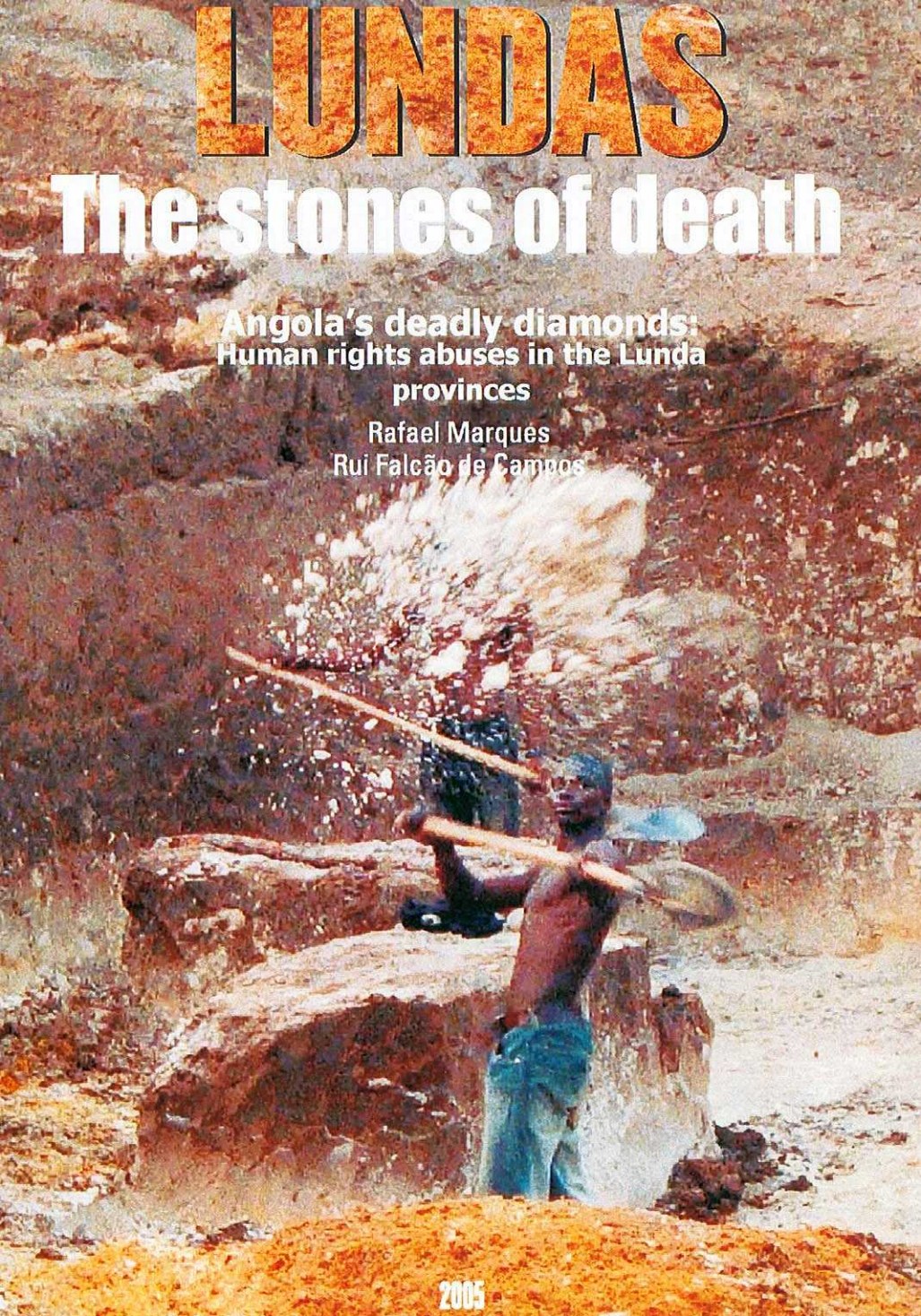


LUNDAS

The stones of death

Angola's deadly diamonds:
Human rights abuses in the Lunda
provinces

Rafael Marques
Rui Falcão de Campos



LUNDAS

The stones of death

Angola's deadly diamonds:
Human rights abuses in the Lunda provinces

Rafael Marques
Rui Falcão de Campos

2005

Contents

Acknowledgement	5
Research methodology and techniques	7
1. Socio-geographical context	9
2. Socio-economic context	10
3. Legal background and analysis	13
4. Freedom of movement	15
5. The privatisation of Law and Order	18
6. Social exclusion: Causes and consequences (and who profits)	19
7. Recommendations	21
To the Angolan government	21
To the Angolan National Assembly	22
To SODIAM/LKI and ASCORP	22
To the diamond mining companies	22
To the attorney-general of the Republic of Angola	23
To the international community	23
To non-governmental organisations	23
8. Annexes: Specific cases of Human Rights violations	24
8.1 Muxinda case	24
8.1.1. Description of the cases	27
8.1.2 Legal notes	35
8.2. Cafunfo case	37
8.2.1. Description of the cases	38
8.2.2. Legal notes	50
8.3 Murders	55
8.4 Sexual assault	60
8.5 Shootings, beatings, torture and arbitrary detentions	61
8.6 Freedom of movement	80

Co-ordination and editing

Rafael Marques

Journalist

Legal editor

Rui Falcão de Campos

Lawyer

Note: Because of continuing research and for the protection of local activists, some of whose cases are reported here as victims, we have agreed not to make public their names as co-authors of the report.

Acknowledgement

We testify to the courage of witnesses, victims and their relatives, to the bravery of traditional and religious authorities and of countless townsfolk and informal diamond miners.¹

In spite of the environment of brutal and daily repression in which they live, they did not hesitate in coming forward to tell of human rights abuses to which they are subject in the Lunda provinces. In spite of the reigning climate of impunity and the prospect of reprisals, they did not hesitate to denounce those responsible for these violations, whenever their identity was known.

By acting in this manner, these people run enormous risks. Without their determination and courage, this work could never be produced.

It should also be noted that many officials, magistrates, members of the armed forces and police and people linked to the state administration, did not hesitate, to denounce anonymously the crimes and abuses perpetrated by their colleagues and comrades.

The authors also express their profound gratitude for the moral and material support provided by Open Society Foundation - Angola, in the accomplishment of this report, as well as to the Mário Soares Foundation for their manifest interest in this project and for the generous support for its release.

Specifically, we share the fruits of this work, with the young lawyer Katila Pinto de Andrade, an official of the human rights programme from the sponsoring Foundation, who together with us traversed the length and breadth of the Lunda Provinces and shared our frustrations, disappointment, glimmers of hope and triumph. The legal notes on the Cafunfo case are hers.

Likewise, we acknowledge the generous support of NIZA (the Netherlands Institute for Southern Africa) in the compilation and release of this work.

¹ Translator's note: The Angolan colloquial term *garimpeiro* is translated in this report as "informal [diamond] miner" or "artisanal [diamond] miner". Likewise, the practice of *garimpo* is translated as "informal [diamond] mining", "artisanal mining", or "hand panning".



Research methodology and techniques

The geographical scope of the investigation was selected according to prior knowledge of the seriousness of the humanitarian situation in the provinces in question – a situation that is aggravated, paradoxically, by its indescribable wealth in diamonds.

The working methodology that was adopted consisted in the establishment of “on-the-job” training and tracking of a network of local activists, throughout the year 2004. Furthermore, the methodology highlights the authors’ trips to the Lunda provinces, for first-hand gathering of testimony from the population. For this purpose, and for a better experience of the local realities, the authors travelled over 7,000 km, by road, in a grand total of six weeks of fieldwork.

Even in the cases where it was possible to rely upon the collaboration of local activists, the authors worked in the field in order to guarantee the impartiality and objectivity of the information, and to provide a systematic check on the compiled data. For that purpose, the sampling method was not used, but rather the exhaustive and individual cross-checking of the cases which had been brought to light. On several occasions, local activists, witnesses and victims travelled to Luanda to allow thorough cross-checking of data.

This methodology can explain the relatively small number of cases of abuse set out in this report. Another methodological criterion that has imposed restrictions on the number of cases is related to the inaccessibility of many the affected areas, which were far from populated zones. Added to that factor is the presence of thousands of Angolan and foreign alluvial diamond miners who are largely unknown to the local populations and who establish only a casual relationship with one another. Among that marginal community there were many deaths of unidentified individuals, in which the details could not be verified. Likewise, the fact that many people are not in the habit of keeping calendars or relating events in time and space, in many cases, caused the loss of important data.

Finally, another factor that shaped the geographic sampling area involved the difficulty of access to extensive zones, especially the diamond mines, where reports of human rights abuses and violations abound.

Thus, the specific cases of human rights violations related in the course of this text, do not provide a statistical analysis, nor are they intended to quantify human rights violations in the Lunda provinces.

Their intrinsic value resides in their symbolic nature and in their potential to demonstrate practices that, when they are as widespread as they are in the provinces covered by this study, become everyday occurrences for which there is essentially no yardstick to measure them.



1. Socio-geographical context

The region of the Lunda provinces is located in the north-east of the Republic of Angola, bordering on the Democratic Republic of the Congo (DRC), and is administratively divided into the provinces of Lunda-Norte and Lunda-Sul.

Lunda-Norte, the capital of which is Chitato, has a population estimated by the local administration, of more than 700,000 inhabitants dispersed over 103,000 Km². Lunda-Sul has its capital in Saurimo; the population is estimated at over 400,000 inhabitants in an area of 77,637 Km².

The economic and social situation in the zones bordering the DRC, and the importance of diamond-digging activity in the Lunda provinces, has brought about a surge of migration, despite the expulsion, to date, of 100,000 foreign citizens, 90% of them from DRC, according to the authorities.²

Agricultural and ranching activity in the Lunda provinces is currently fairly small compared to the size and potential of the area, and most foodstuffs are imported. Data from the Provincial Government of Malanje, through which all traffic from the coast must pass en route to the Lundas, records more than 200 trucks carrying food and fuel to the Lundas each day.

The entire geographical area of the two Lunda provinces constitutes diamond bearing reserve zones, of which tens of thousands of hectares have been granted in mining concessions. These concession regimes imply widespread limitations and prohibitions on the free circulation of people and goods, on economic activity and on human settlement in the territory. In practice, villages located in the diamond concession zones are forbidden. Populations of villages that fall within a concession zone are uprooted and forced to relocate to other areas, without any support from the authorities or from the concessionaires, and the land that the people traditionally worked and which belongs them is stolen without any compensation³.

