000 children under-five years. Restrictions on the movement of the population caused by the war have had a positive impact on the HIV/Aids infection rate, which is only at about 4 %.<sup>4</sup>

Although the country has natural resources in abundance and is exploiting them quite effectively, the general population is not (yet) adequately benefiting from these. The government and its patronage network divert oil revenues to individual accounts with little transparency.<sup>5</sup> The IMF has

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<sup>1</sup> Bertelsmann Foundation: *Transformation Index 2006, Country Report Angola*, Gütersloh 2006, p. 13; see also: USAID/Angola: *Operational Plan FY 2006*, Washington DC 2006, p 3.

<sup>2</sup> The fact that there has been no census for decades or any other significant population-based survey means that estimating a population figure for Angola is problematic. This figure comes from USAID 2006, p. 3, whereas the *CIA World Factbook on Angola*, Washington DC 2005, estimates 12 million people for 2006.

<sup>3</sup> International Crisis Group: *Angola's Choice: Reform or Regress*, Brussels 2003, p 1.

<sup>4</sup> UNDP: *Human Development Index, Report 2005*. USAID/Angola: *Operational Plan FY 2004*, Washington DC 2004, refers to a UNAIDS report from 2001 with a national HIV/Aids prevalence of 5.5 %, but admits extremely limited surveillance data.

<sup>5</sup> Human Rights Watch: *Report on Angola*, New York 2004, p 1.

identified an overriding lack of internal controls and an inadequate accounting of the central bank's foreign assets and liabilities – combined with complex offshore structures – as a key problem. As the direct beneficiary of revenues the government is not reliant on domestic taxation or a diversified economy to function. This “paradox of plenty” seems to be one reason for the state's weak capacity to deliver goods and services to the people. Rising oil prices and production capacities of about 1.4 million barrels per day petroleum have generated high revenues for the national budget and allowed Angola to syndicate a \$2 billion loan for reconstruction from China in 2003, a loan that was doubled in 2006. China imports 50% of the oil and is the most important trade partner of Angola, followed by the US, which imports 40% of Angola's oil. The revenues from the petroleum industry account for 50% of Angola's GDP.

A relatively low inflation rate of less than 20% over the past two years and GDP growth rates of 18% in 2005 and 10% forecasted for 2006 should not obscure the structural impediments the economy is still facing with deplorable infrastructure, inadequate economic policy and management, and corruption – leading to an overall economic performance that remains below potential. However, the government's strategy of attracting foreign direct investment (FDI) through tax advantages and other incentives for international investors appears to be successful. Since 2002 Angola has been attracting the highest FDI in Sub-Saharan Africa, twice as much as South Africa.<sup>6</sup>

Using its revenue and loans, the government has of late made some concerted efforts to embark on poverty reduction, reconstruction and reconciliation projects. Although there is some evidence of socio-economic improvement, many critics point out that a presidential clique and its MPLA-related patronage networks have preferential access to the benefits.<sup>7</sup>

The political system headed by a powerful president leaves only a marginal role for the national parliament. Out of its 220 members from 10 political parties, the ruling MPLA holds 129 seats, UNITA 68 (70), the PRS (Party for Social Renewal) 6, and the FNLA 5 seats. Due to conflicts within the opposition bloc, parliament cannot properly execute its democratic mandate to control government. The few

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<sup>6</sup> UNCTAD: *World Investment Report 2005*, Geneva 2005.

<sup>7</sup> Bertelsmann Foundation 2006, p. 11.

opposition members within the Government of Unity and National Reconciliation (GURN) that was developed already in 1997 have limited influence and political power.

Fourteen years after the last elections and after several postponements the president of Angola, Jose Eduardo dos Santos, initiated the process of voter registration, which started in October 2006. He indicated that elections may still be held in 2007. In 2005 new electoral legislation was passed by parliament and was signed into power by Dos Santos. It, however, remains uncertain if the parliamentary elections will be combined with overdue presidential elections.

