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1. Introduction

1.1 This document summarises the general, political and human rights situation in Angola and provides information on the nature and handling of claims frequently received from nationals/residents of that province. It must be read in conjunction with the CIPU Angola Country Report April 2005 and any CIPU Angola bulletins.

1.2 This document is intended to provide clear guidance on whether the main types of claim are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Caseworkers should refer to the following Asylum Policy Instructions for further details of the policy on these areas:

API on [Assessing the Claim](#)

API on [Humanitarian Protection](#)

API on [Discretionary Leave](#)

API on [the European Convention on Human Rights](#)

1.3 Claims should be considered on an individual basis, but taking full account of the information set out below, in particular Part 3 on main categories of claims.

Source documents

1.4 Where paragraph numbers have been cited, these refer to the Angola CIPU Country Report April 2005. Additional source documents are listed at the end of this note.

2. Country assessment

2.1. Angola was granted independence from Portugal on 11 November 1975 after which power was contested in a civil war between the major political power; the Soviet-backed Popular Movement for the Liberation of Angola (MPLA) and opposition groups; the National Union for the Total Independence of Angola (UNITA) with the National Front for the Liberation of Angola (FNLA), supported by the US and other neighbouring African states. Angola was a one-party state under the MPLA until 1991. Then, as part of the Bicesse peace settlement, multi-party politics were introduced. Power is centralised in the President, who appoints all key public office-bearers including the Governors of the 18 Provinces. A total of 126 parties have since registered, but the majority are moribund. Less than a dozen parties have any real organisation or support base. Angola held its first ever elections in September 1992, an event intended to end the 18-month transition between war and peace, as provided for in the Bicesse accords. But many of the key tasks of Bicesse had not been completed by that stage. Notably, UNITA had largely not disarmed nor demobilised, and the proposed new integrated Angolan Army had barely got off the ground. [4.1 - 4.12 & 5.11 - 5.15] [1]

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2.2 In spite of an election declared by the UN to be generally free and fair, UNITA contested the results and took the country back to war. In the Presidential election, the MPLA's candidate, Eduardo dos Santos won 49.6% of the vote while UNITA's leader, Jonas Savimbi secured 40 %. In the parliamentary elections, the MPLA won 129 of the 220 seats, UNITA 70, while 10 parties shared the remaining 21 seats. A government of national unity (GURN) was put in place some years later, in April 1997 as agreed by the Lusaka Protocol. UNITA deputies finally took their seats in the National Assembly at the same time. [4.2 - 4.5 & 5.11 - 5.15] [1] [2a] [2b]

2.3 Two attempts at brokering a peace failed. Both, the Bicesse Accords of May 1991 and the Lusaka Protocol of 1994, were monitored by small UN peace-keeping forces, UNAVEM I and II. The UN Security Council also imposed a series of sanctions on UNITA from 1993. These too failed to stop the fighting. The MPLA therefore decided at its Party Congress in December 1998 to pursue a final military offensive against UNITA. It asked the UN to leave. After 3 years of fighting, government forces succeeded, firstly by killing UNITA's leader in February 2002 and subsequently by coming to an agreement, the Luena Memorandum of Understanding of April 2002, with UNITA commanders to end the war. Isaias Samakuva was subsequently elected the new UNITA leader at the Party's 9th Congress in 2003. [4.6 - 4.12] [1] [2a] [2b]

2.4 Although peace has been achieved on the mainland, the problem of Cabinda remains to be resolved. A low level guerilla war has been conducted for over 30 years by rebel groups fighting for the independence of the Province. The Angolan government has used alternately negotiations and military force to no avail. [6.55 - 6.66 & 6.104 - 6.123] [1] [2a]

2.5 The next parliamentary elections are scheduled for September 2006, possibly with Presidential elections the following year. In preparation, a package of electoral laws was approved in April 2005 although a new constitution, already 6 years under debate, has not yet been finalised. It is possible that local government elections, the first ever, might take place in 2007 although no final decision has been taken. [5.16 - 5.20] [1] [2a]

