Angola

Democracy or Monopoly?

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Glossary of Acronyms

AJPD	Associação Justiça Paz e Democracia (Association Justice Peace and Democracy)
CNCS	Conselho Nacional de Comunicação Social (National Council on Media)
CCDH	Conselho de Coordenação dos Direitos Humanos (Coordination Council for Human Rights)
CIPE	Comissão Interministerial para o Processo Eleitoral (Inter-Ministerial Commission on the Electoral Process)
CNE	Comissão Nacional Eleitoral (National Electoral Commission)
EU EOM	European Union Election Observer Mission
FCD	Fórum Cabindês para o Diálogo (Cabindan Forum for Dialogue)
FICRE	Ficheiro Central do Registo Eleitoral (Central voter register database)
FLEC	Frente de Libertação do Enclave de Cabinda (Liberation Front of the Enclave of Cabinda)
FNLA	Frente Nacional para a Libertação de Angola (National Liberation Front of Angola)
FpD	Frente para a Democracia (Front for Democracy)
GURN	Governo de Unidade e Reconciliação Nacional (Government of National Unity and Reconciliation)
MPLA	Movimento Popular para a Libertação de Angola (Popular Liberation Movement of Angola)
OPSA	Observatório Político e Social de Angola (Political and Social Observatory of Angola)
PNASCAE	Plataforma Nacional da Sociedade Civil Angolana para as Eleições (National Angolan Civil Society Electoral Platform)

PRS	Partido de Renovação Social (Party of Social Renewal)
RNA	Rádio Nacional de Angola
SADC	Southern African Development Community
Sinfo	Serviços de Informação (State security Information Services)
TPA	Televisão Pública de Angola
UNITA	União Nacional para a Independência Total de Angola (National Union for the Total Independence of Angola)

I. Executive Summary

2009 should see a presidential election in Angola, for the first time since 1992. Parliamentary elections held in September 2008 failed to fully meet regional and international standards. Urgent reforms are essential if the people of Angola are to be able to freely exercise their civil and political rights and vote for the presidential candidate of their choice. Those reforms need to be entrenched ahead of Angola's first local elections, to be held in 2010.

The parliamentary elections on September 5-6, 2008, were the first in 16 years. They brought a resounding victory for the ruling Popular Liberation Movement of Angola (MPLA), in power since 1975, with 81.7 percent of the vote. The elections were contested by 14 political parties and coalitions, but only four opposition parties were able to secure representation in parliament, where the MPLA's landslide translated into 191 of the 220 seats.

In 2008, in the months before the official parliamentary election campaign, Human Rights Watch raised doubts about prospects for the elections being free and fair: The oversight body, the National Electoral Commission (CNE) lacked impartiality because it is dominated by the ruling party; the media environment was unfavourable to the opposition and freedom of expression restricted; unchecked intimidation and political violence by ruling party supporters was preventing opposition parties from campaigning freely throughout the country; and a climate of repression prevailed in the enclave of Cabinda, where armed conflict has continued despite a 2006 peace agreement.

During the one-month official election campaign period, which opened on August 5, 2008, Human Rights Watch witnessed some improvement. Unlike during the pre-campaign period, the police provided protection to opposition parties, meaning they could campaign freely. However, in many other ways the playing field remained considerably slanted in favour of the ruling party. The CNE failed in its role as oversight body, doing nothing to prevent or respond to major violations of election laws during the campaign, such as unequal access to state funds and to the state media. It also obstructed accreditation for national election observers from civil society. On polling day, important safeguards against manipulation such as the use of voter's rolls were breached, and the CNE obstructed independent monitoring of the tabulation process.

Opposition parties and observers have not presented evidence of deliberate government manipulation of the polls, and political parties have accepted the election results after their

formal complaints were rejected by the Constitutional Court. Nevertheless, the scope of shortcomings and uncertainty of their impact affected the credibility of the election process. The government announced an independent inquiry into the verified irregularities, but the inquiry that purportedly took place was not independent and no report was published.

President José Eduardo dos Santos has already announced that a presidential election will take place in 2009. The actual date has not been named, however, and the president is required to give a minimum of 90 days' notice. For the 2008 parliamentary elections, the president left it to the very last minute to announce the date, and there is a danger this scenario will be repeated. Moreover, in November 2008 the president announced that a new constitution would be approved before scheduling a presidential election and raised the possibility that the new constitution may lead to the president's being elected by parliament rather than through a new poll. This has raised uncertainty as to whether the presidential election will take place in 2009, or at all.

Nevertheless, the uncertainty cannot be an excuse for inaction. The government should correct the shortcomings observed during the parliamentary election process and introduce reforms to ensure that future electoral processes fully meet international standards and the Southern African Development Community (SADC) Principles and Guidelines Governing Democratic Elections.

In addition, the government should undertake efforts to ensure that space for opposition parties, independent civil society, and media does not suffer further restrictions. Since the 2008 elections there have been no signs of improvement in that regard. Urgent efforts are needed to safeguard the democratization process initiated in 1991 and build on the relative calm of September 2008's election.

II. Methodology

Between March and September 2008 Human Rights Watch researchers visited Angola on three occasions. They conducted research in the capital, Luanda, and the provinces of Huambo, Bie, Benguela, and Cabinda.

Human Rights Watch chose to focus on Huambo, Bie, and Benguela because, as strongholds of the main opposition party UNITA in the 1992 elections, they had seen heavy fighting during the civil war that resumed following those elections, and Human Rights Watch had been concerned about high levels of political violence in those areas since the end of the civil war in 2002.
The enclave of Cabinda was chosen because voters there largely abstained in the 1992 elections due to popular separatist sentiment, and because an unresolved separatist insurgency—despite a peace agreement signed in 2006—presented a particular challenge for credible elections.

Human Rights Watch researchers conducted formal and informal interviews on the ground, by phone, and by email with more than 200 persons, including members of the ruling party MPLA and opposition parties, representatives of local and international NGOs, church leaders, journalists, lawyers, human rights activists, and others. At provincial and municipal levels, Human Rights Watch researchers were received by officials of the electoral management bodies, local administrations, the police, and the military. Additionally, Human Rights Watch researchers also met with Angolan diplomatic representatives, and reviewed official statements from the government, as well as reports and documents from local and international NGOs, political parties, and the local media.

Most people interviewed requested that Human Rights Watch withhold their names.

III. Background

The parliamentary elections of September 2008 were the second multiparty elections in Angola's history. After independence in 1975, the Movimento Popular para a Libertação de Angola (MPLA) established a one-party state. The first multiparty, concurrent parliamentary and presidential elections in 1992 had given the MPLA a majority of 129 out of 220 seats and the main opposition group the União Nacional para a Independência Total de Angola (UNITA) 70, with 10 other opposition parties winning representation in parliament.[1] The first round of presidential elections that year was not conclusive, and a run-off between incumbent president José Eduardo dos Santos and his main competitor Jonas Savimbi, then president of UNITA, never took place. Dos Santos has been in power since 1979.

These first multiparty elections in 1992 had been a traumatic experience. They were intended to consolidate the peace and democratization process initiated with the peace accords signed in 1991 and the new constitution in 1992, but civil war resumed when UNITA refused to accept the results (UNITA only took up its seats in parliament in 1997). A further peace agreement was signed in 1994, which established the Government of National Unity (Governo de Unidade e Reconciliação Nacional, GURN) and a limited power-sharing agreement between the MPLA and UNITA at national and local levels. The war finally ended in 2002 following Savimbi's death in combat and UNITA's ensuing military defeat.

The government repeatedly delayed new elections until 2008, arguing that post-war reconstruction was a priority and a necessary precondition for holding elections. The parliamentary elections on September 5-6 brought a resounding MPLA victory, with 81.7 percent of the vote. The elections were contested by 14 political parties and coalitions, but only four opposition parties were able to secure representation in parliament, where the MPLA's landslide translated into 191 of the 220 seats. Sixteen seats went to UNITA, eight to the Partido de Renovação Social (PRS), three to the Frente Nacional para a Libertação de Angola (FNLA), and two to Nova Democracia. (The conduct of these elections is described in the following chapters.)

In 2006 another peace agreement was signed with a faction of the separatist guerrilla movement Frente de Libertação do Enclave de Cabinda (FLEC) in the enclave of Cabinda. This has not been fully effective, with sporadic attacks from remaining FLEC forces continuing in the north of Cabinda.

[1] PRS (6), FNLA (5), PLD (3), and seven other parties 1 seat each (PRD, PSD, AD, PAJOCA, FDA, PDP-ANA, PNDA).

President Dos Santos announced on November 28, 2008, a project to revise the 1992 constitution, and an MPLA-dominated Constitutional Commission has been tasked with this. Dos Santos stated that one issue to be decided is whether to retain direct presidential elections or have the president be elected indirectly, by parliament.[2] This has stirred up controversy, including within the MPLA,[3] and has added to uncertainly about whether a presidential election will take place in 2009, or at all.

[2] "Speech of President José Eduardo dos Santos at the ordinary session of the Central Committee" ("Integra do discurso do Presidente José Eduardo dos Santos na sessão ordinária do Comité Central"), Angop, November 28, 2008.

[3] "JES makes presidential election dependent on new constitution" ("JES faz depender eleições presidenciais da nova constituição"), *Voz da América*, November 28, 2008; "Moco qualifies indirect election of the president by parliament as 'dangerous manoeuvre'" ("Moco qualifica de 'manobra perigosa' eleição do presidente por sufrágio indirecto"), *Voz da América*, December 12, 2008.

IV. Electoral Institutions and the Legal Environment

Legal Framework

The legislative framework for elections was revised in 2005, when parliament passed a package of election-related legislation, including laws on nationality, political parties and their funding, voter registration, electoral observation, and the Electoral Law itself. Parliament also passed an Electoral Code of Conduct for all groups and individuals involved in the election process, including the media, police, and the National Electoral Commission (CNE). However, no monitoring mechanism was established for the Code.

The Electoral Law sets out the legal and institutional framework for elections. Elections are scheduled by presidential decree at least 90 days before the polls. The Southern African Development Community (SADC) Parliamentary Forum rated this provision as bad practice, since—especially in the Angolan context, where elections have not been regular and have been repeatedly delayed—such a short timeframe to set an election date may disadvantage the opposition.[4] The electoral system is a two-level proportional system: 130 candidates are elected from one national constituency, and 90 candidates from 18 provincial constituencies (five per constituency, without regard to area or population size), based on party and coalition lists (individuals cannot be nominated as independent candidates).[5]

Election Administration

The Electoral Law established the National Electoral Commission with responsibility for oversight and coordination of the election process. Its goal is to ensure a "free, fair and transparent" election process.[6] At central level, six of its eleven members are appointed by political parties, in proportion to their parliamentary representation (three from the MPLA, two from UNITA, and one from the PRS). The other five members are effectively government/MPLA appointees, as two are nominated by the president and one each by the Supreme Court, the National Council on Media, and the Ministry of Territorial Administration.[7] This composition gives the MPLA political control of the CNE. This is in

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[4] Parliamentary Forum of the SADC: Interim statement of the Registration Mission to the Republic of Angola 19th to 24th March, 2007.

[5] EU EOM Angola, "Final Report, Parliamentary Elections 5 September 2008," September 25, 2008, http://www.eueom-ao.org/EN/PDF/FR_EUEOM_ANGOLA_08_EN.pdf (accessed February 9, 2009) pp. 9-10.