### **I. Constitution**

Due to very limited information available, this section refers more to the content of the constitution rather than to the extent to which it is being implemented by the government and its organs. The gap between constitutional theory and practice however is generally considered substantial.<sup>8</sup>

The current constitutional law from 1992 was amended in 1991 in order to create the requisite constitutional framework for the establishment of multiparty democracy (and the general elections in September 1992), the guarantees of the fundamental rights and freedoms of citizens and constitutionally enshrining the basic principles of a market economy. In a constituent assembly no consensus could be reached for the content and the time frame (prior or after elections) for a new constitution. Since the ruling MPLA does not have the necessary 2/3 majority in parliament, the constitutional law from 1992 is – with some amendments from 2005 – normative.

Human rights

Angola's constitution contains in Part II (Fundamental Rights and Duties) a bill of (human) rights (Art 18 – 52). "All constitutional and legal norms related to fundamental rights shall be interpreted and incorporated in keeping with The Universal Declaration of the Rights of Man, the African Charter on the Rights of Man and Peoples and other international instruments to which Angola has adhered." (Art 21).

Angola has officially ratified most international human rights treaties,<sup>9</sup> including the Universal Declaration of

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<sup>8</sup> Bertelsmann Foundation 2006, p. 5.

<sup>9</sup> BMZ: *Länderbericht Angola*, Bonn 2003, p. 25.

Human Rights and the African Charter on Human and Peoples' Rights. The government has not, however, presented the obligatory reports on the extent to which the treaties have been adhered to.

The constitution does not exclude any of its articles from possible amendment. It states that an amendment is subject to a 2/3 majority of present members of the National Assembly (Article 158). But any amendment will have to comply – amongst others – with:

- the fundamental rights, freedoms and guarantees of citizens, and
- the rule of law and party political pluralism (Article 159).

However, the exercise of fundamental rights, freedoms and guarantees of citizens may be restricted or suspended, but only in accordance with the law in case of a threat to public order or a state of siege or emergency (Article 158). The declaration of a state of siege or state of emergency shall however “not affect the right to life, personal integrity, personal identity, civil capacity, citizenship, the non-retroactive nature of penal law and the right of the accused to defence or freedom of conscience and religion.” (Article 52).

Article 53 of the constitution stipulates: ‘The President of the Republic, the National Assembly, the Government and the Courts shall be sovereign bodies.’

Separation of powers

Supreme Court judges are, however, appointed (after hearing the High Council of the Judicial Bench) and the Attorney General too (on the proposal of the High Council of the Ministry of Justice Bench). The latter may be dismissed by the president (Article 66). Hence, there is no total independence of the Supreme Court judges as well as the Attorney General, effecting the separation of powers and the checks and balances needed in an effective democracy.<sup>10</sup>

The National Assembly is an independent constitutional body, since its members are supposed to be elected by the Angolan citizens (Article 79). The dominance of the ruling party and the executive powers of the president, who can

<sup>10</sup> The Bertelsmann Transformation Index even states: “Above all the justice system remains highly dependent and suffers from political pressure. De facto a separation of powers does not exist.” (p. 5).

(and does) rule by decree, marginalise de facto the legislature and reduce its mandate to effectively control the executive.

Primacy of law According to Article 54 “state bodies shall be subject to the law, which they shall obey.” Furthermore: “Holders of political posts shall be civilly and criminally answerable for actions and omissions committed in the discharge of their duties.” But the President of the Republic “shall not be responsible for acts carried out during the discharge of his duties, except in the case of bribery or treason [but is] answerable to the ordinary courts after the end of his term of office for offences unrelated to the discharge of his duties.” (Article 65)

Judicial independence Article 120 (1) stipulates that “courts shall be sovereign bodies with powers to administer justice on behalf of the people.” It further says in (3): “In the discharge of their jurisdictional duties, the courts shall be independent and subject only to the law.” This constitutional independence of the courts should however be seen in the context of an omnipresent government and a wealthy ruling party network at one side and not well paid judges at the other side, leading to interference with Angola’s judges.<sup>11</sup>

Fundamental rights protection According to Article 134 there is a provision for a constitutional court (currently part of the Supreme Court) which – amongst others – is supposed to:

- prevent unconstitutionality
- consider whether laws, executive laws, ratified international treaties and any other rules are unconstitutional
- consider appeals in respect of the constitutional nature of all decisions of other courts.

