

# Criminal Liability in Angola: A Case For Reparations and Compensation

Windhoek, Namibia, August 27, 2001

Dedicated to the Search For Durable Peace in Angola

*“If the Angolan people were not heard for the war to start, let them be heard for it to end.”*

Pastoral Message  
Catholic Bishops of Angola  
Luanda, March 29, 2000

NSHR is an independent African human rights advocacy and monitoring non-governmental organization based in Namibia. Concerned with international human rights and humanitarian treaties, especially those adopted by the United Nations and the Organization of African Unity, Namibians founded the organization in 1989 in order to promote strict compliance.

NSHR maintains observer status in the African Commission on Human and Peoples Rights and is in consultative status with the Economic and Social Council of the United Nations.

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## **Foreword**

*The International Community in general, and the United Nations in particular, has said and done much about the violent symptoms of the ongoing Angolan conflict. However, little had been said and done to address the root causes and factors exacerbating that conflict. The time has now come to tackle the real sources of the Angolan conflict, as a disease can only be eradicated by curing it, not suppressing its symptoms.*

*Furthermore, the UN appears to ignore the views of the majority of the Angolan people, spearheaded by UNITA, other opposition parties, the Church and other civil society actors in that country.*

*The time has also come for indigenous African civil society actors and governments, such as Botswana, Malawi, Mozambique, South Africa and Zambia as well as other pro-dialogue nations in the SADC region to be heard and their views to be taken into consideration on the issue of Angola.*

*Consensus exists among analysts and diplomats alike that, despite massive military might and diplomatic support from especially the United Nations Security Council (UNSC) and certain Western countries, there is no military solution in Angola, and that the kleptocratic and dictatorial regime of President Eduardo dos Santos in Luanda has failed to win the hearts and minds of the majority of the oppressed indigenous population.*

*Military might alone - without popular support at home and within Vietnam itself - could not help the United States of America eliminate the resolve of the Vietnamese people to resist oppression. Although Vietcong forces in South Vietnam were poorly equipped militarily, they commanded popular support from their kinsmen.*

*Similarly, the MPLA Government in Luanda, without the political support from the impoverished and oppressed majority indigenous population, stands no chance in crushing UNITA militarily. Objective Angola watchers are also unanimous that the UNITA movement has enormous popular support from especially the Ovimbundu people - the largest ethno-linguistic group in that country - which support has enabled the movement to survive inside Angola for over 25 years, despite intensive aerial bombardments with chemical weapons and the limpezas (i.e. military, political, physical and or ideological elimination) campaigns.*

*Therefore there appears to be only one alternative left to secure an end to the Angolan conflict: to ensure that political power and wealth in that country is shared equitably between the privileged minority ruling class, on the one hand, and the oppressed indigenous majority, on the other. Or else the MPLA's war of extermination targeting particularly ethnic Ovimbundus—an undesirable process, which has been in full swing since 1975—is bound to continue.*

*The situation in Angola constitutes racism, racial discrimination and related intolerance. Hence, for the sake of ending this senseless carnage in Angola the time has now come for the international community in general and in particular the UNSC to reassess and shift its ill-conceived support for the oppressive ethnic minority dos Santos regime in favor of an all-inclusive political settlement.*

*Phil ya Nangoloh, Sr  
Executive Director, August 27, 2001*

## I. EXECUTIVE SUMMARY

In terms of Article 71 of the Charter of the United Nations (UN), the contributions that non-governmental and other civil society organizations make for the purposes and principles of UN are recognized. As UN Secretary-General Kofi Annan told the UN on June 7, 2001, NGOs can contribute to the maintenance of peace and security by offering non-violent avenues for addressing the root causes of conflict.<sup>1</sup>

As an organization with a keen interest in the prevention and or resolution of conflict through dialogue, NSHR remains seized with the close monitoring of the developments in Angola.

NSHR is of the view that the UN, through certain ill-conceived actions or statements emanating from especially certain members of its Security Council (UNSC), has so far failed to build - and even has undermined - mutual confidence between the two main Angolan warring parties. The absence of such confidence constitutes the biggest obstacle to durable peace in that country.

The present situation in Angola also stems from, *inter alia*, UN neglect or failure to grasp the root causes and factors exacerbating and triggering the armed conflict in that country. The unilateral imposition of punitive sanctions against UNITA has not only further undermined the confidence in the UN of Angola's oppressed majority indigenous population but has also heightened their sense of collective persecution. Consequently, this state of affairs has also exacerbated the oppressed indigenous population's perception of neo-colonialism, foreign domination, exploitation and cultural and economic deprivation and has strengthened their resolve to resist.

Furthermore, the one-sided imposition of punitive measures has seriously dented the image of especially the UNSC as a body operating strictly within the purposes and principles of non-selectivity, impartiality and objectivity as enshrined in the UN Charter.

Seen from the point of view of the racial, ethnic, national and or linguistic composition of the oppressed majority population of Angola, on the one hand, and the racial, ethnic and cultural make up of the oppressor plus that of especially the influential members of the UNSC, on the other, this state of affairs also creates a perception that racism, racial discrimination and related intolerance, as defined in international law, constitute the motive which dictates the selective approach on the part of certain members of the UNSC vis-à-vis the Angolan dispute.

The UN, and especially the UNSC, has been behaving like a physician suppressing the violent symptoms, but not curing the Angolan disease.

From an African human rights point of view, this report is therefore another attempt to point out the root causes and factors exacerbating and triggering the incessant Angolan armed conflict. Hence, this report also calls upon the UNSC in particular to address the root causes and factors exacerbating the civil conflict in that country, as a matter of urgency.

In a nutshell, this report attempts to identify, expose and establish the criminal liability in Angola as the following:

- Portugal's failure to formally de-colonize Angola
- selective approaches by certain members of the UNSC

- UN inability to digest and therefore address the structural root causes of the Angolan dispute
- politicization of humanitarian aid by certain international aid agencies and their intended or unintended role in prolonging the conflict, and
- conspiracy and criminal complicity by multinational corporations, international banking institutions and multinational mercenary companies in fueling the Angolan civil war for corporate and or personal gain

All these anomalies have been taking place in Angola despite the provisions of international law to the contrary.

NSHR is of the opinion that the May 31, 1992, Peace Accords for Angola (PAA), should continue to be the framework, in accordance with which the Angolan civil war could be ended. However, the Angolan people should be the ones to have a final say in this regard.

Many other observations, conclusions and recommendations on how the Angolan conflict could best be resolved are contained in our publication, titled *Ending the Angolan Conflict: Our Time Has Come To Be Heard* of July 3,2000.

## II. INTRODUCTION

There are several well established legal, moral and political grounds to establish international conspiracy and criminal liability and for the oppressed Angolan people to demand reparations and compensation from especially Portugal and certain influential members of the UNSC as well as certain multinational economic corporations, international banking institutions and multinational mercenary companies for the decisive role they have played and continue to play in aiding, abetting and prolonging the immense suffering of the Angolan people, for their narrowly-defined external economic interests, corporate profit or personal gain.