[6] Electoral Law (6/05), art. 155.

[7] Ibid., art. 156.

contravention to the SADC's Principles and Guidelines and undermines the CNE's credibility.[8] Responsibility for voter registration is assigned to the public administration under CNE supervision.[9] However, in fact the voter registration from November 2006 to May 2008 and the defining of the polling stations' location remained under almost exclusive control of a government body, the Inter-Ministerial Commission for the Electoral Process (CIPE), which had been created in 2004 for the purpose.

The Constitutional Court, established in June 2008, has responsibility for approving the registration of political parties and for establishing rules for party candidate selection, and serves as an appeal court for disputes over election results. Prior to June 2008 the Supreme Court had assumed the role of a constitutional court.

The Supreme Court had varied strongly in how it addressed election-related complaints depending on whether the MPLA or UNITA had made the complaint. In 2005 both UNITA and the president lodged complaints against different provisions of the Electoral Law and the Voter Registration Law. The Supreme Court responded positively within 45 days to the president's request to permit revision of the law to allow for three consecutive or intermittent presidential mandates. The revised Electoral Law was then reapproved by parliament and came into force in August 2005, despite the fact that UNITA's complaint was still pending. UNITA's extensive complaints included crucial issues such as the partisan composition of the CNE, the role of the CIPE, and the demand for Angolans to be unconditionally entitled to be registered as voters. The court finally responded to UNITA's complaints three years later, in February 2008, when the election preparations were well advanced and voter registration almost concluded. The Supreme Court ruled in favour of UNITA's demand that Angolans abroad have to be registered as voters and against the government's decision in May 2007 to abstain from registration abroad (the government cited lack of administrative capacity),[10] but the court stated that it was too late to implement its decision at that stage.[11] Since by law

[8] SADC Principles and Guidelines (2004), section 2.1.7 stipulates impartiality of the electoral institutions. Both the SADC Parliamentary Forum and the Pan-African Parliament have urged the government to reform the CNE as an independent and impartial body. See Parliamentary Forum of the Southern African Development Community: Interim statement of the Registration Mission to the Republic of Angola 19th to 24th March, 2007; Pan-African Parliament: Interim statement on the Observer Mission to the Parliamentary Elections in Angola, September 7, 2008.

[9] Voter Registration Law (3/05), arts. 13-14.

[10] The Voter Registration Law (3/05) stipulated in article 9,3 that voters living abroad are to be registered only "as far as material conditions and accompanying mechanisms by the competent entities" are established.

[11] The Supreme Court suggested that the change in legislation may not be implemented for the time being "for exceptional reasons of public interest." Tribunal Supremo (Tribunal Constitucional): Acordão, Processo 17/05, submitted to UNITA on February 6, 2008, p. 8.

Angolans living abroad are excluded from voting in presidential elections, they will only be able to vote for the next parliamentary elections, due at the earliest in 2012.[12]

The Electoral Law provides for a one-off state subsidy to be allocated in equal amounts to all political parties eligible to run candidates, at least 90 days before elections.[13] This funding is essential for political parties without a parliamentary seat and access to regular funding from the state budget. The law requires that all political parties, in order to run candidates, have to present documentary proof of 14,000 supporters—500 in each of the 18 provincial constituencies and 5,000 for the national constituency—at least 60 days before the polls.[14]

Media Environment

The Electoral Law, in line with international and regional standards, provides that each party be allocated equal and free time on state radio and television during the campaign period. According to the scheme, known as "direito de antena" ("right to broadcast"), parties were assigned daily slots of between five and ten minutes each ahead of the main news broadcast.[15] However, beyond this space specifically assigned for campaigning, the press legislation in force during the 2008 election process gave insufficient guarantees for a level playing field among political contestants.

A new press law was enacted and entered into force in 2006. This brought some improvements over the previous law. For example, it eliminated the state monopoly over television broadcasting, provided for creating public television to be governed by principles of public interest, and included provisions that allow journalists accused of defamation to cite in their defence the truthfulness of facts reported. Yet the law still contains provisions that are not in line with international standards concerning freedom of the press. Defamation remains a criminal offense and is framed in broad terms under the category of "abuse of press freedom."[16] Human Rights Watch has raised concerns that criminalization of defamation is a violation of freedom of expression, while such vague definitions are

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[12] "'Gigi' garantees: Angolans in the diaspora to vote in 2012" ("«Gigi» garante: angolanos na diáspora votam em 2012"), *Voz da América*, November 6, 2008.

[13] Electoral Law (6/05), art. 95.

[14] Ibid., art. 62.

[15] Ibid., art. 87.

[16] The Press Law (7/06) in article 74 defines under "crimes of abuse of press freedom" among others " fraudulent promotion of persecution and defamation campaigns, through the systematic and continued publication of partially or totally false information about facts, attitudes, and professional, administrative or commercial performance of any person." See Human Rights Watch, *Still Not Fully Protected: Rights to Freedom of Expression and Information under Angola's New Press Law*, vol. 18, no. 11(A), November 2006, http://www.hrw.org/en/reports/2006/11/15/still-not-fully-protected, p. 11.

susceptible to be used against government opponents and may restrict the freedom of journalists to carry out their profession.[17]

The government failed to enact necessary regulations to the press law (this should have happened within a 90-day time limit, as established by the law), which makes it largely inoperable. Separate implementing legislation that would have clarified crucial aspects of the law has yet to be passed.[18]

State-owned television (Televisão Pública de Angola, TPA)—until recently the sole broadcaster—and radio (Rádio Nacional de Angola, RNA) continue to operate under exclusive governmental control. The government failed to pass the necessary legislation, as required by the press law, to create a public broadcasting service that would guarantee impartial and independent public media.[19] Human Rights Watch has argued that implementing legislation for the public media should include provisions for establishing a governing board protected against arbitrary interference from the government, as recommended by the Declaration of Principles on Freedom and Expression in Africa of the African Commission on Human and Peoples' Rights.[20]

In addition, the government failed to pass specific legislation to set transparent criteria and procedures for licensing television and radio broadcasters, as required by the press law. As a consequence, licensing procedures for private radio broadcasters continue to be opaque and bureaucratic. To date, only the state-owned RNA has a nationwide broadcasting license, while independent, privately-owned radio broadcasters must apply for different licenses for each frequency they intend to use.[21] The government has prevented the Roman Catholic Church-owned Rádio Ecclésia from retransmitting its signal outside of Luanda since the radio restored its technical capacity to do so in 2003; the government alleges the station lacks a legal basis for this, but church members and legal experts have argued the church

[17] For a detailed analysis of the 2006 Press Law in the light of international standards, the implications of lacking implementing legislation, and associated recommendations, see Human Rights Watch, *Still Not Fully Protected*.

[18] Issuing basic laws with general provisions that need to be followed by specific legislation detailing implementation is a common feature of civil law countries such as Angola. Ibid., p. 17, footnote 48.

[19] Press Law (7/06), art. 9.

[20] Declaration of Principles on Freedom and Expression in Africa, adopted in 2002, principle VI (Public Broadcasting). See also Human Rights Watch, *Still Not Fully Protected,* p. 18.

[21] Press Law (7/06), arts. 45-47.

has a licence since the time of colonial rule for national broadcasting that the government never revoked.[22]

The new press law provides for an "independent body aimed at safeguarding the objectivity and impartiality of information, as well as the freedom of expression and thought in the press"—a role that the law assigns to the National Council on Media (Conselho Nacional para Comunicação Social, CNCS).[23] The Declaration of Principles on Freedom of Expression in Africa recommends self-regulation as a solution preferable to the establishment of such a regulatory body.[24] Nevertheless, an operable and independent CNCS could have contributed to serve as a more effective watchdog over the media during the election process. However, the government gave no priority to approving, before the elections, a new law defining the composition, functions, and powers of the CNCS, as required by the press law. In July 2008 the MPLA majority in parliament turned down a UNITA-backed proposal meant to make the CNCS more independent and to grant it more powers than the CNCS originally established in 1992.[25] Consequently, the CNCS retains is original role, including the absence of powers to impose sanction, and has failed even to make public comments calling attention to violations of Angolan laws, such as the partiality of the state media during the election process.

In December 2008 the spokesperson of the Ministry of Social Communication announced that outstanding media legislation, including the laws on radio and television broadcasting and the CNCS as well as licensing regulations for radio and TV, would be passed and governing boards for public broadcasters created in 2009.[26] It remains vital that such legislation is enacted in line with international standards and in a timely manner to make such legislation operable before the prospective upcoming presidential election.

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[22] Human Rights Watch phone interview with Rui Falcão, lawyer and author of a legal opinion on Rádio Ecclésia, January 23, 2008. See also Human Rights Watch, *Still Not Fully Protected*, http://www.hrw.org/en/reports/2006/11/15/still-not-fully-protected p. 16, footnote 46.

[23] Press Law (7/06), art. 8.

[24] Declaration of Freedom of Expression in Africa, principle IX (complaints). See Human Rights Watch, *Still Not Fully Protected,* p. 19.

[25] "Parliament rejects projects of the Law on the Right to Broadcast and the CNCS" ("Parlamento rejeita projectos de Lei do Direito de Antena e do CNCS"), Angop, July 9, 2008. Two parliamentary commissions had rejected the bill on the CNCS, arguing that there were already two pending proposals from the government and the CNSC that needed to be considered first.

[26] "Legal framework priority for Social Communication" ("Comunicação Social prioriza processo do quadro jurídico-legal"), Angop, December 29, 2008.

V. Violations of Media Freedom in the 2008 Election

Unequal Access to State Media

The "right to broadcast" time—an allocation of equal time on state radio and television—was the only space formally available to political parties during the campaign period, as no political debates between candidates were broadcast. Broadcasters generally respected the "right to broadcast." However, outside this provision for equal treatment framed in the Electoral Law (see Chapter III), before and during the one-month election campaign the MPLA dominated the news broadcasts on the national state radio RNA, national state television TPA, and coverage in the state-owned daily *Jornal de Angol*a, in both quantitative and qualitative terms.[27]

Observer groups noted systematic abuse of the state media by the MPLA. [28] The European Union Election Observer Mission (EU EOM) concluded that the Angolan state media failed to meet international election standards and fulfill provisions of Angolan law regarding equal treatment of contestants.[29] Before and during the election campaign, however, only two Angolan civil society groups, the Political and Social Observatory of Angola (OPSA) and the Association Justice Peace and Democracy (AJPD), publicly expressed such concerns: OPSA highlighted an increased pro-MPLA bias in *Jornal de Angola* in the months prior to the election campaign, and observed that the state media were "transforming banal state acts into propaganda events" while giving "at times more space to an event of a MPLA local committee than to the leadership of any other party."[30] News broadcasts on state television and radio during the campaign were marked by the complete absence of any voices critical of the government. [31]

Human Rights Watch observed both qualitative and quantitative bias toward the MPLA. For example, during the last two weeks of the campaign, public television and radio news

[27] According to the EU observer mission media monitoring, from August 11 to September 3, quantitatively the MPLA occupied between 57 and 65 percent of airtime and space, UNITA between 12 and 19 percent, and the rest of the opposition parties together less than 4.8 percent on the public media (TPA1, RNA, and *Jornal de Angola*). European Union Election Observation Mission (EU EOM) Angola, Preliminary statement, September 8, 2008.