Besides the diamond pipes, the geological and orographic characteristics of the territory also provide for the existence of alluvial diamonds. The whole area of the Lundas is, thus, a potential mining zone.

² Figures presented by the commander in chief of the National Police, Commissioner Paulo Gaspar de Almeida, in *O Apostolado*, 'Third phase of Operation Brilliant', 18 February 2005.

³ The village of Cahamba (municipal district of Cuango, Lunda-Norte), is within the SDM mining concession. Domingos, a local resident complained to the authors that "they came to tell us that they have bought all this land. They do not allow us to farm, fish or hunt. The same guards of Alfa 5 (private security company hired by SDM) come by to sell us their canned food rations. If we cannot produce, where are we going to find the money to buy their canned food?"

The inhabitants of Saipupo village, 2 km from the kimberlite Catoca Project (Saurimo, Lunda-Sul) have been complaining the curfew imposed on car movements in and out of the village from 17H30, even in cases of medical urgency.

2. Socio-economic context

Angola's diamond wealth presents a shocking contrast with the people's living conditions. Angola is currently the third largest producer of uncut diamonds and possesses huge unexplored diamond reserves, both alluvial and in kimberlite pipes. The largest incidence of diamond reserves is in the Lunda provinces of the north-east.

The available numerical data about the diamond industry are not reliable. This weakness in the statistical system and in the control of economic activity on the one hand reflects natural weaknesses in society and public administration and on the other hand serves as an alibi for Luanda's non-compliance with its international obligations. This deficiency is perpetuated willingly by the regime as it covers, obscures and protects widespread corrupt practices.

The official estimates of US\$900 million per annum appear to be under-estimates, given the systematic secret export of diamonds whether by air or across the land border between the Lunda provinces and DRC.⁴

It was in 1912 that the Lunda region's diamond wealth first became known to people outside the region. Diamang, a Portuguese state enterprise in partnership with De Beers and with financial interests linked to the traditional diamond cartel established in the European markets, was founded in 1917.

During the Marxist-Leninist period, from 1975 until the end of the 1980s, non-indigenous people could gain access to the Lundas only with a special permit issued by the State Security Services.

The greater openness that came with the promise of democracy in 1991-92 led to uncontrolled immigration into the territory by Angolans and foreigners alike, attracted by informal diamond digging and the collapse of law and order.

The civil war (1992-2002) prompted many of the concessionaries to suspend their work or to rescind their prospecting and mining contracts, citing a *force majeure*, causing the state's diamond revenues to fall.

The use of so-called "blood diamond" or "conflict diamond" revenues for the funding of guerrilla war (in Angola and elsewhere) led to a ban on diamond trading with rebel forces, enshrined in the third package of sanctions against UNITA approved by the United Nations in 1998.

⁴ 'Plunder by informal diggers accounts for US\$ 350 million leaving the country each year'. *Jornal de Angola Online*, 10 November 2004.

The manifest success of these measures – which in the final analysis exhausted UNITA's coffers and forced its surrender – led to the establishment of the Kimberley Process.⁵

This system, which involves about 50 countries, obliges producing countries to create mechanisms that would allow control from origin to export, and obliges purchasing countries to ban from their markets diamonds that lack a certificate of origin. Furthermore, it creates a data checking mechanism that allows comparison between the national output of each country and the actual output, so as to discourage fraud.

The Angolan government is one of the main defenders and beneficiaries of this mechanism, which allowed it to weaken the rebel forces and help put an end to the armed conflict.

The system currently in force – which was justified by the necessity to comply with the Kimberley Process requirements – comprises two distinct mechanisms:

11

Diamonds produced in licensed workings are transported by the concession holder to SODIAM (associated with LKI, linked with the US citizen Maurice Tempelman), which is responsible for certification and export. In principle, the absence of state control on the spot and in the registering of diamond buying, as well as the corruptibility of government agents, suggest that tax evasion could be reaching giant proportions.

Concerning the marketing of diamonds produced by informal digging, the system already in existence granted a monopoly to ASCORP, controlled by Lev Leviev, an associate of the Russian Arkadi Gaidamak.⁶

ASCORP has now been replaced by SODIAM/LKI⁷, which now in theory has a monopoly over the buying and selling of diamonds produced by artisanal diggers. The demands of the Kimberley Process include the obligations to register the buying agents (the majority of whom are not Angolan), to identify the sellers and to put in writing the terms of acquisition. However, it only takes one visit to a diamond-buying centre to confirm that these obligations are not being complied with. On the contrary, the shop signs of the SODIAM buying agents boast of the “secrecy” of the transaction. This is understandable in a social environment where violent crime (whether by the state or by individuals) is an everyday occurrence.

5 A joint initiative by various governments and the diamond industry, which aims to prevent the used of this source of funding by non-international conflicts, by creating mechanisms to control mining and export, and by improving the system of certificates of origin for rough diamonds sold to the processing industry. The Kimberley Certification Scheme was created in South Africa in 2002. See <http://www.kimberleyprocess.com>

6 Whose participation in the huge business of “renegotiating” Angola’s external debt to Russia earned him more than US\$1 billion – part of which was redistributed in the form of kickbacks to his Angolan associates – as well as judicial investigations by France and Switzerland on suspicion of corruption and arms trafficking. See Diamond Industry Annual Review, July 2004 Republic of Angola 2004, The Diamonds and Human Security, Partnership Africa Canada

7 In 2003, the Angolan government annulled the framework agreement signed on 11 October 1999 with the companies Group Goldeberg-Leviev Wellox and Trans Africa Investment Services, which constituted ASCORP (Angola Selling Corporation), on the grounds of non-compliance with contractual obligations, namely the financing of mining projects and the building of a diamond-cutting factory (see Endiama Hoje, October 2003, p 9). Despite the exclusive right to deal in diamonds having passed to SODIAM in 2003, at the time of writing of this report ASCORP’s representatives in the Lundas continued to deal in diamonds.

The lack of transparency and control allows the company:

- to undervalue the volume of its business and thus to pay the state much less than it ought;
- to remove the most valuable diamonds from the system and sell them secretly outside Angola at speculative prices; and
- finally, to maintain an opaque market, abusing its exclusivity by imposing monopoly prices on the sellers – entrenched and consolidated by the non-existence of banks in the Lunda diamond area (with the exception of the administrative capitals, Saurimo and Chitato).

In the absence of banks, all transactions are in cash, which obviously facilitates tax evasion and leads to three other perverse aspects of the Lunda economy:

12

- It discourages any savings, investment or consolidation of capital in the hands of artisanal diamond diggers or of local agents.
- By keeping large sums of cash in circulation, it contributes to the speculative pricing of consumer goods, thus ensuring that workers remain living on the poverty line and always available to accept work on any condition.
- Finally, it creates a culture in which crime may flourish, whether in the form of extortion by the authorities, or the attacking and killing of the diamond sellers, or through the natural development of the trade in capital and diamonds.

Two examples illustrate this state of affairs. The authors of this report noted the accounts of diamond diggers who refused to sell diamonds to foreign buyers at laughable prices, and who when they left the buying office were then detained by the police who forcibly confiscated the stones while making no official note of the occurrence. The other instance is the presence of members of the Fiscal Police at the Cafunfo airfield, with calculators in their hands at the door of the aircraft, to perform a search “with a fine-toothed comb” on embarking and disembarking passengers.⁸

All these factors explain why places like Cafunfo (where each day, more than US\$1 million changes hands in the informal diamond trade⁹) have become real international crime capitals. The diamond trade has flourished on the back of a socio-economic system based on opacity, extreme violence, and exploitation. In this way, it has also contributed to the immense and uncontrolled wealth that feeds the national and foreign clients of the regime in Luanda.

From officials of the National Police and high-ranking soldiers to international businessmen who know the sophisticated techniques for shifting the money stolen from Angola by government dignitaries, everyone finds what they want in the huge natural wealth of the Lundas. The Lundas are that way because of a social system that the regime has created, a perfect vehicle for the furthering of vested interests.

⁸ “With a fine-toothed comb” is a popular way of referring to the daily extortion procedures of the National Police.

⁹ Our sources in the industry and in the administration estimate that informal mining generates an average of US\$3 million per day.

A blatant example of these interests resides in the legal existence of a large number of companies “with Angolan capital” that are partners in industrial projects in the diamond sector. This happens in a country that until 1992 lived under a Marxist regime, in which the means of production were state-owned, and which immediately afterwards was devastated by a civil war. In a country where earnings from the civil service and the armed forces are so meagre, what is the origin of these fortunes, in which shareholders earn tens of millions of dollars? The so-called “lack of statistical data” and the alleged “weakness of the Angolan administration” prevent access to this and other information.

It is unacceptable that a political class should confess to being absolutely incapable of producing statistical information and reliable accounts¹⁰ when it displays at the same time such sophistication and efficiency when it comes to banking its capital offshore, or in the legal mechanisms designed to disguise the ownership of their riches, or to develop their private businesses.

13

3. Legal background and analysis

The region’s economy, though weak and poorly structured, is currently concentrated in the diamond sector, especially in informal diamond mining, by which the local population is either directly employed or indirectly sustained. Diamond panning (informal mining) has been prohibited by the authorities, but in practice that prohibition is not applied in a consistent fashion.

Outside of the concession zones, in spite of the attempts at repression recently involved in “Operation Brilliant”, a government initiative to eliminate informal mining, the Lunda provinces are essentially one huge mine site, through the mining of alluvial diamonds. This activity is clandestine, since both the Constitution and the law define mineral resources, diamonds included, as state property, and thus their exploration is subject to licensing and control by public entities, notably the Ministry of Geology and Mines and the public company ENDIAMA.¹¹

This situation of illegality and unpredictability strips the workers completely of their rights, creating a situation tantamount to forced labour. In practice – as the researchers of this report can testify during their stay in the territory – the workers labour under the control,

¹⁰ Angola: Deciding to go it alone, IRIN, 18 February 2005: <http://www.irinnews.org/>

¹¹ ENDIAMA (Angolan National Diamond Company) is the Angolan state-controlled enterprise that operates in partnership with foreign companies in the large-scale mining of diamonds, as opposed to the small informal alluvial diamond mining operations.

or “protection” of higher officials or generals of the armed forces, and work continuously, day and night, in hand dug pits, monitored by armed and uniformed military or police agents under the orders of the “protectors”. This activity is financed by small entrepreneurs, usually foreigners, who provide the dredging equipment and pay for the workers’ subsistence, in exchange for a share in the value of the extracted diamonds.¹²

The existence of such “bush mines” spread throughout the region, without any demarcation or official supervision; the presence at the work site of many armed men (in addition to the guards who monitor the miners, the military and police, whose salaries are not paid regularly, often excavate alongside the other workers as last desperate means of survival); and the fact that they are engaged in illegal activity (the unauthorised extraction and ownership of diamonds constitutes a crime punishable by Angolan law with heavy prison sentences), subjects the workers to constant risks and creates an environment of brutal violence in the entire lawless territory.