Such liability becomes even more pronounced if and when, among other things, the following economic, historical, legal, moral and political grounds about the Angolan situation were taken into account:

1. During the second open debate in the UNSC on conflict prevention on July 20, 2000, UN Secretary General Kofi Annan observed, “there is... consensus that prevention strategies must address the root causes of conflicts, not simply their violent symptoms” and that “effective prevention has to address the structural faults that predispose a society to conflict.” Annan added that “the best form of long-term conflict prevention is healthy and balanced economic development.”<sup>2</sup>
2. In his April 2001 periodic report to the UNSC (S/2001/351) on developments in Angola, Secretary-General Annan also correctly noted:
 

*“Some opposition political parties represented in the National Assembly as well as individual UNITA Parliamentarians... agreed that... there is a need to address the root causes of the conflict.”*
3. On December 10, 1999, an *International Colloquium on Peace, Social Stability and Sustainable Human Development* in the Portuguese-speaking Countries of Africa (CPLP or

PALOP) held in Praia, Cape Verde, and sponsored by, among others, UNDP and UNESCO, identified the “poor management of the de-colonization process” and the “reduced efficiency of the role of the international community in the prevention and the resolution of conflicts” as some of the root causes and factors exacerbating conflicts in PALOP countries.<sup>3</sup>

4. In his 1998 report to the UNSC on the causes of conflict and the promotion of durable peace and sustainable development in Africa, Annan brilliantly and accurately identified the root causes of conflict on the African continent as the historical legacies, internal factors, external factors and economic motives.<sup>4</sup>
5. On December 12, 1997, the UN General Assembly (UNGA) adopted resolution 52/131 on strengthening UN action in the field of human rights, in which the UN affirmed that such action be “based not only on a profound understanding of the broad range of problems existing in all societies but also on full respect for the political, economic and social realities of each of them, in strict compliance with the purposes and principles of the Charter of the United Nations....”
6. Also, in terms of resolution 52/131, the UNGA reaffirms that “the promotion, protection and full realization of all human rights and fundamental freedoms, as legitimate concerns of the world community, should be guided by the principles of non-selectivity, impartiality and objectivity, and should not be used for political ends.”

The above and below observations in this report then, firstly, strongly suggest and clearly indicate that the UN, and in particular its Security Council, has so far failed to implement its purposes and principles on the right to full self-determination for the Angolan people. Secondly, contrary to its purposes and principles, UN strategies on conflict prevention and or resolution in Angola have never been applied in an effective, balanced, objective, non-selective or impartial manner. Thirdly, the structural root causes of the Angolan conflict are either misunderstood or they are deliberately ignored for political gain, economic reasons or strategic interests of certain influential members of the UNSC.

### **III. ROOT CAUSES OF THE ANGOLAN CONFLICT**

The perennial Angolan conflict is structurally rooted in the legacies of colonialism and rivalries, characterized by deep-rooted animosities based on class, race, politicized ethnicity and inequitable distribution of the country’s wealth and natural resources. The seeds of most of these causes were sown during Portuguese colonialism in Angola between 1550 and 1975.

It is therefore extremely important and imperative for the international community in general, and in particular the UNSC, to grasp and address the underlying causes of the Angolan civil war.

The present civil conflict is fueled by the reluctance of the privileged minority politico-military rulers of Angola to share political power, wealth and resources with the oppressed indigenous majority population. This state of affairs stems from deep-rooted ethnic rivalries and divisions among the three main Angolan liberation movements that participated in the anti-colonial war between the early 1960s and the mid-1970s.

Such divisions and rivalries are rooted in and fanned by ethnic, racial and class differences, which have most of their origins in the exclusive, exploitative and oppressive Portuguese colonialism in Angola. Political and economic power is concentrated in the hands of a few elitist MPLA leaders,

descendants of Portuguese colonialists and or those who originate from the privileged socio-economic class in the urban areas of the country.

According to the Pretoria-based Institute of Security Studies (ISS), the politico-military and economic power is concentrated in a very small group of descendants of the country's contract laborers who worked in Portuguese plantations on the island of Sao Tome & Príncipe. This group operates from the *Futungo de Belas* in Luanda. The ISS argues further that the ruling MPLA has lost its physical capacity to govern and is unable to take care of the oppressed majority who, in turn, look upon the State as an illegitimate entity.<sup>5</sup>

On the other hand, the leadership of UNITA has its roots in the oppressed, excluded and exploited rural population. The bulk of its political support comes from the majority Ovimbundu ethnic group, making up of at least 45 percent<sup>6</sup> of the population.

Therefore UNITA purports to be the legitimate representative of the majority of the oppressed indigenous population that has been relegated to an inferior status under both Portuguese colonialism of some 500 years and MPLA rule of over 25 years.

Hence, the post-colonial Angolan civil conflict is rooted in and exacerbated by the inequitable distribution of political power, wealth and natural resources, which is effected along ethnic, class and racial lines.

#### **IV. FACTORS EXACERBATING THE ANGOLAN CONFLICT**

There are several factors that have been exacerbating the civil in Angola, including:

##### **1. Denial of the Right to Full Self-Determination and Sovereignty**

Unlike other formerly colonized peoples, the Angolan people has never been formally enabled to exercise their inalienable and imprescriptible right to fully self-determination including to freely determine, without external interference, their political status, to pursue their economic, social and cultural development, and to enjoy complete freedom and independence, let alone control their wealth and natural resources, as stipulated in international law and as envisaged in the Alvor Agreement of January 15, 1975, on Angolan de-colonization.

##### **2. Poor Management of the De-colonization Process**

One of the exacerbating factors in the Angolan conflict is the deliberate "failure" on the part of Portugal to formally de-colonize that country, in flagrant violation of the provisions of the Alvor Agreement. Such Agreement was entered into between Portugal, on the one hand, and three Angolan liberation movements, on the other. Article 4 of the Agreement stipulates that:

*"The independence and full sovereignty of Angola shall be solemnly proclaimed on 11 November 1975 in Angola by the President of the Portuguese Republic or by a specially appointed representative of the President."*

On that date (being November 11, 1975), it was the *Movimento Popular de Libertação de Angola (MPLA)*, which - after having by military force and with Cuban and Portuguese complicity expelled from Luanda the two other parties to the Alvor Agreement - unilaterally declared Angola an independent nation.

Neither the Portuguese President nor his specially appointed representative proclaimed such independence. Instead, on the same day Portugal hurriedly and unceremoniously ended its rule in Angola.

That is to say, *de jure* Portugal has never formally de-colonized Angola and, worse, in so far as the majority indigenous population is concerned, everything else that existed before the conclusion of the Alvor Agreement remained virtually in tact.

As a direct consequence of the failure or abdication on the part of Portugal, the struggle for national liberation became a long-running bloody civil conflict marked by the First, Second and Third Angolan Civil Wars.

Hence, the prime responsibility for the existence of neocolonialism, characterized by the subjection of the Angolan people to alien subjugation, domination and exploitation, must be laid squarely at the feet of Portugal.

### **3. Premature UN Recognition**

Although the formal process of transition from colonialism to national independence was mismanaged and or violated, the UNSC, on November 22, 1976, recommended that Angola be accepted as an independent nation.<sup>7</sup> On December 1, 1976, Angola became the 146th UN Member State.