[28] The EU EOM, the Pan-African Parliament, the United States Embassy, the Angolan Bar Association, the National Civil Society Electoral Platform, and the Council of Coordination of Human Rights.

[29] EU EOM Angola, Final Report, http://www.eueom-ao.org/EN/PDF/FR_EUEOM_ANGOLA_08_EN.pdf, pp. 25-29.

[30] According to OPSA, the MPLA featured on the back or front page of 22 out of 91 editions of *Jornal de Angola*, while other parties only occupied the same space four times (UNITA three times and FNLA once). Observatório Político e Social de Angola (OPSA), "Posição sobre as eleições legislativas de 2008 em Angola," July 2008.

[31] Human Rights Watch interview with civil society representatives and journalists in Luanda, May to September 2008.

bulletins were dominated by President Dos Santos's visits to provincial capitals, including Huambo, Saurimo, Uige, and Benguela. Coverage of the visits occupied a third of a 90-minute television news bulletin, and would be partly repeated in summary the following day.[32] The president's visits and other events associated with the inauguration of infrastructure projects were covered without distinction between the role of party and state. The party-political character of the events, associating the new infrastructure projects with the MPLA, was emphasized by interviewing party officials who were present, or, in the case of television, including frequent shots of party flags and banners.

MPLA officials have tried to justify disproportionate coverage of MPLA campaign events in the state media on the basis that their public events were more numerous, and that extensive coverage of inaugural events for infrastructure projects was merely reflecting normal government activity.[33]

State media tended to present the opposition in a negative way during the campaign.[34] Opposition parties were not given the opportunity to broadcast their opinions on unfair campaign tactics of the ruling party, or comment on accusations against them aired on the state media. For example, on August 28 TPA1 reported in the evening news that suspects had been stopped at Luanda airport while trying to illegally take large amounts of cash out of the country. The only individual who was named in the report was David Mendes, an official of the opposition Angolan Youth, Workers' and Peasants' Party (PAJOCA) and a well-known human rights lawyer. A police official recounted at length what had allegedly happened. Neither Mendes (who was not arrested or charged) nor a legal representative was given the opportunity to comment.[35]

In another case, on September 1 UNITA made use of its "right to broadcast" slot to present a letter it claimed showed a state-owned bank had donated the equivalent of around US$43,000 to the MPLA's election campaign. The same day, UNITA presented a formal complaint to the CNE, attaching the letter as evidence of an illegal donation to the MPLA. State television news said nothing about the allegation. The following night the evening

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[32] For example, coverage of the president's visit to Saurimo on TPA1 evening news on August 23, with repeated coverage of the same event on August 24, 2008.

[33] Press conference by Norberto dos Santos "Kwata Kanawa," MPLA information secretary to the international press, Luanda, September 11, 2008 , http:// http://diariodaafrica.podomatic.com/player/web/2008-09-11T01_49_16-07_00, accessed on September 17, 2008.

[34] According to the EU EOM media monitoring from August 11 to September 3, 2008, more than 46 percent and 41 percent of the news that TPA1 and RNA allocated to UNITA was presented in a negative tone. See EU EOM, Final Report, p. 26.

[35] *Telejornal*, TPA1, August 28, 2008.

news devoted 12 minutes to a claim by the MPLA and the bank that the letter was a forgery and accusing UNITA of abusing its "right to broadcast" time.[36] UNITA was given no opportunity to respond.

In addition, news bulletins broadcast on TPA1 during the campaign regularly covered events where erstwhile opposition party members announced they were abandoning their party and joining the MPLA. Coverage of such events culminated on the last day of the official campaign, September 3.

That day, the TPA showed particularly strong political bias generally. Its evening news was dominated by MPLA events in several provinces including the president's rally in Luanda, despite the fact that all parties were holding events to wrap up their campaigns. Other parties' final campaign events received a maximum of two minutes coverage each, and the coverage of some of these events was immediately followed by public statements from dissidents or defectors calling on people to vote for the MPLA. For example, coverage of UNITA's final campaign event was followed by a public statement by a son of the famous UNITA general Samuel Chiwale. He justified his defection from UNITA alleging that his father's party was completely disorganized in Luanda and had no clear program. The final event of PAJOCA was followed by a public statement from the leader of a former breakaway faction, Miguel Tetembwa, calling on voters to support the MPLA. The same broadcast featured an interview with a woman who was weeping as she talked about her painful experience of being with UNITA during the war. She said the current UNITA leader Isaías Samukuva was lying when he said UNITA had left its military past behind. The news broadcast on MPLA campaign events in several provinces also featured defectors from UNITA and the PRS.[37]

During the whole campaign period, *Jornal de Angola* featured a daily unsigned column under the title "Right to broadcast," which ridiculed the radio and television airtime allocated to opposition parties one by one, while praising the MPLA spots. The column regularly attacked UNITA by blaming it for the country's destruction during the civil war. It is a well-known phenomenon in Angola that *Jornal de Angola*—the only daily and the cheapest and most widely distributed newspaper in the country—has for many years made use of controversial and at times defamatory opinion articles, written under pseudonyms, against opposition parties as well as individuals and groups perceived as critics of the government. With the

[36] *Telejornal*, TPA1, September 1-2, 2008.

[37] *Telejornal*, TPA1, September 3, 2008.

daily comments on "right to broadcast" airtime, these methods became commonplace during the election campaign.

At the time, the journalist unions, the National Council on Media, and the National Electoral Commission remained silent in the face of the array of abuses. It took until three months after the elections for the RNA section of the Union of Angolan Journalists (Sindicato dos Jornalistas de Angola, SJA) to admit that the principles of equal treatment of election contestants were "systematically violated" in the state-owned media.[38]

The CNE failed altogether to comment or take any action despite daily examples in the state media that legal provisions regarding equal access to the media were being violated. Equally, the National Council on Media failed to issue public statements or otherwise comment during the campaign to call attention to these violations of Angolan legislation, after having urged media professionals to respect the Electoral Code of Conduct in January 2008.[39]

Threats against Independent Media

In the months before the elections, journalists at private media outlets were sent a clear message of intimidation when the editors of two privately-owned weeklies, *Folha 8* and *Semanário Angolense*, were summoned to court for trials in libel lawsuits initiated several years previously. The lawsuit against *Folha 8* editor William Tonet, filed by the president's wife Ana Paula dos Santos, did not progress further, as the court session on June 13, 2008 was cancelled due to the absence of the plaintiff. However, *Semanário Angolense* editor Felisberto Graça Campos, facing three separate libel cases filed by government officials, was convicted and sentenced on June 24, 2008 to a six-month prison term, as well as being ordered to pay damages equivalent to US$90,000. Campos's appeal is pending at this writing and he remains at liberty.[40]

The new press law's lack of clarity regarding the definition of defamation and its criminalization restrict freedom of expression as such, and pending libel lawsuits against journalists for defamation in the period leading to elections compound that restriction.

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[38] "Journalists of RNA acknowledge lack of independence in state media" ("Jornalistas da RNA admitem falta de isenção da imprensa estatal)," Lusa, December 12, 2008.

[39] Conselho Nacional de Comunicação Social, "Deliberação," January 28, 2008, reproduced in *Semanário Angolense*, nr. 251, February 9, 2008.

[40] See "Angola: Doubts over Free and Fair Elections," Human Rights Watch news release, August 13, 2008, http://www.hrw.org/en/news/2008/08/13/angola-doubts-over-free-and-fair-elections. Also, two months before the elections the privately-owned Rádio Despertar was threatened with suspension by the government on a technical issue: its signal reached beyond the geographic area (Luanda) for which it was licensed. The issue was resolved and Rádio Despertar continued broadcasting.

Censorship of journalists in the state media became evident before the elections when Ernesto Bartolomeu, a popular presenter on TPA, was suspended for publicly criticizing growing government interference in television. After the elections, Bartolomeu was restored to his job.

Throughout the election process, access to independent media was extremely limited outside of Luanda, which affected the right of voters to access information. Due to widespread illiteracy, radio broadcasting plays a crucial role in Angola's vast rural areas, but with a few exceptions in some provinces (Benguela, Cabinda, and Huila) the state radio RNA continues to be the only broadcaster outside of the capital.

No private radio station broadcast public debates between candidates during the campaign, despite being allowed to do so. Privately-owned radio stations have not been immune to government pressure to give more prominence to government views during the election campaign. For example, as local journalists told Human Rights Watch, Rádio Comercial in Cabinda frequently broadcast campaign speeches of the provincial governor in full, and airtime devoted previously to diverse opinions was gradually reduced before the elections, a fact the journalists attribute to the radio's ownership by senior MPLA officials.[41]

Implications for the media environment in a 2009 election

Since the 2008 elections, journalists of private media have been summoned for further libel lawsuits filed by senior government officials. In November 2008 Elsa Alexandre, a journalist on the private weekly *Jornal Angolense*, was informed of a libel lawsuit lodged back in 2005 by a general, the head of the national bridge company, and is awaiting trial.[42] In January 2009 William Tonet of *Folha 8* was summoned to court for a further libel lawsuit filed in January 2008 by two generals, the heads of the president's Military Office and the External Intelligence Services. This lawsuit adds to another 22 lawsuits filed by the same generals against Tonet. His lawyer complained to Human Rights Watch that these lawsuits are dealt with separately by the courts, which increases judicial and other costs for his client.[43]

Further suspensions of state media journalists have occurred for legitimate criticism of the government. On October 1, 2008, a senior journalist and director of the private weekly *Novo Jornal*, Victor Silva, was sacked as a commentator by the state-owned RNA, on the basis that

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[41] Human Rights Watch interview with local journalists in Cabinda, August 28, 2008. Rádio Comercial in Cabinda, Rádio 2000 in Huila, and Rádio Morena in Benguela were set up by senior MPLA officials before the 1992 elections.

[42] "Visão Angola," Voz da América, November 17, 2008.

[43] Human Rights Watch phone interview with André Dambi, lawyer of William Tonet, editor of *Folha 8*, January 21, 2009.

he had violated the radio station's editorial line by voicing during a debate program critical comments about some of the president's newly appointed vice-governors. The program was taken off air immediately and two journalists who were working on it were suspended.[44]

Political interference into privately-owned radio stations has not stopped. For example, two journalists of Rádio Comercial in Cabinda were reportedly suspended on the orders of the provincial delegate of the Ministry of Social Communication on October 10, 2008, for having criticized MPLA bias in the award of a journalism prize by the provincial government.[45]

Since the elections, the private media group Medianova has launched several new media outlets in Angola, including the weekly newspaper *O País*, the radio station Rádio Mais in Luanda, and the television channel TV Zimbo. New private media outlets, especially local radio stations and television channels, contribute to increased diversity of information in Angola. However, when the new television channel started broadcasting for a three-month experimental phase it was allowed to bypass the pending adoption of the respective legislation and licensing mechanisms that should include a public tender for new television concessions. Similarly, Rádio Mais has announced a plan to launch in eight provinces, although the relevant legislation has not yet been passed.[46] The government has not raised any legal obstacle against these media projects, in clear contrast with the alleged legal restrictions brought against Rádio Ecclésia (see Chapter III). Several observers told Human Rights Watch the government's privileged treatment of Medianova's new outlets as compared with Rádio Ecclésia was politically motivated, since Medianova is owned by senior government officials close to the president.[47] Human Rights Watch is not aware of any concrete developments regarding the government's blockage of the Rádio Ecclésia signal extension since the elections. [48]

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[44] Voz da América, *O Apostolado* (Luanda) and Lusa, October 17, 2008; *O Apostolado*, October 23, 2008.

