



Angola: Between War and Peace in Cabinda A Human Rights Watch Briefing Paper

Summary.....	1
Recommendations.....	2
To the Government of Angola:.....	2
To FLEC:.....	3
To International Donors:.....	3
To the United Nations Human Rights Office in Angola:.....	4
Background.....	4
Recent Attempts to End the Armed Conflict in Cabinda.....	7
Oil Revenue Produces Limited Benefits for Cabindans.....	8
Humanitarian Consequences of the Armed Conflict.....	9
Violations by the Angolan Armed Forces.....	11
Extrajudicial Executions.....	11
Arbitrary Detention, Torture and Other Ill-Treatment of Detainees.....	14
Gender-Specific Violations.....	19
Denial of Freedom of Movement.....	23
Violations Committed by FLEC Factions.....	24
Government Response.....	25
The International Response.....	27

Summary

The armed conflict in Angola's Cabinda province, an oil-rich enclave separated from the rest of the country by the Democratic Republic of Congo (DRC), is one of the world's longest but least reported armed conflicts. For more than forty years, Cabindans have been subjected to persistent guerilla warfare, as factions of the separatist movement, Frente de Libertação do Enclave de Cabinda (FLEC - Front for the Liberation of the Cabinda Enclave) first fought for independence from Portugal. Since Angolan independence in 1975, FLEC has been fighting against the Angolan government led by the Movimento Popular de Libertação de Angola (MPLA - People's Movement for the Liberation of Angola). In late 2002, the armed conflict escalated following the deployment of some 30,000 government soldiers to Cabinda. By mid-2003, the Forças Armadas Angolanas (FAA - Angolan Armed Forces) had virtually destroyed the rebel group but in the course of these military operations committed serious and widespread violations of international human rights and humanitarian law against the civilian population.

During a mission to Cabinda in August 2004, Human Rights Watch found that although the human rights situation in Cabinda had improved since mid-2003 due to a decrease in military operations, the FAA continued to commit violations against civilians with almost complete impunity. Human Rights Watch documented violations of human rights abuses against civilians in the past year, including extrajudicial executions, arbitrary arrests and detention, torture and other mistreatment, sexual violence, and the denial of civilians' freedom of movement. Human Rights Watch found little evidence of recent abuses committed by FLEC factions against civilians, probably because of FLEC's weakened capacity.

Both the FAA and the Angolan National Police (Policia National - PN) in Cabinda have generally failed to investigate or prosecute abuses against civilians in which the FAA has been implicated. In some instances, the FAA has responded merely by transferring the alleged perpetrators, including officers and the perpetrators' unit, elsewhere in Cabinda or to another province. The civilian authority arrested three soldiers who allegedly killed a civilian in July 2004, but it remains to be seen whether they will be prosecuted and whether the trials will be conducted in accordance with international fair trial standards. The deployment of some 30,000 FAA troops in close proximity to the civilian population in Cabinda and the prevailing sense of impunity have fostered a climate in which human rights violations, from murder to early forced marriages, remain common.

Human Rights Watch interviewed victims and eyewitnesses, government officials and members of civil society in Cabinda as well as representatives of donor countries, the United Nations (U.N.) and humanitarian aid agencies in Luanda. The precise location of the incidents and other identifying details has been withheld to protect the victims and witnesses interviewed by Human Rights Watch.

Recommendations

To the Government of Angola:

- Take all appropriate steps, including the issuance of clear public orders, to ensure that the Angolan armed forces act in accordance with Angola's obligations under international human rights and humanitarian law. In particular, the government should institute mechanisms to prevent ongoing abuses including extrajudicial executions, arbitrary detention of persons in military custody, and sexual violence against women and girls. To reduce the likelihood of abuses against civilians, the government should reassess its practice of locating military bases near civilian population centers.
- Conduct competent, independent and impartial investigations into serious violations of international human rights and humanitarian law. Soldiers implicated in such violations should be suspended during the investigation, and, where appropriate, be prosecuted in accordance with international fair trial principles.
- Hold persons apprehended only in officially recognized places of detention. Order the immediate release of any persons unlawfully detained by the military; persons held for criminal offenses should be transferred to civilian authority and be appropriately charged. Provide all detainees with immediate and regular access to family members and lawyers, and allow detainees to petition for judicial review of their detention without delay. Recognize the procedural rights of all persons detained or accused of criminal offenses. Inform the families of detained persons of their detention, and the reason for and location of the detention.
- Appoint magistrates and a prosecutor in each of the four municipal districts in Cabinda, which are currently vacant.

- Provide practical and appropriate training on the laws of armed conflict and human rights, including on women's human rights issues and gender-based crimes, to all members of the Angolan armed forces.
- Subject to genuine security considerations, guarantee civilians' freedom of movement so that they can access their agricultural and hunting areas in Cabinda.
- Take steps to address the problems associated with early marriages of girls under the age of eighteen, which include fewer educational and employment opportunities and high maternal mortality rates due to girls having children before they are fully mature, by promoting the right to education for girls and providing skills training for girls, especially in rural areas.
- Provide human rights training which includes a component on women's human rights and gender-based crimes to all members of the National Police in Cabinda.
- Allow civil society to operate freely in accordance with the rights to freedom of expression, association and assembly guaranteed in the Angolan constitution as well as in regional and international human rights treaties to which Angola is a party.

To FLEC:

- Take all appropriate steps to ensure that FLEC forces respect international humanitarian law, in particular the prohibition against attacks on civilians and the civilian population.

To International Donors:

- Support human rights and international humanitarian law training that includes a component on women's human rights and gender-based crimes as an integral component of all capacity building and training programs for the FAA.
- Support technical assistance to strengthen the policing skills of the Angolan National Police in Cabinda. Continue to support the Angolan Bar Association's monitoring of police stations.
- Support institutions and programs that provide reproductive health services especially in the rural areas.

- Support technical assistance to the judiciary to strengthen the rule of law and promote international fair trial standards. Support a legal aid program to protect the right to defense, legal aid and counsel for all accused persons as guaranteed under Article 36 (1) of the Angolan constitution.
- Support the development of human rights groups with monitoring capacity and an independent media, through increased assistance and capacity building programs.

To the United Nations Human Rights Office in Angola:

- Conduct regular human rights training for the Angolan National Police that includes a component on women's human rights and gender-based crimes and provide train the trainers training so that the National Police develops the capacity to conduct human rights training.

Background

Cabinda is a province of Angola, separated from the country's other seventeen provinces by a narrow strip of the DRC. Its population of about 300,000 has known war for more than forty years; FLEC and its offshoots have been fighting a guerrilla war with the aim of securing independence since 1963. Initially, FLEC fought for independence from Portuguese rule but continued its separatist struggle after Angola gained independence on November 11, 1975.¹ At Angolan independence, the MPLA appointed its leader, Agostinho Neto, as president of Angola. The rival liberation movement, União Nacional para a Independência Total de Angola (UNITA - National Union for the Total Independence of Angola) never recognized the MPLA's rule, and the two parties remained almost continuously at war for the following twenty-seven years.²

¹ Following the April 25, 1974 coup, the new regime in Portugal entered into talks with the three rival national liberation movements that were competing for influence in Angola: Movimento Popular de Libertação de Angola (MPLA - People's Movement for the Liberation of Angola); Frente Nacional para a Libertação de Angola (FNLA - Angolan National Liberation Front) and the União Nacional para a Independência Total de Angola (UNITA - National Union for the Total Independence of Angola). FLEC was excluded from the talks as Portugal never recognized it as an interlocutor in the independence process.