### **4. Mismanagement of the Peace Accords for Angola**

In an apparent attempt to correct its gross mismanagement of its obligations to formally de-colonize Angola through the Alvor Agreement, Portugal mediated between UNITA and the MPLA the tripartite Peace Accords for Angola (PAA), also known as the Bicesse Accords or *Acordos de Paz*, at Bicesse on May 31, 1991. Such Accords were ratified by the UNSC in terms of resolution 696 (1991) also on May 31, 1991.

Like the Alvor Agreement before it, the Bicesse Accords make provision for the following:

- a balanced cease-fire
- bilateral quartering of Government and UNITA forces
- balanced disarmament and disbandment of the two armies; and
- mutual formation of single representative and neutral national military and police forces.

However, unlike the Alvor Agreement, the PAA envisages multiparty elections as well as a UN verification team of some 550 military and civilian observers under the auspices of the Second UN Verification Mission (UNAVEM II).<sup>8</sup>

The PAA also contains a cease-fire agreement containing the *Triple Zero* clause. This clause imposes a total arms embargo on all concerned and obliges both the Government and UNITA to refrain from acquiring “lethal material” from whatever source.<sup>9</sup> Also, in terms of the cease-fire agreement, members of the Troika of Observers, viz. Portugal, Russia and the US, are strictly prohibited from selling or supplying lethal weapons to either the MPLA or UNITA. They are also obliged to encourage other countries not to do so.<sup>10</sup>



Furthermore, the Bicesse Accords, unlike the Alvor Agreement, provide that UNITA would “recognize” the MPLA as legal Angolan Government “until the general elections were held.” UNITA is given “the right to participate in political activities when the cease-fire entered into force.”<sup>11</sup>

Hence, the MPLA remained in power throughout the implementation of the Bicesse Accords, in charge of all state machinery, including control of the country’s wealth and defense, intelligence and *police forces* as well as the electoral commission and radio and television.

#### **4.1. Failure to Demobilize Forces**

The military takeover of Luanda by MPLA forces and the expulsion of UNITA and FNLA troops from the capital on November 11, 1975, triggered the collapse of the Alvor Agreement.

However, the first major stone was cast at the PAA only when the MPLA Government failed to demobilize its forces.

The PAA calls for all Government and UNITA troops to be situated in the prescribed assembly areas by August 1, 1991, when such process would be completed. However, on October 31, 1991, a UNAVEM II report on troop quartering revealed that some 30,000 Government troops could not be accounted for.<sup>12</sup> This represented some 20 percent of total armed force of roughly 115,000 troops.<sup>13</sup>

The UN also reported that by all standards the number of Government forces in the assembly areas remained particularly low and has even declined by comparison during the latter part of 1991.<sup>14</sup>

Furthermore, according to a UN report, the MPLA Government secretly and unilaterally transferred nearly 30,000 of its special forces into the anti-riot or emergency (i.e. the notorious *Anti-Motim*) police force.<sup>15</sup>

In an attempt to deceive the international community, the Government claimed that the total strength of all its police force, including the *Anti-motim* force, was 39 830; and that the total strength of the *Anti-motim* force was only 1 030 and was planned to reach a strength of 1 516 by the end of December 1992.<sup>16</sup>

The Government also claimed that the 30,000 troops were incorporated into the “police” force well before the implementation of PAA had taken force and that it had until the implementation of the Accords recruited only 4 080 of its demobilized troops into the police force.<sup>17</sup>

The PAA also calls for the creation of a representative, neutral and impartial police force consisting of equal numbers of MPLA and UNITA personnel to replace the existing MPLA police force.<sup>18</sup> However, little, if any, progress was made on this issue. Only 39 of the 183 UNITA personnel included in the first joint training course were qualified for incorporation into the Angolan National Police (ANP) force.<sup>19</sup>

According to the UN, the disbandment of MPLA and UNITA forces and the formation of a new non-partisan army (called Angolan Armed Forces (FAA)) - with equal<sup>20</sup> numbers of Government and UNITA forces - was formally<sup>21</sup> announced only on September 27, 1992, i.e. two days prior to the elections. At the same time there were fewer than 10,000<sup>22</sup> troops of the envisaged 50,000<sup>23</sup> members in place.

The complete formation of a representative, neutral and impartial police force as prescribed in the PAA has also never occurred.

These two major breaches of the PAA therefore became a matter of serious concern to the Joint Politico-Military Commission (JPMC).<sup>24</sup> Consisting of Government and UNITA representatives, the JPMC was charged with the overall overseeing of the implementation of the Accords. Representatives of Portugal, the Russian Federation and the United States of America attended JPMC meetings as observers.

Nonetheless, in spite of the existence of these serious breaches and the consequential profound mutual suspicion such breaches had created between the MPLA and UNITA, the UN allowed the elections to go ahead.

#### **4.2. The Fateful Electoral Process**

On September 29-30, 1992, the first multiparty elections ever in Angola were held. For the observation and verification of the voting process UNAVEM II deployed only 400 electoral observers, operating mainly as two-person mobile teams<sup>25</sup> in a country with a surface area of 1 246 700 square kilometers.

On October 1-2, 1992, the MPLA Government prematurely claimed on State radio and television that it had won the elections. But on October 3, 1992, 8 Angolan Opposition parties, including UNITA, rejected the unofficial results and accused the MPLA of “widespread, massive and systematic irregularities and fraud.”<sup>26</sup>

On October 5, 1992, less than 10 days after the announcement on the formation of the new neutral national army, eleven UNITA generals withdrew in protest against the alleged election fraud.<sup>27</sup>

On October 17-18, 1992, the National Elections Commission (CNE) announced the final<sup>28</sup> election results as follows: in the presidential race<sup>29</sup>, MPLA President Eduardo dos Santos polled 49.57 percent to 40.07 percent for UNITA President Jonas Savimbi. However, both Dos Santos and Savimbi fell short of the required 51 percent to qualify as President of Angola. With regard to the legislative results, the MPLA scored 53.47 percent to UNITA’s 34.1 percent.<sup>30</sup>

UN Special Representative for Angola, Margaret Anstee, tacitly acknowledged on October 17, 1992, that irregularities have indeed occurred in the electoral process. Nonetheless, she asserted that such irregularities did not have a “significant effect on the results.” In a rather ambivalent statement Ms. Anstee stated:

*“[T]here was no conclusive evidence of a major systematic or widespread fraud, or that the irregularities were of magnitude to have a significant effect on the results. With all deficiencies taken into account, the elections held on 29 and 30 September 1992 can be considered to have been generally free and fair.”<sup>31</sup>*

However, on August 21, 1993, former US Assistant Secretary of State for African Affairs, Chester Crocker, pointedly had this to say about the electoral results:

*“The observers present had no way to evaluate the elections. There were few regions of Angola where people could freely express their points of view.”<sup>32</sup>*

In the meantime UN Secretary-General Boutros Boutros-Ghali urged<sup>33</sup> UNITA not to reject the electoral results, pending investigation into the complaint. Boutros-Ghali also emphasized the urgency of a meeting between Dr. Jonas Savimbi and Mr. Eduardo dos Santos in order to resolve the electoral dispute and other pertinent issues.