14

A routine seems to be for the guards at one mining site to enslave the workers at a neighbouring site, forcing them to excavate the mine along with killings and beatings. In a zone without leisure opportunities and entertainment, one of the pastimes of the police agents was to force a group of miners to sodomise each other (Case n°17 page 45).

The clandestine nature and absence of controls over economic activity in the area deprives the state of the revenues from the diamond industry, since it becomes impossible to know how much is being mined. It also facilitates and foments other types of criminal activity typical of a black market economy. For instance, in a town such as Cafunfo, both illegal buyers and the authorised agents of the entities officially licensed for acquisition of diamonds (namely ASCORP and SODIAM-LKI) make payments exclusively in cash.

With more than US\$1 billion believed to be circulating in cash each year, the money-laundering potential is obvious. However, not a single bank branch exists in Cafunfo or in the municipal district¹³ of Cuango.

¹² The report on Angola by Global Witness, *All the Presidents’ Men*, reveals the sophistication referred to here. <http://www.globalwitness.org/>

¹³ Translator’s note: The Portuguese word *município* – which in Angola refers to the local government entity immediately below the level of a province – is for the purposes of this report translated as “municipal district” or simply as “district”. *Sede municipal*, the town where the municipal administration is located, is translated as “municipal centre”.

4. Freedom of movement

Law nº17/94, of 7 October 1994, threatens the freedom of movement of people and goods in the Lunda provinces. Under the terms of that law, which approved the “Special regime of the diamond-bearing reserve zones”, those parts of Lunda Norte and Lunda Sul provinces that do not already fall into the categories, of restricted zones, protection zones or the zones of hand panning production, are now considered to be “reserve zones”.

That is to say, that in practice, in a territory in which more than a million inhabitants live, with a total extent of about 180,000 km², the law has eliminated the fundamental guarantee of freedom of movement.

15

Effectively, in the restricted zones and in the protection zones (which are respectively the concession zones and those demarcated under the aegis of Law no. 1/92, and the zones bordering these and further all those zones in which the occurrence of diamonds was verified, under the aegis of an exploration licence, cf. Law no. 16/94, Article 15, nº1 of 7 October 1994 [the Diamond Law]) one cannot even speak about the restriction on freedom of movement. The regime is one of absolute prohibition, as well as being discretionary. For example:

- “Access to the restricted zones is prohibited, except for the personnel linked to diamond production activity (article 17, nº1, of the Diamond Law).” The only exceptions: The “leaders of the State” and “the people and entities who travel [...] on official duty are entitled to access”.
- The circulation of people within the restricted zones “is regulated by the respective concessionaires (art 18, nº1 of the Diamond Law)”.
- In the protection zones (note that these are not ceded in concession) movement is prohibited to whomsoever is not an official (cf. Art 18 of the Diamonds Law, or whomsoever does not have a pass document from the concessionaire.”
- The circulation of people and goods is likewise prohibited (without the authorisation or accreditation of the concessionaire (art 19 of the Diamond Law).

In addition the prohibition on movement, there is also a residency prohibition in the restricted zones and in the protection zones (art 21 of the Diamond Law). Let us remember that this covers an area of more than 200,000 km².

The residency prohibition implies that the resident population in the restricted zones or in the protection zones should be relocated outside of those zones from the date on which the zones are established (art 21, nº2, of the Diamond Law). What this means is a forced (and massive) displacement of the population.

The same drastic prohibitions are applied in the “areas demarcated for hand panning exploration”, in which only the holder of the exploration licences can remain and move or even enter (art 22 of the Diamond Law).

In the restricted and protection zones, the law obliges concessionaires to prepare a relocation project, to be approved by the governor and to encompass the construction of churches, social services, water supply systems and others. No such thing is ever done, with the population expelled forcibly by the concessionaires and left to their own devices.

The consequence is poverty, misery, hunger and ignorance, because:

- In the restricted zones and in the protection zones “any kind of economic activity is prohibited [...], whether of an industrial, commercial, agricultural nature or other...” [art 20 n°1 of the Diamond Law].

16 Thus, prevented from developing any activity that allows them to procure an income or means of subsistence, the displaced people necessarily live in poverty, given that the present **compensation under the law** is applied only to the “title holder” of companies and goods in the respective areas. As the villagers’ property is not registered (the result of a dysfunctional state administration) and they do not **hold title**, they gain no compensation. They are dispossessed of everything, expelled and sent into total poverty and social exclusion.

Without the right to compensation, and with the concessionaires failing in their obligations to re-house the people, (which would consist, under the terms of the law, of “decent homes” [art 21, 2, a] and social and community infrastructures [art 21, 2, b]), the population has to survive on the fringe of the law, since agricultural and other economic activities are prohibited to them.

Thus, the Lunda provinces are a territory where the people would die of hunger if they were to abide by the law. This makes it a lawless territory both for the population, and for the diamond entrepreneurs. It is territory where economic activity is based on plunder, on the poverty of the local population, and on the violation or suppression of internationally recognised fundamental rights (cf. Arts 12 and 15 of the International Pact of Civil and Political Law, which enshrines the freedom of movement and the free choice of place of your residence; cf. specifically the “observation générale n° 27: liberté de circulation [art 12/cccpr/21] Rev.1/Add.9, observation générale n°27”, approved on 11/2/1999 by the Human Rights Committee in session 1783, in 10/18/99, that “the restrictions should, in each case, obey the principles of necessity and proportionality” and that the “state practices reveal an rich arsenal [...] of obstacles” which “rarely show that the application of its restrictive laws on the rights foreseen in art. 12, n°s 1 and 2 satisfy the conditions foreseen in art 12, n°3.”)

For this purpose, let us note that, in the reserved restricted zones, and even in those of hand panning exploration, “the monitoring and control of people and goods” and “security is carried out by the concessionaires, with their own resources and hired personnel, in a system of self-defence”.

In other words, in zones covering hundreds of thousand of hectares, even outside of the concession area, the diamonds companies are the law. The forces of order are their private security companies, equipped with conventional war materiel.

Besides the potential for repression of human rights that this situation creates, it raises the spectre of private armies coming into being, in a context where of tens of thousand of square kilometres in the heart of Africa are placed off-limits to people unconnected with the concessionaires, patrolled by these concessionaires by means of their armed "security" forces that are encamped there (art 23 of the Diamond Law).

As already mentioned, the population of the Lunda provinces has been forced to make a living on the margins of the law, in the absence of legal alternative means of survival. Throughout the region, concessionaires have the right to arrest "the agents of crimes provided for [in the Diamonds Law]" (cf. Art 25, n° 2, c). These crimes encompass the entry, the stay and the movement, in restricted and production zones, or in the areas of hand panning production (arts 28 to 31 of the Diamond Law).

In the rest of the Lunda provinces, which Law n°17/94 declares to be "Reserve Zone, with mines", the law is laid down by the Governor of the respective province. The situation is simple and drastic in terms of suppression of the individual guaranties enshrined in the Angolan Constitutional Law and in International Law.

"The exercise of commerce and industry in the Reserve Zones depends on the Governor's explicit authorisation" (Law n°17/94, art 13, n° 1). That condition applies equally "to agricultural and ranching operations"(idem, art 14, n°1).

In principle, agricultural and ranching activities "exercised by the uprooted populations" (art 14, n°2) are excluded from the prohibition. But that is not what happens in practice. The Governor can "limit or prohibit" any economic activity (art 15°, n°1) prohibit or limit the entry and exit of goods (art 11) and even "prohibit the movement and settlement of people" (art 8, n°1) and, any "areas whatsoever within the areas of the territory of the Reserve Zones."

The breach "of the norms which impose restrictions on residence, movement and exercising of economics activities in the Reserve Zones" (art 17° of the Law n°17/94) constitutes a crime punishable by prison.

In general outline, this is the legal framework which turns the Lunda provinces into an immense concentration camp, where individual rights and the basic conditions of subsistence of the resident populations are either directly suppressed by the law or are subject to the Governor's whim, and where repression of freedoms is carried by the concessionaires' security firms. As agreed with the National Police, "the specialised security companies" operate throughout the Lunda provinces (art 18°), and not only in demarcated zones.

It is true that, in principle, residence is not prohibited in the non-demarcated zones of the Lunda provinces. The establishment of residence always depends, however, "on a

licence granted by the respective Governor” (art 6, n°1), a licence “granted in writing and [which] should indicate the full name of the person or people that benefit there from [...] as well as the specific conditions or impositions imposed on the respective beneficiary” (art. 6, n°2).

5. The privatisation of Law and Order

18

In spite of the Angolan law (Law n.º 19/92, of July 31) permitting private security companies and the diamond companies’ own internal security services “to monitor access and control, residency and movement” in the respective facilities, “closed off or prohibited places and buildings” (cf. Articles 5 and 19 to 21 of the Law n.º 19/92), the law does not provide for the use by arms by security personnel; it only authorises the ownership and use for the personnel of the first “defensive arm” (*ibidem*, article 11). Yet the mining companies possess true private armies, equipped with military weapons. Thus, a large part of the Lunda territory constitutes a no man’s land, where access is prohibited.

It should be noticed that this illegal situation, which strongly favours abuse against the local people, is noted only in the concession zones and in the reserved zones. An incident that illustrates both the widespread and unpunished nature of these illegal practices, and the practical limitations that were involved in compiling this report, happened in the centre of the town of Cafunfo, on 4 September 2004.

One of the investigation team, who had stopped in the public road close to the facilities of a private diamond company, was first accosted by the armed guard of those facilities, and later pursued through the town by a jeep with three guards from a security company.

