

ANGOLA

The Lusaka Protocol: what prospect for human rights?

1. Introduction

The 19-year civil war in Angola has devastated countless lives, torn communities and families apart and led to human rights abuses on a massive scale. There is little or no prospect of building a climate of respect for basic freedoms while the conflict persists. However, there can be no lasting peace unless human rights are given precedence over political considerations and abuses are confronted.

Human rights abuses will stop only when the cycle of impunity is broken. It is essential that both parties accept full responsibility for preventing and investigating human rights abuses and for bringing perpetrators to justice. The *Missão de Verificação das Nações Unidas em Angola III* (UNAVEM III), United Nations Angolan Verification Mission III, -- the UN peace-keeping force, which has a mandate to investigate human rights -- could be of practical assistance. UNAVEM III was set up after the Lusaka Protocol peace agreement was signed by both sides in late 1994. The Lusaka Protocol offers an opportunity to develop a human rights culture in Angola -- an opportunity which must not be wasted. This report examines the human rights provisions of the Lusaka Protocol, describes the context of the peace agreement and some of the human rights abuses committed since November 1994, and recommends measures to bring the abuses to an end.

The Lusaka Protocol was signed by the Angolan government and the *União Nacional para a Libertação Total de Angola* (UNITA), National Union for the Total Liberation of Angola, on 20 November 1994 in Lusaka, Zambia. As a result, the UN agreed to send a further peace-keeping operation to Angola. UNAVEM III was established by UN Security Council Resolution 976 of 8 February 1995.

UNAVEM III was given an initial mandate lasting six months, which the UN Security Council extended for a further six months in August 1995, on condition that both sides guarantee the free and safe passage of humanitarian aid and the effective cessation of hostilities. The UN Security Council reserved the right to discontinue the mission if the UN Secretary-General was not satisfied that the peace agreement was being implemented. At the end of UNAVEM III's first year, the UN Security Council decided to extend its mandate for only three months, instead of the six months recommended by the UN Secretary-General. This reflected the growing impatience of the international community with the slow progress of the peace process.

There is a risk that the UN will pull out of Angola unless real advances are made between now and May 8, when UNAVEM III's mandate comes under review. If that happens, the prospects for peace and human rights in Angola will be set back for a long time to come.

The Lusaka Protocol was signed under the auspices of the UN after a year of slow progress in negotiations between the Angolan government and UNITA. It supplements and strengthens the previous peace agreement, the Bicesse Accords, signed in Portugal in 1991, particularly in the area of human rights. The Bicesse Accords collapsed after UNITA disputed the results of elections held in September 1992. In the light of that experience, the UN and the observer governments to the peace accords -- Portugal, the Russian Federation and the USA -- sought at Lusaka to establish structures capable of containing the antagonism between the two sides.

However, the signing of the Lusaka Protocol owed more to international pressure than to the political will of the Angolan government and UNITA to achieve peace. While negotiations were going on in Lusaka, both sides continued military operations with disastrous effects on civilians, particularly in Kuito, Huambo and Uíge. Significantly, neither Angolan President José Eduardo dos Santos nor UNITA's leader Jonas Malheiro Savimbi signed the Lusaka Protocol. Instead, it was signed by the chief negotiators of the two delegations, Faustino Muteka for the government of Angola and Eugénio Ngolo "Manuvakola", on behalf of UNITA. The third signatory was the UN Secretary-General's Special Representative to Angola, Maître Alioune Blondin Beye.

The two former belligerents still mistrust each other deeply and peace in Angola remains fragile. Since the signing of the Lusaka Protocol there have been numerous cease-fire violations which have threatened a return to sustained conflict. Human rights abuses have also continued with impunity. Unless these are checked, they could still derail the peace process. A return to war would have devastating consequences, not only for Angola but for Africa as a whole.

The Lusaka Protocol is the latest of several attempts to end the civil war which resumed in November 1992 after UNITA rejected the results of the first round of elections. Previous peace initiatives, including talks in Abidjan (Ivory Coast) in June 1993, were abandoned. The Lusaka Protocol is also the third peace agreement signed by the *Movimento para a Libertação de Angola* (MPLA), Movement for the Liberation of Angola, the ruling party, and UNITA. The Alvor Accords of 1974 aborted in less than a year. The 1991 Bicesse Accords broke down in little more than a year, leading to the resumption of war. The renewed fighting was, by all accounts, even more bitter than in the previous 17 years.

Amnesty International has monitored the human rights situation in Angola since the late 1960s, before its independence from Portugal in 1975. Amnesty International welcomes the human rights elements of the peace agreement, but remains concerned that these may not be enough to protect human rights and to end the cycle of impunity. Without determined and concerted efforts to build respect for human rights, the people of Angola will continue to live in fear.

2. The Lusaka Protocol

a) General provisions

The Lusaka Protocol consists of 10 documents (called annexes), each relating to a specific area (see Appendix 1). Some of the annexes contain provisions for human rights which amplify those in the Bicesse Accords. The Lusaka Protocol originally set out a two-year timetable for the peace process, culminating with a second round of Presidential elections. Its signatories agreed a cease-fire, the establishing of a third UN peace-keeping mission to Angola, and the deployment of over 6,500 peace-keeping troops. A *Comissão Conjunta* (CC), Joint Commission, was set up to oversee implementation of the peace agreement. The Joint Commission has representatives of the Angolan government, of UNITA and of the UN, and observers from Portugal, the Russian Federation and the United States of America.