The outcomes of such an investigation, if any had taken place at all, had never been made public: neither by UNAVEM II nor by the MPLA Government in Luanda.

#### **4.3. UNITA Accepts Results**

It is significant to point out here that already on October 16, 1992, UNITA publicly agreed to accept the yet unofficial electoral results as well as to take part in the second round of presidential elections.<sup>34</sup> According to the Government-controlled *Jornal de Angola* newspaper, UNITA President Dr. Jonas Savimbi declared at a press conference held in Huambo that his movement accepted the election results “as they are now” in order to break the impasse in the country and to “avoid the return to war.”<sup>35</sup>

In the meantime the UN Secretariat succeeded in mediating a cease-fire between MPLA and UNITA forces and on November 12, 1992, Dr. Savimbi formally confirmed in a letter addressed to Boutros-Ghali that UNITA had accepted the legislative electoral results and was prepared to go for the second round of the presidential race.<sup>36</sup>

This UNITA position was also confirmed on November 16, 1992, when Dr. Savimbi, in a letter addressed to UN Undersecretary-General for Peacekeeping Operations, Marrack Goulding, reiterated that “in the interest of peace” UNITA would be disposed to accepting the results of the elections, however, fraudulent. Dr. Savimbi also “called for negotiations between the two sides to prepare the second round of the presidential elections.”<sup>37</sup>

However, the Government put up conditions for resuming political dialogue with UNITA. These conditions included that UNITA accept the results of the September 27-30, 1992, legislative elections.<sup>38</sup>

#### **4.4. Shooting Incident In Huambo**

On October 17-18, 1992, i.e. the day when the results were officially announced, a serious shooting incident occurred in the city of Huambo between MPLA and UNITA forces. The incident, initiated by MPLA forces under the command of General Sukissa and Brigadier Walter, led to heightened political tensions in the country.<sup>39</sup>

On October 27, 1992, Secretary-General Boutros-Ghali in a report to the UNSC stated that the Angolan elections had been “generally free and fair” but expressed “serious concern at the deterioration of the political situation and the rising tension” in Angola.<sup>40</sup>

This led to the issuance of a statement by the President of the UNSC, calling upon UNITA to “respect the results of the elections held on 29 and 30 September”<sup>41</sup> and to “engage in a dialogue without delay.”<sup>42</sup> At the same time, the President of the UNSC threatened that “the Security Council will hold responsible any party which refuses to take part in such a dialogue, thereby jeopardizing the entire process.”<sup>43</sup>

#### **4.5. MPLA Kills UNITA Negotiators As UNSC Issues Threats**

On October 20, 1992, in an apparent effort to defuse tensions and discuss the technical aspects (i.e. the modalities) of the second round of presidential elections, Dr. Savimbi in Huambo dispatched a high-powered delegation to Luanda.<sup>44</sup>

However, the delegation, consisting of UNITA Vice-President Jeremias Chitunda, Chief Negotiator Elias Salupeto Pena, Secretary-general Alicerces Mango and Administrative Secretary Eliseu Chimbili, never returned to Huambo, as they were among the some 20,000 UNITA supporters massacred<sup>45</sup> by MPLA Special Forces and armed civilians in Luanda, between October 31 and November 2, 1992. The MPLA attackers destroyed UNITA's offices in Luanda, killing and or capturing almost all of its military and civilian personnel. As a consequence, within a month the war resumed throughout the country.<sup>46</sup>

The Luanda massacre commenced on October 31, 1992, i.e. barely 23 hours after the UNSC adopted resolution 785 (1992) extending the mandate of UNAVEM II to November 30, 1992. Hence, the UNSC expressed concern at the "alarming reports of resumed hostilities in many parts of the country." There is no doubt the UN was referring to the massacres of UNITA supporters carried out by Government forces and armed civilians in Luanda and other major towns.<sup>47</sup>

However, official UN reports referred to the Luanda massacre only as following:

*"A large number of Angolans, in particular UNITA supporters, were killed."*<sup>48</sup>

The UNSC made no mention, whatsoever, of the fact that among those UNITA supporters so massacred were the four UNITA negotiators, let alone condemn the killing of 15,000 people over a period of three days.<sup>49</sup> In other words, 5,000 people on average per day were massacred in Luanda alone.

The massacre of UNITA peace negotiators and other supporters in earnest triggered the Second Angolan Civil War and heightened the concern of the UNITA leadership about their personal security. Nevertheless, the UNSC threatened to "consider all appropriate measures under the Charter of the UN to secure implementation of the *Acordos de Paz*."<sup>50</sup> This threat was, however, directed at UNITA alone.

#### **4.7. Secretary-General Identifies "Root Cause" of Hostilities**

On November 25, 1992, in a detailed report to the UNSC, Secretary-General Boutros-Ghali identified the "root cause"<sup>51</sup> of the resumption of hostilities as the following:

- less than effective demobilization of forces and storage of weapons
- the delay in creating the unified Angolan Armed Forces
- the failure to re-establish effective central administration in many parts of the country; and,
- the delay in setting up a neutral police force as well as UN failure to create an atmosphere of mutual confidence, tolerance and respect between the two warring parties.

Boutros-Ghali also urged an increasingly impatient UNSC not to "despair of the Angolan peace process."<sup>52</sup>

On November 30, 1992, the UNSC adopted resolution 793 (1992) in which it extended the mandate of UNAVEM II to January 31, 1993. It also demanded that the “two parties scrupulously observe the cease-fire, immediately stop all military confrontation and all offensive troop movements.”<sup>53</sup>

#### **4.8. UNSC Condemns UNITA**

Taking advantage of a series of UNSC public condemnations and the “expulsion of UNITA” from Luanda, Government forces and armed civilians continued to massacre UNITA supporters in at least 10 other provisional capitals of the country.<sup>54</sup> As a consequence, many more real or perceived UNITA supporters, including between 100 and 300 members of the Bakongo<sup>55</sup> ethnic group, were indiscriminately decimated.

As the MPLA military attacks on UNITA supporters were in full swing, UNITA forces retaliated and, in a counter offensive, recaptured several towns and municipalities.<sup>56</sup> This retaliatory strike and the withdrawal of eleven UNITA generals from the still incomplete new armed forces were, however, singled out by the UNSC as the most serious violations of the Peace Accords.

Consequently, on January 29, 1993, the UNSC passed resolution 804 (1993) in which it strongly condemned UNITA for the “persistent violations of the main provisions of the *Acordos de Paz*,” for the “withdrawal from the new Angolan armed forces and its seizure of provincial capitals and municipalities and the resumption of hostilities.”<sup>57</sup>

Nevertheless, in an apparent reference to the massacres of UNITA negotiators and supporters, but without mentioning the Government by name as the perpetrator, the UNSC also strongly condemned “violations of international humanitarian law, in particular the attacks against the civilian population, including the extensive killings carried out by armed civilians.”<sup>58</sup> By resolution 804 (1993) the UNSC also extended the mandate of UNAVEM II to April 30, 1993.