The fact that the confrontations and the attempts at persecution continued despite the presence of police patrols on the route, and the fact that the private guards, armed with military weapons, questioned and tried to stop the investigators at the door of the official residence of the municipal administrator, demonstrates how such practices are tolerated and unpunished. Later, and on the same day, the investigators were followed and accosted by another patrol of the same security company, again in broad daylight and in the centre of Cafunfo.

The marginal situation in which most of the diamond exploration agents operate contributes, in large part, to the fragility of individual freedoms in the Lundas and the cheapening of human life. That scenario includes the diamond buyers, who operate with open doors and with announcements outside promising the confidentiality of the business (for

instance, a foreign buyer, Andy, has as an advertising sign “*Il ny’a rien dit...*”) (“*He said nothing ...*”)

The culture of violence and repression in the Lunda provinces is not monopolised by the state. In a way typical of the exercise of political power – confused with economic power – in Angola, the function of the police is already formally privatised, in two respects: First, through the operation of police and private paramilitary forces; second, through putting the forces of the state at the service of the diamond companies.

In the Lunda provinces, the social structure is no longer characterised by disrespect and contempt for the law, but rather by the failure to impose any legal order other than brute force (whether public, or private) in the service of the interests of the diamond cartels and their Angolan partners.

Civilians with military weapons have also been seen to pursue humanitarian researchers, under the indifferent eye of the authorities; these authorities include uniformed soldiers and policemen who are mining the land, guarding workers involved in clandestine hand panning, or physically abusing and capturing the respective workers to work as slaves in the excavating the mines. These operations, too, are illegal, even though sponsored by the bosses of the people involved.

19

6. Social exclusion: Causes and consequences (and who profits)

*I do not have a voice to speak. The State took away my voice*¹⁴

Chief Mbundo, Cafunfo

From the general description that has been made so far of the legal situation in the Lunda provinces, it should be clear the people of the region are dependent on diamond mining since alternative means of subsistence are limited or ruled out completely. Yet diamond mining is legal only for concessionaires and licence holders, and this creates the conditions for the enslavement and exploitation of everybody else.

¹⁴ The authors interviewed Chief Mbundo on August 29 2004. A day later, the Cuango municipal administrator invited him to inform on the content of his meeting with the authors.

The situation is simple: The population has three alternatives:

- To work for the concessionaires and the licensed companies of the diamond sector (for those who obtain employment in that sector);
- To abide by the law and suffer total starvation (because the remaining economic activities are illegal);
- To live as outlaws, risking imprisonment, and under surveillance of the police and the “self-defence” forces of the concessionaires.

In a situation as described, most of the population who cannot gain employment with the concessionaires (and who obviously do not choose to wait to die of malnutrition) must perforce live – or rather survive – illegally, at the mercy of those who can offer them protection.

20

In fact, a legal system which places the activity economic of the population outside of the law, and a social system which excludes the protection which guarantees a means of subsistence, are the pillars on which the underworld is pinned, and create an environment where mafia like organisations may flourish.

In such a context, the illegal status of the alluvial diamond miner is the essential factor that permits his marginalisation.

- “The hand panning exploitations may only be authorised in the Protection Zones” (art 6 of the Diamond Law), in other words, only within a zone 5 km from the periphery of the Restricted Zones (art 15, n° 1). This to say that the law prohibits this type of mining, except in very limited zones.
- The licensing is under individual title and cannot be granted to companies or co-operatives. It depends on the proposal of the concessionaire or of ENDIAMA and may only be granted to residents who have been more than 10 years in the communes of the area (art 7 of the Diamonds Law). The exploitation can only be conducted by the licensee, their relatives or neighbours, up to five elements.” (*ibidem*).

Thus, in practice, the licensing and the viability of small hand panning mine projects are impossible, under the terms of the law. That being the case, the miners operate on the margins of the law as they carry out the only activity that permits them subsistence in the Lunda provinces. Anyone with the means to offer them protection thus gains a monopoly over illegal mining. Finally at the end, the old legal adage from colonial times is applicable: “For friends, anything! For others, the full rigour of the law!”

7. Recommendations

To the Angolan government

- Put an immediate end to the climate of impunity and terror that exists in the Lundas, and which is the exclusive responsibility of the government itself.
- Investigate where agents of the state are responsible, on the individual and on the institutional level, for deaths and serious human rights violations committed in the Cafunfo and Muxinda cases, and impose due punishment on those found guilty.
- Order the immediate release of those detained in the Cafunfo case, who have been waiting six months for sentencing.
- Put an end to the policing of public areas, such as national roads, by private security companies, and investigate their involvement in repeated cases of human rights violations.
- Make it the policy of the state to restore human dignity and the socio-economic integration of local people.
- Establish a compensation mechanism for the victims of serious abuses by agents of the state.
- Establish, as a matter of urgency, legal means for the effective certification of the buying and selling of diamonds by the buyers licensed by ASCORP and SODIAM / LKI so as to avoid the disappearance of diamonds in the hands of the buyers; and to end the immoral exploitation of artisanal diggers and the devious and dangerous treatment to which they are subjected by certain buyers.
- Ensure that ASCORP and SODIAM/LKI grant more buying and selling licences to Angolan citizens, as opposed to the current policy of preferential treatment to foreign citizens, many of them from countries unconnected with the diamond industry.
- Promote, as a matter of urgency, the establishment of commercial banks in Cafunfo, Luremo and other areas where the scale of the diamond trade justifies it.
- Set up a telephone network in the Lundas, not only in the provincial capitals, so as to counter the flight of capital through the proliferation and use of satellite telephones, all of which are currently non-Angolan networks.
- Create a transparent and publicly accessible database on the criteria for the granting of diamond concessions in the region, who is benefiting from them, and the social responsibilities that they have undertaken.
- Establish, by means of open public consultation with civil society, a legal system for the licensing of buyers and the granting of diamond concessions, which would guarantee the transparency of proceedings and an equitable relationship between interested parties, and secure the business arrangements that best serve the public interest.

- Promote a broad-based conference on the Lunda region, with a view to debating alternative policies for reducing artisanal diamond digging, bringing benefits to the local population, and reducing the level of human rights abuse.
- Make it obligatory to publish in a transparent way the revenues obtained from diamond exploitation, and how this money is used in the budget.

To the Angolan National Assembly

- Revise, with due urgency, the Diamond Law, so as to allow greater judicial protection and dignity to the inhabitants of the Lundas.
- Set up an independent commission of inquiry to examine the reasons for the serious humanitarian situation in the Lundas.

22

To SODIAM/LKI and ASCORP

- Explain to society the reason for their preference for foreign buyers, and the lack of receipts in their transactions with artisanal diamond diggers.
- Ensure that the diamonds they purchase are not products of human rights abuses. These companies are accountable for their share in the chain of diamond mining and trade.
- Invest in the training and empowerment of local buyers, as well as in the social sector.
- Implement with due urgency a system of purchase and sales receipts certified by the appropriate state authority, so as to guarantee better verification of revenues, who is receiving the profits and who owes taxes.
- Make public what they are paying both in taxes to the state and in profits shared with their partners.

To the diamond mining companies

- Observe the basic norms of respect for human rights in the areas in which they operate.
- Prevent acts that violate people's rights and freedoms on the part of the security companies which are contracted to them and which they supervise, and dispense with the services of those security companies that violate legal norms.
- Comply with their social obligations, beyond the small projects that are essentially a public relations exercise, and invest in human resources in the region.
- Adopt voluntarily the environmental and landscaping obligations that are obligatory for mining concerns in their countries of ownership.
- Publish what taxes and other revenues they pay to the Angolan government.

To the Attorney-General of the Republic of Angola

- Launch inquiries into the abuses condemned in this report, specifically the murders committed by the agents of law and order.

To the international community

- Take into account the serious consequences of the plundering of national resources at the same time as the government is asking for a donors' conference for the reconstruction of the country.
- Make efforts to contribute to the creation, with due urgency, of a framework for greater transparency by the Angolan government, whose inability to listen to its own people is accentuated by the oil-diplomacy that foreign countries have adopted towards Angola.
- Reconsider the objectives of the Kimberley Process, so as to include within the category of "conflict diamonds" all those diamonds that come from areas where diamond mining is based on the systematic violation of human rights.
- Consider imposing sanctions on the international trade in Angolan diamonds until the Angolan state guarantees a labour and social standards compatible with the human rights values of the UN system, namely the prohibition of slavery and of inhumane and degrading conditions, and basic standards of freedom of movement and communication, and of personal security.

To non-governmental organisations

- Demand from the authorities in their respective countries to ban from their markets not only diamonds coming from areas of armed conflict, but also in areas marked by the systematic violation of human rights, including diamond mining zones where mining takes place in sub-human conditions, as is the case in the Lundas.
- Promote a consumer boycott of Angolan diamonds until such time as the government and the mining companies make efforts to create decent living conditions for the people. Such efforts must include transparency in the mining industry, to ensure that it funds neither armed conflicts nor corruption among the governments of diamond-producing countries, since both lead to the loss of human life.
- Encourage diamond consumers to demand from jewellers certificates of origin for the precious stones used in the items of jewellery that they buy, guaranteeing not only the quality of the diamonds but also, indirectly, the protection of human lives in the mining areas.
- Promote discussion of working conditions in the Luanda diamond areas, including the consequent destruction of arable soils, landscape degradation, and interference with the water table, hydrographic systems and the ecosystem due to the uncontrolled diverting of rivers to allow the gathering of alluvial diamonds on the river beds and banks.

8. Annexes: Specific cases of human rights violations

Democracy and human rights, although essential, do not fill anybody's stomach.

President José Eduardo dos Santos¹⁵

We have chosen to highlight, separately, the cases of Muxinda and Cafunfo, owing to the high number of killings that took place there, and so as to demonstrate the tacit approval of the authorities and their attempts to cover up the events.

24

After Cafunfo, Muxinda is the second main commercial and informal mining centre in the Lunda provinces. The location of these centres is determined by the high yields from the diamond areas that surround them.

8.1. Muxinda case

The population of Muxinda, located less than 30 km to the west of the municipal centre of Capenda Camulemba, Lunda-Norte, awoke on 6 December 2004 to the news of multiple deaths in the cell of the National Police station, 2nd squad. Subsequent investigation has revealed that 12 people died as a result of their confinement in the cell, and one more person died in the course of protests against the event.