2.6 It was reported in 2004 that the Government's human rights record remained poor; although there were improvements in a few areas, serious problems remained. [6.2 - 6.4] [3] Angola's human rights situation has nevertheless improved since the end of the civil war. Both the Angolan Armed Forces and UNITA guerrillas committed atrocities, largely against civilians, during that period. Apart from thousands of deaths, the population in the countryside was displaced by the fighting several times over. By 2001, some 4 million were displaced. Even in the cities, largely unaffected by the war, the security forces regularly used repression to keep any discontent, real or imagined, under control. In spite of improvements with peacetime, there are still reports of extra-judicial killings and other human rights abuses. [6.43 - 6.54 & 6.165 - 6.185] [1] [4]

2.7 In 2004, the right of citizens to express their political affiliations and change their government remained restricted due to the postponement of elections. [5.16 - 5.20] [3] [5] In July 2004, MPLA members reportedly destroyed houses of UNITA supporters after they tried to set up offices in Moxico province. [6.53] [4] Members of the security forces and police committed unlawful killings, were responsible for disappearances, tortured, beat, raped, and otherwise abused persons. [6.2 - 6.4] [3] [4] Impunity remained a problem. Prison conditions were harsh and life-threatening. [5.60 - 5.67] [3] Access to justice is severely limited for most Angolans. Although political parties are allowed to

limited for most Angolans. Although political parties are allowed to operate, there are continued reports of intimidation and harassment of opposition supporters.[5.21 - 5.38] [1] The Government continued to use arbitrary arrest and detention during 2004, and lengthy pretrial detention was a problem. The Government infringed on citizens' privacy rights. [5.39 - 5.49] [3]

2.8 A fledgling civil society and an independent press developed for the first time in the early 1990s when political space opened up following the Bicesse Peace Agreement. Their activities remain concentrated largely in the capital, Luanda. [1] The Government at times restricted freedom of speech and of the press in 2004, and harassed, beat, and detained journalists. During the year, the Government at times restricted freedom of assembly. Unlike in previous years, there were no reports that internally displaced persons (IDPs) were displaced by conflict; however, there were unconfirmed reports that refugees were included in the expulsions carried out during Operacao Brilhante. [6.5 - 6.23] [3]

2.9 The Government began implementing a law that could increase restrictions on nongovernmental organisations (NGOs) during 2004. [6.202 - 6.205] [3] Violence and discrimination against women, as well as adult and child prostitution, continued to be common. [6.131 - 6.134] [3] [5] Children and persons with disabilities continued to suffer as a result of poor economic conditions and limited protections against discrimination. Indigenous people suffered from discrimination and economic exploitation. There were reports in 2004 of trafficking in persons. The Government continued to dominate much of the labour movement and did not always respect worker rights. Child labour was a problem. [6.67 - 6.71, 6.80 - 6.82 & 6.144 - 6.152] [3]

2.10 Human rights abuses were reported during a major military offensive against rebels in Cabinda, an Angolan enclave situated between the Democratic Republic of the Congo (DRC) and the Republic of the Congo, in late 2002?2003. The removal of illegal diamond diggers, largely Congolese, in 2004 is reported to have showed little concern for human rights. [1] [6.55 - 6.66 & 6.104 - 6.123]The government said in 2004 that fighting had ended in Cabinda. However, an estimated 30,000 government soldiers from the Angolan army (the FAA) reportedly maintained a repressive presence, detaining and assaulting people suspected of supporting the separatist movement (the Front for the Liberation of the Cabinda Enclave - FLEC), looting goods and crops, and causing villagers to flee to other areas. [4] [5] [6.55 - 6.66 & 6.104 - 6.123]Human Rights Watch found little evidence in 2004 of recent abuses against civilians by FLEC factions, probably as the result of FLEC's weakened capacity. The police and judiciary in Cabinda have also violated due process rights guaranteed in Angola's constitution. [5]

3. Main categories of claims

3.1 This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by those entitled to reside in Angola. It also contains any common claims that may raise issues covered by the API on Discretionary Leave. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal flight are set out in the relevant API's, but how these affect particular categories of claim are set out in the instructions below.