From thereon UNITA was repeatedly and solely condemned in virtually all the UNSC resolutions and statements.<sup>59</sup> UNITA is now being held solely responsible for the collapse and failure of all UN peacekeeping operations in Angola.<sup>60</sup>

#### **4.9. As US Recognizes Luanda, UN Sanctions UNITA Amid Government Arms Buildup**

On May 19, 1993, motivated by oil and other external economic interests, and in spite of the very serious human rights, humanitarian and security situation in Angola, the Clinton Administration, for the first time, recognized the MPLA Government. Subsequently, the US became Angola’s largest trading partner in the sub-Saharan African region.<sup>61</sup>

On September 15, 1993, the UNSC, wherein the US is the most influential member, passed resolution 864 (1993), paragraph 19 of which imposes a unilateral comprehensive arms and oil embargo on UNITA. Resolution 864 (1993) entirely contradicts the *Triple Zero* clause of the PAA.

For the first time in UN history, UNITA became the first non-state actor against whom the provisions of Chapter VII of the UN Charter were applied.

Meanwhile, propelled by US recognition as well as UNSC sanctions against UNITA, the MPLA Government, on June 7, 1993, unilaterally revoked the *Triple Zero* clause and, as during the

implementation of the Alvor Agreement, it began another massive arms build-up. Such build-up, which reached its peak in 1994, was made possible with funds obtained from oils sales under written by multinational oil corporations and international banking institutions.

As in virtually all other cases, the weapons were also purchased from the Russian Federation, one of the three “guarantors” of Angolan peace.

It must also be pointed out that already on August 25, 1991, in blatant disregard of the *Triple Zero* arms embargo, the MPLA Government received heavy artillery and assault vehicles from Russia.<sup>62</sup> To date Russia remains the Government’s largest arms trading partner.<sup>63</sup> According to Human Rights Watch (HRW), Angola, thanks to the MPLA, has a US\$6 billion debt<sup>64</sup> to Russia, for lethal weapons supplied in the 1980s.

On September 15, 1993, in terms of resolution 864 (1993) the UNSC imposed arms and oil embargo on UNITA, but allowed the MPLA Government to import lethal weapons. Paragraph 19 of UNSC resolution 864 (1993) allows the Government to import such weapons as long as these came in “through named points of entry on a list supplied by the Government of Angola to the Secretary-General, who shall promptly notify the Member States of the United Nations.”<sup>65</sup>

However, in terms of the PAA, the US, Russia and Portugal, commonly known as the Troika of Observers, were supposed to act impartially, non-selectively and objectively as guarantors of the Lusaka Peace Process.

On its part the Clinton Administration pressed the American mercenary outfit, the Military Professional Resources Incorporated (MPRI), to train<sup>66</sup> Government armed forces in order to fight UNITA and Cabindan guerrillas.

Not surprisingly, on September 26, 1993, US President Bill Clinton signed the Executive Order (no. 12865) declaring UNITA *inter alia* “an unusual and extraordinary threat to the foreign policy of the United States.”<sup>67</sup>

Hence, the commercial and financial interests of Brazil, Portugal, the Russian Federation and the US, have also seriously undermined international efforts to bring about a durable resolution of the Angolan question.

The arms build-up, which the MPLA had acquired throughout the implementation of the Lusaka Protocol and thereafter, enabled the Government to isolate UNITA internationally. It also enables the Luanda Government to wage wars of aggression in the sub-region. For example, the MPLA became involved in the civil war in the Democratic Republic of Congo, the overthrow of the Pascal Lissouba government in Congo-Brazzaville, military involvement in Namibia and armed incursions into Zambia.<sup>68</sup>

#### **4.10. The Lusaka Protocol & Peace Process**

Signed on November 20, 1994, the Lusaka Protocol was intended to complete the implementation of the Bicesse Accords. However, unlike the Bicesse Accords, the Protocol makes provision for the following:

- the re-establishment of the 1991 cease-fire
- unilateral quartering of all UNITA troops

- unilateral withdrawal, disarmament and disbandment of all UNITA forces, and re-integration of UNITA generals into the Government armed forces
- incorporation of UNITA troops into the Government-controlled police force
- repatriation of all foreign mercenaries
- disarmament of the civilian population; and
- the quartering and disarmament of the Government's rapid intervention police, notoriously known as *Anti-motim* or the Ninjas.

The major political aspects of this Protocol were:

- the verification and monitoring by the UN
- cessation of all hostile propaganda
- establishment of an independent UN radio station
- completion of the 1992 presidential electoral process
- formation of a government of national unity and reconciliation, and,
- extension of State administration to UNITA-controlled areas

The Lusaka Protocol of November 20, 1994, was supposed to complement, rather than to weaken the PAA, including the *Triple Zero* clause. Nonetheless, the Protocol, on several counts, conflicts with both the PAA and the Alvor Agreement. Moreover, this Protocol was reached and implemented under a state of war, threat of war<sup>69</sup> and assassination attempts on the lives of UNITA leaders as well as coercion and ultimatums that characterized many UNSC resolutions and statements on the Angolan situation since December 1992.

The confrontational and, in some cases, hostile UNSC statements and resolutions have not only undermined mutual confidence between the two warring parties but also exacerbated the Angolan civil conflict.

Today, the absence of such confidence between the warring Angolan parties, on the one hand, and the perceived lack of impartiality and objectivity on the part of especially the UNSC, on the other, constitute the biggest threat to long-lasting peace in Angola.

The Lusaka Protocol also has failed to impose a bilateral arms embargo on the MPLA Government and UNITA. According to Human Rights Watch (HRW) Brazil, Portugal and the Russian Federation supplied large amounts of lethal weapons to the MPLA Government throughout the implementation of the Protocol.

#### **4.12. Government Terminates MONUA, Launches Third War**

In August 1998 the Government prevented UN Special Representative Issa Diallo from traveling to Andulo to hold talks on the issue of the extension of State administration to the rest of UNITA-controlled areas.

Then on December 2, 1998, Angolan President Eduardo dos Santos unilaterally terminated UNITA's and Savimbi's role in the implementation of the Lusaka Protocol, in favor of a breakaway group, UNITA-Renovada. Dos Santos also unilaterally terminated the mandate of the UN Observer Mission in Angola (MONUA).<sup>70</sup>

However, the Third and present Angolan Civil War resumed in earnest on December 5, 1998, when speaking at the opening of the IV Congress of his ruling MPLA, President dos Santos stated that "the only way" to lasting peace was the total elimination of Savimbi and his UNITA movement.<sup>71</sup> The following day, i.e. December 6, 1998, MONUA observers, citing security reasons, withdrew from all the UNITA-held areas.<sup>72</sup>

Just prior to the opening of the said Congress, MPLA Government forces launched a military attack on UNITA and subsequently seized its administrative strongholds of Bailundo and Andulo.<sup>73</sup> Angola was, therefore, once again, plunged into a bloody civil war marked by a very serious human rights, humanitarian and security situation.

The MPLA Government declared the Third Angolan Civil War and launched a major military offensive to crush UNITA and resolve the dispute by force with the overwhelming support of especially the UN and the Troika of Observers.<sup>74</sup>

Furthermore, it is clear that certain actions on the part of the UNSC had been used for purely political ends or national economic interests of some of its permanent members.