² The forces of the third national liberation movement, the FNLA, were virtually destroyed in 1975-6. Tony Hodges, *Angola from Afro-Stalinism to Petro-Diamond Capitalism* (London: James Currey, 2001), pp. 10-11. Following Neto's death in 1979, José Eduardo dos Santos became President and was then elected as President in Angola's first elections in 1992.

After independence, FLEC attempted to seize power in Cabinda, backed by Mobutu Sese Seko's Zaire (now the Democratic Republic of Congo, DRC). The MPLA government, however, took control of much of Cabinda, including the offshore oilfields, with military backing from Cuba. For much of the period from independence until late 2002, the armed conflict in Cabinda was a low intensity guerrilla war, as FLEC never had the manpower or weaponry of a conventional army. FLEC sporadically attacked the relatively small number of government troops deployed in Cabinda as well as economic targets, including kidnapping foreign employees working in the province's oil, timber, gold mining and construction businesses.³ During this period, FLEC primarily controlled territory in the densely forested inland areas of the province but never threatened to take over major population centers. Its effectiveness was hindered by various factional splits, notably the division in 1984 between FLEC-Renovada (FLEC-R) and FLEC-FAC (Armed Forces of Cabinda) caused by personal rather than political or ideological differences.⁴

The fighting escalated in early 1993 when the government of Angola deployed some 15,000 troops to Cabinda.⁵ In 1997-98, villages which were suspected of supporting the separatists were targeted, causing large-scale displacement of the civilian population. FLEC-R and FLEC-FAC also increased their attacks against the FAA. In September 1998, the U.N. Special Rapporteur on Torture reported that government forces and the paramilitary group of the Polícia da Intervenção Rápida (PIR - Rapid Intervention Police) committed widespread acts of torture and ill-treatment against persons from whom the government soldiers were trying to obtain information, civilians in reprisal for armed attacks by separatist groups and those suspected of supporting FLEC as well as political opponents.⁶ By 2001, the situation in Cabinda had calmed to the extent that the United Nations High Commissioner for Refugees (UNHCR) began a phased repatriation of Cabindan refugees from the Republic of Congo, declaring the enclave as the only safe area in Angola.⁷

³ See, for example, BBC News Online, "Angola separatist group says holding Portuguese," March 13, 2001, at <http://news.bbc.co.uk/2/hi/africa/1218021.stm>.

⁴ João Gomes Porto, *Occasional Paper 77 - Cabinda: Notes on a soon-to-be-forgotten war*, (Pretoria: Institute for Security Studies, August 2003), p.8.

⁵ Ibid.

⁶ United Nations, *Civil and Political Rights, including questions of torture and detention*, Report of the Special Rapporteur, Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 1998/38 (New York: United Nations, 1999), E/CN.4/1999/61, para. 42.

⁷ UNHCR, *Congo: Angolans to be repatriated to Cabinda*, July 31, 2001, at http://www.unhcr.ch/cgi-bin/texis/vtx/home/+EwwBme7I7S_wwwAwwwwwhFqnN0bItFqnDni5AFqnN0bIcFqrqwxoDmwDzmxwwwwww/opendoc.htm. The 2001 refugee repatriation plan involved 822 refugees. According to UNHCR, 13,000 Angolan refugees from Cabinda remained in the Republic of Congo, and "probably over 30,000" in the DRC in 2001.

Following the end of the armed conflict between the MPLA and UNITA in the contiguous part of Angola in 2002, the fighting – and attendant violations against the civilian population – shifted to Cabinda.⁸ The FAA redeployed some 30,000 soldiers to Cabinda in an attempt to defeat FLEC militarily. These troops include an unknown number of special forces called *commandos caçadores* or infantry commandos.⁹ Reports compiled by Cabindan human rights activists in 2002 and 2003 alleged that the FAA committed widespread violations against captured combatants and the civilians including the summary execution of suspected FLEC combatants or supporters; rape and forced marriage of women and girls; arbitrary detention; torture and other mistreatment; forced labor; and excessive restrictions on civilian access to agricultural areas, rivers and hunting grounds.¹⁰ A large number of these violations reportedly took place from October 2002 to mid-2003. The reports attributed a small number of abuses, including hostage taking and summary executions of suspected government collaborators, to FLEC forces.

From mid-2003, there has been a decline in the number of violations committed by the FAA as the consequence of a reduced level of conflict in the province following FAA's destruction of FLEC's principal bases, including those in the Republic of Congo and the DRC. FLEC combatants also emerged from the forest to claim the demobilization benefits offered by the government; FLEC's sympathizers as well as its opponents acknowledge that the movement has been reduced to small roving bands of guerrillas with light arms, and no permanent logistical bases. The FAA regional commander in Cabinda estimated that there are only about seventy to eighty FLEC fighters remaining in Maoimbe forest.¹¹ The Maoimbe is densely forested, limiting FAA military operations against the remaining FLEC forces. At the time of writing, the FAA regional commander and others said that there have been no FLEC attacks since early 2004.¹²

Despite the apparent end to major military operations by both sides, the FAA has not reduced its 30,000 member force deployed throughout Cabinda. The FAA regional commander told Human Rights Watch that the large number of troops "were needed to defend the enclave from external aggression" and expressed concern about the unstable

⁸ After the FAA isolated and eventually killed UNITA leader Jonas Savimbi on February 22, 2002, the FAA and UNITA negotiated an end to the conflict, signing a memorandum of understanding reactivating the 1994 Lusaka Peace Protocol on April 4, 2002.

⁹ Human Rights Watch interviews with humanitarian aid officials, Luanda, July-August 2004.

¹⁰ See Ad-hoc Commission for Human Rights in Cabinda – Coalition for Citizens Rights, Reconciliation and Transparency, *Terror in Cabinda* (Cabinda: Ad-hoc Commission for Human Rights in Cabinda, 2002) and *Cabinda 2003: A Year of Pain* (Cabinda: Ad-hoc Commission for Human Rights in Cabinda, 2003). Human Rights Watch was not able to verify the violations in these reports.

¹¹ Human Rights Watch interview with General Marques Correia Banza (FAA regional commander of Cabinda), Cabinda town, August 16, 2004.

¹² Ibid.

situation in the DRC.¹³ He also told Human Rights Watch that the armed conflict in Cabinda was over but the government has not made an official declaration to that effect in Angola. In interviews, the Angolan defense minister has suggested that the situation in Cabinda is not that of an armed conflict: "Cabinda is no longer a military problem" and "Cabinda is totally under control by the FAA."¹⁴ President dos Santos reportedly stated during his visit to the United States in May 2004 that there is "no war in Cabinda," and that the government remains committed to dialogue.¹⁵ This suggests that the government now believes security in Cabinda can be achieved through law enforcement, rather than through the use of the military although the government still maintains a military force of 30,000 in Cabinda.