3.2 Each claim should be assessed to determine whether there are reasonable grounds for believing that the claimant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in Karanakaran should be followed when deciding how much weight to be given to the material provided in support of the claim (see the API on [Assessing the Claim](#)).

3.3 If the claimant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the claimant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual circumstances.

3.4 This guidance is **not** designed to cover issues of credibility. Caseworkers will need to consider credibility issues based on all the information available to them. (For guidance on credibility see para 11 of the API on [Assessing the Claim](#))

3.5 Also, this guidance does not generally provide information on whether or not a person should be excluded from the Refugee Convention or from Humanitarian Protection or Discretionary Leave. (See API on [Humanitarian Protection](#) and API on Exclusion under Article 1F or 33(2) and API on [DL](#))

All APIs can be accessed via the IND website at:

http://www.ind.homeoffice.gov.uk/ind/en/home/laws___policy/policy_instructions/apis.html

3.6 Members of FLEC

3.6.1 Many claimants will apply for asylum based on ill treatment amounting to persecution by the state authorities due to their membership or, involvement with, or perceived involvement with, the armed separatist group Front for the Liberation of the Cabinda Enclave (FLEC).

3.6.2 Treatment. FLEC was formed in 1963 as a nationalist movement seeking independence for Cabinda enclave. Throughout its existence, FLEC has been marginalised. FLEC did not enter the political process with the introduction of multi-party politics, arguing that the September 1992 elections were for Angolans not Cabindans. The Angolan law on political parties' dictates that in order to register a party must possess support in at least 10 of the 18 provinces. This effectively disqualified FLEC. Following the election results the main FLEC-FAC faction escalated its activities prompting the Government to deploy approximately 15,000 troops in the Cabinda province at the beginning of 1993. The FLEC factions were unaffected by the April 2002 peace declaration, with FLEC-FAC resuming their campaign attacking Government forces in Cabinda and reportedly killing 12 members of the Angolan Army (FAA). Any possibilities of an immediate reconciliation over the status of the province was brought to an abrupt halt following a major offensive launched by the FAA in mid September 2002. [6.55 - 6.58]

3.6.3 The various FLEC factions unified into one umbrella organisation in September 2004. There were reports in 2004 that members of the security forces mistreated persons, and relations of persons believed to support FLEC and that military forces in Cabinda, including insurgency forces, executed civilians. FAA personnel were reportedly responsible for torture and other forms of cruel and degrading treatment, including rape in Cabinda during 2004. Police were frequently accused of using torture and

during 2004. Police were frequently accused of using torture and coerced confessions during investigations and often beat and released suspects in lieu of trials. Persons suspected of ties to FLEC were allegedly subjected to brutal forms of interrogation. [6.58 - 6.62][5] An estimated 30,000 FAA personnel maintained a repressive presence in Cabinda in 2004 [4]

3.6.4 Sufficiency of protection. As this category of applicants' fear is of ill treatment/persecution by the state authorities, they cannot apply to these authorities for protection.

3.6.5 Internal relocation. As this category of applicants' fear is of ill treatment/persecution by the state authorities, relocation to a different area of the country to escape this threat is not feasible.

3.6.6 Caselaw.

IAT/AIT Determinations: FP (Angola) CG [2003] UKIAT 00204, promulgated 16 July 2003. The IAT found that the appellant who originated from Cabinda and had connections to FLEC could not safely return to Luanda and duly allowed the appellant's appeal.

3.6.7 Conclusion. If it is accepted that the claimant is a member of FLEC or has adduced genuine experience of ill-treatment on account of being associated with member of FLEC then there is a real risk that they are likely to encounter ill-treatment amounting to persecution by the state authorities. The grant of asylum in such cases is therefore likely to be appropriate. As there have been reports that members of FLEC may be responsible for activities that amount to war crimes and have committed serious human rights abuses, [6.110] caseworkers should in these cases also consider whether one of the Exclusion causes applies.