The Lusaka Protocol envisaged a major role for the UN, in contrast to the Bicesse Accords in which the observer role of the UN was limited to verifying the implementation of the cease-fire. Under the Lusaka Protocol the UN was to play a part in military and police matters; in national reconciliation; and in the second round of Presidential elections.

Government and UNITA troops were to be disengaged and confined to specific assembly areas (quartered), disarmed and demobilised. This process was to be supervised by the UN, which was also to supervise the collection and storage of UNITA's weapons and those in civilian hands. UNITA troops were to be integrated into the *Forças Armadas Angolanas* (FAA), Angolan Armed Forces, and into the Angolan National Police, which was to be trained and to abide by internationally recognized human rights standards. Any soldier not incorporated into the FAA was to be demobilised.¹ The formation of a joint army, a provision of the previous peace agreement which had not been achieved when war broke out again in late 1992, was to be completed before elections could be held. All prisoners held by both sides were to be released.

The quartering, demobilization and incorporation of UNITA troops into the FAA proved the most contentious aspect of the peace agreement. It has caused disagreement between the two sides and severe delays in implementing the agreement. Quartering of UNITA troops should have been completed by June 1995 but did not start until 20 November 1995, the first

¹ In May 1995 both sides agreed to reduce the strength of the new army from 120,000 to 90,000, taken from both sides proportionally, and to the global incorporation of UNITA troops. That is, all UNITA troops were to be incorporated into the FAA before demobilizing.

anniversary of the Lusaka Protocol. However, it soon stopped again when government forces attacked UNITA-held positions, and did not resume until the end of January 1996.

Under the provisions for national reconciliation, UNITA was to be given several posts including those of ministers and vice-ministers, and ambassadorships. It was to participate in the Angolan administration at provincial and local level. President dos Santos offered Jonas Savimbi the post of vice-president in May 1995, during a meeting in Lusaka, and in July the constitution was amended to allow for the creation of two posts of vice-president.

The Presidential elections were initially scheduled for February 1997, with a stipulation that they would be held if and when the UN was satisfied that conditions were ripe. Because of the delays in implementing the peace agreement, elections were postponed indefinitely in July 1995.

b) Human rights provisions and monitoring within the Lusaka Protocol

The Lusaka Protocol reinforces and expands the human rights provisions contained in the 1991 Bicesse Accords. However, significant gaps remain and the Protocol fails to counter the climate of impunity. Annex 6, on national reconciliation, allows perpetrators of past abuses to avoid accountability and punishment. It provides an amnesty for all offences committed before the signing of the Protocol in the context of the conflict. In addition, human rights provisions can, apparently, be superseded by the Joint Commission and it appears that the Joint Commission also has the power to overrule the judicial system.

Almost all the annexes which make up the Lusaka Protocol contain provisions requiring respect for human rights. Some contain more specific provisions than others (see Appendix for further details). These provisions cover:

- respect for human rights and basic freedoms, with specific reference to the Universal Declaration of Human Rights;
- cessation of all acts of violence against civilians;
- freedom of movement of persons and goods;
- freedom of speech;
- freedom of association;
- release of all prisoners imprisoned as a result of the conflict;
- neutrality of the police, which is to be trained and to abide by internationally recognized human rights standards.

The Lusaka Protocol also demands that all Angolans obey the law. The laws cited include the Angolan constitution, the Bicesse Accords and the Lusaka Protocol, and international human rights instruments to which Angola is party, such as the International Covenant on Civil

and Political Rights and the African Charter on Human and Peoples' Rights. These were ratified by Angola in 1992 and 1990 respectively.

Human rights monitoring was incorporated into UNAVEM III's mandate² after campaigning by human rights organizations including Amnesty International. But human rights remain a low priority. A Human Rights Unit (HRU) was set up within UNAVEM III but its resources are limited. A maximum of 11 civilian human rights monitors, contracted for periods of six months only, have to cover Angola's 18 provinces. The powers of the HRU have never been made public. Amnesty International does not know the number of cases the HRU has investigated or the outcome of the investigations. To date, no report of its work has been made public. UNAVEM III informs the Joint Commission of cases of human rights reported to it but information available to Amnesty international shows that these reports are not thoroughly investigated and no remedial actions are recorded. It appears that political sensitivities have been allowed to silence those working for human rights.

Since May 1995 the civilian human rights monitors have been assisted by 225 civilian police (civpols) who are also mandated to receive complaints of human rights violations and to investigate them. The civpols' mandate also covers monitoring the activities of the Angolan police, visiting detention centres and liaising with the local authorities.

Human rights were put on the agenda of the monthly meeting of the Joint Commission for the first time in May 1995. The Joint Commission had received complaints about human rights abuses and decided to consider human rights at each of its monthly meetings. The Commission asked for human rights reports to be included in the Special Representative's report to the UN Secretary-General. However, the Special Representative's reports are not made public.