Recent Attempts to End the Armed Conflict in Cabinda

The Angolan government and the FLEC have made various attempts over the years to reach a political settlement in Cabinda. All have failed. In 2002, at the same time as the FAA increased its military operations in Cabinda, the government hinted that it might consider a negotiated solution for the province. President dos Santos explained that the government's strategy on Cabinda was a "multi-disciplinary" approach, focusing on dialogue "with the people and personnel in the region to give better attention to economic and social issues."¹⁶

Government representatives met FLEC-FAC officials in France in January 2003 and with FLEC-R in Gabon later in the same year. These overtures failed to convince the separatists of the government's sincerity, coming as they did in the midst of increased FAA activity in Cabinda.¹⁷ The FLEC factions were also reluctant to lay down their arms until they had a clearer assurance of what degree of autonomy the government would be prepared to contemplate. In August 2003, the provincial governor Aníbal Rocha stated that efforts were being made for dialogue on Cabinda's future to start "as soon as possible," and most of these efforts have been behind the scenes with little public evidence of further talks more than a year later.¹⁸ In September 2004, the leaders of

¹³ Ibid.

¹⁴ Radio France International, Angolan defense minister says Cabinda war "has been practically resolved," December 12, 2003 and Lusa news agency, Armed forces chief says Cabinda "totally under control," February 17, 2004.

¹⁵ IRIN, "President denies ongoing unrest in Cabinda," May 17, 2004.

¹⁶ João Gomes Porto, *Occasional Paper 77-Cabinda: Notes on a soon-to-be-forgotten war*, p. 15.

¹⁷ Ibid, p. 14 and 15.

¹⁸ Angola Press Agency quoted by BBC Monitoring, "Cabinda governor optimistic peace talks will start soon," August 5, 2003.

FLEC-FAC and FLEC-R announced that their two factions were to merge and agreed to set up a committee "responsible for dialogue," which would include representation from "the liberation movements, churches, and civil society."¹⁹

The inclusion of civil society is a positive development as to date the "talks about talks" have generally excluded civil society. The establishment of Mpalabanda Associação Cívica de Cabinda (MACC - Mpalabanda Civic Association of Cabinda) in early 2004, and the peace rally it organized in Cabinda town in July 2004 which attracted thousands of Cabindans, indicate that civil society may ready to play a more active role.²⁰ The influential Catholic Church in Cabinda has been outspoken in calling for a peaceful settlement.

Oil Revenue Produces Limited Benefits for Cabindans

Cabinda provides some 50 percent of Angola's oil revenues, thanks to the large oil fields off its coastline.²¹ Cabinda receives a bonus payment from the central government in recognition of its contribution to the national economy, which is calculated on year-to-year increases in petroleum revenue. In the 2004-5, the bonus was calculated to amount U.S. \$25 million, and is expected to increase to U.S. \$35 million in the following financial year.²² In addition to this payment, Cabinda has received a share of the social investment programs that the multinational petroleum companies working in Angola are contractually bound to deliver. Cabindans however, complained to Human Rights Watch that they see few tangible benefits of the oil or of the multinationals' social investment programs. The petroleum industry offers few employment opportunities relative to the wealth that it produces, and no significant attempts have been made to develop secondary industry in Cabinda on the basis of oil extraction. Angola's only oil refinery is

¹⁹ On September 6, 2004, FLEC spokesperson Joël Batila said in an interview with Radio France International that the decision to merge followed a meeting between the two factions and representatives of the church and civil society, who "expressed the desire of the people of Cabinda to see all military movements operating under a single banner". Batila said that the merged organization would be led by Nzita Tiago of FLEC-FAC and with António Bento Bembe of FLEC-R as secretary general.

²⁰ The government initially obstructed MACC's registration process and refused to allow the peace march to proceed. According to the U.N. Special Representative of the Secretary General for Human Rights Defenders Hina Jilani, the government of Angola imposes more restrictions on human rights defenders in Cabinda than in other provinces. See Press statement by the Special Representative of the Secretary General for Human Rights Defenders, issued on August 24, 2004 (on file with authors).

²¹ Under Angolan law, each oil concession is operated as a partnership between the Angolan state oil company, Sonangol, and a consortium of multinational companies. ChevronTexaco is the largest international company in Cabinda.

²² Human Rights Watch interview with João Santos de Carvalho Mesquita (vice-governor of Cabinda), Cabinda town, August 17, 2004.

in Luanda, and fuel for vehicles in Cabinda has to be brought from Luanda. Frequent fuel shortages are a source of discontentment among Cabindans. The cost of living in Cabinda is also among the highest in Angola, as imports into the province have either to be flown in from Luanda or trucked cross the border from the DRC and the Republic of Congo.

Angola's state revenues are centrally managed, with all revenues collected by Luanda before being allocated to the provinces. It is, however, not clear how government revenues in the province are disbursed; officials in the Ministério da Assistência e da Reinserção Social (MINARS – Ministry of Assistance and Social Reintegration) were unable to say precisely what their operating budget was for the current financial year, since they work on a project-by-project basis.²³

In addition, oil companies make direct payments to the provincial government of Cabinda (and Zaire) out of their Petroleum Income Tax. The central government generally, and Ministry of Finance in particular do not exercise control over those funds. In 2000, that deduction was approximately \$72 million for Cabinda and \$149 million total for both Cabinda and Zaire provinces. This means that about \$6 million/month flowed to the provincial government and sometimes more depending on the price of oil.²⁴ As a result, tens of millions of dollars are available to the provincial government that is not overseen by the federal government, or at least the Ministry of Finance. These funds, along with other payments and projects and the flow of funds from companies to the provincial government generally need much greater scrutiny, accountability and transparency.

Humanitarian Consequences of the Armed Conflict

The armed conflict in Cabinda never involved the large-scale destruction or “scorched earth” tactics that characterized the civil war between the Angolan government and UNITA. Cabindans therefore have not experienced the extreme hardships regarding

²³ Human Rights Watch interview with Aldina Matilde Barros Dalomba (provincial director of MINARS), Cabinda town, August 19, 2004. On the use of oil revenues in Angola, see Human Rights Watch, “Some Transparency, No Accountability: The Use of Oil Revenue in Angola and Its Impact on Human Rights,” *A Human Rights Watch Short Report*, Vol. 16, No. 1 (A), January 2004 and Tony Hodges, *Angola from Afro-Stalinism to Petro-Diamond Capitalism*.

²⁴ Compilation from International Oil Companies and Ministry of Finance records in Current Assessment of the Angolan Petroleum Sector: Inception Report by KPMG for the Ministry of Finance, Government of Angola, July 2002. See also “Some Transparency, No Accountability: The Use of Oil Revenue in Angola and Its Impact on Human Rights,” *A Human Rights Watch Short Report*, Vol. 16, No. 1 (A), January 2004.

food security and access to basic social services witnessed during Angola's civil war in other provinces.²⁵ There are only a few national and international non-governmental organizations (NGOs) operating in Cabinda and until recently, the government was reluctant to allow international NGOs to operate in Cabinda.²⁶ The Catholic and evangelical churches provide food and clothing to groups of people who are in particular need.