3.7 Cabindans

3.7.1 Many claimants will apply for asylum based on ill treatment amounting to persecution at the hands of the state authorities due to them originating from, and/or belonging to an ethnic group that is indigenous to the disputed Cabinda enclave.

3.7.2 Treatment. There are two main ethnic groups in Cabinda; the Bakongo and the Mayombe. The Bakongo are in the majority, while the Mayombe has a small minority in the province and usually live in the mountain forests of eastern Cabinda. Cabindan separatists (FLEC - see 3.6 above) claim the enclave has its own distinct and separate identity. However, the extensive mixing and intermarriage in Cabinda over the years has made it increasingly difficult to establish who is a true Cabindan. [6.104]

3.7.3 Although Angola's civil war ended in April 2002, a low-intensity conflict continues in the province where Cabindans have called for self-determination for decades. [6.106] There was an intensification of the military action in Cabinda in October 2002 when the FAA began a major military operation. Especially noteworthy were the excesses of revenge and violations against civilians, since the guerrilla fighters were widely dispersed in small groups throughout the territory. [6.109] In 2004, there were reports that military forces in Cabinda, including insurgency forces, executed civilians. A total of 19 civilians were reportedly killed by military forces from September 2003 to December 2004. [6.111]

3.7.4 The mission report of UN Special Representative for Human Rights Defenders, Hina Jilani, and a report by Human Rights Watch (HRW) in 2004 brought further attention to the problems in Cabinda, with the large number of FAA troops deployed within the Cabindan population identified as a major contributor to the human rights abuses. [6.113] During 2004, the FAA continued to commit violations against the civilian population, including killing.

arbitrary detention, torture, sexual violence, and the denial of access to agricultural areas, rivers, and hunting grounds through restrictions on civilians' freedom of movement. [5]

3.7.5 However, since the general cessation of fighting in 2004, the number of cases of human rights violations and arbitrary detention of civilians has dropped considerably. [6.113] The Government are aware of human rights violations but insist that they are committed by 'individual soldiers' and they were not 'institutional behaviour'. [6.120] In March 2004 a joint UN/Angolan Government team visited Cabinda. It concluded that reported human rights violations were mostly accurate, but also noted that since the arrival of General Marques in late 2003, the situation had improved considerably: FAA had adopted a new policy to refrain from abuses and to punish the guilty. [6.119]

3.7.6 Sufficiency of protection. As this category of applicants' fear is of ill treatment/ persecution by the state authorities, they cannot apply to these authorities for protection.

3.7.7 Internal relocation. As this category of applicants' fear is of ill treatment/persecution by the state authorities, relocation to a different area of the country to escape this threat is not feasible.

3.7.8 Caselaw.

IAT/AIT Determinations: FP (Angola) CG [2003] UKIAT 00204, promulgated 16 July 2003. The IAT found that the appellant who originated from Cabinda and had connections to FLEC could not safely return to Luanda and duly allowed the appellant's appeal.

3.7.9 Conclusion. Though the situation in Cabinda has reportedly started to improve, the civilian population remains subject to numerous serious human right abuses due mainly to the repressive presence of 30,000 FAA personnel. If it is accepted that the claimant belongs to an ethnic group that is indigenous to the Cabinda enclave and has adduced no connections to any other part of Angola, then it is likely they will be able to demonstrate that they are at real risk of ill-treatment amounting to persecution by the state authorities. The grant of asylum in such cases is therefore likely to be appropriate.

3.8 Members of UNITA

3.8.1 Some claimants will apply for asylum based on ill treatment amounting to persecution at the hands of the state authorities due to their membership of, involvement with, or perceived involvement with, the main political opposition group National Union for the Total Independence of Angola (UNITA).