Amnesty international believes that publication of these reports is essential to build the confidence of the Angolan people that human rights abuses are being addressed. It will encourage people to report human rights abuses they become aware of, and will put an end to impunity

Although reports of the Secretary-General to the Security Council now include a section on human rights aspects, these are short summaries of the activities of the HRU and the civpols. Amnesty International regrets that these reports do not include detailed information about the cases received by the HRU, investigation and remedial actions. The organization believes that such detailed information is essential to inform Security Council's decisions and to inform Members States of the UN.

Paragraph 8 of UN Security Council Resolution 976 of 8 February 1995, which authorized the establishment of UNAVEM III, "welcomes the Secretary-General's intention to include human rights specialists in the political component of UNAVEM III to observe the implications of the provisions related to national reconciliation"

c) Breaches of the peace agreement

A formal cease-fire between the government of President José Eduardo dos Santos and UNITA was agreed in February 1995. Since then the general level of violence has declined but both sides have repeatedly violated the cease-fire and seriously endangered the peace process. Isolated fighting continued throughout 1995 in which hundreds of civilians died. Most incidents occurred in the two diamond-rich northeastern provinces of Lunda Norte and Lunda Sul, and in Uíge and Zaire provinces in the north of the country, where tension remains high.

The most serious breach of the cease-fire came in late November 1995 when government troops attacked UNITA-held positions in Zaire and Uíge provinces. UNITA responded by suspending the quartering of its troops, which had started a week earlier and was already eight months late. UNITA also demanded the withdrawal of government troops from the occupied areas and the immediate quartering of government troops and the *Polícia de Intervenção Rápida* (PIR), Rapid Reaction Police (commonly known as "Ninjas").

In January 1996 the first PIR battalion was confined in Huambo province and UNITA began quartering its troops once more, but at a very slow pace. Despite its pledge to have 16,000 troops confined at assembly points by February 8, when the UN Security Council was due to discuss the Angolan peace process, less than half that figure had entered the quartering areas by then. Both the Angolan government and the UN have accused UNITA of sending children and elderly soldiers to the assembly points, either unarmed or carrying obsolete weapons.

There have been numerous reports of both sides continuing to recruit youths into their forces. In mid-February 1996 an unidentified senior UN official in Angola and aid agency sources told the news agency Reuters that both the FAA and UNITA were recruiting youths in Uíge province, in violation of the peace agreement.

The Lusaka Protocol prohibits the laying of land-mines, yet both sides continue to plant land-mines, threatening the safety of future generations of Angolans and severely restricting freedom of movement.

Freedom of speech, association and movement, guaranteed by the Lusaka Protocol and the Angolan Constitution, continue to be denied to Angola's citizens. Circulation along most roads is impeded by roadblocks manned by government or UNITA soldiers, who often demand payment from travellers illegally. UNITA does not allow people to leave areas under its control without permission. Those who try may pay with their lives. In early October 1995 João Lina was reportedly beaten to death in public by UNITA forces in Soyo after two of his relatives fled to an area controlled by the government. Apparently, UNITA officers went to João Lina's house, arrested him, took him to the main square and beat him to death. His body was reportedly left on public display for several days before his family was allowed to bury him. Freedom of

movement is also restricted by the growing number of bandits, many of whom are hungry soldiers from the two former enemy armies, and by land-mines.

The country's economy is in chaos and vast quantities of firearms are in the hands of private individuals. There are an estimated 700,000 firearms in civilian hands in Luanda alone, but the collection of arms from civilians has not yet started. The alarming rise in criminal activity poses a further grave threat to the security of Angolans. It is often difficult to determine whether killings are political or acts of banditry, especially as bandits frequently wear uniforms. Conversely, sometimes killings are attributed to criminals when there are reasons to suspect political motivation. In August 1995 two high ranking officers of the Angolan air force -- Domingos Iuma and Avelino Manuel -- were shot dead in the Cassenda district of Luanda by unidentified gunmen. In December the provincial governor of Bengo, Domingos Hungo "SKS", was killed. One man was arrested and presented to journalists as the criminal responsible for his killing.

Freedom of speech, including press freedom, remains under attack and journalists continue to be persecuted, despite the Lusaka Protocol. Press freedom has been severely restricted since hostilities broke out again in late 1992 and independent journalists and publications are at grave risk. Many journalists have been killed or "disappeared".

Since November 1994 several journalists critical of the government have been arrested or have received death threats. One, Ricardo de Mello, director of the independent *Imparcial Fax*, was killed on 18 January 1995 inside the apartment building where he lived, after publishing an article which implicated senior government officials in corruption. He had received death threats on several occasions and had been briefly detained in November 1994 for criticizing the government. The police apparently investigated the killing but the results of their investigation were not published. Another journalist, Mário Paiva, said in November 1995 that a member of the security forces had warned him that he would be killed like Ricardo de Mello. Amnesty International does not know whether the HRU has investigated these two incidents or taken any steps to ensure the safety of journalists. Journalists working for the UNITA-controlled press do not fare any better and are also subject to human rights abuses if they criticize the party line.