After Rádio Ecclésia had released the news of the deaths in detention, the National Police spokesperson, Superintendent Carmo Neto, admitted the death of five prisoners through “negligence” and “over-zealousness”.

The Provincial Commander of the National Police, Elias Divulo, in turn reported the death of five prisoners, four DR Congo citizens and one Angolan, during an official meeting on 20 December 2004. He also acknowledged the death of a sixth person, which happened during a people's protest at the squad's barracks.

Official National Police data recorded the deaths of an Angolan known as Catorze, and the DR Congo citizens Adão Xaulo, 25, Capunda Caxama, Calundo Cosso and Freddy Bufombo, 32.

The commander mentioned that at that point he had only knowledge that there were “10 people in the cell, where there should only be four or five”, and that “the place is small, without ventilation”. He attributed what happened to the “negligence of the guards who

¹⁵ Speech given on November 11, 2004, during Independence Day celebrations, in the town of Namibe.

had left.” But he reported the disappearance of the “man from Baixa de Cassanje who sent the news” [to the media in Luanda] and the detention of the investigators and agents involved in the case.

António Fernando da Cruz, 33, born in Luena and chief of the criminal investigation team in Muxinda, was imprisoned on 8 December 2004 as one of those responsible for what happened in the cell.

He described the cell, to one of the local activists as being like a “wall cupboard at the back of Michel’s residence, where the police station operates.”

He also revealed that “Michel gave the police command the material for the construction of a cell because he needed his house. But, up until now they had not built a thing and it is not even known where the material ended up. The police does not even have money to build a cell.”

25

He said he received news of what happened at 06h00, in the street, by word of mouth from his colleague Edmundo Ricardo. On going to the place, “I found 14 individuals, four dead and the others in a critical condition. We took the patients to the health centres and one died shortly thereafter. The others went home, after they had received treatment.”

The head of criminal investigation reported the absence of case records for the detainees, revealing the arbitrary nature of the detentions and acts of the brutality and extortion that usually pass for an investigation. He said he was unaware of the survivors’ names because of the detainees’ lack of the documents.

António Fernando da Cruz confirmed the detention of the “Head of the Association of Baixa de Cassanje and head of the taxi drivers because they wanted to organise a march of condemnation.” He also said he had witnessed guards from the private security company Alfa 5 discovering eight bodies on the banks of the Rio Cuango on the edge of town, on 6 December.

On the same day, the investigator noted the death, by shooting, of a demonstrator near the squad barracks, and the wounding of three other individuals; these three received help from the Kimbanguist Church.

The investigator in question was sent to the Conduege Jail, Dundo, Lunda-Norte, on 16 December, under process 801 of the DPIC¹⁶. The prisoners welcomed him by beating him up. However, several witnesses say he was released on probation a few days later.

Sergeant Lucas Francisco, the guard who was on duty on 4 and 5 December and who is himself currently in custody, said he had taken care of the 10 prisoners, and that they never complained.

He said that about 07h30 on 6 December, the investigator, Edmundo Ricardo, had informed him of the deaths in the jail, and that four had been found dead and five still alive but in a “troubling condition”.

The way in which members of the National Police tried to eliminate traces of the crime, backed by the arbitrariness in the acts and in the rapid succession of detentions and releases, as well as the failure to record the detainees, made it very difficult to verify the exact number of victims dead and the total number of detainees at the time of the tragic events. This documentation is aggravated by the suffocating and dark conditions in the cell, which certainly contributed to the difficulty of the survivors in determining the exact number of those present and dead.

However, witnesses, family members, survivors and members of the corporation agreed to provide statements about specific cases with the purpose of clarifying and helping, on a case-by-case basis, to put together the factual puzzle of what happened in Muxinda.

26

Various conversations at the location of the events have lead us to confirm, to date, the death of 10 detainees and to establish their identities:

1. Amazona Buyama – DR Congo citizen
2. Capunda Caxama – DR Congo citizen
3. Catorze André Cambala – Angolan
4. Domingos Soba – Angolan
5. Florindo Caxala – DR Congo citizen
6. Freddy Bufombo – DR Congo citizen
7. Habia Nesky – DR Congo citizen
8. Kassongo António – Angolan
9. Nzube Ibulé – DR Congo citizen
10. Rossi Mbala – DR Congo citizen

The police data, which identified only five dead, allowed us to add two more names to the list of victims, namely, the DR Congo citizen Adão Xaulo and Calundo Cosso. This addition raises to 12 the total number of properly identified victims. The death of the protester Toussaint Tambo brings the death toll to 13.

Habia Nesky died because of a bad egg (see case 6 below), Kassongo Antonio lost his life because of a breakfast (see case 2), Catorze André Cambala gave up his life because of a wheelbarrow (see case 4).

By the same means, it was possible to confirm the survival and proper identity of five of those detained, namely Celestino Daniel, Costa Angelino, João Afonso, Miguel “Bate Comando”, and Sebastião Julião Muandumba.

Up to now, the National Police have detained three of their own members involved in the case, namely, José Caterça, commandant of the Muxinda Police Station, António Fernando da Cruz, investigator and Lucas Francisco, sergeant.

8.1.1. Description of the cases

Case 1

Victim: Domingos Soba, 37, born in Saurimo, Lunda-Sul.

Description of events: The survivors of the Muxinda detention cell confirmed Domingos Soba's death as the first of a series, of which the exact number will be difficult to verify due to the circumstances under which the local police agents dealt with the bodies and the survivors.

Witnesses identified Domingos Soba among the bodies transported by the National Police municipal command, in Capenda-Camulemba. It is suspected that he was buried there in the absence of relatives, since, according to information received in the field, they appeared only days later.

The survivors told about Domingos Soba's detention as the principal suspect involved in the possession of a diamond supposedly of high value. He had been arrested in the company of a Senegalese, identified as Cissé Traoré, in his supposed role as patron of the alluvial mining operation. According to the survivors the police agents freed the Senegalese by means of payment; the researcher tried in vain to contact Cissé Traoré to verify the data, but he refused to make a statement.

Case 2

Victim: Kassongo António, born on 3 August 1985, in Caungula district, Lunda-Norte.

Description of events: On 4 December, Kassongo António was involved in a domestic quarrel, with his brother Francisco António. Agents of the National Police, on patrol in the neighbourhood, became aware of the altercation and made ready to arrest Kassongo António and his eldest brother, Mateus António, 40, who had nothing to do with the dispute.

In the police station, the official on duty, identified by Mateus António as being the agent Orlando Filipe, interrogated them. "I said that my younger siblings had a disagreement, and that it happened in my back yard. I explained that it was a domestic subject, concerning breakfast, and there was no reason for us to involve the police", recounted Mateus António.

According to the information provided by the brothers, sergeant Lucas Francisco and agent Orlando Filipe, "demanded US\$200 to release us. I said that only had US\$50." The agents conducted the two siblings to the cell, about 17h00, where they spent the night.

On 5 December, "at 21h30, agent Orlando Filipe, took me out of the cell and took me home. I gave him US\$50, and he released me", said Mateus António. He then took the opportunity to inquire after his brother who remained in jail since, according to his statement,

agent Orlando Filipe postponed resolving the matter for the next day.

On his way to the police station the next morning, he heard rumours that all the prisoners there were dead.

In the police station he received the information that the victims' bodies had been transferred to the National Police Municipal Command in Capenda-Camulemba. When he went there, he recounted finding four naked bodies, including that of his brother, Kassongo António. He received a sheet, from the duty officer, to wrap up his brother's body and to take it home. He had to rent a private vehicle, to make the return trip, of more than 30 km, with the body. On the same day, he proceeded to his relative's funeral. He expressed regret at the fact that, after having acknowledged their involvement in the crime, the National Police had only given the family a sheet to cover the dead body, and nothing else.

Case 3

Victim: Capunda Caxama, born on 7 July 1971 in Bandundo, Democratic Republic of the Congo.

Description of events: On 29 November 2004, according to relatives and neighbours, Capunda Caxama entered into a heated argument with his neighbour Marcos Muacassumbi over disagreements related to the use of diving equipment for diamond mining in Rio Lulo. Capunda Caxama landed a blow with a bottle, causing head wounds to Marcos Muacassumbi. After Muacassumbi made a complaint to the police station, Capunda Caxama was led to prison. Family members were afraid to discuss the case, but Marcos Muacassumbi stated that Capunda Caxama was one of dead victims of the Muxinda cell: one of only five victims acknowledged by the police.

Case 4

Victim: Catorze André Cambala, born on 25 December 1965.

Description of events: On 1 December, a man identified as Sérgio accused Cambala of having stolen a wheelbarrow from him. He presented a complaint to the police station. According to statements made by Cambala's brother, André Santos Cambala, the officer, identified as commandant José Caterça, demanded the immediate return of the wheelbarrow. When he refused to admit to the supposed crime, "the commandant ordered him to be put in the cell".

On the fourth day of detention, André Santos Cambala affirmed he was contacted by an investigator, Francisco da Cruz, who allegedly requested the amount of 3,000 kwanzas (about \$30) to release his brother. André Santos Cambala said he had only 1,500 kwanzas in his possession at that time, which he handed over to the investigator. He said he received promises that his brother would be released the following day.

As he made his way to the police barracks on the determined day, 6 December, André Santos Cambala came across several people crying and lamenting the deaths in the Muxinda police station, while the police fired shots to prevent the people from approaching the barracks. After managing to reach the place, he found no detainees there. He went to Capenda-Camulemba, in a hired motor vehicle, without success. On his return, they advised him to go to the banks of the River Cuango, where some bodies had been found.

12 km from the River Cuango bridge, near the Alfa 5 private security company's post, he found eight bodies, one of which was his brother. He went ahead with his brother's burial in the forest, according to the information provided, "to protect the ones who had found the bodies."

Case 5

Victim: Amazona Buyama, 36, citizen of the Democratic Republic of the Congo.

Description of events: Eyewitnesses verified Amazona Buyama's arrest, in his home, by a sergeant identified as Lucas. He was drinking beer in the company of his compatriot Decasse, according to the latter's account of events.

Decasse said he went to the police station of Muxinda to obtain more information about Amazona Buyama's detention, from the same sergeant whom they saw as a friend. Allegedly, the sergeant wanted to collect US\$50 for Amazona Buyama's release. "He did not have the money to pay, for that he died", affirmed Decasse.