The armed conflict has caused significant displacement of the civilian population. According to MINARS, there are 24,696 registered internally displaced persons (IDPs) in the province.²⁷ The majority of displaced have been taken in by families or friends living in the towns, including Cabinda town, and receive little or no assistance from the government. A small number of displaced who moved from their villages in the forest to settle along the main road at Piadinge (Buco Zau municipal district) for security reasons received only limited assistance from the government in the form of food and building materials. The government has refused to provide schools, clinics and running water in Piadinge, as it does not want them to settle there permanently.²⁸ There are 1,320 registered Cabindan refugees in the Democratic Republic of Congo and 1,800 registered Cabindan refugees in the Republic of Congo.²⁹ Some of these returnees from the two Congos live in camps near the capital because their villages of origin remain too unsafe. These returnees have received more assistance from the government than the IDPs although the camps lack basic social services, except for schools.

The government's social assistance priorities seem to be concentrated on the demobilization and reintegration of former FLEC combatants. As of August 2004, 2,032 FLEC former combatants were reportedly involved in a demobilization and reintegration program and the FAA hopes that an estimated 2,500 former FLEC combatants will undergo the demobilization and reintegration program.³⁰ The

²⁵ A World Health Organization (WHO) doctor who visited the province in early 2004 did not find serious malnutrition even though the FAA has restricted access to means of subsistence. The same doctor expressed concern about the lack of basic health facilities in Cabinda, although the situation in Cabinda is similar to that in Angola's other provinces. Human Rights Watch interview with U.N. official, Luanda, July 30, 2004.

²⁶ Ibid.

²⁷ Ibid.

²⁸ Human Rights Watch interview with João Santos de Carvalho Mesquita (vice-governor of Cabinda), Cabinda town, August 17, 2004.

²⁹ Human Rights Watch email exchange with a UNHCR representative, October 11, 2004.

³⁰ Former FLEC combatants are entitled to a cash payment of U.S. \$300 as well as land to build a house and building materials. Human Rights Watch interview with General Marques Correia Banza (regional FAA commander of Cabinda), Cabinda town, August 16, 2004.

government justifies this expenditure on the grounds that it will dissuade the former combatants from returning to war.³¹

Violations by the Angolan Armed Forces

The Angolan government and its armed forces, the FAA, are obligated to abide by international human rights and humanitarian law in Cabinda. Angola has ratified, among other international human rights treaties, the International Covenant on Civil and Political Rights (ICCPR)³² and the African Charter on Human and People's Rights (Banjul Charter),³³ many of whose provisions are guaranteed in the Angolan Constitution.³⁴ They provide, for instance, that persons taken into custody are promptly brought before the courts and charged with an offense, and that criminal proceedings conform to international fair trial standards. Human rights law applies at all times, except where superceded by specific provisions of international humanitarian law (the law of war). Hostilities between government and rebel forces that rise to the level of armed conflict are bound by international humanitarian law. Article 3 common to the four Geneva Conventions of 1949, which applies during non-international (internal) armed conflicts, is binding on both the FAA and the FLEC. Common article 3 protects captured combatants and detained civilians against execution; torture and cruel treatment, including sexual violence; outrages upon personal dignity, in particular humiliating and degrading treatment, including sexual violence; and the passing of sentences that are not in accordance with fair trial standards. Customary laws of war prohibit attacks directed against civilians and civilian property or otherwise cause disproportionate or indiscriminate civilian harm.

Extrajudicial Executions

Human Rights Watch documented extrajudicial killings by the FAA, including a killing in July 2004. Those killed are suspected by the FAA of being FLEC combatants or civilian supporters; the killings, and typically occur on military bases or during military operations in villages and in the forest. The summary killing of persons in custody, whether civilians or captured combatants violates international human rights and humanitarian law.

³¹ Human Rights Watch interview with Aldina Matilde Barros Dalomba (provincial director of MINARS, Cabinda town, August 19, 2004.

³² Angola acceded to the ICCPR on April 10, 1992. <http://www.unhchr.ch/pdf/report.pdf>

³³ Angola ratified the Banjul Charter on March 2, 1990.

In December 2003, FAA soldiers summarily executed three male civilians and attempted to execute two other men in Buco Zau municipal district. One of the survivors who is thirty-eight year old, M. M. was badly wounded and still bears the scars:

The day before Christmas last year [2003], FLEC ambushed FAA soldiers in the vicinity of my village. We heard shots and hid in our houses. When the attack stopped, the FAA soldiers turned against us. About thirty soldiers surrounded the house where I was hiding with other villagers. We tried to escape, but the soldiers pointed their guns at the doors and windows and opened fire so all of us came out with our hands in the air. They stopped shooting. I recognized two of the soldiers. The commander of the nearby military base, was told over the radio that three FAA soldiers had died and one injured in the attack. The commander said over the radio to one of the soldiers whom I recognized that they must kill three people, the same number as the number of soldiers killed. The soldiers chose five men, including myself, and made us sit in a row on benches where the village elders normally meet. I was the last person on the right. One of the soldiers whom I recognized opened fire at us with his AKM [lighter and more modern version of an AK-47 assault rifle]. Three – two old men and one young one – died immediately but I and another man ran away. I was hit but continued running. The first shot entered my right shoulder, the second hit me in the right side of my torso and the third shot severed ligaments in my right wrist. I can no longer use my right hand properly as two of my fingers are permanently bent. The soldier only stopped firing when the soldiers caught the other man who tried to run away. He was not killed. The soldiers ordered the villagers to return from their hiding place in the forest and arranged for the funeral of the three men the next day.

I first received medical treatment in the village but after four weeks the FAA flew me in a helicopter to Cabinda town for treatment in the military hospital. I am too afraid of the soldiers in the village to go back to my there.³⁵

³⁵ Human Rights Watch interview, Cabinda municipal district, August 5, 2004.

One of the witnesses to these summary executions said that a FAA soldier blamed the deaths of the three villagers on "his brothers in FLEC, for making shit near the village."³⁶ The FAA has not taken any action to investigate these killings.³⁷

On June 17, 2003, the FAA killed Teresa Nzita and Sebastião Lelo while soldiers were searching for FLEC combatants in a village in Buco Zau municipal district.³⁸ Nzita was shot in her stomach while standing on the veranda of her house with her children and Lelo was found dead in the road near his house with a bullet hole in his temple. When asked by villagers whom they were shooting at The FAA soldiers claimed to be shooting at "the enemy". Soldiers had, however, already searched Nzita's house and established that no FLEC combatants were present. Relatives of the deceased were subsequently detained for one night, released and then detained for two weeks in a pit at a military base. After these killings, most of the inhabitants left the village as they no longer felt secure with the soldiers. Witnesses interviewed said that they will only return after the soldiers leave. The FAA has not investigated these killings.³⁹

In a recent killing of a civilian by the FAA, both the FAA and the civilian authorities have taken some steps to investigate the alleged crime, although it remains to be seen whether the alleged perpetrators will be prosecuted and whether the trials will be conducted in accordance with international fair trial standards. Villagers told Human Rights Watch that Angolan soldiers took thirty-nine-year-old Luís Bundu from his village to the nearby military base on the morning of July 3, 2004.⁴⁰ They reported seeing the soldiers beating Bundu and forcing him to dig a hole near the military base. In the evening of the same day, the soldiers sent the civilian women living with them at the base away, and villagers heard three shots fired. On August 17, 2004, the deputy civil administrator of Cacongo municipal district told the villagers that Bundu's body would be exhumed from a grave behind the military base and a funeral held on the following day. Bundu's relatives exhumed the body in the presence of a civil prosecutor and identified the corpse. Also present were the alleged perpetrators: a captain, a sergeant and a soldier who had been arrested by the civilian authority and detained pending further investigation of the crime. Representatives from the FAA and civilian authorities attended the funeral and explained that this killing was not ordered by the FAA but was the act of the captain. The FAA replaced the captain's unit deployed at the military base with another unit and the new commander reportedly told the villagers to come to him if

³⁶ Human Rights Watch interview, Buco Zau municipal district, August 15, 2004.