As stipulated in Article 18, all acts aimed at jeopardising fundamental rights and duties are to be severely punished by law. According to Article 41 any citizen sentenced will have the right to appeal to the competent court or the Supreme Court against the judicial decision taken. Furthermore, citizens have the right to contest and take legal action against any acts that violate their rights as set out in the constitutional law and any other legislation (Article 43). The severe lack of lawyers, judges and functioning courts in

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<sup>11</sup> International Bar Association: *Angola, Promoting Justice, Post Conflict*, London 2003.

Angola make it very difficult if not even impossible for ordinary people to prosecute their fundamental rights.

In order to defend the rights and freedoms of citizens, the office of a judicial proctorate was established in January 2005 and subsequently an ombudsman was nominated only a few months later. This office is *de iure* an independent body, but does not have any “power of decision” and will only “submit to the appropriate bodies its recommendations to prevent and remedy injustice” (Article 142).

There are however reports that mainly state actors and ruling party members disenfranchise the citizens of their rights, mainly in the interior of the country and to a lesser extent in the capital Luanda and along the coast. In addition some national legislation imposes limitations of fundamental human rights. The freedom of the press is perceived to be constrained, since members of the elite know how to defend their constitutional right to “good name and reputation” (Article 20) through defamation cases against journalists, who therefore sometimes censor their work in advance. “Throughout the last two years, journalists’ arrests occurred mainly due to reporting on corruption, violence of state agents against street vendors and on the self-enrichment prevalent among the national elite.”<sup>12</sup> The right of assembly and association seems to be hampered through the legal requirement that demonstrations have to be announced at least three days in advance, which is referred to be an instrument of the authorities to prevent any form of legal protest.<sup>13</sup>

According to Article 18 all citizens shall be equal under the law and shall enjoy the same rights and be subject to the same duties. There shall be no distinction as to colour, race, ethnic group, sex, place of birth, religion, ideology, level of education or economic or social status. However, the economic and social status of the majority of the Angolans may inhibit the pursuit of justice for many.

Equality  
before the law

In addition to the privileges of the president (see above), the members of the National Assembly and of the Council of the Republic enjoy immunity and may not be detained or

Constitutional  
privileges

<sup>12</sup> Bertelsmann Foundation 2006, p. 5. Sometimes journalists are co-opted or bought out with public resources. Miranda, Armino: *Waiting for Elections*, Bergen 2004, p. 2.

<sup>13</sup> Bertelsmann Foundation 2006, p. 5. The International Bar Association’s Report refers to attempts of the Government to restrict the activities or the formation of NGOs (p. 5).

arrested without authorisation by the National Assembly or any other body unless caught *in flagrante delicto* committing a felony punishable by imprisonment (Articles 77 and 84).

The prime minister, ministers (including provincial governors), secretaries of state and deputy ministers may be arrested only if charged for an offence punishable by imprisonment and only after having been suspended from office by the President of the Republic (Article 119).

Judges of the Supreme and the Constitutional Court, members of the High Council of the Judicial Bench as well as the Attorney General, his deputy and assistants may only be arrested if charged for an offence punishable by a prison sentence, while trial court judges may not be arrested without being charged, unless caught *in flagrante delicto* for an offence punishable by imprisonment (Articles 130, 132, 139).

Control over law enforcement and military      The constitutional law does not explicitly mention any civil control over Angola's police force. In respect of the armed forces the constitution merely declares the President of the Republic to be the "supreme authority" (commander in chief) of the armed forces (Article 151).