It is precisely this and other unbalanced and inconsistent approaches by particularly the influential members of the UNSC in blatant disregard of the UN purposes and principles on non-selectivity, impartiality and objectivity that have caused the international community to be perceived in certain quarters as being part of the problem, rather than the solution to the Angolan civil conflict. Such approaches are perceived to have systematically undermined mutual confidence between the warring parties.

## **5. Sanctions Against UNITA: Aim to Destroy the Organization?**

According to the UN, the sanctions against UNITA are not intended to destroy the movement as a political organization but to force it to accept peaceful resolution of the Angolan conflict. In practice, however, the objective of the sanctions regime complemented by the military campaigns of the Government with support from the UN appeared to aim to destroy UNITA as an organization. Consider the following:

Firstly, although there are two parties to the conflict, the sanctions regime is aimed at only one of the two parties. In order to secure a peaceful resolution of the Angolan conflict, a comprehensive arms embargo should have been applied equally against both the Government and UNITA, as contemplated in the Peace Accords for Angola.

Secondly, the sanctions regime targets not only the military forces of UNITA but also the diplomatic leadership of the organization. The Sanctions Committee established in terms of UNSC resolution 864 (1993) recommends, *inter alia*, the "immediate expulsion of the persons found still to be actively engaged in UNITA's military or political affairs" and that



the list of “senior UNITA officials” should be “expanded to include foreign individuals closely collaborating with UNITA and providing assistance.”<sup>75</sup>

Thirdly, the claims that UNITA leader Jonas Savimbi cannot be trusted, because “he has consistently broken his word” and “returned to his murderous war”<sup>76</sup> seem to suggest that the best UNITA is one without Savimbi or no UNITA at all. This tendency also becomes apparent in UNSC resolution 1202 (1998), which took “note of the establishment of UNITA-Renovada,” a breakaway UNITA faction. However, the UNSC does not seem to attach any importance to the fact that several other political parties and civil society groupings have also been in the meantime established in Angola to play a role in the democratization of that country.

Fourthly, the international community, and in particular the UNSC, has so far failed to address the structural root causes of the Angolan conflict.

Fifthly, according to the ISS, diamonds from Angola are not a significant factor in the international diamond market and that UNITA earns a relatively small amount from diamond sales, compared to the Government’s income from oil. However, the ISS points out that diamonds are strategically crucial for the survival of UNITA, which depends upon the income generated through diamonds not only to acquire weapons but also to buy food, medicine and other essential services for those living in areas under its control.<sup>77</sup>

Sixthly, the UN is actively involved in supporting the forced displacements of people by extending humanitarian aid to the Government’s ‘reinstallation’ camps while withholding such aid to UNITA-controlled zones.

Seventhly, there are credible reports saying that the MPLA Government - assisted by Portuguese, Brazilian, Israeli and Russian mercenaries - had used chemical cluster, napalm, fuel-air-explosive and other bombs<sup>78</sup> against civilian targets in UNITA-controlled areas.

Lastly, according to Angolan journalist Raphael Marques, when the MPLA Government declared the Third Civil War and launched a major military offensive to crush UNITA and resolve the dispute by force, it enjoyed the overwhelming support of especially the United Nations and the Troika of Observers.<sup>79</sup>

## **6. The Role of Humanitarian Assistance Agencies**

The *modus operandi* and philosophy of humanitarian aid agencies were by their nature and design supposed to be premised on strict neutrality, impartiality and non-selectivity as enshrined in UN Charter and other international norms. In his June 2001 report on the prevention of armed conflict addressed to the UN, Secretary-General Kofi Annan outlined, among other things, the following basic premises aimed at mobilizing greater UN coherence and focus for conflict prevention and or resolution:

1. UN efforts in conflict prevention must be in conformity with the purposes and principles of the Charter.
2. Although the primary responsibility for conflict prevention rests with national Governments, with civil society actors playing an important role, the main role of the UN and the international community is to support national efforts for conflict prevention and assist in building national capacity in this field.

3. One of the principal aims of preventive action should be to address the deep-rooted socio-economic, cultural, environmental, institutional and other structural root causes that often underlie the immediate political symptoms of conflicts, and that;
4. An effective preventive strategy requires a comprehensive approach that encompasses both short-term and long-term political, diplomatic humanitarian, human rights, and developmental, institutional and other measures.

The partisan role that certain humanitarian aid agencies, and particularly those within the UN system, have played and continue to play in the politicization of humanitarian aid in conflict areas has seriously threatened most of the basic principles outlined above by Annan. This state of affairs has increasingly elicited concern on the part of all those who are genuinely concerned with effective conflict prevention and or resolution strategies.

NSHR is no exception in this regard.

The World Food Program (WFP) has particularly been criticized on several occasions by various civil society actors for lacking neutrality, impartiality and independence in distributing humanitarian aid in Angola. Consider the following:

1. At the beginning of 1993, a Harare-based WFP spokesperson was reported as saying ‘we cannot fly over enemy [meaning UNITA] controlled areas.’<sup>80</sup>

In their recent report on the humanitarian crisis in Angola, the Noble Peace Prize holding Medicines without Borders (MSF), among other things, denounced the practice of massive forced population displacements of people called “reinstallation” and creating total dependence on humanitarian aid in that country.

Lashing out at the ‘façade of normality’, the said MSF report fell short of accusing the WFP of complicity in the Government’s “reinstallation” drive and in claiming that the human rights, humanitarian and security situation in Angola has normalized. Said MSF:

*“It is not only the Angolan Government that is speaking of ‘normalization in the country’. The international community and the United Nations echo this talk of newfound stability. In response, the United Nations agencies, and in particular the World Food Program (WFP), will shift the system of general food distribution to support the government’s planned ‘reinstallation’ of people. Support from the international community in the form of intensive economic investments—investments whose impact are only visible in Luanda and on the Atlantic coast— make this façade of stability possible.”<sup>81</sup>*

On November 9, 2000, MSF Head of Mission in Angola had this observation to make:

*“Contrary to the fictitious official line that is given out by the government, and accepted in turn by the international community and the United Nations, the situation is far from being ‘normal’.”<sup>82</sup>*

MSF noted that the practice of “orchestrated displacements” of people to regions, with meager aid and protection offered to them, makes it impossible to ensure genuine relief for those displaced. MSF also charged that:

*“The people are used by both sides as a weapon of war and are literally displayed into humanitarian ‘shop windows’, at best to secure maximum access to funds, at worst to get the approval of the international community.”<sup>83</sup>*

2. Also, the Angolan Anti-Militarism Initiative for Human Rights (IAADH) - -one of the country’s strongest pro-dialogue civil society actors - -has accused certain UN agencies and in particular the WFP of not only ignoring the abominable human rights record of the Luanda Government but also of being “hostile” towards critics of the said government.<sup>84</sup>
3. While the MSF correctly had blamed both the Angolan Government and UNITA of having equally been responsible for the very grave human rights, humanitarian and security situation in the country, a certain Enrico Pavignani, an independent consultant “with a long-term interests in the Angolan health sector,” differed:

*“We need to differentiate a corrupt and poorly functioning, but legitimate, government of Angola from UNITA, the malicious force which has contributed greatly to sustaining the war for years. Talking about them [i.e. the Government and UNITA] in the same breath and not differentiating their motives and roles is unfair, unhelpful, and indirectly legitimizes UNITA. Bolstering the ability of the government to deliver services must remain a priority for donor agencies and non-governmental organizations.”<sup>85</sup>*

4. According to the ISS, humanitarian assistance is a political instrument and is used as such by conflicting factions and or by donors and can, under certain circumstances, contribute to prolonging conflicts. On the role of humanitarian agencies in contributing to conflict prevention and or resolution ISS said:

*“Only once humanitarian aid is recognized as a political factor will it be possible to restrict abuses and incorporate it constructively as a possible conflict resolution mechanism.”<sup>86</sup>*

Hence, real or perceived lack impartiality and neutrality on the part of certain international humanitarian aid agencies, such as the World Food Program, have also significantly contributed to the exacerbation of the Angolan conflict.