One vital element of the Lusaka Protocol which has not been achieved is the release of prisoners. Not only have both sides failed to release all prisoners, but they have continued to take prisoners and hold them more or less secretly. The Lusaka Protocol states that "all civilian and military prisoners detained or withheld as a consequence of the conflict" are to be released under the supervision of the International Committee of the Red Cross (ICRC). However, the release of prisoners has been slow and intermittent. Throughout 1995 UNITA maintained that it held no political prisoners, neither government supporters nor dissidents from within its own ranks. The government released over 200 UNITA supporters in May 1995 but in June said it was halting releases until UNITA freed a similar number. However, UNITA released only 22

prisoners during 1995. By February 1996 the government had released about 350 UNITA prisoners (both political and prisoners of war) while UNITA had released fewer than 120 prisoners of war. There are currently an estimated 45,000 people stranded in Jamba, UNITA's former headquarters on eastern Angola, many of them had been held against their will. Among them are civilian MPLA supporters and soldiers captured by UNITA during the civil war who should have been released after the signing of the Bicesse Accords in 1991. UNITA is also said to be holding South African "mercenaries" captured before and after the signing of the Lusaka Protocol. Neither side has accounted for thousands of people who "disappeared" after fighting resumed in October 1992.

To give effect to the Lusaka Protocol's provisions, the Angolan National Assembly passed an amnesty law in November 1995. This grants amnesty for all crimes against the security of the state and other related crimes committed by Angolans within the framework of the conflict before the signing of the Lusaka Protocol. In Amnesty International's experience such amnesty laws, which allow perpetrators of human rights abuses to escape discovery and punishment, do nothing to end the cycle of violence. The interests of national reconciliation may be served by pardons after conviction: Amnesty International takes no position on this. But it is essential to end the climate of impunity by revealing the truth and completing the judicial process.

3. Human rights abuses

a) Before the Lusaka Protocol

Angola's people have suffered many years of political killings and other human rights violations. During nearly two decades of civil war, non-combatant civilians have been arbitrarily detained, tortured and killed. Previous cease-fires have not automatically led to respect for human rights. During the brief cessation of hostilities that followed the signing of the Bicesse Accords in 1991, scores of people were killed for political reasons. At the time Amnesty International warned that the peace process could collapse because of these flagrant breaches of the human rights provisions of the peace accord. The organization appealed to the Angolan government and UNITA to take urgent action to protect human rights, and called on the international community to use its influence in support of greater human rights protection in Angola. These warnings were largely ignored. Amnesty International firmly believes that the Bicesse Accords failed because human rights abuses were allowed to continue unchecked, uninvestigated and unpunished. Failure to investigate and bring to justice those responsible for politically motivated killings reinforced Angola's long tradition of impunity, culminating in the mass killings of late 1992 and early 1993, and led to the resumption of the civil war. Between October 1992 and February 1993 alone, many thousands of people were extrajudicially executed or "disappeared" by the government. During those four months UNITA was also responsible for gross human

rights abuses including hundreds of killings and the abductions of hundreds of people whose whereabouts remain unknown.³

During the last phase of the Angolan civil war, from late 1992 to late 1994, an estimated 100,000 to 500,000 people lost their lives. Fighting was particularly fierce in the last two months of the war, when tens of thousands of civilians were said to have been killed. Thousands of Angolans, many of them women and children, died in the besieged cities of Kuito and Huambo and in rural areas. Some died of hunger, some were killed in cross-fire, some were blown up by land-mines. Both the government and UNITA shelled and bombed predominantly civilian areas, killing thousands. In Kuito alone, a city almost totally destroyed by bombing, 30,000 people are said to have died during an 18-month siege by UNITA. Both sides blatantly disregarded international humanitarian law and, for the first time in the long civil war, used food aid as a weapon. Humanitarian aid agencies were attacked by both sides and both the government and UNITA prevented delivery of food to areas controlled by the other side. Most of those who lost their lives were killed in the bombardments or died of hunger or disease, but many were victims of arbitrary and deliberate killings by the two belligerents. It is impossible to know how many were killed in this way.

Killings of political opponents and other human rights abuses continued daily, right up to the signing of the Lusaka Protocol. Many unarmed civilians were deliberately killed by soldiers -- both government troops and UNITA forces -- who throughout the conflict executed civilians after capturing towns previously controlled by the other side. Many of the victims were tortured first. In June 1994 UNITA accused government forces of executing about 300 people after occupying Quilenngues, Huila, in August 1993 including a doctor, two Portuguese businessmen, and two members of the local Catholic church. It seems clear that some people were executed in this instance, but it is impossible to assess how many. Members of the government security forces were also accused of executing about 50 people suspected of collaborating with UNITA, in Kuito in September 1994.

UNITA also killed defenceless civilians, especially government officials, in towns it controlled. In N'Dalatando, which the government captured in May 1994, witnesses testified that they had seen UNITA soldiers shooting and hacking civilians to death. Journalists who visited Huambo shortly after government forces recaptured it in November 1994 said they had found the bodies of dozens of prisoners held by UNITA who had been deliberately killed a few days earlier. They reported that women had been made to serve as sex slaves to UNITA generals and that some were taken away by UNITA men when they retreated.