Executive privilege      The constitution is not very clear about executive privileges. Only Article 74 points out that 'the President of the Republic shall issue decrees and dispatches that shall be published in the government gazette. Since the president – through the council of ministers – can enact decree-laws, decrees and resolutions, he can assume most of the functions of the legislative branch. Laws such as the Law on State Secrecy and the Law on National Security further strengthen executive authority and limit legislative power.<sup>14</sup>

Changes in the past five years      A new constitution was supposed to be drafted after the war ended in 2002. There was a disagreement within the constituent assembly, mainly between MPLA and UNITA, about whether a new constitution should be introduced before or after new elections, which led to the collapse of the assembly. However, a few amendments were passed to the 1992 constitution. These amendments are considered to be slight improvements.

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<sup>14</sup> US Department of State: *Country Reports on Human Rights Practices*, Washington DC 2003, p. 11.



The constitution is silent on parallel judicial systems. But the long colonial period with the influence of the Portuguese law and the role of traditional leaders particularly in remote rural areas are evident in many aspects and areas. Furthermore, there is a severe shortage of lawyers and judges in the country, most of the courts are in a poor state and not properly functioning, leading to little access to the official justice system.<sup>15</sup> Hence, minor offences in many rural areas continue to be handled by local chiefs and/or other elderly people. The civil war has however in many cases destroyed traditional setups including judicial systems without replacement, leading to a judicial vacuum in many areas.

Non-state  
parallel  
judicial  
systems

## II. Legislation

Only a minority of Angola's population are able to access information on the country's laws that are officially published in the *'Diario da Republica'*, the government gazette (in Portuguese). Even in urban areas this access to information is difficult.

Access to  
information

In rural areas information regarding Angola's laws is simply not available. In addition the language barrier for a population that in considerable areas of the country does not speak Portuguese or has only a basic understanding of it, as well as widespread illiteracy further inhibits the gathering of information about Angola's legislation.

The constitution allows retroactive legislation "only when beneficial to the accused" (Article 36). There are however cases reported where this principle has been distorted.

Retroactive  
legislation

There are no discriminatory laws as such. However, the limited and insufficient access to schools – despite being legally compulsory for all children over six – predominantly affects people living in rural areas. It is therefore extremely difficult for socially discriminated people to know the laws and comply with them.

Discriminatory  
legislation

Several laws and legal regimes have been amended in order to guarantee legal certainty, particularly for (potential) national and international investors. Of late a bilateral protection of investment treaty between Angola and Germany has been ratified. Some bureaucratic procedures,

Legal  
certainty

<sup>15</sup> International Bar Association 2003, p. 4.

such as for the registration of a corporation (*Guiché Único*) have officially been eased. There have been no reports of illegal expropriations in recent years. According to Angolan businessmen the situation has however de facto worsened. Civil servants are said to deliberately place bureaucratic obstacles in the system in order to cash in for themselves. This does not only weaken legal certainty but also effects strategic planning and leads to substantially increased costs.

### III. Courts

Government  
accountability  
in court

According to the constitution, members of the government and of its executive organs are answerable to the courts, either during or after their term of office (see above). It is however currently almost impossible for citizens to fight state violations of their rights or government arbitrariness in court. Even powerful people such as members of parliament (members of the parliamentary opposition in particular) would risk incurring 'sanctions', such as a prolonged wait for the renewal of important documents, i.e. passports (including those of their families), the denial of access to the central governmental workshop for service or repair work on their vehicles, and being denied other privileges such as travel allowances, allowances for medical treatment in private clinics, participation in overseas conferences, etc.

There are signs that the situation might improve in future. In January 2005 the office of the justice ombudsman was established as an independent public body tasked with protecting people's constitutional rights and freedoms and ensuring, by informal means, fair and lawful public administration. The justice ombudsman has the powers to receive complaints from members of the public and to make recommendations to prevent and remedy injustices.

An ombudsman was eventually nominated by parliament. The office has so far only been established in Luanda. It remains to be seen if – in the medium or long term – offices will be opened in the provinces as well. Amnesty International believes that the legislation establishing the justice ombudsman's office could provide the broadest possible mandate to address human rights concerns.