³⁷ Human Rights Watch interviews, Cabinda and Buco Zau municipal districts, August 5 and 16, 2004.

³⁸ Human Rights Watch interviews, Cabinda and Buco Zau municipal districts, August 14, 21 and 22, 2004.

³⁹ Ibid.

⁴⁰ Human Rights Watch interviews, Cacongo municipal district, August 18, 2004.

they are harassed by his soldiers. The FAA also provided the coffin, food and drink for Bundu's funeral.

Arbitrary Detention, Torture and Other Ill-Treatment of Detainees

During the military operations against FLEC rebels in 2003, Angolan forces frequently detained civilians. Since the general cessation of fighting in 2004, the number of cases of arbitrary detention of civilians has dropped considerably. Human Rights Watch nonetheless interviewed several persons who had been arbitrarily detained in 2004.

During military operations, armed forces may be justified in briefly detaining persons who they believe are security risks. Persons apprehended while directly participating in hostilities or otherwise engaged in criminal offenses may be charged and prosecuted. However, the FAA has detained persons for periods of over a month on mere suspicion of their being FLEC combatants or supporters, or with supplying FLEC with food, weapons or information. The FAA apprehended unarmed persons while in their homes, and others whom their forces come across in the forest.

Those apprehended were often brought to the military bases where they were detained, or the detention was affected *in situ* in the forest. The majority of persons were taken into custody in the presence of or with the knowledge of officers, including at times high-ranking officers. The FAA commander in Cabinda said that some former FLEC combatants who joined the FAA have supplied lists of FLEC combatants to the FAA. However, most of the cases of detention investigated by Human Rights Watch involved civilians with no connection to the conflict that remained in military custody long after their identity and civilian status had been established, in violation of Angolan and international law. In many such cases, Angolan soldiers tortured or otherwise mistreated detainees to obtain information from them about FLEC.

Human Rights Watch interviewed several persons who were detained more than once. J. S., a thirty-three-year-old man, was detained three times within a period of six months in Buco Zau municipal district. The first time he was held for one night when the FAA detained his two adult nieces whom they suspected were married to FLEC combatants in early August 2003. J. S. accompanied his nieces to the military base in Necuto where he was then also detained. He spent the night in a pit while his nieces were detained in a room. The nieces were reportedly beaten by a major who was the deputy to the commander of the base. J. S. and his nieces were released the next day.

J.S. was subsequently detained for nineteen days at a small military base in September 2003 on the suspicion of being a member of FLEC. Before being taken to the military base, he spent one night in the bush with his hands and feet tied up in an FAA camp. His hands and feet swelled up because his blood circulation was cut off; J.S. still has difficulty holding objects in his left hand. Upon his arrival at the military base, he was stripped naked, beaten on his chest and threatened with death. A lieutenant-colonel beat him and grabbed his penis. He was also interrogated about FLEC, including being asked how FLEC obtained weapons and food. During his detention, J.S. was under the constant guard of a soldier.

The third time J.S. was detained was when he met soldiers on patrol in mid-December 2003 along the river Luali. He was taken to one of FAA's major military bases located in Loma where he was detained in a room for 42 days. His hands were tied for the first 24 hours. He was detained with nine other male detainees. Three of these detainees also spent 42 days in captivity. J. S. told Human Rights Watch:

The first fifteen days, we were all interrogated one by one about FLEC by different soldiers. The commander would hit me with a machete while I was lying with my stomach on the floor. The commander wanted to force us to say things even if we knew nothing about what he wanted us to say. I saw another male detainee being stabbed in his foot twice by a soldier. He was taken by car to the military hospital but returned to Loma after one week. Then we were all forced to work for the soldiers. We had to carry twenty-five-liter jerry cans with water, cut the grass with a machete, sweep the compound and clean the officers' rooms.

J.S. added that even after his release he remains under surveillance by the FAA and showed Human Rights Watch a letter signed by a FAA colonel stating that he was a suspected FLEC supporter.⁴¹

Human Rights Watch interviewed other persons whom the FAA detained more than once and mistreated in custody. In May 2004, a sixty-six-year-old man, M.B., and eleven other villagers were arbitrarily detained by FAA soldiers when they went to harvest food from their fields in Buco Zau municipal district. Eight of the villagers were women and the other three were men who had accompanied the women to the fields for their security against the FAA:

⁴¹ Human Rights Watch interview, Buco Zau municipal district, August 14, 2004.

Armed FAA soldiers caught us and started beating three of us with a stick the width of my arm and a machete. I knew they were from the Necuto battalion because I recognized the commander. He accused us of giving logistical support to FLEC. I was beaten on my backbone. My daughter was beaten on her forearms, which caused them to swell up. The other man who is older than me was beaten with the flat blade of the machete and the butt of an automatic rifle on his back and on his head.⁴²

His forty-two year old daughter, C.L., added that the soldiers broke her arm.⁴³ She also said that because the soldiers were frightened that they would report the incident to the authorities, the former gave them two boxes of army rations. In July 2004, the same M.B. referred to above was detained by another group of armed FAA soldiers for six hours in a field where he had gone to collect food. The soldiers tied his elbows together behind his back and a stick across his wrist with the soldiers' bootlaces. The commander hit him on his head with his ramrod [rod for barrel of a firearm] and interrogated him, asking whether he had sons in FLEC and where they were. M.B. decided to leave his village because of these incidents.⁴⁴

Conditions of detention varied, but the FAA frequently detains persons without regard to minimal international standards for the treatment of prisoners.⁴⁵ 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.⁴⁶ 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.

⁴² Ibid.

⁴³ Human Rights Watch interview, Cabinda municipal district, August 3, 2004.

⁴⁴ Human Rights Watch interview, Cabinda municipal district, August 3, 2004.

⁴⁵ United Nations, Standard Minimum Rules for the Treatment of Prisoners, adopted Aug. 30, 1955 by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, U.N. Doc. A/CONF/611, annex I, E.S.C. res. 663C, 24 U.N. ESCOR Supp. (no. 1) at 11, U.N. Doc. E/3048 (1957), amended E.S.C. res. 2076, 62 U.N. ESCOR Supp. (no. 1) at 35, U.N. Doc. E/5988 (1977).

⁴⁶ Human Rights Watch with General Marques Correia Banza (regional FAA commander in Cabinda), Cabinda town, August 16, 2004.