[45] "Suspended for criticizing the award of the journalism prize" ("Suspensos por criticarem os métodos da atribuição do prémio de Jornalismo"), Portuguese News Network, October 22, 2008; Human Rights Watch phone interview with local journalist (name withheld), November 11, 2008.

[46] "TV Zimbo, an illegal station" ("TV Zimbo, uma estação fora da lei"), *Semanário Angolense* (Luanda), January 17, 2009.

[47] Human Rights Watch phone interviews with Catholic priest (name withheld), January 19, and with lawyer (name withheld), January 23, 2009.

[48] The Vatican's nuncio in Luanda recently stated that the government has signaled to be willing to lift the blockage of Rádio Ecclésia at the occasion of the Pope's planned visit to Angola in March."Nuncio expects lifting of Rádio Ecclésia blockage to country-wide broadcasting" (Núncio apostólico espera levantamento de bloqueio ã emissão da Ecclésia para todo o país"), *Apostolado*, February 2, 2009.

VI. Flaws in the 2008 Election Process

Possible Partiality in Candidate Registration

Members of political parties and civil society observers told Human Rights Watch the Constitutional Court has acted more transparently and efficiently in dealing with election matters than the Supreme Court, from which it assumed responsibility in June 2008 (see Chapter III). For the September elections the Constitutional Court had to swiftly approve lists of candidates from political parties, including some with internal divisions meaning that dissident wings had filed separate lists. However, at least in the case of PADEPA, an opposition party believed to have considerable support from urban youth, the Constitutional Court took a controversial decision: The court ruled in favour of a dissident faction, despite a pending criminal investigation against the leader of this faction, Luis Silva Cardoso, for shooting with a machine gun at a car in which former party president Carlos Leitão was traveling on October 5, 2007. [49] This raises suspicions that the court's decision was not politically independent.[50]

Performance of National Electoral Commission as Oversight Body

The fact that eight of the eleven CNE members at central level are either formally or de facto MPLA appointees was not the only issue preventing it fulfilling its independent oversight role for the September 2008 elections. During voter registration, the CNE lacked resources and powers to effectively supervise the process, and the central voter database remained in the hands of the Inter-Ministerial Commission for the Electoral Process (CIPE) until shortly before the elections. As numerous members of opposition parties and civil society organizations as well as local election commission members told Human Rights Watch, the CNE for a long time lacked its own offices and shared senior staff with CIPE at local levels. Thus, the supervisory body depended on government bodies that it should supervise, and which were fully dominated by the MPLA.[51] "The role of the CNE and CIPE was never clearly defined. In

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[49] After the incident Cardoso was arrested, but initially he was only accused of illegal possession of arms and was quickly released. Leitão told Human Rights Watch the police later launched a criminal investigation against Cardoso for attempted murder. Human Rights Watch interview with Carlos Leitão (PADEPA), Luanda, March 20, 2008, and phone interview with lawyer André Dambi, January 21, 2009.

[50] Official harassment against the former PADEPA president Carlos Leitão has continued since the elections: On December 16, 2008, Leitão was arrested on the orders of the attorney general, accused of having forged the party statutes. The Supreme Court had previously dismissed the respective complaint. He was released on January 8, 2009, and is awaiting trial. Human Rights Watch phone interview with lawyer André Dambi, January 21, 2009. The Cardoso PADEPA faction running in the elections did not reach the minimum of 0.5 per cent of the votes required to continue to be registered as a political party.

[51] "Angola: Doubts over Free and Fair Elections," Human Rights Watch news release, August 13, 2008.

practice, the CNE ran on the coat tails of the CIPE", a civil society organizer told Human Rights Watch.[52] The European Union Observer Mission concluded that the CNE's supervisory role of the voter registration was "at best limited."[53]

The weak role of the CNE as an oversight body became even more evident during the campaign period, when it failed to fulfil its role of taking any remedial action in response to violations of election laws by the ruling party.[54] For example, the CNE did not issue any public statement to reinforce equal access to the state media (as noted in Chapter IV), or act to stop the abuse of state resources by the ruling party. The CNE's credibility was further undermined by indications of interference by the president's office prior to the elections, through the gradual insertion of presidential appointees into the CNE administrative apparatus.[55] The involvement of the president's Military Office and the private company Valleysoft, owned by a close relative of the president, in election logistics during the polls has raised further suspicions.[56] While there is no evidence that the involvement of presidential institutions was a deliberate attempt to manipulate the polls, the CNE failed to disclose the scope and nature of such arrangements.

The erosion of the CNE's credibility culminated in its inability to prevent numerous procedural irregularities and logistical failures from happening on polling day (see below). An official of the National Civil Society Electoral Platform (PNASCAE) summarized to Human Rights Watch his personal view, reflecting what many other observers, journalists, and civil society activists have also expressed: "The CNE lost administrative, logistical, legal, and political control of the election process. These failures undermined the CNE's credibility."[57]

The most problematic breaches of election laws and international standards, highlighted below, illustrate the urgent need for a genuinely independent oversight body for future elections.

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[52] Human Rights Watch phone interview with civil society observer (name and affiliation withheld), October 13, 2008.

[53] EU EOM Angola, Final Report, p. 15.

[54] Electoral Law (6/05), art. 155 0).

[55] Human Rights Watch phone interview with international observer (name and affiliation withheld), October 24, 2008.

[56] Human Rights Watch interviews with national observers and local journalists (names withheld), Luanda, August-September 2008; See also OPSA "Posição sobre as eleições legislativas de 2008 em Angola."

[57] Human Rights Watch interview with member of the National Angolan Civil Society Electoral Platform (PNASCAE) (name withheld), Luanda, September 7, 2008.

Unequal Access to State Funding and Resources

Opposition party activists told Human Rights Watch that late arrival of funding had been a serious setback to their campaign efforts. The Electoral Law (as noted in Chapter III) provides for state funding for political parties who are eligible to run candidates, to be disbursed at least 90 days before election day. But for the 2008 elections the process of determining which parties qualified for funding was delayed because party candidates were only approved in mid-July 2008: Specific criteria to determine how political parties should document their supporter numbers had only been issued by the newly-created Constitutional Court on June 25. Consequently, the state subsidies for campaigning, fixed by the government at US$1,200,000 each, arrived only after the election campaign had started.

Political parties represented in parliament had access to regular state funding from the state budget, in proportion to the number of votes cast for each in previous elections.[58] This provided UNITA with US$12 million and the MPLA with US$19 million annually. However, the funds at the MPLA's disposal appeared to be well in excess of what was recorded as having been provided by the state budget or donations from private companies.[59] The MPLA started its campaign as early as April 2008, by increasing the number of high-profile provincial visits and public rallies with clear election-related content by senior government and MPLA officials, in preparation for a party congress in May. In a high-cost environment like Angola, organizing such events implies substantial funding. In addition, as documented in the following section, the distribution of substantial gifts was an integral part of the ruling party's campaigning.

The Electoral Law forbids, among others, public institutions and companies as well as provincial governments from funding political campaigns.[60] However, the profound blurring of state and ruling party structures at all levels of power, including government, the civil service, and public companies in Angola, has contributed to obfuscating the use of state resources and facilities for ruling party purposes. For example, opposition politicians in all provinces we visited told Human Rights Watch that ruling party professional cells, the so-called Speciality Committees (Comités de Especialidade) established since 2003 by the MPLA in all public administration departments, have played an active role in election

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[58] Law revising the Law on Financing of Political Parties (7/02).

[59] Voice of America reported that following the third national Congress of the MPLA in May 2008, 70 businessmen donated the equivalent of US$30 million for MPLA's campaign. Luis Costa, "MPLA victory was prepared meticulously" ("Vitória do MPLA foi preparada a rigor"), *Voz da América*, September 26, 2008.

[60] Electoral Law (6/05), art. 94.

campaigning. Interviewees said that these party cells have also continually exerted pressure on civil servants by making professional advancement dependent on joining the MPLA.

Unequal access to state funding and resources has been a major point of criticism by several national and international election observers and civil society groups.[61]

Preferential treatment of some voters from abroad

No voter registration had taken place outside of Angola (see Chapter III), but many Angolans living abroad came to register and vote on their own initiative in border regions or from other countries. European Union observers witnessed the MPLA transporting more than 1,500 people from the neighbouring Republic of Congo to vote in Cabinda on polling day.[62] An UNITA candidate told Human Rights Watch this practice took place at several points at the border,[63] and EU observers also reported similar cases at the border with the Democratic Republic of Congo in Zaire province. UNITA party officials in Cabinda told Human Rights Watch that logistical support by the MPLA and MPLA-run administrations for cross-border voting in Cabinda raised strong suspicions that primarily people willing to vote for the MPLA were selected for such operations.[64] The EU EOM concluded that the CNE's cooperation with such MPLA cross-border operations put the independence of the oversight body into question.[65]

Buying Political Favor

During the campaign, MPLA and government officials distributed extravagant gifts in an apparent effort to buy political favor. In most provinces, television coverage of MPLA rallies regularly showed costly items such as motorbikes, televisions, and refrigerators being lined up to be distributed to local dignitaries, as well as grain, seeds, and agricultural equipment to be given out to farmers. In some cases, the MPLA flag was shown flying from trucks that were distributing water—an expensive commodity in Angola—and sacks of grain.

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[61] EU EOM Angola, Final Report, pp. 20-21; Associação Justiça Paz e Democracia (AJPD), "Statement on facts related with the election process in Angola" ("Tomada de posição sobre factos relacionados com as eleições em curso em Angola"), August 18, 2008; Conselho de Coordenação dos Direitos Humanos (CCDH), "Declaration on the legislative elections in Angola" ("Declaração sobre as eleições legislativas em Angola"), September 25, 2008; Plataforma Eleitoral (PNASCAE), "Report on pre-election phase" ("Relatório da Fase Pré Eleitoral"), September 2008.

[62] European Parliament members Ana Gomes and Richard Howitt. See Ana Gomes's blog at http://causanossa.blogspot.com, posting of September 17, 2008; See also "Observers unsure on Angola poll", *BBC Online*, September 8, 2008, http://news.bbc.co.uk/1/hi/world/africa/7603735.stm (accessed February 6, 2009); EU EOM Angola, Final Report, p. 35.

[63] Human Rights Watch phone interview with UNITA candidate (name withheld), September 25, 2008.

[64] Human Rights Watch interview with UNITA officials in Cabinda, August 30, 2008.

[65] EU EOM Angola, Final report, p. 35.

The Electoral Code of Conduct forbids political parties from "resorting to corruption to seek activists for the party," yet fails to define the term "corruption."[66] Human Rights Watch received credible information that gifts were used by government and MPLA officials to co-opt support for the party.