Access to  
justice

Due to the 27 years of civil war, many people have no birth certificates and are therefore without official documents (IDs, passports, etc.). Particularly this group of people is

vulnerable to the arbitrariness of public administration and has limited access to the public judiciary.

In addition most of the courts are not functioning due to a severe lack of lawyers and judges. Hence, minor offences in particular are usually handled by the police and/or by a prosecutor who acts as both prosecutor and judge. Usually there are no lawyers involved. The low salaries of judges and lawyers deter law students from entering the judicial service. Inadequate remuneration of judges increases the temptation to corrupt practice. This effectively leads to the fact that only 23 out of 168 municipal courts are operational and most cases end up in the provincial courts where they contribute to a tremendous backlog of cases.<sup>16</sup> According to the Council of Angolan Lawyers (OAA), in September 2006 there were only 694 registered lawyers (in 2001 it were 550), most of them (643 !) working in Luanda. In some provinces there is only 1 lawyer practising (Malanje/Cunene), in Huambo province 3, and in Namibe, Huila and Benguela province each 6 lawyers.

The law allows defendants the presumption of innocence, the right to a defence, the right to appeal, the right to public trials and a system of bail, and recognises the accused's right to a legal counsel. The government does not, however, always respect these rights in practice. Trials are open to the public, but each court can, at its discretion, close proceedings arbitrarily. Defendants do not have the right to confront their accusers. Judges are often not licensed lawyers. The Ministry of Justice has, however, increased its efforts to recruit and train lawyers to serve as magistrates.<sup>17</sup>

Fair trial

For cases that find their way to court, there would probably be a fair chance of a fair trial in accordance with the constitution and international human rights conventions, if there were no corruption. But according to several sources, most investigators and also judges will accept bribes and manipulate a judgement in favour of whoever pays most.

Double jeopardy is forbidden. However, there was no information available on whether this ban is respected. There is a presumption of innocence, but in practice it does not usually apply in criminal trials.

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<sup>16</sup> Bertelsmann Foundation 2006, p. 6.

<sup>17</sup> US Department of State 2005, p. 5.

	<p>Because of the shortage of lawyers and judges and the high cost of lawsuits and their low level of effectiveness, disputes are often – if not usually – handled by out-of-court settlements, or by people taking the law into own hands. Defendants do have the right to defend themselves in court.</p>
Legal representation	<p>But even where formal legal systems exist, their effectiveness may be undermined by corruption. Slow legal procedures as well as their high costs make it almost impossible for the majority of poor people to claim their legal rights. The government does not subsidise the citizen's legal expenses and pick up the court fees of the poor.</p>
Judicial biases	<p>There is limited documentation on judicial bias. But there is reported political interference (see above) and due to low salaries of the judges a very big temptation and challenge for judges to refrain from biased judgements which are said to be common if financial incentives (bribes) for the judges are involved.</p>
Proportionality	<p>Courts usually respect the principle of proportionality between the gravity of a crime and the severity of the punishment, unless the above mentioned reasons for judicial bias are involved. It is, however, impossible to quantify the proportion of cases in which the principle of proportionality is being violated.</p> <p>Another problem is with the implementation of the principle of proportionality by the police, in particular with the new anti-crime unit, which has been equipped with far-reaching freedom of action. As a result minor theft offences may result in a punishment (without trial) quite out of proportion to the offence.</p> <p>Political and/or financial influence may well have an impact on sentences. High ranking government officials, their networks and influential businessmen are said to usually succeed in getting lower sentences for themselves and higher ones for the other party.</p>
Discriminatory justice	<p>According to a member of the Council of Angolan Lawyers, no cases have been reported in which individuals or groups of people have been either privileged or discriminated against concerning amnesties or pardons.</p>

#### IV. Judicial Independence

Judges of the Supreme Court are appointed by the president, after hearing the High Council of the judicial bench. The latter appoints judges to provincial and municipal courts. The High Council is the highest managing and disciplinary body of the judicial bench.