Most of the former detainees who spoke to Human Rights Watch had been beaten and threatened with death during interrogation by the FAA. 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.⁴⁷ Detainees were also subjected to humiliating and degrading treatment, including threatening to rape and cut off one detainee's genitalia. In mid-2003, B. K., a forty-four-year-old man was captured by the FAA when he was fishing on the suspicion that he was FLEC. He explained that first he was tied up with his elbows behind his back:

It was very painful as my hands had to touch each other in front of my chest. The rope cut into the skin above my elbows causing me to bleed. They also hit me with the back of a machete on my chest and legs as well as on my chest with a military belt. They asked me: "How many FLEC soldiers are in your village? How many villagers have guns in their houses?" I said that I could not answer these questions. They poured dirty water over me and made me lie down on my stomach. They covered me with banana leaves and used the stem of a palm tree leaf to beat me. They threatened to kill me because I did not answer their questions. I told them to kill me.

I was then turned onto my back and the commander pulled my pants down. He pretended to cut off my penis and my balls, saying: "We should cut off your penis and balls as they are FLEC." He held my genitalia in his hands and brandished a machete. I was very scared and shouted: "Jesus Christ." One soldier said that they should leave but the others laughed. The soldiers untied me and I was allowed to wash myself in the river. When it got dark, the commander told one soldier to go and have sex with me. The soldier refused to have sex with another man. The commander ordered another soldier to have sex with me but he also refused. The commander then pretended that he was going to have sex with me and took me by my hand. I said: "I would rather die." The other soldiers said nothing but laughed. The commander said: "I will leave you but we will go to your village where I will sleep with your

⁴⁷ Human Rights Watch interview, Buco Zau municipal district, August 15, 2004

wife.” I said that I will never let that happen. The commander then said:
“When I meet women in the bush, I will rape them.”⁴⁸

After one night in the bush, B.K. was taken to the military base in Necuto where he was detained in a pit which was 2.5 meters wide and 5 meters deep. He was interrogated again by the commander of the base. Before being released he was also interrogated by the police and the head of security in their offices. B.K. expressed concern that his treatment during detention has weakened him as he can no longer carry heavy loads.

Some detainees were forced to serve as guides to the FAA to help them locate FLEC bases in the forest.⁴⁹ J.T. was first detained and interrogated by the FAA on July 25, 2004 at the military base in Loma:

Three soldiers, including the head of intelligence called Walter, a lieutenant and a sergeant accused me of being a FLEC supporter and providing them with logistical support and advice. They accused me of receiving a letter from FLEC. After two hours, I was taken to a room where I spent the night. The next day, Walter and the two other soldiers showed me a long list with the names of FLEC fighters. My name was written in red. I think that people in Buco Zau must have given the names of the FLEC fighters to the FAA. He also showed me another list with the names of my parents, wife and children. Their names were written in red. I was then taken to the military base at Cata Buanga. The commander of Cata Buanga told me: “If we do not get any information out of you, we will get rid of this garbage,” meaning he would kill me if I did not tell him what they wanted. In Cata Buanga, I was detained in a pit before being taken to the deputy commander. He told me: “We will give you whatever you want if you show us where FLEC is in the bush. You can either show us where FLEC is or we will kill you.” I agreed to show them where FLEC is in the bush to save my life even though I did not know their bases. The deputy commander made Cabindan FAA soldiers responsible for me by getting one to sign a letter saying that he accepts to be killed if I escape. I stayed on the base for three nights under guard. I was well treated. Then eleven soldiers and I went into the bush to look for FLEC. I was dressed in civilian clothes but was given a military hat and jacket. The soldiers had AKMs and other guns. We

⁴⁸ Human Rights Watch interview, Buco Zau municipal district, August 14, 2004.

⁴⁹ Human Rights Watch interviews, Cabinda and Buco Zau municipal districts, August 5, 8, and 12, 2004.

spent three days in the bush and found several places which FLEC had recently deserted. When we returned to the military base in Cata Buanga, Walter, Brigadier [name withheld] and another lieutenant tried to persuade me to collaborate with the FAA by bringing them information and delivering letters to FLEC. They asked me if I drink and said that they could bring me a drink so I would talk more freely. I refused to collaborate with them. The brigadier showed me money and asked me whether I had this much money or whether FLEC had so much. I said: "How would I know about FLEC money?" They offered to pay me a salary from Luanda but I refused. I was then free to go to my family although I have since been interrogated again by the FAA.⁵⁰

Gender-Specific Violations

Human Rights Watch documented a range of violations committed by the FAA against women and girls, including rape and sexual slavery.⁵¹ Rape and sexual slavery by government agents are violations of human rights and during armed conflict are considered war crimes under international humanitarian law.⁵² The FAA also arbitrarily detained women who were married or suspected of being married to FLEC combatants together with their children. In addition, Human Rights Watch received reports of women marrying FAA soldiers as they feared being accused of being married to FLEC soldiers that could result in their detention, sexual violence or torture. Human Rights Watch was informed by numerous interlocutors in different municipal districts that women and girls in rural areas generally avoid going into the bush alone as they are afraid of being raped by FAA soldiers and often go the fields in mixed groups with males.⁵³ The FAA regional commander denied, however, that FAA soldiers raped women and girls, but admitted that "excesses" happened when soldiers became drunk.⁵⁴ The FAA has taken no disciplinary action in these cases of rape.

The low status of women and girls in Angola and the structural discrimination to which they are subjected is reflected in the stigma attached to women who have been raped. One response to rape in Angolan society is for the rapist to marry the victim who might

⁵⁰ Human Rights Watch interview, Buco Zau municipal districts, August 8, 2004.

⁵¹ Under Article 7(2)(c) of the Rome Statute of the International Criminal Court (ICC), enslavement is defined as "the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children."

⁵² See below at p. 21-23 for more on the relevant legal standards.

⁵³ Human Rights Watch interviews, Cabinda province, August 2-21, 2004.

⁵⁴ Human Rights Watch with General Marques Correia Banza (FAA regional commander in Cabinda), Cabinda town, August 16, 2004.

otherwise no longer be considered eligible for marriage. Human Rights Watch investigated several cases of girls (i.e., under the age of eighteen), one as young as fourteen, who had married FAA soldiers. These early marriages in all likelihood took place after the girls had been raped by the FAA soldiers.⁵⁵

A.T. described how she was gang raped by fifteen FAA soldiers and an officer when she was fourteen years old in November 2002:

I was talking to a friend when a FAA colonel, whose nickname is Decídido, called me. He and the two armed soldiers took me to their military base. The colonel put a pistol to my head and told me that he would kill me if I tried to run away. They took me into a room where Decídido hit me on my face and on my breast with his pistol. He then pulled off my underwear and put two fingers in my vagina. He said to the other soldiers: "Do you know who this woman is? She is a woman from FLEC." He beat me again and then he raped me. I do not know if the two other soldiers remained in the room while he raped me because it was dark. After he raped me, he said: "I am going to send fifteen soldiers troops to use you. Do you want to sleep in the mud or do you want to sleep punished?" I was raped by fifteen soldiers, one after the other one. When they had finished using me, he sent for two soldiers who took me outside. I was in a lot of pain and bleeding. Decídido said to me: "If you complain to the traditional leaders, I will kill you." He then ordered two soldiers to take me home.