³ For a detailed account of the massive wave of extrajudicial killings by the government and gross human rights abuses by UNITA, see *Angola: Assault on the right to life* (AI Index: AFR 12/04/93)

In addition, both the government and UNITA have failed to account for the fate of thousands of civilians arbitrarily detained in the past four years. One of the many still missing is Alfredo Afonso, an UN World Food Program official based in Huambo, who was arrested by UNITA in July 1994 and whose whereabouts remain unknown despite repeated requests for his release. Two Africare employees - Oliveira Cafranca Lembe, an Angolan, and Vincent D. Douma, from Congo - have been missing since 24 August 1994 when they were abducted by UNITA at a roadblock around Port Amboim, Kwanza Sul province.

b) Human rights abuses since the signing of the Lusaka Protocol

The scale of fatalities has decreased considerably since the signing of the Lusaka Protocol. Humanitarian aid has reached more of the population and some of the 1.4 million people displaced by the war have begun to return to their homes. An agreement between the government and the UN High Commissioner for Refugees in June 1995 provided for the voluntary repatriation of refugees from neighbouring countries. However, civilians are still being killed in the sporadic fighting between government and UNITA forces. Although the Lusaka Protocol contains considerably stronger human rights provisions than the Bicesse Accords, human rights protection has not been given the highest priority and both sides have continued to commit human rights abuses against civilians with impunity.

i) violations by the government

Government security forces have continued to arrest, torture and kill political opponents since the signing of the Lusaka Protocol in November 1994. For example, the Reverend Justino Wako, Father João Maria Futi, and João Baptista Sousa, a journalist, were arrested together with dozens of other people in Cabinda in January 1995 when they attended a political meeting. They were held for several hours and reportedly beaten with batons, kicked and threatened at gunpoint. Some were so badly injured that they required hospital treatment. In July the security forces reportedly shot dead João Pequeno, a suspected member of the *Frente para a Libertação do Enclave de Cabinda* (FLEC), Front for the Liberation of the Cabindan Enclave, when they went to arrest him at his house in Cabinda.

Other government opponents have been killed in suspicious circumstances. José Adão da Silva was the Provincial Secretary of UNITA in Luanda and an elected member of the National Assembly. He had been detained from November 1992 to January 1993. Before that he had been a senior police officer who joined UNITA in 1991. He was shot dead on 14 July 1995 near Luanda airport by two men wearing police uniforms. The government ordered an investigation. However, those responsible for the killing have not apparently been identified. António Maltez, a trader from Maala, Huíla, died in hospital on 4 July 1995. He had been shot the day before by members of the security forces who had allegedly been persecuting him since 1993 because some of his relatives were UNITA activists and he had been in contact with them.

ii) human rights abuses by UNITA

UNITA has continued to imprison government soldiers and civilians, in violation of the Lusaka Protocol. In late September 1995 UNITA abducted more than 40 people in Lunda Norte province, including four South Africans who it claimed were mercenaries. The South African and Angolan authorities said that the four men were registered diamond prospectors. Despite calls for their release, their subsequent whereabouts remain unknown.

On 5 October 1995 international news agencies reported that UNITA in Negage had sentenced an unspecified number of men to death, and that these sentences were subsequently commuted at the request of Maître Alioune Blondin Beye, the UN Special Representative. The men were accused of the murder of 10 women and children in Negage in September 1995. It appears that UNITA is setting up its own courts, independent of the national judicial system, in contravention of Angolan law and the spirit of the Lusaka Protocol.

A number of people have been put to death by UNITA since November 1994. Three members of one of the FLEC factions were summarily executed by UNITA in mid-October 1995 for stealing arms. Five UNITA soldiers were also executed for complicity.

Few of the incidents described in this report appeared to have been investigated by either the Angolan authorities or by UNAVEM III. Even in the rare cases where investigations have been announced, the results have not been made public and it is not known whether any remedial action has been taken.

4. Amnesty International recommendations

The hopes of the Angolan people for peace and human rights can only be achieved if human rights are treated as an absolute priority. This means confronting abuses, regardless of political considerations, by investigating them and bringing those responsible to justice. Both parties have to accept full responsibility for investigating human rights abuses whenever and wherever they occur. They could be assisted in this task by UNAVEM III, which has a mandate to investigate human rights abuses. The Lusaka Protocol offers an opportunity to develop a much needed human rights culture in Angola. It is an opportunity which must not be wasted. Action is urgently needed not only from those responsible for human rights abuses but also from other sectors of Angolan society. The international community also has a vital role to play in helping safeguard human rights in Angola. Amnesty International believes that the following suggestions could significantly prevent future human rights abuses.