For example, local journalists and activists in Cabinda told us that in the course of an MPLA election campaign there targeting churches, the MPLA-run provincial government distributed large sums of money—between US$100,000 and $200,000—as well as cars, motorcycles, corrugated sheet roofs, and other valuable items to at least 20 churches and church groups.[67] These donations were done during events in which the provincial governor, in his capacity as provincial first MPLA secretary, called on churchgoers to vote for the MPLA. The state media regularly reported on such events, quoting assurances from church representatives that they intended to cast their vote for the MPLA.[68] Local journalists also told Human Rights Watch that during the months before the elections the Cabinda provincial governor—acting as first provincial secretary of the MPLA—distributed a large number of cars to representatives of the state media (*Jornal de Angola*, Angop, TPA) and several associations and trade unions, including two teachers' unions, the union of oil industry workers, the association for medium and small private companies, the association of young musicians and composers, and three journalist unions.[69]

Observations from other provinces reported by various national and international observers and civil society groups indicate patterns of gift distribution by the government and the MPLA that Human Rights Watch documented in Cabinda were extensively used throughout the country, including to traditional authorities in rural areas.[70]

Unequal Access to Public Facilities and Space

During the election campaign the MPLA enjoyed privileged access to public spaces to organise their events. Government offices regularly closed when an MPLA event was

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[66] Electoral Code of Conduct (resolution 10/05), art. 4, e).

[67] Human Rights Watch interviews with local journalists and activists (names withheld), Cabinda, August 28-31, 2008.

[68] See, for example, "Governor calls on the people to participate in elections" ("Governador apela participação da população nas eleições legislativas") and"Aníbal Rocha calls for vote of kimbangists for the MPLA" ("Aníbal Rocha solicita voto dos kimbanguistas a favor do Mpla"), Angop, April 21, 2008; "Aníbal Rocha encourages church to mobilize believers for the vote" ("Aníbal Rocha encoraja igreja a mobilizar fiéis para o voto"), *Jornal de Angola* (Luanda), August 3, 2008.

[69] Human Rights Watch interview with local journalist in Cabinda (name withheld), August 30, 2008, and by email, September 23, 2008.

[70] See, for example, EU EOM Angola, Preliminary statement and Final Report, December 2008; CCDH, "Declaração sobre as eleições legislativas de Angola," AJPD, "Tomada de posição sobre factos relacionados com as eleições em curso em Angola."

scheduled, to allow people to attend, at times under coercion. Before the campaign school pupils were commonly strongly recommended to attend MPLA pre-campaign events (during the one-month campaign schools were closed entirely).[71] It is widely known that such practices, reminiscent of the previous one-party state, are longstanding in Angola. By contrast, the Law on the Right of Assembly and Demonstration only allows authorized public demonstrations to take place outside working hours, and has been used by the authorities to prevent legitimate public protest.[72]

For example, the MPLA had access to the city's main stadium for its campaign rally in Cabinda on August 28, and the government administration was closed. Local journalists and a lawyer in Cabinda told Human Rights Watch that no opposition party or civil society organisation had ever been allowed to use the main stadium or pavilion for their activities: "The Tafe stadium and sports pavilion only opens when the governor wants to organize something," a local lawyer remarked.[73]

Human Rights Watch also witnessed how in the cities of Huambo and Cabinda the transport division of the Angolan National Police closed off city streets for motorcycle races that formed part of MPLA campaign events.[74] Human Rights Watch received no report of similar cooperative attitudes from the side of the state administration toward opposition party events.

In addition, as a side-effect of the president's unprecedented series of provincial visits for campaigning purposes, airspace was frequently closed. This hampered efforts of other campaigners. According to Angolan practice, national airspace is closed off and scheduled flights cancelled without prior warning for several hours before and after the president travels.

Government Obstruction of Independent National Observers

Domestic election observation was permitted for the first time during the parliamentary elections, in accordance with the election observation law passed in 2005. This important initiative has the potential to contribute to the national and international credibility of election processes in Angola. National observers, who were far more numerous than

[71] Human Rights Watch interview with local journalists (names withheld), Huambo and Cabinda, August 2008.

[72] Law on the Right of Assembly and Demonstration (16/91), art. 5. See also Human Rights Watch, *Unfinished Democracy. Media and Political Freedoms in Angola*, July 2004, http://www.hrw.org/en/node/77703.

[73] Human Rights Watch interview with a lawyer (name withheld), Cabinda, August 28, 2008.

[74] Such as in Huambo on August 26, and in Cabinda on August 28, 2008.

international ones, are likely to be more alert to flaws on polling day than short-term international observers, most of whom did not speak Portuguese or any other Angolan languages. However, this opportunity was largely missed in the 2008 parliamentary elections, as many national observers were denied accreditation and others only accredited at the very last minute. Some of this was due to bureaucratic delays and the burdensome requirement that national observers provide evidence of having no criminal record. This requirement was eventually dropped in most provinces but retained in Luanda.

The government seemed particularly keen to limit the number of election day observers from civil society groups that it perceived as independent, especially in Luanda. Fewer than half of the national observers trained by the Civil Society Electoral Platform, a coalition of civil society organizations—1,300 out of 2,640—received accreditation.[75] Accreditation was most restricted in Luanda: only 28 Electoral Platform observers were accredited out of the proposed 370. Another civil society coalition hosted by the local human rights organization Mãos Livres, the Coordination Council for Human Rights (CCDH), had all of its 100 applications for observers in Luanda refused.

According to Angola's election observation law and regulations, the accreditation process for national observers should have been conducted by the provincial Electoral Commissions. However, in Luanda, where logistical challenges were considerable due to the high number of polling stations, the process was transferred at the last minute to the central CNE office, and then to a previously unknown structure, the Observation Office of Angola (Gabinete de Observação de Angola), run by a senior government official.

The decision to refuse the majority of observer accreditation applications in Luanda was announced on state television only 12 hours before polls opened. The decision, as explained in the announcement, was on the grounds of the Justice Ministry's having detected "forged" evidence of a clean record by 90 percent of applicants.[76] Yet, despite the seriousness of the accusations, no judicial action has been taken subsequently against the rejected observers, nor has they been given any official explanation for the rejection of their applications.[77] According to the EU EOM, the authorities in Luanda refused to accept criminal record checks

[75] The National Angolan Civil Society Electoral Platform (PNASCAE) also had a long-term observation effort in place and was active since the voter registration.

[76] "NGO present forged documents to observe elections," ("ONG apresentam documentos falsos para observar eleições") *Jornal de Angola*, September 5, 2008. This news was broadcast on public television TPA on September 4, 2008.

[77] Human Rights Watch phone interview with civil society observer (name withheld), October 13, 2008.

obtained through a fast-track service—an unofficial method widely used to avoid lengthy procedures.[78]

The Electoral Platform denied the accusation of forged records, and made a public statement on election day expressing its "deep concern that the CNE deliberately limited the number of independent observers in Luanda, which is home to about one-third of all Angolan voters, obstructing impartial and independent verification, and undermining confidence in the process."[79] The lack of observation data for Luanda has undermined the value of the overall observer results, making them almost "meaningless," one international observer told Human Rights Watch.[80]

By contrast, several government-sponsored civil society associations received their accreditations without major problems. Of these, only the Angolan Bar Association voiced any criticism of the conduct of the elections, while most declared the elections "free, fair, transparent, and democratic."[81]

The preferential treatment apparently given to government-funded civil society organizations in allowing them to observe the elections is a strong indicator of an official attempt to weaken national observer groups that are more likely to be independent and speak out about their findings. The government had already previously expressed suspicion about the involvement of civil society organizations funded by foreign donors in civic education for voter registration. The CIPE head and Minister of Territorial Administration Virgílio Fontes Pereira articulated this in September 2006 when he said, during a meeting with civil society organizations engaged in civic education, that some NGOs were "tied to foreign interests."[82] At the same time the government has denied state funding for the large part of these civil society organizations, so they have depended on often unpredictable foreign donor money to conduct civic education and train and deploy observers. The government has long followed the practice, however, of selecting MPLA-friendly civil society organizations for

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[78] EU EOM Angola, Final Report, p. 30f.

[79] Plataforma Eleitoral (PNASCAE) press release, September 5, 2008.

[80] Human Rights Watch phone interview with international observer (name withheld), October 24, 2008.

[81] Declaration of the Liga dos Militares de Angola na Reserva (Angola Military Reservists' League, LIMIAR), Angop, September 8, 2008. Other government-funded organizations accredited as observers, such as the Conselho Nacional de Juventude (National Youth Council, CNJ), and the Instituto Angolano de Sistemas Eleitorais e Democracia (Angolan Institute of Electoral Systems and Democracy, IASED) made similar statements after the polls.

[82] "NGOs are tied to foreign interests, denounces Minister of Territorial Administration" ("ONGs estão presas a interesses estrangeiras' denuncia MAT"), *Voz da América*, September 27, 2006; Human Rights Watch interview with an international organization official (name and affiliation withheld), October 3, 2006.

legalisation as "associações de utilidade pública" ("associations of public interest"), which makes them eligible for regular government funding.[83]

One of the few Angolan human rights organizations which has regularly criticized the government's conduct of the election process, the AJPD, was officially informed on the eve of polling day about a lawsuit filed by the attorney general in 2003, threatening the AJPD with closure on the grounds that its statutes are not in conformity with the law. The AJPD has presented counter-arguments and has been awaiting trial since. Why it took the authorities five years to act is unclear.

Human Rights Watch has argued that the government's unease with independent human rights scrutiny over the elections period contributed to its precipitate decision to close down the office of the UN Office of the High Commissioner for Human Rights in Angola in May 2008, three months before the elections.[84]

Irregularities in Conduct of Voting, Counting, and Tabulation

Voting day was marred by widespread logistical and procedural flaws, most visibly in Luanda (where voting was extended to the following day), but also in other provinces. The EU EOM presented the most detailed analysis of observed flaws in its final report.[85] The main problems, beyond late or non-opening of many polling stations, flawed distribution of ballot papers, and late accreditation of polling station staff, party delegates, and national observers, included serious breaches of safeguards against fraud: The voters' roll was not available in most cases, and where it was available, it was not used to check voters' identity.[86] In addition, the government allowed no independent scrutiny of the results tabulation.

The European Union observers concluded that lack of technical experience was the main reason for these flaws, rather than a deliberate attempt to commit fraud. [87] Yet, as an international observer told Human Rights Watch, the considerable scope of the breaches

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[83] Regulamento das associações de utilidade pública (decree 5/01). A striking example for ruling party bias in attributing this status is the fact that the National Spontaneous Movement (Movimento Nacional Espontâneo, MNE)—the president's youth support group—is registered as a public interest association.

[84] "Angola: Resume Negotiations with UN body," Human Rights Watch news release, May 27, 2008, http://www.hrw.org/en/news/2008/05/22/angola-resume-negotiations-un-rights-body.

[85] EU EOM Angola, Final Report.

[86] This serious breach was acknowledged by many observers, including the EU EOM, the Pan-African Parliament, and the National Civil Society Electoral Platform (PNASCAE).