## **7. Scramble for Angola’s Wealth and Natural Resources**

External business rivalry for oil, wealth and natural resources in Africa has been a common exacerbating factor for civil conflicts.<sup>87</sup> According to the Center for Conflict Resolution (CCR) based at the University of Cape Town, South Africa:

*“African post-colonial violence is invariably presented to the outside world as if it was the ‘natural’ condition for a ‘barbarous’ continent. The business rivals have the power to plant their stories in the media deflecting attention from the possibility that it is the multinational actors who, by intriguing with local political interests, stir up much of the violence themselves.”<sup>88</sup>*

The fact that the Angolan conflict is almost exclusively blamed on UNITA by certain influential Western governments sitting on the UNSC as well as certain sections of the international media appears to confirm the above observation by the CCR.

In March 2000, then Chairman of the Angola Sanctions Committee, Canada's UN Ambassador Robert Fowler, observed that Angola is "an enormously rich country, which in a couple of years was expected to pump more oil than Nigeria."<sup>89</sup> Fowler also noted that Angola had about 6 percent of the world's high-quality and high-value diamonds."<sup>90</sup>

Clearly, Angola's oil and diamond resources are part of the problem. The country's vast wealth and natural resources are controlled and exploited by Western multinational oil and diamond corporations, international banking institutions and multinational mercenary companies through certain individuals in the top echelons of the Angolan Government.

### **7.1. Western Multinational Corporations (MNC)**

The chaotic situation of war, instability and statelessness in Angola created a perfect environment and best opportunity for especially unscrupulous Western multinational oil and diamond corporations (MODCs), international banking institutions (IBIs) and multinational mercenary companies (MMCs), to plunder Angola's wealth and natural resources and to reap enormous profits with impunity.

Global Witness (GW), a British-based human rights and environmental organization, has demonstrated, in finer detail, how Western multinational oil and diamond corporations, international banking institutions and certain foreign governments, in complicity with the MPLA Government in Luanda, have been fueling the Angolan conflict:

*"The international oil companies which are profiting from the Angolan people's main natural resource, the international banks which arranged short-term loans at exorbitant interest rates and the national governments which assist such business arrangements must accept their responsibility... If not, they must accept that they are complicit in this situation. Collectively, they are the source of the vast disappearing revenues, which are the driving force behind the continuation of war."*<sup>91</sup>

In order to correct this situation GW recommended that "international commercial banks, which have provided vast loans that have been used" by the Angolan Government to purchase lethal weapons, "often through mafia-style individuals and companies... should desist in providing further loans."<sup>92</sup>

The views of GW are in congruence with the observation by Human Rights Watch (HRW), which similarly says:

*"... The Angolan Government has used oil revenues to finance covert arms purchases that undermined the spirit of the Lusaka Peace Accords. The arms are being used to continue a vicious civil war in which hundreds of thousands of civilians have lost their lives over the last decade and nearly 10 percent of the population were displaced by the renewed conflict."*<sup>93</sup>

HRW also reported that the MPLA Government during 1998 used about US\$870 million of funds that had been generated from signature bonus payments on oil exploration and offshore concession blocks to acquire sophisticated weapons.<sup>94</sup>

The UN recognizes the negative role that multinational corporations can play in fueling conflicts. During the struggle for the right to self-determination in Namibia, the UNGA:

*“Strongly condemns the activities of all foreign corporations operating in Namibia... which are exploiting illegally the human and natural resources of the Territory, and demands that transnational corporations comply with all pertinent resolutions of the United Nations by immediately abstaining from any new investments in Namibia, by withdrawing from the Territory....”*<sup>95</sup>

The UNGA also declared that:

*“The natural resources of Namibia are the birthright of the Namibian people, and that the exploitation of those resources by foreign economic interests... in violation of the Charter of the United Nations... is illegal and contributes to the maintenance of the illegal occupation regime.”*<sup>96</sup>

The destructive role that the multinational oil and diamond corporations are playing in fueling the Angolan conflict is also recognized by UN Secretary-General Kofi Annan, whose Special Adviser on Africa, Ibrahim Gambari, on February 8, 2001, held discussions in London with representatives of *inter alia* DeBeers, Chevron, BP-Amoco and Shell International on ways to advance efforts to end the Angolan civil war.<sup>97</sup>

## **7.2. Multinational Mercenary Companies**

The involvement of diamond mining mercenary firms, such as Executive Outcomes (South Africa), Sandline International (UK), DiamondWorks (Canada) in fueling the Angolan and other civil conflicts in Africa is also well documented.<sup>98</sup> Such involvement became more pronounced from the beginning of 1993 onwards. Many of these mercenary firms are said to have close ties<sup>99</sup> with the multinational oil and mineral exploration corporations, which provide additional funding and political contacts for such firms.<sup>100</sup>

The UN Special Rapporteur on Mercenaries had this observation to make about the role of mercenary companies in fueling conflicts:

*“The aggravating factor is that their participation is linked to the bloodiest aspects of a conflict and to crimes against human rights. Moreover, the financial considerations and desire for illicit gain through looting which are associated with their participation may be decisive in prolonging the conflict. The mercenary’s interest lies not in peace and reconciliation but in war, since that is his business and his livelihood.”*<sup>101</sup>

## **V. PURPOSES AND PRINCIPLES OF THE UNITED NATIONS**

On the other hand, the purposes and principles of the UN as well as the intentions and prescriptions of international law are very clear and leave no room for misunderstanding and or ambiguity:

1. On December 14, 1960, the UNGA proclaimed the *Declaration on the Granting of Independence to Colonial Countries and Peoples*, which, *inter alia*, states that “the subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the United Nations Charter, and is an impediment to the promotion of world peace and cooperation, and that steps should be taken to transfer, unconditionally, all powers to [such peoples] so that they might enjoy complete freedom and independence.”