What happened in the cell, on the night of 5 December and in the early hours of 6 December, cannot be determined. From the absence of the body or more information on its whereabouts, it is only appropriate to assume its disappearance.

Case 6

Victim: Habia Neski, 19, native of Tchicapa, Democratic Republic of the Congo.

Description of events: This is the case of the eggs. According to Habia Neski's relatives, he bought, around 19h00, four hard-boiled eggs from Cristina Pedro, who was selling them in the street. At home, according to the landlord, Mr Carlos, the buyer noticed that one of the eggs was rotten. Demanding a refund, he exchanged verbal insults with the vendor. Agents of the Muxinda police station, patrolling the neighbourhood, appeared on the scene and arrested Habia Neski.

Mateus António, who traveled to Capenda-Camulemba to pick up his brother Kassongo António's body (Case no 2), also identified Habia Neski's body and informed the family of this. The relatives, who were justifiably afraid, preferred for the National Police to go ahead and bury their loved one.

Case 7

Victim: Freddy Bufombo, 32, native of Kikuiti, Bandundu, Democratic Republic of the Congo.

Description of events: Statements by Mama Yenga and João Bufumbo revealed that, around 16h00, on 5 December, their relative (son and brother respectively) headed to the residence of the commander of the Muxinda Police Station (2nd squad), José Caterça, for whom Freddy worked as his private driver.

According to two eyewitnesses, Carlos and Bradori, who accompanied him to the meeting, Freddy Bufombo asked the commander for a reduction in the compulsory receipts from the taxi service which he performed with the commander's vehicle, a Toyota Corolla. The commitment was fixed at US\$100/day and the taxi driver complained he was lacking clients. According to the witnesses, the commandant's refusal to lower the daily sum meant that the taxi driver would have decided to abandon the work. They began arguing. Carlos and Bradori affirmed that the commander felt insulted, "he began to beat him, he handcuffed him and then put him in the cell".

According to Mama Yenga, the commandant took Freddy Bufombo's body to the medical post belonging to Bradori, the deceased's friend. After the happened, the commander and the mother, accompanied by family members, crossed paths in the street. The family members explained how the commandant, with his hands in his pockets, offered the mourning family the amount of 5,000 kwanzas (US\$58) for funeral expenses [which was to be collected from the barracks].

Case 8

Victim: Florindo Caxala¹⁷, born on 3 April 1970, in Eastern Kasai, Democratic Republic of the Congo.

Description of events: As a rule, the passengers who pass through the traffic control of the Muxinda police station, have to pay a "contribution" of 300 kwanzas. On 4 December, Florindo Caxala was coming from the village of Cangola, in a public vehicle. The passengers had "contributed" what was demanded by the police while the Florindo Caxala, according to the statements of the survivors from the Muxinda cell, claimed not to have money. He was taken to jail. His body, with hands tied, was recovered few metres from the bridge on the River Cuango, which links Muxinda to Xá-Muteba.

¹⁷ Many citizens of the DRC, resident in the Lunda areas, have adopted Portuguese-sounding names to facilitate their social integration, which can sometimes cause an apparent mismatch between place of origin and name.

Case 9

Victim: Rossi Mbala, born on 4 April 1962 in Kikuiti, Bandundu, Democratic Republic of the Congo.

Description of events: On 26 November, the agents of Muxinda 2nd squad raided the house of Rossi Mbala and arrested him because of his suspected involvement in cocaine trafficking. Emery, the younger brother of the suspect, said that the family had scraped together US\$1,000 to “facilitate” the release of their loved one, but the attempt came to nothing for lack of another US\$ 500, which the agents were allegedly demanding as the final price of freedom. The family recovered his body at the National Police Municipal Command post in Capenda-Camulemba. On 6 December, the Mbala family was struck by a second tragedy, as described below.

31

Case 10

Victim: Toussaint Tambo, 34 years old, born in Bandundu, Democratic Republic of the Congo.

Description of events: About 07h00 on 6 December, Toussaint Tambo was part of a group of people that went to the 2nd Squad barracks, to protest and to demand the bodies of the family members and friends. Toussaint Tambo was claiming the body of his older brother, Rossy Mbala. The youngest family member Emery and various eyewitnesses related seeing Sergeant Lucas Francisco fire at point blank range at Toussaint. “I thought that my brother fell from shock, with the shot. But he caught a shot in the abdomen and afterwards died”.

Case 11

Victim: João Afonso, born on 14 February 1970, resident of the municipal district of Cambulo, Lunda Norte.

Description of events: João Afonso, one of the survivors of the Muxinda cell, received medical assistance and medication from religious groups for four days. According to the male nurse, the patient fled for fear of his life after recovering.

In January, João Afonso told one of this report’s researchers how he went to jail. “The three of us (myself, Daniel Celestino and Soba) were arrested, accused by a Senegalese, Lóló, of possessing a large diamond. He wanted the police to force us to sell him the diamond. We were tortured and beaten. We said that the Senegalese was making up the story and that we usually sold him the large stones that we found. I survived, thanks be to God. Soba died.”

Case 12

Victim: Costa Angelino, born on 17 August 1974 in Xinge commune, Capenda-Camulemba district.

Description of events: On 2 December 2004, five agents of the National Police, while patrolling through the neighbourhood happened to come across a family quarrel. Costa Angelino, a former policeman from the local station, was drunk, according to his own account and was exchanging words with his relatives who advised him to have more sense.

The agents arrested the five family members, including Costa Angelino, and they brought them to the Muxinda police station. At the station, the uncles received orders for their release, while the police set about beating their former friend, with kicks and clubs.

³² When taken to the cell, Costa Angelino counted 17 detainees present. On 5 December, according to the interrogator, he said, the number of detainees increased to 28. According to his explanation, the space was so tiny that “we had to remain and sleep seated, on top of one other, totally suffocated.” There was just one opening with a grating that was for air circulation. Under those conditions, the prisoners, according to the victim, were forced to urinate and defecate on the ground.

About the 22h40 r, the prisoners began to shout so that the agents opened the door, since the suffocation was unbearable. “We are about to die”, they shouted.

When the police refused, saying Faced with the refusal of the agents, who alleged it was the responsibility of the Municipal Section of Criminal Investigation (SMIC), the detainees asked for water. Domingos Soba was the first to enter instart suffering convulsions. “We screamed: ‘someone is dying’, and the police just laughed”, said Costa Angelino.

After half an hour, the agent identified as Tito Muacumbi handed three bottles of water to the detainees. “When the water reached Domingos Soba, he was already dead”, affirmed the narrator Costa Angelino.

Sergeants Lucas Francisco and Stona, whose identities are confirmed, went to the cell and removed three individuals, detained under suspicion of possession of diamonds, according to the conversation between the prisoners. The final destination of these individuals, as well as their identity is unknown.

Costa Angelino affirmed that, after midnight, on 6 December, two more individuals who had drunk the water, died. About 02h00 in the morning, Nzube Ibule died. “We continued to shout and beat the door and report the deaths, but they did not heed us. The police were laughing at us”, Costa Angelino said.

“After 03h00, after cock crow, my companion Miguel “Bate Commando” counted seven dead. We suspected that the water was poisoned. We lost our heads and did not even notice when they opened the cell. In the morning, about 07h00, only five survivors remained and two died in the cell, and we continued to cry and scream”, recounted Costa Angelino.

He continued to describe the events: “Dilangue, the Head of the Criminal Investigation arrived and asked the agents why we were screaming and crying. He called Sergeant Stona, ordered the cell opened and saw two dead bodies.

“They removed us from the cell, we saw other bodies, in a pickup, covered with a canvas. We all fell and fainted. Agent Marcos Loi, better known as “Tres Vezes”, removed us from the squad barracks. I ended up at the medical station of the Bom Deus Church. I was hospitalised for 48 hours. They alerted me that I would be kidnapped and I escaped from the medical station without saying goodbye to the doctor.”

With his escape, the medical station was short of the payment due for the hospitalisation, and the police station refused to assume the medical expenses.

Information collected at the place, confirmed that the pickup was found in the police station with the dead bodies, only because its driver, upon finding out what happened, abandoned it about 05h00. It happens that the pickup in question, identified as the Toyota Hilux brand, belongs to a police officer identified as Yangombe.

Case 13

Victim: Sebastião Julião Muandumba, born on 6 July 1982 in the municipal district of Lubalo, Lunda-Norte.

Description of events: Argentino Julião, the victim’s uncle, told how his nephew had been detained for changing money in the street, three or four days before (he did not know on precisely what date) the prisoners’ death in the cell at Muxinda police station.

Other family and friends affirmed the existence of a supposed passionate rivalry between Sebastião Julião Muandumba and the policeman Orlando Filipe. The reason was the young woman Amélia dos Santos, former wife of Muandumba, with whom she had two children, was the supposed lover of the policeman who performed the arrest. On the way to the police station, according to his work colleague, Mateus, the agents beat the detainee to their heart’s content, all the way to the police station.

The family went into mourning for four days and held a wake. Sebastião Julião Muandumba appeared some days later, in the municipality of Lubalo, Lunda-Norte, to which he had fled after receiving medical treatment in the Mussanga District.

Case 14

Victim: Miguel “Bate-Comando”, former policeman of the Muxinda squad.

Description of events: On 2 December, five agents of the national police, under command of detective Francisco da Cruz, went to knock on the door of Miguel “Bate-Comando”, who was suspected of having obtained a large diamond from the alluvial mining site.

After a short exchange of words, the police began a beating session. He ended up in the Muxinda cell. "We were kept there in a very cruel manner. We were more than 20 people." On 6 December he counted seven dead in the cell. "I was one of the few survivors."

Case 15

Victim: Fernando Dende Bula, 42.

Description of events: On 7 December, during Freddy Bufumbo's funeral, Fernando Dende Bula affirmed he had received threats from members of the State Security (Sinfo), "Quente and Itay", under suspicion of being the one responsible for the telephone call to Rádio Ecclésia, to denounce the tragic event of Muxinda.

³⁴ In the letter he sent to the traditional leadership, Cabamba Ngunza Ngulaxingu, on 17 January, from the Conduege jail in Dundo, Fernando Dende Bula wrote: "(...) I was threatened with the following words, you are highly thought of since you are a member of the MPLA and the Association of Baixa Cassanje, how it is that you go to the funeral of a foreigner? Seeing that we are the Police of the MPLA, then, one day we shall arrest you (...) and we are going to accuse you and this funeral of being against the police and, after three days, I was jailed by Mr Bambi of the Criminal Investigation (...)"