[87] EU EOM Angola, Final Report, p. 33.

hampered the transparency of the process: "It is difficult to judge the impact the verified irregularities had on the election results, because too many safeguards for best practice were breached."[88]

Flawed voter verification

SADC Guidelines require the existence of an updated and accessible voters' roll, and national safeguards to protect against people voting more than once.[89] The Electoral Law provided for the use of a voters' roll as an important safeguard. Absent a voters' roll in print or electronic version, indelible ink applied to voters' fingers was the only safeguard left during the polls, yet procedures to check each voter's fingers before voting were not applied consistently.[90]

According to the EU EOM, one of the main reasons for the lack of voters' rolls on polling day was their late submission by the CIPE to the CNE: only on August 17, three weeks before the elections. This was much too late to verify and correct possible errors and publish the rolls as prescribed by law.[91] The voter registration process carried out by the CIPE allowed political parties and observers only restricted access to the central voter register database (Ficheiro Central do Registo Eleitoral, FICRE), and no external audit was conducted.[92] "Nobody knows whether the voters' rolls available on polling day were correct," an international observer told Human Rights Watch.[93]

In addition, in a controversial last-minute decision on September 3, the CNE allowed that voters could cast their vote wherever they wanted within the municipality where they resided. According to the Electoral Law, votes from voters who lost their voter cards or voted elsewhere than originally registered should be cast in special ballot boxes, in order that they could be counted separately at provincial level.[94] According to the EU EOM, this CNE decision aimed to facilitate voting, but the decision came too late for polling station officials to be

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[88] Human Rights Watch phone interview with international observer (name withheld), October 24, 2008.

[89] SADC Principles and Guidelines (2004), section 4.1.4.

[90] According to the EU EOM, while the ink was applied in the majority of observed polling stations, in only 40 percent were voter's fingers checked before voting. EU EOM Angola, Final Report, p. 33.

[91] EU EOM Angola, Final Report, p. 16.

[92] "Angola: Doubts over Free and Fair Elections," Human Rights Watch news release, http://www.hrw.org/en/news/2008/08/13/angola-doubts-over-free-and-fair-elections .

[93] Human Rights Watch phone interview with international observer (name withheld), October 3, 2008.

[94] Electoral Law (6/05), arts. 129-130.

instructed on the changed procedures.[95] Local and international observers told Human Rights Watch that the counting procedures to deal with these special ballot boxes in practice was largely left to the discretion of polling station officials and thus varied greatly.[96]

"As a consequence of the fact that in most cases voters' rolls were not available or not used, and of the lack of uniform criteria for counting the special ballot boxes, it will be impossible to establish beyond doubt how many people actually did not vote," an international observer told Human Rights Watch.[97]

Lack of independent scrutiny of the tabulation process

The SADC Principles and Guidelines Governing Democratic Elections establish that member states should allow unrestricted access of political parties and observers to the counting centres, as an integral part of the state's responsibility to ensure the transparency and integrity of the election process.[98]

However, national observers only had access to some counting centers at provincial level, and international observers were not allowed unrestricted access to the National Tabulation Centre in Luanda to monitor the final tabulation process.[99] Taking into consideration the breaches of crucial safeguards against fraud during the polls, independent monitoring of the counting and tabulation process throughout the whole country would have been particularly important. In addition, results were not published at the polling stations, as required by the Regulations of the Electoral Law, making it difficult to compare local figures with the final tabulated results.[100] The EU EOM concluded that since they were not allowed to monitor the tabulation process and voters' rolls were not used, it could not confirm the high turnout reported by the CNE.[101]

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[95] EU EOM Angola, Final Report, p. 17.

[96] Human Rights Watch phone interviews with local journalists and international observer (names withheld), September-October 2008; EU EOM Angola, Final Report, p. 38.

[97] Human Rights Watch phone interview with international observer (name withheld), October 3, 2008.

[98] SADC Principles and Guidelines (2004), sections 7.8, 7.18, and 7.19.

[99] EU EOM Angola, Final Report, p. 39: Human Rights Watch phone interviews with national observer (name withheld), October 13, and international observers (names withheld), October 8 and 24, 2008.

[100] Regulations of the Electoral Law, art. 138. Human Rights Watch phone interview with international observer (name withheld), October 24, 2008.

[101] EU EOM Angola, Final report, p. 44. The EU EOM noted cases in which turnout figures are highly questionable, such as Kwanza Norte province where, according to CNE figures, 108 percent voted.

Need for an independent post-elections inquiry

Despite the range and scope of the observed procedural irregularities and breaches of crucial safeguards against fraud, only a few formal complaints were filed by opposition parties. UNITA formally challenged the election results in Luanda, requesting a rerun. It filed a complaint with the CNE on September 7, claiming that the CNE's decision to allow voters to cast their vote wherever they wanted within their municipality of residence, to allow polling stations to remain open after dark, and to extend the polls to a second day in Luanda were illegal, and that the CNE failed to ensure timely delivery of material to polling stations and enforce safeguards against double voting. The CNE's rejection was appealed before the Constitutional Court on September 11, which on September 16 upheld the CNE's position. The court ruled that UNITA's complaint was unfounded, among other reasons because complaints were not filed by party delegates at the polling stations, as required by law.[102]

According to the EU EOM report, the opposition parties primarily failed to file complaints effectively due to lack of experience and technical knowledge of the legal procedures, but also due to a lack of definition in the Electoral Law about how to file complaints regarding breaches committed by the election management bodies themselves.[103]

At this writing, no opposition party or observer group has publicly presented evidence that the verified irregularities were deliberate. However, UNITA presented a post-elections report detailing a number of serious allegations of irregularities that had not been referred to by international observers.[104] These included allegations of significant discrepancies between the numbers of polling stations that had been approved and those whose results figured in the final CNE voting figures, discrepancies between the numbers of distributed, received, and used ballot papers in several provinces, deliberate non-accreditation of more than half of opposition party delegates at the polling stations, and interference in the election management by the president's Military Office and state security Information Services.[105]

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[102] Tribunal Constitucional: Acórdão No 74/2008, September 16, 2008, available at http://www.tribunalconstitucional.ao. Complaints at national level were later also filed by Frente para Democracia (FpD), PDP-ANA, PLD, and AD Coligação.

[103] EU EOM Angola, Final Report, p. 41.

[104] UNITA, "Audit Report on te Free, Fair and Transparent Elections"" ("Relatório de Auditoria Às Eleições Livres, Justas e Transparentes em Angola"), November 26, 2008.

[105] UNITA claims that ONLY 37,995 polling stations had been approved, while the CNE indicated results of 50,195 polling stations had been counted. Ibid., pp. 24-25, pp. 35f-45.

Human Rights Watch has already called for an independent and impartial inquiry of irregularities reported on voting day, but this has not been answered.[106] It remains vital to establish how far irregularities affected people's right to vote in the first elections in 16 years, and to avoid similar scenarios in future elections.[107] On September 19, 2008, the CNE announced a commission of enquiry to prepare a report within 30 days.[108] At this writing, nearly five months later, neither the full composition of this commission nor its report has been disclosed to the public. This raises serious doubts about the adequacy and independence of this purported inquiry.

[106] "Angola: Irregularities Marred Historic Elections," Human Rights Watch news release, September 15, 2008, http://www.hrw.org/en/news/2008/09/15/angola-irregularities-marred-historic-elections.

[107] Ibid.

[108] "New members of parliament to take office at the end of the month" ("Novos deputados serão investidos no final do mês"), Angop, September 19, 2008.

VII. Election-Related Violence in Huambo and Benguela

The voting in the September 2008 elections was free from violence, a first in Angola. The same was not entirely true of the pre-election period, however. Prior to the election campaign, Human Rights Watch highlighted cases of intimidation and unchecked violence by local MPLA supporters in rural areas of Huambo, Benguela, and Bie.[109]

Huambo, Bie, and the rural areas of Benguela have long been strongholds of UNITA and received a high number of demobilized UNITA combatants after the end of the civil war in 2002. However, in September 2008's elections, UNITA lost its lead in those provinces, having won the majority of parliamentary seats in the 1992 elections; in 2008 UNITA won only one seat in Bie.[110]

The "Bilateral Mechanism" established between the MPLA and UNITA to deal with outstanding issues from the 2002 peace agreement has been discussing such election-related violent incidents, and some joint MPLA-UNITA delegations have conducted investigations on the ground following the most serious incidents, yet the results of these investigations have not been published. Since 2006 the Roman Catholic Church's Justice and Peace Commissions have organized "Pro Pace" peace congresses to promote political tolerance in a number of dioceses across the country where there has been a pattern of political violence. However, several priests of provincial Justice and Peace Commissions have complained to Human Rights Watch about intimidation and accusations from local MPLA officials of being friendly toward UNITA.[111]

As the election neared, there was a noticeable improvement. During the campaign, police forces offered better security for opposition parties, which allowed them to campaign freely in more areas than before.[112] However, Human Rights Watch documented some of the incidents that did occur in Huambo and Benguela, as highlighted below.

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[109] "Angola: Doubts over Free and Fair Elections," Human Rights Watch news release, August 13, 2008, http://www.hrw.org/en/news/2008/08/13/angola-doubts-over-free-and-fair-elections.

[110] In 1992 UNITA won 3 seats in Benguela, 4 in Huambo, and all 5 from the provincial constituency in Bie.

[111] "Angola: Doubts over Free and Fair Elections," Human Rights Watch news release, August 13, 2008.

[112] The EU EOM, which had long-term observers in all 18 provinces claimed that there were a few isolated cases of election-related violence in Benguela, Huambo, and Luanda. EU EOM Angola, Final Report, p. 20.

Incidents in Huambo

In Huambo province Human Rights Watch documented three incidents of violence against UNITA delegations trying to campaign during the election campaign period. The police escorted the UNITA delegations and did intervene to prevent further escalation, but there is no indication that the police have prosecuted those suspected of responsibility for the attacks.

The first two incidents took place between Londwimbali town and Ngalanga commune, an area that has witnessed sporadic political violence in past years. UNITA provincial secretary Anastásio Vianeke, who had been part of the UNITA delegation travelling there, told Human Rights Watch that they had been escorted by a senior police commander and several police officers. According to Vianeke, about 35 kilometers from Londwimbali town, his car and a truck carrying UNITA members were attacked by a group of about 100 people who threw stones and hit the vehicles with sticks, while others blocked the road. "They were prepared and waiting for us—some were wearing MPLA t-shirts," Vianeke said. He said that the people waiting by the road had shouted, "They've arrived, we must attack them, kill them, throw them in the wells. No one is going to escape today." The policemen got out of the car and fired shots into the air, whereupon the attackers ran away, and the delegation continued towards Ngalanga, while two police officers remained behind. When the delegation reached a place known as Aldeia Cinco (Village 5), another crowd of people started throwing stones at the car and truck. The police officers again fired shots into the air. The UNITA supporters apprehended one of the attackers, and, according to Vianeke, later handed him over to the police commander.[113] At this writing, Human Rights Watch has no information to suggest there has been any follow up.

A third incident took place as UNITA members were trying to hold a public meeting in the commune of Chipeio (Ekunha municipality). UNITA provincial official Ricardo Noe Ekupa, who was part of the delegation, told Human Rights Watch that a large group of people—assumed to be MPLA supporters—attacked the delegation by throwing stones, injuring at least eight people. As in the previous cases, UNITA members apprehended one man and handed him over to the police, and reported the incident to the provincial police commander in Huambo.[114] A journalist who visited Chipeio days after the attack told Human Rights Watch he had interviewed local residents who said they would attack UNITA again if they were to

[113] Human Rights Watch interview with Anastásio Vianeke, UNITA provincial secretary, Huambo, August 30, 2008.