3.8.2 Treatment. Between the declaration of independence in November 1975 and April 2002, UNITA and the MPLA continued a bitter conflict for control of the country. During the conflict, UNITA comprised at least two major groups; in addition to which there were also known sympathisers. The main distinction was between the military wing, led by Jonas Savimbi, and those who formed the parliamentary wing UNITA-Renovada (UNITA-R). During the reconciliation process in 2002-3, which saw UNITA's transition to an unarmed political opposition group, UNITA-R ceased to exist. [6.43 - 6.44] The demobilisation of UNITA ex-combatants was successfully completed on 30 July 2002. Following the cessation of the civil war, there were no reports that UNITA committed human rights abuses. In October 2004, the disarmament and re-integration of more than 97,000 former UNITA rebel fighters was fully completed with most ex-combatants receiving five months' salary, demobilisation kits and discretionary payments. [6.50]

3.8.3 In May 2004, UNITA and the other opposition parties, suspended their participation in the Constitutional Affairs Commission of the National Assembly until such time as President dos Santos agreed to consult the country's political forces with a view to approving an electoral timetable. [6.47] In January 2005, UNITA, dropped its demand that general elections take place September 2006 and also its preference for a presidential election to take place in 2005. [5.16]

3.8.4 The return of demobilised UNITA soldiers to their home provinces has in some cases resulted in violence directed against them. Such violence reportedly prompted around 2,000 former UNITA soldiers to leave a municipality in Moxico province in mid-July 2004 when local residents protested against the return of a former UNITA general who had been involved in war atrocities. UNITA raised concerns in 2004 over increased incidents of intimidation of its members by individuals allegedly belonging to MPLA militia groups. During 2003-4, UNITA complained repeatedly about persecutions, intimidations and violence perpetrated against its officials in various provinces and municipalities in the interior of the country. During a meeting on 15 July 2004, MPLA and UNITA agreed to coordinate efforts to curb such acts. A common mission from both parties would visit affected areas in order to investigate alleged incidents. [6.52 - 6.53]

3.8.5 Sufficiency of protection. As this category of applicants' fear is of ill treatment/persecution by the state authorities, they cannot apply to these authorities for protection.

3.8.6 Internal relocation. As this category of applicants' fear is of ill treatment/persecution by the state authorities, relocation to a different area of the country to escape this threat is not feasible.

3.8.7 Caselaw.

IAT/AIT Determinations: M (Angola) [2003] UKIAT 00010, promulgated 5 June 2003. The IAT found that the risk to family members of UNITA supporters is "now below the Article 3 ECHR and Refugee Convention standard" (para 9).

3.8.8 Conclusion. In light of the ending of the civil war between the MPLA and UNITA in April 2002, UNITA's peaceful transition from armed opposition group to a major political party and the successful completion in 2004 of the disarmament and reintegration programme for ex-combatants, there is no evidence that members of, or ex-combatants from UNITA are at real risk of ill-treatment amounting to persecution by the state authorities. Though there have been delays in 2003-4 to the agreement of an electoral timetable and occasional reports of localised disputes about the re-integration of ex-combatants in a few provinces, there is no evidence that the treatment suffered by former UNITA members amounts to persecution within the terms of the 1951 Convention. A grant of asylum will not therefore generally be appropriate for claims that cite persecution on account of membership of, or association with, UNITA. During the civil war, UNITA combatants were reported to have been involved in activities that amount to war crimes and committed serious human rights abuses. As such, caseworkers should in these cases also consider whether one of the Exclusion causes applies.

3.9 General country situation

3.9.1 Some claimants will apply for asylum based on ill treatment amounting to persecution due to the general political, human rights and/or humanitarian situation in Angola. (excluding Cabinda which is covered in 3.6 and 3.7 above).