Appointment  
of judges

Generally, and as long as no political matters are involved, judges and/or juries are independent in their adjudication.

Judges and/or juries are rarely subject to state repression as far as criminal – and not political – offences are concerned. In this context one has to distinguish (which is sometimes difficult) between official government institutions and government officials, who are influenced by their private business interests and may abuse their political and economic power.

Government institutions are said to influence the verdict if influential colleagues are involved. The offences involved are usually white-collar ones. Government institutions or their actors will, however, often try to avoid court cases.

Government  
interference

Since the end of the war in February 2002 civil rights groups have considerably stepped up their activity. The private media is also more regularly and critically reporting human rights abuses. Establishing the office of the justice ombudsman and the nomination of the ombudsman by parliament in 2005 are clear signs of slow but steady changes. Bringing about a fairer and more reliable adjudication is important, but is only part of the solution. Appropriate measures to ensure the implementation of adjudication in word and spirit are important as well. NGOs have therefore provided human rights and professional training to the police.<sup>18</sup> Police have also undertaken professional training with foreign law enforcement officials from several countries in the region. Accordingly, a slight improvement in adjudication and its implementation can be seen.

Changes in  
the past five  
years

For about the last two years, two organisations have been trying to exert an influence on the process of adjudication. One is the *Ordem dos Advogados de Angola* (OAA), the Council of Angolan Lawyers. The other is the *Associação Paz, Justiça e Democracia*, the Association for Peace, Justice

Non-state  
actor  
interference

<sup>18</sup> US Department of State 2005, p. 4.

and Democracy. Both organisations try to legally assist defendants and have led to a slight improvement in the judicial system. Apparently, both are trying hard and often get involved in cases, although their influence still seems to be limited. This is mainly due to the lack of infrastructure and funds, but also due to a lack of political support, such as from parliament and political parties.

#### V. Criminal Justice

Arbitrary  
enforcement

According to Angolan law nobody can be held in custody without trial for more than three months. Official Angolan sources report a majority of prisoners on remand are held for six months and longer (two or three years are common).<sup>19</sup> A shortage of courts and qualified personnel as well as poor efficiency are the main reasons. In many cases, police beat and then release detainees rather than prepare a formal court case against them.<sup>20</sup>

The central government has transferred various competences to provincial governments from where some competences were supposed to be delegated to a municipal or even communal level. However, the degree of decentralisation currently in effect often depends on particular individuals to enforce administrative acts and measures. As a result the quality of public services and administration at all levels often remains very poor.

Law  
enforcement  
abuses

According to Amnesty International<sup>21</sup>, the state-controlled radio called on soldiers and members of the Rapid Intervention Police in 2003 to 'mercilessly annihilate' the military fighters of the separatist movement FLEC in the Northern Province and Angolan exclave Cabinda. According to the same report, local NGOs reported over 100 cases of arbitrary arrest, torture, rape, extra judicial execution and 'disappearance' during 2003.

The US Department of State reports that the government's human rights record remains poor, although there were improvements in a few areas. Police were cited as the

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<sup>19</sup> BMZ 2003, p. 20.

<sup>20</sup> US Department of State 2005, p. 5.

<sup>21</sup> Amnesty International: *Angola*, covering January to December 2003, <http://web.amnesty.org/report2004/ago-summary-eng> .

primary human rights abusers. Impunity remains a serious problem.<sup>22</sup>

The most striking evidence for human rights violations of political opponents are the various reports of incidents in the Cabinda enclave, situated between the Democratic Republic of Congo and the Republic of Congo. FLEC fighters as well as civilians collaborating with them continuously suffered from human rights violations carried out by the armed forces and police.