I could not walk properly for two weeks. I got medical treatment at the clinic for a few days and then went to Cabinda town for more treatment, including psychological treatment.⁵⁶

A 25-year old woman, J.M., was abducted by FAA soldiers in November 2003. The soldiers took her to their base in the forest where she was raped and held in sexual slavery for six weeks during which time she was repeatedly raped by the six soldiers who abducted her and by other soldiers in the same unit:

⁵⁵ Early forced marriages are marriages whereby the consent of either party is not sought or whereby the consent of the girl is not sought or, as in the Cabindan context, one or both spouses are under the age of consent, which under international law should not be less than fifteen years of age.

⁵⁶ Human Rights Watch interview, Belize municipal district, August 20, 2004. The victim's medical treatment was arranged by the Catholic Church.

I was traveling by car back to Cabinda town. There were three other persons in the car: the male driver and a couple whom I did not know. We were stopped by six armed FAA soldiers at about 7 p.m. The soldiers told me and the two other passengers to get out and took us into the bush. At about 11 p.m., the other female passenger who was about twenty-eight years old started to complain that she did not want to go any further. One of the soldiers put an AK to her head and fired. The bullet went through her head, causing her brain to spill out. We walked until we reached the soldiers' military base. The soldiers slept in shelters made from green tarpaulin. The soldiers took the husband of the woman whom they had killed to another part of the base and I never saw him again.

I was taken to a tarpaulin shelter where I stayed for about six weeks. I was raped day and night by many soldiers. They used force when they raped me. The soldiers said: "You Cabindans talk too much so now we will teach you a lesson." I was afraid and therefore did what I was told. I was too traumatized to remember how many soldiers raped me. The soldiers told me that I was there to be their wife. The soldiers threatened me and said they would kill me like the other woman if I refused to have sex. I felt like a lost person and was not sure whether I would survive.⁵⁷

After six weeks of being held and raped repeatedly by many soldiers, a soldier helped J.M. flee after he had raped her. He took her to the main road where J.M. managed to get a ride with a truck driver. J. M. was highly traumatized and in pain:

When I left the bush I was like a crazy woman with wild hair and very dirty as I did not wash for the whole time I was in the bush. My stomach hurt. It hurt to walk and urinate. I was ashamed of my appearance and could hear people in the street talking about me looking like a crazy woman. My mind was all messed up.⁵⁸

After her escape, J. M. was treated for infections and given psychological treatment, arranged by the Catholic Church. The transmission of sexually transmitted diseases,

⁵⁷ Human Rights Watch interview, Cabinda municipal district, August 3, 2004.

⁵⁸ Ibid.

including HIV, is greatly increased in violent sex with multiple partners. A report about her case was submitted to the FAA and to the police but they have not taken any action.

The FAA also arbitrarily detained women on the suspicion of being the wives of FLEC combatants. In early 2003, a large group of women married to FLEC combatants were detained by the FAA at a military base in Loma after the FAA had attacked their FLEC base in the bush.⁵⁹ The women and their children were detained on the base for about a month and were interrogated by the FAA about FLEC and were subsequently made to live in an old warehouse under constant guard by the FAA for about another two months. During this time, they had limited freedom of movement in that they could go to the market but the FAA threatened to cut off their heads if they went to the fields.⁶⁰

Another woman married to a FLEC combatant was captured by the FAA in a separate incident, while on her way to take food to her husband. FAA soldiers tied her hands behind her back so tightly that the rope cut into the skin above her elbows, which caused scarring.⁶¹ The officer of the unit who captured her threatened to kill her. She was also filmed by Angolan Public Television and forced to say on camera: "We went to the bush to meet our husbands who are in FLEC and told them that they must come out of the bush."

Some women married FAA soldiers as they fear that the FAA will otherwise accuse them of being FLEC wives which could result in them being detained or subjected to sexual violence.⁶² According to a displaced woman interviewed by Human Rights Watch, FAA soldiers told women in her village: "I will take you as my wife otherwise we will consider you as a wife of a FLEC."⁶³ Human Rights Watch heard of families and communities who refused to allow FAA soldiers to marry their daughters and were fearful of the consequences. In some of these cases, the girls were sent to the capital city to avoid possible rape that often results in marriage to the FAA soldier responsible for the rape. In one case, the daughter was sent away but was forced to marry a FAA officer upon her return to the village.⁶⁴

⁵⁹ Human Rights Watch interviews, Buco Zau municipal district, August 8, 2004.

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² Human Rights Watch interview with victim whose nieces had been arrested under suspicion of being married to FLEC, Buco Zau municipal district, August 14, 2004.

⁶³ Human Rights Watch, Buco Zau municipal district, August 14, 2004.

⁶⁴ Human Rights Watch interview, Buco Zau municipal district, August 8, 2004.

Denial of Freedom of Movement

The most widespread abuse by the FAA is the ongoing denial of freedom of movement to civilians in the rural areas, which has resulted in their inability to cultivate their crops in agricultural areas. In addition, the FAA continues to prohibit civilians from going into the forest to hunt or fish in many rural areas and has confiscated hunting rifles.

International human rights law provides that everyone shall have the right to liberty of movement. This right may be restricted on national security grounds, such as barring access to a military security zone, but only as is necessary.⁶⁵ In its General Comment 27, the Human Rights Committee stated that restrictive measures on liberty of movement must be appropriate to achieve their protective function, be the least intrusive instrument among those which might achieve the desired result, and must be proportionate to the interest to be protected.⁶⁶

Additional Protocol II to the Geneva Conventions, which is considered reflective of customary humanitarian law, specifically bans starvation of civilians as a method of combat. It also prohibits acts that would destroy or render useless objects indispensable to the survival of the civilian population, such as agricultural areas for the production of foodstuffs, crops, and livestock.⁶⁷

Civilians are denied regular access to the land and the crops they have cultivated; some are barred access for a period of weeks, while others no longer have any access to their fields. One displaced woman explained to Human Rights Watch:

The FAA does not allow women to go and cultivate our fields so how can we mothers provide food for our children? My wish is for peace so we can return to our village and fields.⁶⁸

⁶⁵ ICCPR, Article 12. See Manfred Nowak, U.N. Covenant on Civil and Political Rights: CCPR Commentary, Engel, 1993, pp. 211-212.

⁶⁶ Human Rights Committee, General Comment 27, Freedom of movement (Art. 12), (Sixty-seventh session, 1999), U.N. Doc. CCPR/C/21/Rev.1/Add.9 (1999), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 174 (2003).

⁶⁷ See Protocol II Additional to the 1949 Geneva Conventions, Article 14. Angola has not signed this Protocol, which specifically governs internal armed conflicts. However, most of its provisions are considered reflective of customary international law.

⁶⁸ Human Rights Watch interview, Buco Zau municipal district, August 14, 2004.

In the words of a father of four children interviewed by Human Rights Watch: "The FAA is everywhere. We do not have freedom of movement and can not send our children to school, as they can not go to school hungry."⁶⁹ Another man commented:

"We in the villages live from agriculture and now the forest is full of soldiers, stopping us from getting to our fields. How can we live?"⁷⁰

Villagers who venture into areas declared off-limits by the FAA are routinely arbitrarily detained on the suspicion of being FLEC supporters.