To the Angolan government and UNITA:

- C both President José Eduardo dos Santos and UNITA's leader Jonas Savimbi should make public their commitment to the human rights provisions in the Lusaka Protocol. They should also publicly state that human rights abuses by their forces will not be tolerated;
- C the two sides should prove their commitment to upholding human rights by ensuring that all reports of human rights violations or abuses are thoroughly and independently investigated and that perpetrators are brought to justice;
- C the two sides should ensure that all those found guilty of committing human rights abuses are removed from positions of command and never again placed in positions of command where they can commit, or order other to commit, human rights abuses;
- C the public should be informed regularly of the results of investigations into human rights violations and the remedial action taken in order to build their trust and to encourage them to report incidents of human rights abuses and end impunity;
- C both sides should publish a list of prisoners arrested since hostilities resumed in late 1992, so that their whereabouts can be established. In addition, both parties should account for the thousands of "disappeared" and for prisoners who were not released after the Bicesse Accords were signed in May 1991;
- C both sides should invite the population to report human rights abuses to the authorities or to the HRU within UNAVEM III. They should also use any means at their disposal, such as the news media, to inform the population of their rights under the Constitution and the international human rights treaties ratified by Angola such as the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights.

In addition the government should:

- C implement reforms leading to greater protection of human rights; guarantee the independence of the judiciary; and ensure and that all law enforcement personnel are adequately trained in international human rights standards.

To the UN and the international community:

- C the UN should use its influence with the Angolan government and UNITA to ensure that they both respect and protect human rights;

- C the UN should pay special attention to the promotion, monitoring and investigation of violations of the human rights provisions of the Lusaka Protocol and make recommendations concerning remedies;
- C the UN should make public its reports on human rights abuses, particularly reports on the work of the HRU within UNAVEM III, and distribute them widely, as a measure towards ending impunity for perpetrators of human rights abuses;
- C the international community should take urgent action to ensure that human rights are respected in Angola, and to promote and support measures for greater protection of human rights during and after the implementation of the peace process;
- C the international community should use its influence with the Angolan government and UNITA to end the long history of human rights abuses in Angola and to end impunity.

Appendix 1

Human rights provisions in the Lusaka Protocol

The following annexes of the Lusaka Protocol are specific to human rights: Annex 3 (Military questions-part 1); Annex 5 (Police matters); Annex 6 (National Reconciliation); Annex 7 (Conclusion of the electoral process). Below is a list of the human rights protected by the Lusaka Protocol and referred to in these annexes, together with a reference to the Angolan Constitution and the international instruments which Angola has ratified, which include the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights.

FUNDAMENTAL FREEDOMS

Annex 5 I.2: "The Angolan National Police ...is responsible for ...the defence of the interests, integrity and security of all persons in Angola, irrespective of their nationality, place of birth, race, religion, social origin or political party affiliation"; and (**Annex 5 II.2**):[...] "guaranteeing the regular exercise of fundamental rights and freedoms."

Annex 6 I.4 (b) : "[National Reconciliation implies] Respect ... for the fundamental human rights and freedoms as defined by the national legislation in force and by the various legal international instruments to which Angola is a party, including the relevant provisions of the Bicesse Accords and the Lusaka Protocol"; and (**Annex 8 II.10**): "[] Government and UNITA commit themselves to... respecting the principles of ...internationally recognized human rights, more particularly, the Universal Declaration of Human Rights and the fundamental freedoms of the individual..."

Annex 6 I.4 (e): "[...] Condemnation of the use of violence as a means of settling disputes or conflicts..."

Angolan Constitution Article 20: " [...] The life, freedom, personal integrity, good name and reputation of every citizen shall be protected by the law."

Angolan Constitution Article 21.2: "Constitutional and legal norms related to fundamental rights shall be interpreted and incorporated in keeping with The Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights and other international instruments to which Angola has adhered."

African Charter Article 2: "Every individual shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language , religion, political or any other opinion, national and social origin, fortune , birth or other status."

RIGHTS AND FREEDOMS TO BE GUARANTEED THROUGH INDEPENDENT JUDICIAL PROCESS

Annex 6 II.17 : “...the fundamental rights and freedoms of the citizen are guaranteed through the independence of the judiciary”.

Angolan Constitution Article 120.3: “In the discharge of their judicial duties, the courts shall be independent and subject only to the law...”

African Charter Article 26: “State parties to the present Charter shall have the duty to guarantee the independence of the Courts...”

ICCPR Article 14.1: “All persons shall be equal before the courts and tribunals. [...] Everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.”

Annex 5 II.2: “... any individual suspected of having committed illegal acts and placed under preventive detention by the Police shall, in strict compliance with the law, be taken to court.”

Angolan Constitution Article 38: “Any citizen subject to preventative detention shall be taken before a competent judge to legalise the detention and be tried within the period provided for by law or released.”

African Charter Article 6: “Every individual shall have the right to the liberty and the security of his person. [...] In particular, no one may be arbitrarily arrested or detained.”

ICCPR Article 9.4: “Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that a court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful”.

FREEDOM OF MOVEMENT

Annex 3 1.3: “The re-established cease-fire must guarantee the free circulation of persons...”
(Reiterated in **Annex 3, II.7 and 3, III.15**)

Angolan Constitution Article 25.1: “Any citizen may move freely and reside in any part of the national territory, and shall not be impeded from doing so for political, or any other reasons....”