3.9.2 Treatment. Angola's human rights situation has improved since the end of the civil war. [1] HRW and UN reports in 2004 said the government's announcement that national elections will be held in late 2006 is a positive step towards Angola's reconstruction after twenty-seven years of civil war. Serious human rights abuses, however, continue to be reported. Violations against war-affected populations, including harassment, looting, extortion, intimidation, physical abuse, rape and arbitrary detention have continued, particularly in areas where State administration is weak or has been extended only recently and where mechanisms for redress remain inadequate. Many of those violations have affected internally displaced persons and have included forced resettlement and return as well as exclusion from social services and humanitarian assistance. Deepening poverty combined with the government's lack of transparency and commitment to human rights could undermine Angola's hard-won peace enjoyed in all provinces, except Cabinda. [6.2 - 6.3]

3.9.3 According to a UN report of September 2004, the stabilisation of the humanitarian emergency, the progress made in return and resettlement and new planning mechanisms for the transition period, the Government of Angola and the UN Agencies decided last summer [2003] not to launch an appeal for 2005. However, some residual humanitarian needs persist. [6.168] After almost three decades of war followed by two years of peace and stability, security in Angola has noticeably improved, cereal production is growing and the number of people needing food aid is falling. [6.171]

3.9.4 UNHCR advised in January 2004 that in view of the changed situation in Angola following the end of the civil war it is no longer advising against involuntary return of rejected asylum seekers to Angola, except for return to Cabinda Province. UNHCR did however ask governments to carefully assess the risk to individuals upon return. UNHCR judged that there may well be persons who, while not having a demonstrated need for international protection, would be particularly vulnerable upon return. This would include, for example, separated children, unaccompanied elderly people, and people with physical disabilities or in need of specialised or ongoing medical care. [6.201]

3.9.5 Sufficiency of protection. In light of the nature of this category of claims, the availability of sufficient protection from the state authorities is not relevant.

3.9.6 Internal relocation. In light of the nature of this category of claims, the availability of an internal relocation option is not relevant.

3.9.7 Caselaw.

IAT/AIT Determinations: M (Angola) [2003] UKIAT 00049, promulgated 3 July 2003. No breach of Articles 3 or 8 to return young single female with no connections to Luanda. The IAT found that while accepting the appellant's situation will be grim as there is a real likelihood she would become internally displaced given she has no connections with Luanda, UNHCR has not said categorically that returns of those who do not have connections should not take place; its position is that returns should be avoided and based on the evidence, the conditions the appellant would face would not be of such severity as to reach the threshold of a breach of Article 3 (para 6.6)

AA (Angola) [2002] CG UKIAT 01518. The appellant was a single woman with a young child. She was from Luanda and some of her family were still resident there. IAT find that there would be no

breach of her human rights to be returned to Luanda.

3.9.8 Conclusion. The civil war in Angola has now ended and former adversaries have successfully disarmed and reintegrated into a peaceful society (see also 3.8 above). With the exception of the Cabinda enclave, the country has stabilised considerably since 2002 with some progress towards national elections. There is no indication whatsoever of a return to a prolonged armed conflict or the humanitarian crisis it perpetuated will re-emerge. Individual claimants who cite the general political, human rights and/or humanitarian situation in Angola will not be able to demonstrate conditions amounting to persecution within the terms of the 1951 Convention. The grant of asylum in such cases is therefore not appropriate.

3.9.9 Though Governments are advised to carefully assess the risk to individuals upon return, the UNHCR is no longer advising against involuntary return of rejected asylum seekers to Angola, except for return to Cabinda Province. It is not likely that a claimant citing the general country situation would generally be able to demonstrate that their return would be in breach of ECHR. General lawlessness, poverty and lack of resources are not sufficient to amount to a breach of ECHR. The grant of Humanitarian Protection in such cases is therefore not appropriate.

3.10 Prison conditions

3.10.1 Claimants may claim that they cannot return to Angola due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in the Angola are so poor as to amount to torture or inhuman treatment or punishment.