Fernando Dende Bula took advantage of the situation to reveal that the "police [who were detained in Conduege as the authors of the crime]¹⁸ who killed the prisoners are walking free and I do not have permission to see my family. I have to pay, if not it is impossible to see how (to resolve) the situation.

¹⁸ Editor's note.

8.1.2. Legal notes

Given the barbaric nature of the events which have been described, and their relationship to the arbitrary detentions, torture and killings that are practised at the Muxinda police station, it should not be necessary to comment on them and attempt to place them within a legal framework.

However, it is important to emphasize that this sequence of events is illegal not only in terms of Angola's internal laws and international human rights law. One cannot accept any justification of the facts that are related here, whether based on the supposed weaknesses in the policemen's (or even the judiciary's) legal preparation, or on the sociological considerations that can usually shed light on differences in humanitarian standards in different parts of the world.

The facts that are set out here are intrinsically contrary to any judicial system – not necessarily one based on human dignity, but any system that does not despise such a value absolutely.

This itself derives, whether from the Angolan Constitution or from the African system for the protection of human rights, enshrined by the African Union, a system whose patterns already take into consideration the specificities and shortcomings (whether systematic, or cultural in nature, or related to the scarce availability of human resources) of the areas of policing and the judiciary in most African states.

So a brief commentary will suffice with reference to the extra-judicial nature of the conduct in question, in the light of the African Convention on Human and People's Rights (the Banjul Convention) which was signed on 27 July 1981 and OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), and came into force on 21 October 1986.

Arbitrary detentions (whether made on the basis of misdemeanours that do not warrant preventative detention – for example, the protest in relation to the sale of a rotten egg – or conducted with a view only to extortion (the detention of a passenger who could not or would not pay the "private toll fee" imposed by policemen) clearly violate the rules of due process of law enshrined in article 7 of the Banjul Convention, and the right to liberty itself, protected by article 6.

The conditions of detentions (whether or not the water distributed, too late, to prisoners had been poisoned, when several of them had already succumbed to dehydration and the squalid prison environment) clearly violates what is set down in article 5 of the Convention: "Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited".

The affront to human dignity of detention in a kind of wall cupboard, with no ventilation or air circulation, or in a cell where prisoners are “packed one on top of the other”, defecating and urinating on the same floor where they sleep, needs no further comment.

The failure to offer medical treatment to the detainees clearly violates article 16 of the Convention:

“1. Every individual shall have the right to enjoy the best attainable state of physical and mental health. 2. States Parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.”

What to say of a person detained on suspicion of reporting facts on Rádio Ecclésia [the Angolan Catholic broadcaster]? What to say about the disposal of the bodies of those detainees who died while in captivity? What is it that puts in question human dignity (which includes respect for dead bodies), the right to life, the right to inform and to be informed? Let us say only that here we are dealing with outrages to which the law (any law) has no response other than its *ultima ratio*, which means criminalisation.

As to the responsibilities of political office-bearers, in a system where such crimes are the rule rather than the exception (and in a system where this type of crimes does not result in the conviction and dismissal of the police and administrative officials in the area in question, one can only conclude that the highest political office-bearers are complicit), the law’s response is twofold:

- On the one hand, countries whose regimes consent to, or even encourage, this type of practice, are punished with economic sanctions and exclusion from international organisations whose rules of participation imply respect for minimum standards of respect for human rights.
- On the other hand, the creation of a delinquent state and the systematic denial of its citizens’ human rights brings the respective political office bearers to be judged, whether by the judicial authority of the regime which succeeds it, or by international courts with criminal jurisdiction, or by the courts of third countries which arrogate extra-territorial jurisdiction in the case of crimes against humanity. The penalties to which office-bearers are liable, whether directly or whether by virtue of their position in the hierarchy, are systematically the maximum penalties admissible in the respective judicial systems.

8.2. Cafunfo case

Located 45 km to the south-east of the municipal centre of Cuango, the town of Cafunfo is the largest commercial and informal mining depot in the whole of eastern Angola, fundamentally supplied by the alluvial mines.

Despite not being recognised from the administrative point of view, during the mining fever the town came to accommodate, "close to 140,000 inhabitants, of whom about 40% were foreign", according to the estimates of the Cuango municipal administrator, Paulo Passos Gongga. At the start of 2004, that number dropped to around 45,000, according to the administrator.

To have an idea of the commercial size and importance in the diamond trafficking, the administrator estimated that, up to 2001 an average of 45 aircraft landed daily at the improvised local airport.

Cafunfo, in spite of its importance, is a place without administrative recognition, an agglomerate of mud huts and wattle and daub houses, without basic sanitation or a local administration. That scenario contrasts with the innumerable advertisements, on the walls, of the existence of satellites telephones for public use, several locations for selling diamonds and myriad generators, which at night create the impression there is public electric power in the town.

There is a set of five generators of more than 400 kVA each, installed at the beginning of the nineties, with the purpose of lighting the town.

On 22 February 2004, a mission from the diamond companies Sociedade Mineira do Lucapa (SML) and of the Sociedade de Desenvolvimento Mineiro (SDM), came to the place on the orders of the Provincial Governor of Lunda-Norte, Gomes Maiato, with the means to remove the generators for their supposed repair. The populace understood the initiative as a process of private transfer of a public asset.

In order show their opposition, the populace organised a demonstration aimed at preventing the removal of the generators. In turn, the local administration resorted to the National Police to assert their authority.

The statements that follow reveal the exercise of an unjustified brutality by the National Police, the moribund state of the justice system, and its submission to abuses of authority. On the side of the population, there is practically no organised civil society to defend their rights. One can see despair and a determination to offer resistance like nowhere else in the country.

In the aftermath of the operation, police officers left eight people dead, as confirmed and identified by the authors. In addition, the deaths of four foreign citizens were also confirmed, of whom the only one identified was Cabenguele wa Cabenguele, a citizen of the

Democratic Republic of Congo. It was not possible to establish the names of the other three, who were known to be Senegalese. The National Police carried out more than 170 arrests, 17 of which led to court cases. They have been under preventive detention for a year and, as of six months ago, they are awaiting sentence by the court. In addition to the cases listed below, some 18 people have been identified and are known to have been wounded by shooting and beating carried out by the agents of law and order.

So far as we could determine, no record exists of the detention or disciplinary sanction of any member of the National Police due to homicide or assault offences against civilians. Impunity wins again.

8.2.1. Description of the cases

Case 1

Date: 23 February 2004.

Victim: Manuel Lucas Samianze, 27.

Perpetrators: Members of the National police.

Place: District of Bala-bala, close to the Dr. A. Neto school, Cafunfo, Cuango district, Province of Lunda-Norte.

Description of events: Around 13h00, members of the National Police surrounded Cafunfo town with intense shooting. One of the agents, identified by the name of "Russo", hit Manuel Lucas Samianze, in the chest, when he ran in search of his son Mauro Manuel, 8. His son was in the bible study of the Jehovah Witnesses, close to the Dr A Neto School.

The shooting became a public riot in which the town headquarters plunged in against the attempt, by the local authorities, to remove the set of five electric power generators which, at the start of the nineties, supplied Cafunfo.

"Another member of the Fiscal Police, named Toni, tried to help my brother. The agent and another friend tried to take my brother to the Fiscal Police unit, which was close by, to see if they could arrange a car to take him to the hospital," said Agostinho Samianze, 37, the victim's brother.

He then recounted the reaction of the population that confused the first aid person with the aggressor from the squad and proceeded to pelt him with stones, and beat him with machetes and shovels, demanding justice.

Police from the local unit, who requested anonymity, explained how they were surprised by the population who had heard by word of mouth what was happening, and came from the excavations and the alluvial mines with their work tools, took part in encircling the squad.

“Many of the people even judged that the electrical generators involved in the trouble were from the residence adjoining the squad barracks and they wanted to set fire to them”, recounted an official.

The National Police officers became aware of the seriousness of the situation and the uncontrollable growth of the number of people who approached the police unit, only when they began to stone it, injuring commander René, who was in his office.

According to the policemen’s testimony, corroborated by some of the individuals who participated in surrounding the building, commander René gave orders for the agents not to fire, under any circumstance, to avoid a blood bath. As he approached of the crowd with his guard, so as to negotiate, he was encircled and dragged by the feet, and escaped lynching only by pure luck.

39

“We did not even have the option of beating a retreat, because the population had closed all the exits; or even to protect the unit, because it did not have walls and we did not even have the wherewithal to take positions”, asserted an official, showing the scars caused by the event.

In the process, the populations burned the flag of the Republic and caused further damage to the squad barracks.

Manuel Lucas Samianze finally died at the Cafunfo Hospital, in spite of the family contributing medicine to the value of US\$150, plus 80 litres of fuel to power the generator while attempts were made to save him by means of surgery. The following day, Agostinho Samianze spoke with the administrator of the Cuango municipal district, Paulo Passos Gongga, asking that the local authorities assume responsibility for the costs of the death. He was unsuccessful.

When administrator Paulo Passos Gongga spoke to the authors of this report about the shootings described here, which claimed several lives, he said the police only fired into the air and into the ground so as to disperse the people who were demonstrating.

Case 2

Date: 23 February 2004.

Victim: Madalena Fernando, born 13 August 1989, in Cafunfo.

Perpetrators: Members of the National Police.

Location: Around of the Fiscal Police Unit, close to Cafunfo airfield.

Description of events: Madalena was on her way home in the early afternoon when she was hit by a shot fired by the National Police. She received a fatal bullet wound in her abdomen. According to Cachita Fernando, a member of the victim’s family, “the agents of the National Police grabber her and they took her to the Fiscal Police unit. The police were firing at the people who were in the streets. They were afraid of being attacked and

one of them even shouted: 'We have to finish with these Chokwé,' the relative said.

According to Salvador Fragoso, 36, the news of Madalena's death spread through Bala-bala and it prompted the population to go to the Fiscal Police. "The police fired and the people threw stones. They began to arrest all the men that spoke Chokwé", added the witness.

Considered as the focus of the popular uprising against the removal of the generators, the Bala-Bala district saw "a large concentration of people close to the 'Tank'" around 07h30 on the day in question. According to Salvador Fragoso's description, the police in turn "concentrated several of their units close to the old warehouse to prevent the people from going to the generator site."