[114] Human Rights Watch interview with Ricardo Noe Ekupa, UNITA provincial official, Huambo, August 31, 2008.

come back to Chipeio. Human Rights Watch has received no indication of action taken against the alleged perpetrators.[115]

Incidents in Benguela

In Benguela province Human Rights Watch documented two incidents of violence that occurred during the election campaign in rural areas of Balombo municipality. Again, the police intervened to stop an escalation of the violence, but there is no evidence of prosecutions having taken place.

On August 8 in the village of Elongo (Chindumbo commune) there was an attack by alleged MPLA supporters on the homes of known UNITA supporters. A local researcher who visited the area in late August told Human Rights Watch he interviewed three victims, all of them demobilized UNITA combatants who had returned to their home village after the 2002 peace accord. According to the victims, a group of 50 men—believed by them to be MPLA supporters from several neighboring villages—destroyed six of their houses and a community meeting point (jango), stole some of their belongings, and physically attacked their wives. The attackers had arrived early in the morning at their houses, armed with machetes, stones, and picks, destroyed their homes, and then threatened to kill them. One victim told the local researcher they had filed complaints with the police, who had arrested four attackers and stated they would be prosecuted, but the interviewee did not know about further developments.[116]

The second incident happened on August 23 in the village of Chico da Waiti (Macambombolo commune), where UNITA members had already complained previously about violent incidents directed against them. A UNITA provincial secretary in Benguela city, Victorino Nhany, told a press conference that his party's delegation was attacked at the entrance to the village, where they had intended to campaign. The delegation comprised 40 UNITA members, two members of parliament, and the provincial deputy governor from UNITA, and was escorted by police. On the way to the village, the delegation found the road blocked by tree trunks decorated with MPLA flags. The police removed these obstacles and the delegation proceeded to the village, where they were met by a group of children threatening them with knives. The police chased them away, then a larger group of youths arrived

[115] Human Rights Watch interview with Anastásio Vianeke, August 30, 2008.

[116] Human Rights Watch phone and email interviews with a local researcher in Benguela (name withheld), August-September 2008. The researcher conducted the interview with three victims from UNITA in Elongo on August 28, 2008.

throwing stones at the delegation, injuring eight people and damaging five cars. The UNITA provincial secretary said the police did not arrest anybody in this case.[117]

Government Response

Senior MPLA officials have often said publicly and to Human Rights Watch that such incidents were a spontaneous expression of popular resentment against UNITA for atrocities committed during the war.[118] Members of churches and civil society organizations conducting civic education campaigns told Human Rights Watch such resentments undoubtedly exist in areas that were under UNITA control during the civil war.[119]

However, the ruling party has done nothing to exert control over its local leaders, who in some cases are suspected of encouraging such acts of violence. Roman Catholic priests engaged in civic education campaigning and the Justice and Peace Commission's Pro Pace congresses told Human Rights Watch on several occasions that uneducated villagers were in most cases being "manipulated by more informed people."[120]

For example, the communal first secretary of the MPLA of Macambombolo explained to Human Rights Watch that UNITA campaigning in that area was unacceptable due to what UNITA had done during the war, and said, "The president Jose Eduardo dos Santos in his speech spoke about tolerance and peace. He spoke very well. But here the people rule and the people are the MPLA."[121]

Members of various churches, civil society organizations, and opposition parties told Human Rights Watch in June 2008 that some local MPLA leaders in Benguela have been actively fuelling fear and resentments against UNITA in the communities for a longer period of time. For example, the second municipal MPLA secretary of Balombo municipality in Benguela was quoted as having threatened UNITA members in April 2008 by saying, "After the elections, if UNITA wins, we go back to 1992"—a clear reference to the post-election civil war, and

[117] UNITA press conference, Benguela city, August 26, 2008, reported to Human Rights Watch by phone by local journalist (name withheld), August 26, 2008.

[118] Human Rights Watch interviews with local MPLA and government officials in Luanda, Huambo, and Benguela, March and May-June 2008.

[119] Human Rights Watch interviews with members of civil society organizations and churches engaged in civic education campaigning (names and affiliation withheld) in Luanda, Huambo, Bie, and Benguela, March-August 2008.

[120] Human Rights Watch interview with members of the Roman Catholic Church's Justice and Peace Commission, Benguela, June 4, 2008; Local researcher interview with Catholic priest in Balombo (names withheld), August 29, 2008, recounted to Human Rights Watch.

[121] Human Rights Watch phone and email interviews with local researcher (name withheld), Benguela, August-September 2008. He conducted the interview on August 29, 2008.

reportedly not an isolated statement from this official.[122] Despite frequent complaints from representatives of several opposition parties and from church representatives against this specific MPLA leader, the MPLA has not removed him.[123]

In addition, senior MPLA officials and members of the government during the pre- campaign period repeated accusations in public speeches that UNITA still had hidden arms caches, implying this constitutes a danger for the elections. For example, in a controversial speech on peace day, April 4, 2008, in Bocoio, Benguela, Defense Minister Kundy Paihama raised alarm when he said that "some demobilized UNITA soldiers are being prepared to launch confusion around the elections."[124] Members of churches and civil society organizations told Human Rights Watch they were concerned that such speeches fuelled fear among local communities.[125] UNITA members in those areas of Benguela told Human Rights Watch they have been threatened in the months before the elections by local MPLA leaders and traditional authorities to leave the villages, and were in some cases attacked by MPLA supporters.[126] In such an environment, public speeches suggesting UNITA was still armed clearly encouraged local MPLA members to prevent UNITA from campaigning there.

In addition, doubts remain about the effectiveness of the police in investigating recent and earlier cases of violence involving ruling party supporters and bringing perpetrators to court. Especially in rural areas that have been seriously affected by the civil war, and in which reconciliation between local MPLA and UNITA supporters remains fragile, action of the authorities against perpetrators and instigators of political violence continues to be crucial. The fact that for the first time elections have passed without major incidents of violence in most parts of the country should make it easier for strong action to be taken to hold perpetrators accountable for the violence that did take place.

Opposition party representatives in Benguela and Huambo told Human Rights Watch during the months before the elections that newly appointed provincial police commanders had made efforts to reinforce non-partisan policing. However, despite what appears to be

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[122] Human Rights Watch interview with Francisco Epope and Domingos Katchindele, UNITA officials, Balombo, May 31, 2008.

[123] Human Rights Watch interviews with Rui Malopa Miguel, provincial secretary of the PRS, Benguela, June 1; Vitorino Nhany, provincial secretary of UNITA, Benguela, June 6, 2008; international organization official (name and affiliation withheld), Luanda, August 8; and embers of the Roman Catholic Church's Justice and Peace Commission (names withheld), Benguela city and Balombo, May-June, 2008.

[124] Human Rights Watch transcript of Kundy Paihama's speech, broadcast nationally on RNA on April 4, 2008.

[125] Human Rights Watch interviews with civil society representatives and Roman Catholic priests, Luanda and Benguela, May-June 2008.

[126] Human Rights Watch interviews with UNITA members and representatives, Balombo and Benguela city, May-June 2008.

genuine efforts of the police during the campaign to guarantee security for opposition parties in many parts of the country (as described above), police investigation and prosecution of perpetrators of political violence still seems to be inadequate. For example, the provincial police commander of Benguela, interviewed by a local researcher in August 2008, clarified that no one had been held accountable for the attack in Macambombolo commune on August 23, claiming "it was difficult to identify the attackers in a riot."[127] Local police chiefs in Benguela have previously given this excuse when asked by Human Rights Watch for the reason for inaction in other cases of political violence.[128]

In areas where the MPLA and UNITA are the only political forces, and traditional authorities are increasingly aligned with the MPLA, a possible involvement of local MPLA structures in organizing attacks on UNITA should at least be considered and investigated by the police.

In addition, opposition politicians, researchers, and civil society representatives in all provinces visited repeatedly told Human Rights Watch that the state security Information Services (Sinfo), which collaborate with the police, have been acting on behalf of the MPLA by monitoring movements and meetings of opposition parties as well as other people perceived to be potentially critical to the government. Our interviewees said this has fuelled widespread fear of surveillance and state repression, and contributed to self-censorship within Angolan society.

[127] Human Rights Watch phone and email interviews with local researcher in Benguela, August-September 2008.

[128] Human Rights Watch interview with interim police commander Francisco Franklin André Miguel, Balombo, June 5, 2008.

VIII. Ongoing Armed Insurgency and Intimidation in Cabinda

In Cabinda, ongoing low-intensity activities of the armed insurgency, and the government's efforts to contain the insurgency and close down space for the local civil society movement for self-determination, negatively affected the political climate for elections there.[129] Human Rights Watch found that despite a relatively calm campaign period in August 2008, the political climate has not improved there since.

The armed separatist FLEC guerrilla movement has been fighting for the Cabinda enclave's independence since 1975. After 2002 the Angolan Armed Forces launched several military operations in Cabinda that considerably weakened the guerrilla movement. In August 2006 the government signed a Memorandum of Understanding for Peace and Reconciliation in Cabinda with a faction of FLEC represented in the Cabindan Forum for Dialogue (FCD) and rewarded its members with a number of government posts. Members of political parties and civil society told Human Rights Watch the 2006 peace agreement has enjoyed little credibility, however, because the government has not made significant political concessions, and influential parts of local civil society were excluded from the talks. The armed insurgency has continued.

Aside from the FLEC, the independence movement has been based on civil society, rather than political parties, as locally- and regionally-based parties and calls for secession are prohibited by Angolan law.[130] Thus, the local Roman Catholic clergy in 1992 backed FLEC's successful call for a boycott of the elections in Cabinda and in 2005 local civil society and church representatives formed part of the Cabindan Forum for Dialogue created as a joint ad hoc commission with FLEC to establish peace talks with the Angolan government. However, the Angolan constitution does not make a clear distinction between peaceful and armed movements calling for secession.[131] International human rights law, although permitting governments to take action against opposition groups using violence, does not allow the banning of political parties because they are regionally based or solely because they

[129] "Angola: Doubts over Free and Fair Elections," Human Rights Watch news release, http://www.hrw.org/en/news/2008/08/13/angola-doubts-over-free-and-fair-elections.

[130] Political Parties Law (2/05), art. 5.

[131] The constitution defines Angola as a "unitary and indivisible State" that will "fight against any separatist attempt." Constitutional Law (1992), art. 5.

peacefully support autonomy or even secession.[132] In November 2006 the authorities banned a public debate on an autonomy statute promoted by the opposition party Frente para a Democracia (FpD) under the allegation that this constituted an "attempt to subvert the constitutional order." In August 2007 a court sentenced an FpD representative to five months' imprisonment suspended for two years for "insubordination and incitement of violence" for attempting to distribute a news release supporting autonomy.[133]

In recent years the Angolan government has increasingly used security concerns to crack down on the peaceful civil society pro-independence movement and restrict freedom of expression, assembly, and association. In 2006 the government banned the civic association and human rights organization Mpalabanda, alleging it had incited violence. An appeal against the ban has been pending since, but the organization's former members complained to Human Rights Watch about continued harassment by the authorities. For example, José Marcos Mavungo, human rights activist and former Mpalabanda deputy president, told Human Rights Watch he has not been able to travel out of the country since the Migration Services confiscated his passport at Cabinda airport in July 2007, but he has not been informed of any judicial proceedings against him.[134]

Police have also regularly intimidated and arrested individuals belonging to church groups protesting against the new Roman Catholic bishop appointed by the Vatican in 2005, with the justification that the police were protecting the bishop from threats allegedly coming from these groups.[135] The new bishop has close family links to MPLA elites, and his appointment has been fiercely contested by influential sectors within the local clergy.