3.10.2 Consideration. Prison conditions are harsh and life-threatening. During 2004, human rights activists reported that prison officials routinely beat and tortured detainees. The national prison system continues to hold approximately five times the number of prisoners for which it was designed. Overcrowding in Luanda prisons diminished after the completion in November 2004 of the rehabilitation and expansion of the Viana prison; however, local human rights organisations reported that conditions were considerably worse outside the Luanda prison system. In Bengo, Malange, and Lunda Norte Provinces, warehouses were used as prison facilities in 2004. In Huila Province, the provincial penitentiary held 350 prisoners in a facility designed for 150. [5.60]

3.10.3 On 6 December 2004, local media reported that between 8 to 16 prisoners died due to asphyxiation in an overcrowded police station cell in Mussendi, Lunda-Norte. The detainees, some of whom were from the DRC, were being held as part of Operacao Brilhante. In protests following these deaths, police reportedly killed two individuals. The National Police Commander publicly admitted wrongdoing, ordered the arrest of the local commander and several officers, and stated that an investigation was underway. [5.61]

3.10.4 Many prisons, lacking adequate financial support from the Government, are unable to supply prisoners with basic sanitary facilities, adequate food, and health care. Prisoners depend on families, friends, or international relief organisations for basic support. There were reports in 2004 that prisoners died of malnutrition and disease. For example, in the Condeueji prison in Luanda Norte, independent media reported that six inmates died in early June 2004 due to inadequate food and water, harsh conditions, and lack of medical treatment. [5.62]

3.10.5 Female prisoners are held separately from male prisoners;

however, there were reports in 2004 that prison guards sexually abused female prisoners. Juveniles, often incarcerated for petty theft, are housed with adults and suffered abuse by guards and inmates. Pretrial detainees frequently are housed directly with sentenced inmates, and prisoners serving short term sentences often are held with inmates serving long term or life sentences for violent crimes. [5.63]

3.10.6 The Government permitted foreign diplomatic personnel and local and international human rights observers to visit prisons during 2004; however, NGO officials were denied access or given limited access to prisons in the provinces. Government authorities refused access to protesters detained following the April 2004 demonstration in Canfunfo. The Government did not consistently report the arrest of foreign nationals to the appropriate consular authorities. [5.64]

3.10.7 Conditions of detention in Cabinda varied, but the FAA frequently detains persons without regard to minimal international standards for the treatment of prisoners. Some detainees were held in basic shelters, where they received minimal food and water. The most egregious conditions of detention were pits dug in the ground. An FAA commander did not deny the existence of such pits, but maintained they were used only to detain FAA soldiers as an internal disciplinary measure. Detention in these pits, in which detainees often had to defecate and urinate where they were held, constitutes cruel, inhuman or degrading treatment in violation of international law. During the rainy season, detainees remained in the pits which partially filled up with water. The water took a day or two to drain away. The FAA also subjected several male detainees to other forms of torture including: tying a detainees' elbows together behind their backs and by their hands, causing loss of circulation and short-term damage; tying two pieces of steel against their heads and then squeezing the two pieces tightly; tying a rope around a detainee's chest followed by five soldiers pulling the rope at each end. Detainees were also subjected to humiliating and degrading treatment, including threatening to rape and cut off one detainee's genitalia. [5.66 - 5.67]

3.10.8 Conclusion. Whilst prison conditions in Angola (except Cabinda) are poor with severe overcrowding, lack of medical treatment and food and poor sanitation being particular problems these conditions are unlikely to reach the minimum level of severity required to reach the Article 3 threshold. Therefore even where claimants can demonstrate a real risk of imprisonment on return to Angola a grant of Humanitarian Protection will not generally be appropriate. However, the individual factors of each case should be considered, such as the seriousness or nature of the offence, the likely length of detention and the likely type of detention facility. These will need to be taken into account along with an individual's personal characteristics such as their age, gender and state of health. Individual cases, where the claimant demonstrates a real risk of imprisonment for a substantial period of time upon return, or where the claimant demonstrates a particular likelihood of ill-treatment, will need to be considered together with any personal characteristics which make the individual particularly vulnerable. Where taken together all these factors amount to a breach of Article 3 a grant of Humanitarian Protection will be appropriate. Where the real risk of imprisonment is related to one of the five Refugee Convention grounds a grant of asylum will be appropriate.