Since a memorandum between the government and an umbrella body of civil society organisations from the exclave Cabinda was signed in mid 2006, effecting a ceasefire and a special status with privileges for Cabinda, there is an improvement in the human rights situation in this province. The situation in the rest of the country has undoubtedly improved. However, isolated cases of recent human rights violations against members of UNITA as well as members of other opposition parties were reported. But in the capital Luanda the police are still trying hard to reduce the level of crime. Not only are Luanda's legal authorities inadequately equipped – in terms of human resources and infrastructure – to cope with all crimes committed in the capital, but the police were additionally granted far-reaching powers to deal with criminal offences, thereby enabling them – in most cases – to bypass legal institutions. Keeping the crime level low has definitely been welcomed by the majority of Luanda's population and will work in favour of the ruling party in the possible elections. However, the way this is currently being carried out is at the cost of proper legal procedures and opens doors for abuses by the police.

Changes in  
the past five  
years

The police have a strong and far-reaching mandate to deal with criminal offences. This obviously goes hand in hand with impunity for any abuses they commit. Not only are human right violations not prosecuted by government agencies, they are also being brought about by government agencies. On the other hand, given the number of people and the incredible poor conditions under which the vast majority of them live in Luanda, the crime level is surprisingly low (due to police action). Angola's government has a tough task ahead: the legal system needs to be enlarged significantly and to be made more effective, but what may be even more important is that the living conditions for the

Prosecution of  
human rights  
violations

<sup>22</sup> US Department of State 2005, pp. 1/2.

vast majority of the population have to drastically improve. This alone could substantially ease the burden for Angola's judiciary.

Selective police protection The question of whether somebody is or is not protected against crimes by the police is above all a technical problem, i.e. it is a matter of distance and access to the area where potentially a crime is committed. In remote areas as well as deep in Luanda's slums with sometimes more than 500 000 people, a victim – or a potential victim – of a crime will find it difficult to find a policeman for protection or if a crime has already been committed. Protection is, however, also a matter of money. Rich people – certainly those living in the easily accessible suburbs of Angolan cities – may either force police into action with a little bit of money or will engage private security companies to protect their life and property.

Penal system The actual penal system is far away from universal rights standards. Prison conditions are harsh and life threatening.<sup>23</sup> The prison system is holding about five times the number of prisoners it was built for (ten inmates held in cells for two). Sanitary facilities are beyond description, and often prisoners are neither equipped with mattresses nor even blankets. Prisoners often depend on families and friends – or international relief organisations – for basic support, such as food and healthcare.

Inmates appealing against the conditions of imprisonment have little chance of success. Government agencies are unlikely to help. Only people who can afford a lawyer and/or to bribe the prison personnel might have a chance of being granted better imprisonment conditions.

## VI. Corruption in Law Enforcement and the Judiciary

Levels of corruption Angola has adopted the SADC Protocol against Corruption in 2001, but is still perceived as a very corrupt country. According to the Corruption Perception Index (CPI) of Transparency International (TI), Angola scored only 2 out of 10 in five surveys undertaken in 2004 and 2005 and ranks in the most recent CPI from 2005 as 151st out of 158 countries.<sup>24</sup> This perception does not exclude the law

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<sup>23</sup> US Department of State 2005, p. 3.

<sup>24</sup> The CPI Score relates to perceptions of the degree of corruption as seen by business people and country analysts and ranges between 10 (highly clean) and 0 (highly corrupt). See: [www.transparency.org](http://www.transparency.org).



enforcement agencies and there is a correlation between the magnitude of the offence and the amount payable as a bribe.

This perception of corruption includes also the judges and juries. Corruption in connection with white-collar crimes seems to be more common than with other offences due to the higher amount of money involved for judges and/or juries.

There are at least two main reasons for the corruption in Angola:

Main causes  
of corruption

- In the past law enforcement agents and members of the judiciary – like all civil servants – were paid extremely poor salaries. To sustain themselves and their families they had to generate other sources of income. Although salaries have been increased substantially in recent years, they are still too low for many civil servants to support their families, which often consist of many people. Another problem is the chronically delayed payment of civil servant salaries, often leaving them without an official income for many months.
- Since people at the highest political level are perceived as spearheading corruption, the other levels and sectors of the civil service like the law enforcement and the judiciary will have an excuse for their own corrupt practice.