African Charter Article 12.1: “Every individual shall have the right to freedom of movement and residence within the borders of a State provided he abides by the law. Every individual shall have the right to leave any country, including his own and to return to his country...”

ICCPR Article 12.1 “Everyone lawfully within the territory of the State shall, within that territory, have the right to liberty of movement and freedom to choose his residence....”

FREEDOM OF EXPRESSION AND FREEDOM OF THE PRESS

Annex 6 II.2: [Within the framework of National Reconciliation] “... the freedoms of speech... as well as press freedom ... are guaranteed in accordance with the legislation in force, the Lusaka Protocol and the universal principles of the rule of law.”

Annex 6 II.3: ”...The right of access to State Press, Radio and Television is guaranteed to political parties provided the legislation in force, the Lusaka Protocol and the universal principles of the rule of law are complied with.”

Angolan Constitution Article 32.1: “Freedom of expression, assembly, demonstration, association and all other forms of expression shall be guaranteed”; and **(Article 35):** “Freedom of the press shall be guaranteed and may not be subject to any censorship, especially political, ideological or artistic.”

African Charter Article 9.2 “Every individual shall have the right to express and disseminate his opinions within the law.”

ICCPR Article 19.1 “Everyone shall have the right to freedom of expression” and **(Article 19.3)** “[The exercise of this right may] be subjected to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) for respect of the rights or reputation of others; (b) for the protection of national security or public order, or of public health or morals”.

FREEDOM OF ASSOCIATION AND ASSEMBLY

Annex 6 II.2 : [Within the framework of National Reconciliation] “... the freedoms of ... association and organization of unions ... are guaranteed in accordance with the legislation in force, the Lusaka Protocol and the universal principles of the rule of law.”

Annex 7 I.1: “...participation of all citizens in the definition of national political ..guidelines and options, as well as in the free choice of the country’s leaders, is guaranteed by respect for the principle of the expression of the people’s will in periodic, free and fair elections...”

Angolan Constitution Article 32.1: “Freedom of expression, assembly, demonstration, association and all other forms of expression shall be guaranteed.” and **(Article 33.2):** “All

citizens shall have the right to organise and take part in trade union activity, which shall include the right to constitute and freely join trade unions.”

African Charter Article 10:“Every individual shall have the right to free association provided that he abides by the law...” And (**Article 11**): [...] “ shall have the right to assemble freely with others....”

Article 13: [...] “ to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law”.

ICCPR Article 21: “The right to peaceful freedom of assembly shall be recognised. No restrictions may be placed in the exercise of this right other than those ... which are necessary in a democratic society in the interests of national security or public safety ...”
And (**Article 22**) :“Everyone shall have the right to freedom of association ...”

Article 25 : “Every citizens shall have the right and the opportunity .. and without unreasonable restrictions to: (a) take part in the conduct of public affairs, directly or through freely elected representatives; (b) vote and be elected ... by universal and equal suffrage ... held by secret ballot, guaranteeing the free expression of the will of the elector.”

RELEASE OF PRISONERS

Annex 3 II.10 :“Release of all civilian and military prisoners detained or withheld as a consequence of the conflict.”

Annex 6 I.5: “...The competent institutions will grant an amnesty... for illegal acts committed by any one prior to the signing of the Lusaka Protocol, in the context of the current conflict.”

PROVISIONS RELEVANT TO LAW ENFORCEMENT OFFICIALS

Annex 5 I.1: “The Angolan National Police is.....responsible for ...the defence of the interests, integrity and security of all persons in Angola...”.

Annex 5 I.2 : “... discharges its tasks in accordance with the Bicesse Accords and the Lusaka Protocol and within the letter and spirit of democratic principles and internationally recognized human rights, such as the Universal Declaration of Human Rights.”

Annex 5 I.3: “...Except in specific cases provided for by law... cannot ... impede[ing] or restrict[ing] the exercise by citizens of their political rights or favour[ing] any political party... [Angolan police] shall be held responsible for any violation of these principles”

Annex 5 II.2: “The functions [of the Angolan police] include guaranteeingthe regular exercise of fundamental rights and freedoms”.

Angolan Constitution Article 42.1: “ To prevent the abuse of power through imprisonment or illegal detention, a writ of *habeas corpus* may be presented to the competent legal court by the person concerned or any other citizen”. And **(Article 43)** “Citizens shall have the right to contest and take legal action against any acts that violate their rights...”

International standards relating to the behaviour of the police include:

- The Standard Minimum Rules for the Treatment of Prisoners;
- The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
- The Code of Conduct for Law Enforcement Officials;
- The Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

Appendix 2

Amnesty International's 15-point program for Implementing Human Rights in International Peace-keeping Operations

1. The political role of the international community. The UN and its Member States should give early, consistent and vigorous attention to human rights concerns when designing and implementing peace settlements and should plan for a continued human rights program in the post-peace-keeping phase. The international community must be prepared to publicly condemn human rights violations during and after the settlement process and to ensure that recommendations for institutional reform are fully and promptly implemented. Human rights protection measures should be kept under review, strengthened as necessary and properly evaluated at the end of the operation.