3.10.9 Prison conditions in Cabinda are severe and taking into account the extremely primitive accommodation and the level of inhuman and degrading treatment that prisoners are likely to encounter, conditions in prisons and detention facilities in Cabinda are likely to reach the Article 3 threshold. Therefore a grant of HP will be appropriate where individual claimants are

grant of HP will be appropriate where individual claimants are able to demonstrate a real risk of imprisonment in Cabinda. Where the real risk of imprisonment is related to one of the five Refugee Convention grounds a grant of asylum will be appropriate.

4. Discretionary Leave

4.1 Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See API on Discretionary Leave)

4.2 With particular reference to Angola the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should not imply an automatic grant of DL. There may be other specific circumstances not covered by the categories below which warrant a grant of DL - see the API on Discretionary Leave.

4.3 Unaccompanied minors

4.3.1 The policy on unaccompanied minors is set out in the API on Children. Unaccompanied minors who have not been granted asylum or HP can only be returned where they have family to return to or there are adequate reception arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception arrangements in place.

4.3.2 Unaccompanied minors without a family to return to, or where there are no adequate reception arrangements, should if they do not qualify for leave on any more favourable grounds be granted Discretionary Leave for a period of three years/twelve months or until their 18th birthday, whichever is the shorter period.

4.4 Medical treatment

4.4.1 Claimants may claim they cannot return to Angola due to a lack of specific medical treatment. See the IDI on Medical Treatment which sets out in detail the requirements for Article 3 and/or 8 to be engaged.

4.4.2 Although much of the medical care is provided free of charge, its availability is limited by the lack of resources. Under-investment in health, coupled with three decades of conflict, has caused an almost complete break down in health services. [5.79] In the country, there are 1,032 health units working, divided into 8 national hospitals, 64 provincial hospitals, 201 health centres, 759 medical posts and 70 family planning rooms. [5.80] Nevertheless, many diseases including tuberculosis, acute diarrhoea and acute respiratory diseases are endemic in many parts of the country and preventative services and trained personnel are very limited. [5.81] Since the end of the civil war, WHO, UNICEF, NGOs and the other partners have been supporting the country by providing a minimum health care package including vaccinations, HIV, malaria, TB, leprosy, trypanosomiasis and other disease control activities. Other health partners include the European Union, USAID, Italy, the Centers for Disease Control and Prevention and Japan among others which have provided primary health care services for hundreds of thousands of Angolans as they returned home. [5.85] Antiretroviral therapy for HIV/AIDS sufferers is available from the government without charge, though availability in the Cabindan enclave is limited. [5.100 - 5.101]

4.4.3 Where a caseworker considers that the circumstances of the individual claimant and the situation in the country reach the

threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 or 8 a grant of discretionary leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

5. Returns

5.1 Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Returns are to the capital Luanda. In its position paper of January 2004, the UNHCR no longer advises against involuntary return of rejected asylum seekers to Angola, except for return to Cabinda. [6.201]

5.2 Angolan nationals may return voluntarily to any region of Angola at any time by way of the Voluntary Assisted Return and Reintegration Programme run by the International Organisation for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining travel documents and booking flights, as well as organising reintegration assistance in Angola. The programme was established in 2001, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Angolan nationals wishing to avail themselves of this opportunity for assisted return to Angola should be put in contact with the IOM offices in London on 020 7233 0001 or www.iomlondon.org.

6. Additional references

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a. Country profile: Angola. Last updated 3 May 2005 at
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[3] US Department of State: Bureau of Democracy, Human Rights and Labor Country Report on Human Rights Practices 2004: Angola. Released 28 February 2005 at
<http://www.state.gov/g/drl/rls/hrrpt/2004/41587.htm>

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Annual Report 2005: Angola.
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[5] Human Rights Watch
World Report 2005: Angola.
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