Human Rights Watch found that in the months before the 2008 elections, levels of surveillance and intimidation of opposition politicians, journalists, and individuals from

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[132] See, for example, the judgment of the European Court of Human Rights in *United Communist Party of Turkey v. Turkey* (19392/92) (1998) 26 E.H.R.R. 121. See also the African Commission on Human and Peoples' Rights ruling in Communication 75/92, *Katangese Peoples' Congress v. Zaire,* Eighth Activity Report 1994-95.

[133] Human Rights Watch interview with Mateus Massinga, provincial secretary of the FpD, Cabinda, March 23, 2008. See also "Angola: Doubts over Free and Fair Elections," Human Rights Watch news release, http://www.hrw.org/en/news/2008/08/13/angola-doubts-over-free-and-fair-elections.

[134] Human Rights Watch interviews with José Marcos Mavungo, Cabinda, March 24 and August 29, 2008.

[135] See UN Human Rights Council, Report of the Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir, Addendum: Mission to Angola, A/HRC/7/10/Add.4, March 6, 2008, http://daccessdds.un.org/doc/UNDOC/GEN/G08/116/44/PDF/G0811644.pdf?OpenElement (accessed February 6, 2009), pp. 11-14.

church and civil society groups favoring self-determination and opposing the terms of the 2006 peace agreement have been particularly high in Cabinda.[136]

In September's elections, voter turnout in Cabinda was high—despite some divisions within civil society on whether to participate or abstain, and FLEC's call for a boycott. UNITA achieved its best election results in Cabinda, where it won 31 per cent of the vote, despite irregularities of the kind mentioned in Chapter V. This result was mainly due to UNITA's promises to consider autonomy for the enclave within the constitutional review process, and because it ran candidates from local civil society who had been leaders of Mpalabanda.

During the election campaign the environment for political parties appeared to be relatively calm. Opposition party officials told Human Rights Watch they had experienced fewer problems during the campaign than before. For example, the FpD campaigned under the slogan "vote for autonomy of Cabinda," despite the previous conviction of its representative for expressing his party's view on the matter.[137]

However, police pressure on church groups perceived as dissident continued throughout the campaign. On August 23 the police briefly detained five catechists of the dissident Catholic movement Lumbundunu, to prevent them from holding a public religious ceremony. They were released after a week, without charge. This happened despite alleged orders from the police commander to abstain from arrests in Cabinda city during the election campaign "in order to avoid damage to the image of the government," as a human rights activist told Human Rights Watch. A member of the group told Human Rights Watch the provincial Sinfo delegate had threatened him in May 2008, saying, "We are going to prove that you organize political activities."[138]

The early presence in Cabinda of international long-term observers from the European Union may have contributed to government efforts to temporarily reduce ostentatious surveillance by police and Sinfo agents. However, international observers abstained from observing elections further north than the surrounding area of Cabinda city for security concerns, due to reports of ongoing armed attacks from the FLEC. This left the most sensitive areas in the

[136] "Angola: Doubts over Free and Fair Elections," Human Rights Watch news release, http://www.hrw.org/en/news/2008/08/13/angola-doubts-over-free-and-fair-elections.

[137] Human Rights Watch interviews with members of the opposition parties FpD, PRS, and UNITA, Cabinda, August 2008.

[138] Human Rights Watch interview with Lumbundunu church members (names withheld), Cabinda, August 29, 2008.

north unmonitored by international observers.[139] Local journalists, human rights activists, and priests described the situation in the northern border regions to Human Rights Watch as "unpredictable," especially since FLEC had called for an election boycott.[140]

Since the elections, the clampdown against civilians accused of "crimes against the security of the state" has continued. On September 16—one week after the election—the former Voice of America correspondent Fernando Lelo was sentenced to 12 years' imprisonment for "crimes against the security of the state" and acts of rebellion allegedly committed together with four soldiers of the Angolan Armed Forces. He had been tried in May by a military court that did not produce evidence of the charges against him. Local human rights activists and journalists told Human Rights Watch that Lelo's conviction had been deliberately delayed until after the elections, in order to prevent popular unrest or damage to the MPLA's election campaign in Cabinda.[141] The arbitrariness of Lelo's detention and denial of a fair trial raises concerns about what will happen with another 14 civilians who have been in pretrial detention for "crimes against the security of the state" since their arrest between December 2007 and April 2008. Human Rights Watch has documented that these civilians, and the soldiers co-accused with Fernando Lelo, have been beaten and tortured in military custody.[142] A lawyer confirmed to Human Rights Watch that in October 2008 another seven civilians were arrested in Cabinda and across the border in the Democratic Republic of Congo, accused of crimes against the security of the state, and were being held under the same detention conditions in Cabinda.[143]

Since the elections the authorities have also continued to impose arbitrary travel restrictions on individuals in Cabinda. From October 15 to early December 2008, the Catholic priest

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[139] Luisa Morgantini, head of the EU EOM Angola, explained that the EU EOM abstained from observing the interior of Cabinda in order "not to put [our] observers at risk." EU EOM Angola press conference, Cabinda, August 28, 2008. Observers from the pan-African Parliament followed the EU EOM's approach in this regard.

[140] Human Rights Watch interviews in Cabinda, August 28-31, 2008.

[141] Human Rights Watch phone interviews with human rights activist, lawyers, and local journalists (names withheld), September-October 2008.

[142] "Angola: End Torture and Unfair Trials in Cabinda," Human Rights Watch news release, December 10, 2008, http://www.hrw.org/en/news/2008/12/05/angola-end-torture-and-unfair-trials-cabinda. The persons arrested between December 2007 and April 2008 are: Natalício Mbatchi, João Mateus Luemba, Elias Menos, Garcia David António, Sebastião Sambo, Carlos José Sambo, José Domingos Mabete, Paulo Simão, Paulo Domingos, Luís Fernando Barros, João Paulo Nombo, João Baptista Maela, Zacarias João Zau, Marcos Lubuca Malila Tovo. Human Rights Watch interviews with two activists and three lawyers (names withheld) in Cabinda, March and August 2008 , and follow-up interviews with two lawyers (name withheld) by phone on November 11, 2008 and by email on October 2 and November 25, 2008.

[143] Human Rights Watch phone interview with lawyer (name withheld), Cabinda, January 21, 2009. The persons arrested in October 2008 are: Armando Muabi, Paulino Próspero Bianga, João Alfredo Dumbi, César Deneri Dunge, João de Deus Deula Muanda, José Fernandes Jorge, and Cornélio Mabiala.

Pedro Sevo Agostinho was prevented from leaving Angola after a short visit to Cabinda from Spain, where he had been studying. The Migration Services gave no explanation for confiscating his passport, which was eventually returned to him.[144]

[144] "Visão Angola", Voz da América, November 21, 2008.; "Travel ban against priest Sevo lifted" ("Levantada interdição de viagem contra padre Sevo"), *Voz da América*, December 2, 2008. Human Rights Watch interview with local journalist (name withheld), November 11, 2008.

IX. Recommendations

To the Angolan Government

Regarding management and oversight of the elections

- Reform the National Electoral Commission to ensure its members reflect a genuine balance between ruling party and opposition, and include also independent representatives from civil society.
- Provide the CNE with adequate resources to run the next and subsequent elections, and ensure its full independence.
- Establish a commission of inquiry that impartially, thoroughly, and transparently investigates violations of election laws during the 2008 parliamentary elections, and publish its results.
- Ensure timely and equal access to state funding for all political parties
- Guarantee that updated voters' rolls are available and used to check voter identity in upcoming elections.
- Ensure timely, transparent, and impartial accreditation procedures for national and international observers.
- Allow free access of national and international observers to all geographical areas and at all stages of the process, including counting and tabulation of the results.

Regarding the media environment

- Enact all necessary implementing regulations and laws relating to the 2006 press law, in line with international standards.
- Review the press law in order to decriminalize defamation and related offenses, in line with international standards.
- Enact legislation to guarantee that public media are accountable to the public and not the government, as stated in the press law.
- Enact legislation to establish fair and transparent licensing procedures for private radio and television, and ensure supervision by an independent body, as stated in the press law, in order to prevent discriminatory licensing practices and to enhance diversity of information throughout the country.

- Enact legislation regarding the establishment of the National Council on Media (Conselho Nacional da Comunicação Social) as an independent body, as stated in the press law, with sufficient powers to play its role effectively.
- Ensure equal access for all political parties to the state media beyond stipulated airtime during the official election campaign.

Regarding acts of political violence and intimidation

- Ensure free and secure access by all political parties to all parts of the country at all times, and not only during the official campaign period.
- Ensure that all allegations of political violence and intimidation that occurred during and before the election campaign are investigated promptly, and that persons against whom there is evidence of criminal liability for these acts are prosecuted and brought to a speedy and impartial trial.
- Ensure that agents of the police and of the Information Services act professionally and impartially at all times, including before and during the campaign period.
- Guarantee the right to a fair trial to persons accused of state security offences related to the armed conflict in Cabinda, and ensure the freedom of expression, association, and assembly there as elsewhere in the country..

To Future National and International Observers

- Take into account all aspects of the election process, before and during the election campaign, including media bias, intimidation, and the use of state resources, when assessing election fairness.
- Issue public statements, noting any concerns about preelection human rights conditions and recommending corrective measures ahead of the polls, in a timely fashion so that remedial action can be taken.
- Remain in the country for a reasonable period beyond the polls to ensure monitoring of the tabulation process.

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Democracy or Monopoly?

Angola's Reluctant Return to Elections

Angola held parliamentary elections in September 2008 that gave the ruling Popular Movement for the Liberation of Angola (MPLA) a resounding victory. A presidential election due to follow in 2009 has yet to be scheduled. This report assesses crucial flaws in the 2008 elections—the first since 1992—in meeting regional and international standards, and identifies the reforms essential for free and fair elections in 2009 and beyond.

The MPLA-dominated National Electoral Commission (CNE) failed in its role as an oversight body: it did not respond to violations of Angolan laws including the MPLA's abuse of state media, facilities, and resources, government intimidation, and restrictions on independent media; it obstructed accreditation of national observers and independent scrutiny of results tabulation; and it failed to publish the findings of a commission of inquiry (which had been billed as independent) into the numerous logistical and procedural flaws during voting, counting, and tabulation. Although the one-month formal campaign and polling days were mostly free of violence, in the pre-campaign period political violence was directed at opposition parties in some provinces, and a climate of repression prevailed in the enclave of Cabinda.

Human Rights Watch urges the government of Angola to reform the CNE to improve guarantees for independent oversight of future elections. The government should urgently approve all the necessary legislation to implement Angola's new press law, and review provisions that are not in line with international standards in order to guarantee freedom of the media. Human Rights Watch also calls on the government to step up efforts to prosecute and bring to trial perpetrators of acts of political violence in rural areas, and to provide a fair trial to civilians arrested in conjunction with security-related offenses in Cabinda.

MPLA rally in Kikolo, Luanda, September 3, 2008.