At present – and with the current political elite in power – it is difficult for many Angolans that were interviewed to imagine that effective measures against corruption at all levels will be introduced.

There has been no significant change in the nature and range of corruption of law enforcement agencies over the past five years. Criticism of the corrupt elite has, however, increased noticeably. Mismanagement and social injustices can no longer be excused by the war.

Changes in  
the past five  
years

## VII. Public Administration

In theory the public administration is open to everybody. In practice it can, however, be difficult to become an employee of the public administration without ‘connections’. The remuneration of public servants has been increased substantially in recent years. Given however that Luanda is rated amongst the most expensive cities in the world, the

Legality of  
public  
administration

remuneration of public servants is still not sufficient. Another problem arises for civil servants from the constantly delayed payments of salaries, which often leaves people without any official income for many months. Hence unofficial sources of income and corruption have become an issue in the public sector.

Remedies In theory citizens can appeal against administrative acts. The process will however be time consuming and expensive (corruption). The chances of success are furthermore limited, not only because of inefficiency and poor workmanship, but also due to the probable intervention of higher-ranking authorities.

### **VIII. General Assessment**

Rule of law: The rule of law in Angola exists officially, but not for  
general everybody and not everywhere. Where it does exist it is  
situation often only on a restricted basis.

Changes in A slight improvement in the application of the rule of law  
the past five over the past five years can be ascertained. The most obvious  
years example is the improved freedom of the press. The private  
press can write much more critically today than it could a  
couple of years ago. The government acts more subtly  
against critics than it did previously and now uses  
“irresistible” incentives.

Internationally, but also domestically, there is increasing pressure on the government to provide a conducive and legal environment for donor support and particularly international investment. The war can no longer be (ab-) used as an excuse for the government’s deficiencies in the delivery of services, including the provision of a legal framework with a working judiciary. Government efforts and investments in the system of tertiary education (law faculties) are bearing fruit with the number of lawyers increasing from 550 (in 2001) to 694 (2006). The office of an ombudsman was established in Luanda and an ombudsman was nominated. In August 2005 the Council of Angolan Lawyers (OAA) suggested the creation of legal assistance centres around the country. It was also announced that the Centre for Studies and Training for legal trainees started operating in August 2005. These aspects should be seen as a positive development, but the implementation of the (de facto) rule of law in Angola remains a major challenge.

Currently only a small minority of Angolans has access to courts of law. More operational courts need to be established all over the country, especially in rural areas; legal procedures need to be streamlined in order to allow courts to work more effectively; ombudsman's offices need to be opened in all provinces; national and international NGOs should contribute to promoting general awareness of human rights issues throughout the country; and bilaterally and through international organisations like the UN the pressure on Angola could be increased.

Major  
obstacles

The biggest challenge would, however, be to eradicate – or at least to significantly reduce – corruption in all sectors of society, including the judiciary. With corruption at its current level the successful enforcement of the above mentioned measures is very unlikely. Compliance with the constitution, both in word and spirit – which would include free access to lawyers and judges for all Angolans – is barely imaginable under the current situation.

If the immense revenues from the exploitation of the natural resources would really all be accounted for in a transparent manner and invested into the social infrastructure such as schools, hospitals and courts – this would by itself pave the way for the promotion of the rule of law in Angola.

Improvements in the rule of law sector are, however, not a priority for the majority of Angolans, who mostly live below the absolute poverty datum line and would rather see significant improvements in overall living standards. Poverty alleviation, sustainable economic and social development and the improvement of the rule of law will have to be deployed concurrently in Angola.

Creating awareness about the necessity of the rule of law amongst the people – especially influential or potentially influential people (political parties, etc.) – will have a multiplicative impact in the medium and long term. Better results could however be expected if measures and instruments for improved rule of law in Angola were not only being suggested by foreign organisations and governments but also by the Angolan people themselves. This is the aim the Konrad Adenauer Foundation should work for.

KAF support

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