2. No international 'silent witnesses'. All international field personnel, including those engaged in military, civilian and humanitarian operations, should report through explicit and proper channels any human rights violations they may witness or serious allegations they receive. The UN should take appropriate steps, including preventive measures, to address any violations reported.

3. Human rights chapters in peace agreements. Peace agreements should include a detailed and comprehensive list of international human rights laws and standards to be guaranteed in the transitional and post-settlement phase, as well as providing for specific and effective oversight mechanisms. Peace settlements should require eventual ratification of

any human rights treaties and adherence to any international systems of human rights protection to which the state concerned is not yet a party.

4. Effective and independent human rights verification. A specialized international civilian human rights monitoring component should be part of all peace-keeping operations. These components should have adequate resources and staff with human rights expertise. Their mandates should include human rights verification, institution-building, legislative reform, education and training. Monitors should be trained and should operate under consistent guidelines and in conformity with international standards. Human rights components should be explicitly and structurally independent from the political considerations of the operation and on-going negotiations relating to the settlement and their decision-making mechanisms must not be constructed so as to permit parties to the conflict to obstruct investigations. Effective human rights mechanisms, such as advisers or independent jurists, should also be established in less comprehensive peace settlements and should have an oversight role in matters such as the release of prisoners and the guarantee of rights to freedom of speech and assembly.

5. Ensuring peace with justice. Peace settlements should provide for impartial investigation of past abuses, processes aimed at establishing the truth and measures to ensure that any perpetrators of human rights violations are brought to justice. Individual responsibility for human rights violations, past and present, must be made explicit and sweeping pre-conviction amnesties should not be part of peace settlements.

6. On-site human rights monitoring. Human rights monitors should be mandated out to carry out investigations and verify compliance with human rights obligations and to take corrective action in respect of violations. They should have broad access to all sectors of society and relevant institutions and the full protection of those who are in contact with them must be assured. Peace-building measures, such as institutional and legislative reform and education and training, must complement but never replace the verification role.

7. Frequent and public reporting. To guarantee the effectiveness, security and credibility of international human rights personnel there must be frequent comprehensive public reports of their activities and findings which should be broadly disseminated nationally as well as internationally.

8. International civilian police monitors. Civilian police monitors should monitor, supervise and train national police and security forces and verify their adherence to international human rights and criminal justice standards. Police monitors should cooperate fully with any human rights component or mechanisms and should themselves be trained in and fully respect international human rights and criminal justice standards at all times. There should be full public reporting of their activities.

9. Long-term measures for human rights protection. Human rights components in peace-keeping operations should assist in the establishment of permanent, independent and effective national institutions for the long-term protection of human rights and the reinstatement of the rule of law, including an independent judiciary and fair criminal justice system. Other mechanisms, such as ombudsmen or national commissions, may be encouraged to reinforce respect for human rights. Such mechanisms must be impartial, independent, and competent with the necessary powers and resources to be effective. They should conform to international guidelines and must never be a substitute for a fair and independent judicial system. While national institutions are being constituted, consideration should be given to establishing an interim relationship with relevant international tribunals.

10. Human rights education and advisory assistance programs. Public education and training on human rights standards and complaints procedures should be provided to all sectors, particularly the judiciary, lawyers and law enforcement officials. Other technical assistance programs should be provided, including drafting legislation in conformity with international standards and support for national human rights NGOs. Such programs should not be a substitute for human rights verification by a specialized monitoring component.

11. The protection of refugees, internally displaced persons and returnees. Refugee repatriation programs should include an effective monitoring and protection aspect for as long as necessary. International refugee law and protection standards must be adhered to at all times, including the principles of *non-refoulement*, the right to seek asylum and repatriation only on a voluntary basis with international supervision.

12. The gender dimension. Measures should be taken to guarantee consideration and respect for the particular needs of women in armed conflict situations. Peace-keeping personnel should receive information on local cultural traditions and should respect the inherent rights and dignity of women at all times. Human rights components should include experts in the area of violence against women, including rape and sexual abuse.

13. Adherence of international peace-keeping forces to human rights and humanitarian law standards. The UN should declare its formal adherence to international humanitarian law and human rights and criminal justice standards, including in relation to the detention of prisoners and the use of force. The UN should ensure all troops participating in international peace-keeping operations are fully trained in those standards and understand their obligation to adhere to them. There should be specific mechanisms at the international level for monitoring, investigating and reporting on any violations of international norms by peace-keeping personnel and to ensure that personnel responsible for serious violations are brought to justice in accordance with international standards.

14. Prosecution of war crimes and attacks on international peace-keeping personnel. The investigation and prosecution of violations of humanitarian and human rights law or attacks against international peace-keeping personnel should be undertaken by appropriate national authorities or under international jurisdiction. Any international mechanisms must conform to international fair trial standards and the creation of a permanent institution for the prosecution of international crimes should be encouraged.

15. Continued promotion and protection of human rights in the post-settlement phase. Effective international human rights monitoring and assistance should be continued for as long as necessary, until it is clear that the government concerned is implementing international human rights guarantees effectively. The UN's human rights bodies should develop a more effective and comprehensive role in the post-settlement phase.