Violations Committed by FLEC Factions

Human Rights Watch found little evidence of recent abuses committed by FLEC factions. The only recent case of which Human Rights Watch is aware occurred in July 2003 when FLEC reportedly killed a mother with her two children and injured two construction workers in Belize municipal district in an attempt to stop road construction into the forest.⁷¹

Armed groups such as FLEC are obligated during internal armed conflicts to abide by article 3 to the 1949 Geneva Conventions on the treatment of persons in their custody and customary international humanitarian law concerning the methods and means of warfare. Until 2001, FLEC took foreign employees of the oil and construction companies hostage, which violates international humanitarian law prohibitions against the taking of hostages and attacks on civilians. FLEC has reportedly also executed persons suspected of collaborating with the FAA in addition to attacking FAA military positions.⁷² The limited number of reported cases of FLEC abuses may reflect several factors. It could be due to the rebels' decreased capacity in recent years – several persons said that the FLEC currently cannot leave the forest to take action against those suspected of collaborating with FAA given FAA's overwhelming presence in the province.⁷³ It may also be due to a FLEC policy of attacking only military targets in order to keep the support of the civilian population on whom they rely for logistical

⁶⁹ Human Rights Watch interview, Buco Zau municipal district, August 14, 2004.

⁷⁰ Human Rights Watch interview, Cabinda municipal district, August 2, 2004.

⁷¹ Human Rights Watch interview, Cabinda municipal district, August 10, 2004. Human Rights Watch was not able to corroborate this incident.

⁷² João Gomes Porto, *Occasional Paper 77-Cabinda: Notes on a soon-to-be-forgotten war*, p.16.

⁷³ Human Rights Watch interview, Buco Zau municipal districts, August 8, 2004.

support (food, clothes, blankets, medicine, etc.).⁷⁴ In addition, as most civilians in Cabinda support FLEC's cause, they might be reluctant to speak out about abuses committed by FLEC: Cabindans generally consider themselves to be Cabindan first and foremost and do not feel that they are part of Angola.⁷⁵ Given how long the armed conflict has lasted, however, civilians did express some resentment against the FLEC, as "both the FAA and FLEC harass villagers. They demand that we feed them, and then disappear."⁷⁶ Forced recruitment by FLEC is also a concern, although there is little evidence that FLEC uses child soldiers.⁷⁷

Government Response

Since a 1996 Supreme Court ruling, crimes committed by soldiers against civilians fall under the jurisdiction of civil courts.⁷⁸ Military prosecutors investigate these cases in the first instance and determine whether the case should be handed over to the civilian courts.⁷⁹ In all the violations enumerated above, except in the recent killing of Luís Bundu, the FAA has failed to investigate. In some of the killings, the FAA has "acknowledged" its role by transferring units, including officers, either within Cabinda province or to other provinces and paying for the coffins and related funeral expenses. Violations brought to the attention of the civil authorities have largely been ignored by civil authorities. The arrest of Bundu's alleged perpetrators and the involvement of the civil prosecutor of Cacongo municipal district in the exhumation of his body is a positive step, but it remains to be seen whether his killing will be properly investigated and prosecuted given the lack of capacity and will of both the police and the judiciary. Cabindans generally have little faith that violations will be taken seriously by either the FAA or the police. As one man pointed out:

⁷⁴ Former FLEC combatants said that they had been trained to not attack the civilian population. Human Rights Watch interview, Cabinda municipal district, August 5, 2004.

⁷⁵ Human Rights Watch interview with Colonel Toze da Costa (military prosecutor for Cabinda), Cabinda town, August 8, 2004.

⁷⁶ Human Rights Watch interview, Cabinda municipal district, August 6, 2004.

⁷⁷ Human Rights Watch interviews, Cabinda municipal district, August 5 and 13, 2004.

⁷⁸ See *Acórdão do Tribunal Supremo sobre a Inconstitucionalidade Parcial da Lei da Justiça Penal Militar* (Processo n.º 10) or *Supreme Court ruling on the Partial Unconstitutionality of the Military Penal Code* (Case n.º 10) issued on October 11, 1996.

⁷⁹ Human Rights Watch interview with Colonel Toze da Costa (military prosecutor for Cabinda), Cabinda town, August 8, 2004.

The soldiers are like the wild pigs and the civilian authorities are the domestic pigs. You cannot go to a domestic pig with a complaint about a wild pig.⁸⁰

Cabinda's deputy civil prosecutor stated that the detention and torture of civilians by FAA on military bases is illegal under Article 291 of the Angolan Penal Code, as the FAA does not have the powers to detain.⁸¹ Not only were the detainees who accounts were cited in this report held in illegal places of detention but their right to due process guarantees provided for under Angolan law, including being promptly told of any charges against them; being brought promptly before a judge empowered to rule upon the lawfulness of the detention and having access to a lawyer, were violated. Human Rights Watch is also concerned that accused are often assigned persons who have no legal background to represent them.⁸² The government of Angola should ensure that law enforcement is carried out by the proper civilian authorities, such as the police, and not by the military themselves.

In addition to its requirements to prosecute under domestic law, Angola is obligated to pursue prosecutions of those implicated in serious violations of international humanitarian law. As a signatory to the Rome Statute of the International Criminal Court (ICC), Angola should prosecute acts by all parties that are contrary to the object and purpose of the ICC Statute.⁸³ Among the acts that are absolutely prohibited and are described in this report are: a) murder, b) torture, c) inflicting humiliating or degrading treatment on civilians or captured combatants, and d) rape and other forms of sexual violence.

The FAA regional commander told Human Rights Watch that as part of the government's campaign to "win the hearts and minds" of Cabindans, FAA soldiers receive "patriotic education," which includes some training in international humanitarian law and instructions to treat civilians with respect -- but this training is clearly insufficient.⁸⁴ The FAA regional commander has also held meetings with community leaders to discuss their problems and to inform them that they should bring any violations committed by the FAA to the attention of the officers in the field.⁸⁵

⁸⁰ Human Rights Watch interview, Cabinda municipal district, August 2, 2004.

⁸¹ Penal Code, Chapter XIII, Article 291.

⁸² Human Rights Watch interview with a lawyer, Cabinda municipal district, August 17, 2004.

⁸³ Angola signed the Rome Statute on October 7, 1998 but still needs to ratify it.

⁸⁴ Human Rights Watch with General Marques Correia Banza (FAA regional commander in Cabinda), Cabinda town, August 16, 2004.

⁸⁵ Ibid.

The International Response

The involvement of international interlocutors, including that of the U.N. and regional bodies, in seeking a solution to the conflict in Cabinda has been notably absent. Actors from Portugal, South Korea, Gabon, Namibia, the DRC, United States, and the church have tried to offer mediation support - but the Angolan Government has declined such offers, as it has reportedly always wanted to be in full control of the pace of seeking a solution. As mentioned earlier in this paper, there has been very little international presence in Cabinda-the government of Angola has not sought or reportedly wanted international engagement in Cabinda.

The international community has funded an innovative program to monitor certain police stations in Cabinda in addition to other provinces and provide advice as well as training to police officers regarding national and international standards on detainees' rights.⁸⁶ Unfortunately this program, which is implemented by the Angolan Bar Association, has been slow to get off the ground and is only funded for a short time period. The United Nations Human Rights Office conducted training on human rights for police in Cabinda in October 2004.

⁸⁶ Human Rights Watch interview with a donor representative, Luanda, August 24, 2004.