2. On December 14, 1962, the UNGA in terms of resolution 1803 (XVII), also proclaimed that the “right of peoples and nations to permanent sovereignty over their natural wealth and resources must be exercised in the interest of their national development and of the well-being of the people of the State concerned.”<sup>102</sup>
3. On December 4, 1986, the UNGA in terms of resolution 41/128 proclaimed that the “right to development is an inalienable human right by virtue of which every human being and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedom can fully be realized.”<sup>103</sup>

In the same resolution the UNGA also stressed that “all human rights and fundamental freedoms are indivisible and interdependent and that, in order to promote development, equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights and that, accordingly, the promotion of, respect for and enjoyment of, certain human rights and fundamental freedoms cannot justify the denial of other human rights and fundamental freedoms.”<sup>104</sup>

Furthermore, in terms of resolution 41/128, the UN calls upon States to take resolute steps to eliminate “the massive and flagrant violations of the human rights of peoples and human beings affected by situations such as those resulting from apartheid, all forms of racism and racial discrimination, colonialism, neo-colonialism, foreign domination and occupation, aggression, foreign interference and threats against national sovereignty, national unity and territorial integrity, threats of war and refusal to recognize the fundamental right of peoples to self-determination.”

4. On May 31, 1991, the UNSC passed resolution 696 (1991) on the Peace Accords for Angola containing the *Triple Zero* (i.e. an arms embargo) clause, which prohibited “accepting lethal equipment, whatever its origin.”<sup>105</sup>
5. On August 28, 1997, although belatedly, the UNSC correctly determined that the situation in Angola “constitutes a threat to international peace and security in the region.”
6. In accordance with resolution 53/68 of January 22, 1999, the UNGA affirmed, “the continuation of colonialism in any form or manifestation, including economic exploitation, is incompatible with the Charter of the United Nations, the *Declaration on the Granting of Independence to Colonial Countries and Peoples* and the *Universal Declaration of Human Rights*.”

## VI. CRIMINAL LIABILITY

In Angola, neo-colonialism characterized by alien subjugation, domination and exploitation as well as denial of complete and total independence is a reality and the injustices resulting there from are now being reincarnated into a burden on the shoulders of also future Angolan generations.

Political power continues to be exclusively in the hands of a racial and social minority with questionable allegiance to the country.

It is on that account that Portuguese neo-colonialism in Angola is and should be of crucial concern to all those seeking justice for the victims of colonialism. We cannot undo the past: neither can we pay for its victims. But the least we can do is shoulder the moral imperative to stop the injustices of the past being transferred onto future Angolan generations.

1. As stated earlier, on May 31, 1991, the UNSC passed resolution 696 (1991) on the Peace Accords for Angola containing the *Triple Zero* (i.e. an arms embargo) clause, which prohibited “accepting lethal equipment, whatever its origin.”<sup>106</sup>

However, members of the so-called Troika of Observers, particularly Portugal and the Russian Federation violated this resolution and supplied lethal weapons to the Angolan Government throughout such Accords.

Ostensibly disturbed by such flagrant violation, then British Permanent Representative to the United Nations and British Representative on the UNSC Sir. David Hannay, noted in 1993 that:

*“We made a mistake. We probably should not have allowed the weapons floodgates to have been opened but have concentrated on making sure the embargo was better implemented.”*<sup>107</sup>

Yet no steps have been taken by the UNSC to rectify this situation.

2. Furthermore, in terms of resolution 696 (1991) on Angola, the UNSC, *inter alia*, stressed “the importance of all States,” including the Observer States: Portugal, the Russian Federation and the United States of America to refrain “from taking any actions which could undermine [the Peace Accords for Angola].”

Nonetheless, on September 15, 1993, the UNSC passed resolution 864 (1993), paragraph 19 of which selectively prohibits “all sale or supply to UNITA of arms and related materiel and military assistance, as well as petroleum products.” At the same time resolution 864 (1993) allows the MPLA Government to import “arms and related materiel of all types” as long as such importation is made “through named points of entry on a list to be supplied by the Government of Angola to the Secretary-General, who shall promptly notify the Members States of the United Nations.”<sup>108</sup>

Additionally, the ongoing military cooperation and or pacts between the Government of Angola, on the one hand, and Portugal, Brazil and the Russian Federation, on the other, have suppressed the right of the Angolan people to self-determination as enshrined in the Charter of the United Nations and as embodied in the International Covenants on Human Rights as well as in the *Declaration on the Granting of Independence to Colonial Countries and Peoples* contained in General Assembly resolution 1514 (XV) of December 14, 1960.

Moreover, the UNGA in terms of resolution 52/131 reaffirms that “the promotion, protection and full realization of all human rights and fundamental freedoms, as legitimate concerns of the world community, should be guided by the principles of non-selectivity, impartiality and objectivity, and should not be used for political ends.”

3. The complicity of Elf, Texaco, Mobil/Exxon, Chevron, BP Amoco and Shell as well as certain French and Swiss banks, such as United Bank of Switzerland and Paribas, in fueling

the Angolan conflict for corporate profits has prolonged and exacerbated the immense suffering of the Angolan people, the neo-colonialist exploitation, foreign subjugation or domination, the suppression of the right of the Angolan people to exercise control over their wealth and natural resources and has undermined their total and complete freedom and independence.

As is the norm by all corrupt entities, the corrupt practices, including bribing of Angolan government officials, by multinational oil and diamond corporations (MODCs), international banking institutions (IBIs) and multinational mercenary companies (MMCs) are conducted under the cover of secrecy.

Lack of transparency and accountability on the part of Elf Aquitaine (France), BP-Amoco (United Kingdom) and Chevron and Mobil/Exxon (USA) as well as Swiss and French banking institutions and their involvement with key individuals such as President Eduardo dos Santos and other high-ranking Angolan government officials in plundering Angolan States assets are well-documented, by among others, Global Witness (GW), Human Rights Watch (HRW) and *The Economist*.

Hence, these entities must be directly held responsible for creating a situation unfavorable and incompatible not only with the interests and aspirations of the Angolan people, but also the purposes and principles of the United Nations. These MODCs, MMCs and IBIs in particular have immensely aided, abetted and strengthened corruption, repression and the destruction of Angolan social and moral fabric.

Furthermore, the exposure of the collusion by particularly MODCs, IBIs and MMCs with the Government of Eduardo dos Santos is only cruel from the view that the very same institutions and corporations will want in the future to collect their debts from victims of their own crimes. Their own criminal acts must be punished.

NSHR are therefore grateful for the research done by GW, HRW, *The Economist* and others about the role of MODCs, IBIs and MMCs in fueling the very grave human rights, humanitarian and security situation Angola, which the UN correctly declared “a threat to international peace and security.” NSHR calls on these MODCs, IBIs and MMCs to immediately do the only moral act: stop their criminal and illegal acts in Angola, now.

The impoverished Angolan people are subsidizing the rich in the Western countries through the illegal deeds of the Angolan government in collusion with MODCs, MMCs and IBIs.

4. Worse, revenues accruing from Angolan oil and diamond resources are not only used to subjugate the right of the Angolan people to self-determination but also to sponsor wars of aggression in Namibia, Zambia, the Democratic Republic of Congo, the Republic of Congo and so on. Death, suffering and destruction followed these illegal military incursions by Angola.
5. It is therefore imperative that entities such as Portugal, Brazil and the Russian Federation as well as certain MODCs, IBIs and MMCs, must be held criminally liable for aiding, abetting and contributing to the very dangerous human rights, humanitarian and security situation in Angola, characterized by acts of genocide, crimes against humanity, war crimes and the crime of aggression.



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