40 **Case 3**

Date: 23 February 2004.

Victim: Baptista Paulo, 23 years.

Perpetrators: Agents of the National Police.

Place: Rua do Capango, Cafunfo.

Description of events: At 07h30, Baptista Paulo followed his brother, Justino Popi, in the direction of the generator installations, with the aim of protesting against their removal. In the street of Capango, members of the National Police accosted him with kicks, cuffs and blows from rifle butts. He did not even manage to reach the gathering and place of the protest. According to statements from the victim's brother, who witnessed the events: "They beat him until about 08h30. We carried him into the house already wounded, where he died in the evening. The following day we went to request a death certificate. As they were many cases, the police officer only attended to five requests, and later he received orders not to issue any more death certificates", Justino Popi said.

Case 4

Date: 23 February 2004.

Victim: Avelino Gemixi Filipe, 29.

Perpetrators: Members of the National Police.

Place: Antenas District, Cafunfo.

Description of events: Eyewitnesses affirmed that Avelino Gemixi Filipe was shot in the head while the police were shooting near the generators. However, the last death certificate issued by the authorities says he died by beating.

Case 5

Date: 23 February 2004.

Victim: David Alexandre Carlos, 12.

Perpetrators: Members of the National Police.

Description of events: According to Alexandre Carlos, 33, his son David went out into the street curious to know what was happening, and according to several witnesses was injured with several kicks to the ribs by an unidentified policeman. The father found him fallen close to the airfield, He took him to a traditional healer since he lacked the funds for conventional treatment. The death certificate confirms that David died on 24 February, as a result of having been beaten.

41

Case 6

Date: 23 February 2004.

Victim: Maria Caita, 26, resident of Cafunfo.

Perpetrators: Members of the National Police.

Description of events: António Caita, realising the seriousness of the riot between the police and the local residents, sought to gather the family into the house for their protection. He noted the one policeman firing indiscriminately in his back yard. After the policeman had left, António Caita went outside to see his sister who was in the room next to the back yard. "She had received a shot in the abdomen, and she died an hour later. I went to complain to the police squad and they ordered me to return home with the answer that 'you are rebels'", António Caita said.

Case 7

Date: 23 February 2004.

Victim: Fernando Augusto, 24.

Perpetrators: Members of the National Police.

Place: Main street of the Bala-Bala neighbourhood¹⁹, close to Guicango's shop number 1.

Description of events: During the riot, after people attacked the Fiscal Police unit, a patrol of the National Police, including Rapid Reaction Police ("ninjas") that made up the reinforcement mission grabbed Fernando Augusto who was trying to run away from the authorities. According to witnesses, they kicked him and beat him with rifle butts and whatever they had to hand until he was senseless. The patrol placed him in the police vehicle and took him to the hospital, where he was found dead on arrival.

¹⁹ Translator's note: For purposes of simplicity, the Portuguese word *bairro* is for the purposes of this report always translated as "neighbourhood". In Angola, *bairro* usually refers to a residential district within a town or city, though it can also be used for a more isolated rural settlement.

Case 8

Date: 23 February 2004.

Victims: Cabenguele wa Cabenguele, DR Congo citizen.

Perpetrators: Members of the National Police.

Place: Close to the former Candeeiros market, Bala-Bala neighbourhood.

Description of events: Witnesses affirmed that Cabenguele was travelling in a motor vehicle when, during the shooting caused by the confusion over the generators, he came across a vehicle belonging to the National Police, whose members were attacking the square. According to the witness, the agents took possession of a cooler box, with beer and soft drinks, belonging to Cabenguele and to an unnamed lady, and upon protesting he was shot at point blank range and died on the spot. The relatives recovered the body and they proceeded to bury him in the Antenas district.

On that same day, the shooting of three Senegalese was also reported on the banks of the River Cuango, at the Cangau crossing, in the access area to the alluvial mining zones of Ngonga Ngola and Binda Rica. The bodies were thrown into the water tied together. Members of the Senegalese community in the place refused to provide depositions about their compatriots' identity, for fear of reprisals.

Case 9

Date: 22 February 2004.

Victim: Filomena Muamuhunga, 24.

Perpetrators: Members of the National Police.

Location: Generator building, Cafunfo, Cuango district, Lunda-Norte.

Description of events: While police were firing shots to disperse the crowd around the generator building, one of the police fired a shot that hit Filomena Muamuhunga in the breast, fatally wounding her, according to eyewitness accounts.

Case 10

Date: 23 February 2004.

Victim: Pinto Lucas Kulissoho.

Perpetrators: Members of the National Police.

Place: Bundo District, Cafunfo, Cuango district, Lunda-Norte.

Description of events: Members of the National Police stopped Pinto Lucas Kulissoho, in the street, around 14h00. "They pistol whipped and beat me with batons. They split my head. I received six stitches [in the head], four more stitches in the back and another in the shoulders. The agents took me to the hospital for treatment", Pinto Lucas Kulissoho said.

Upon leaving the hospital, he was kept detained and forced to walk shackled to the squad barracks in the following manner: “I went ahead and the two police, in the motor vehicle, proceeded behind me. On the walk, the wheel of the vehicle struck me in the foot and I fell into the ravine. I broke my arm and I still cannot manage to move my fingers properly – I have a deformed arm”, Pinto Lucas Kulissoho said.

Case 11

Date: 23 February 2004.

Victim: Paulo Lucas Veneno, born in Lubalo on 1 April 1958.

Perpetrators: Members of the National Police.

Place: Antenas District, Cafunfo, Cuango district, Lunda-Norte.

Description of events: Agents of the National Police stopped Paulo Lucas Veneno close to the park about 15h30. “The police beat me as if they were wild”, he said. He received a machete cut in the right leg, which caused him serious wounds. He still complains about permanent back pains.

Case 12

Date: 23 February 2004.

Victim: Josefo Adão, native of Caungula, born on 25 October 1969.

Perpetrators: Members of the National Police.

Place: Bala-bala district, Cafunfo, Cuango district, Lunda-Norte.

Description of events: Josefo Adão was arrested at home, around 08h00, by members of the National Police who began to beat him there in his home, in front of his loved ones. They continued with the beating in the Police Command Post in Cafunfo. “They were arresting people at random”, Josefo Adão said. As a result of the attack, the victim dislocated his right knee and right thumb.

Case 13

Date: 23 February 2004.

Victim: Lucas Muacahia, born in Caungula on 26 May 1962.

Perpetrators: Members of the National Police.

Place: Bala-bala district, Cafunfo, Cuango district, Lunda-Norte.

Description of events: Lucas Muacahia was arrested at his residence, about 10h00. Since he possessed a full beard, the agents of the National Police accorded him special treatment and nicknamed him Osama Bin Laden. They beat him with great violence, “especially inspector Timóteo”, whom the victim identified.

Case 14

Date: 23 February 2004.

Victim: Moisés Jeremias, 35, resident of Cafunfo.

Perpetrators: Members of the National Police.

Place: Bala-bala District, Cafunfo, Cuango district.

Description of events: Moisés Jeremias, a member of the Residents' Commission that was established to discuss the case of the generator's removal with the local authorities and Endiama, recounted he did not manage to reach the negotiation venue: "We halted before the door of the Town Commission when, suddenly, the police arrived and began to beat us. The police screamed "this one is also Chokwé!" and they began to strike out. I went to help an older man who was with me and I took blows with batons and with the weapon barrel in the chest, on the right side."

44

Case 15

Date: 23 February 2004.

Victim: Joaquim José Caungula, 47, resident of Bala-bala.

Perpetrators: Members of the National Police.

Place: Mona Cafunfo, Cafunfo, Cuango district, Lunda-Norte.

Description of events: Joaquim José Caungula was working on the construction of a school in Mona Cafunfo. "About 15h00, the policeman Cláudio appeared. He was coming from Cafunfo and he said that the things were bad there and that no vehicle was entering or leaving", he informed the works foreman.

At the end of the afternoon, he decided to return to Cafunfo. He went to the Bala-bala District, where he lived. When he had arrived home, "a car appeared, full of border police and their commander, Graça, who pointed the pistol at me and ordered me outside", Caungula recounted.

In the street, the agents began by taking the money he had in his possession, 2,500 kwanzas (about US\$25). They began beating him. "When I arrived to the barracks, I said that was member of the Social Renewal Party (PRS) and, because of what he said, the police intensified the beating", Joaquim José Caungula said.

On 24 February, he complained about his detention to the inspector of the criminal investigation, whom he identified as Timóteo. Timóteo reacted "by pistol whipping me around the head. I began to bleed."

Caungula described the police investigation procedures: "I asked the detainees to count how many people were in the cell, we were about 153. Later, the agents excluded the ones who were not natives [long-term residents] of Cafunfo/Cuango and they released those

people, they removed 77 people. The second group determined was by age, the third group also, thus 15 remained and later they arrested another two, which made 17 arrested in the Cafunfo case.”

Case 16

Date: 23 February 2004.

Victim: Francisco Muxito, 32, native of Cuilo, Lunda-Norte.

Perpetrators: Agents of the National Police

Place: Bala-bala District, Cafunfo, Cuango district, Lunda-Norte.

Description of events: Francisco was in his residence, located in Capenda, when, around 09h00, members of the National Police arrested him. 45

According to the victim, the beatings began in his residence and in the presence of his relatives, and continued until they arrived at the squad barracks.

Case 17

Date: 23 February 2004.

Victim: Castro Paulino, born on 23 March 1972, in Caungula district, Lunda-Norte.

Perpetrators: Members of the National Police

Place: Bala-bala District, Cafunfo, Cuango district, Lunda Norte

Description of events: On 22 February, Castro Paulino arrived at Cafunfo, around 22h00, having travelled overland from Luanda. The following day, at 09h00, seven members of the National Police, belonging to the squad across the road from his residence, broke into his house with an order simply of “let’s go!”, according to Castro Paulino.

“They spent their anger on me. Clubbings, kicks, rifle butt blows, they beat me with everything, before my family”, the interviewee said.

The beating continued on the way to the squad barracks, where the beating increased in intensity, according to the victim’s statements. In the barracks, an officer “testified in my favour, to say that I had returned from Luanda on the previous day. Even so they insisted on beating me.” Castro Paulino ended up in the cell and it was only on 27 February “when they asked me why I was in jail. I said that I did not know”, according to his account. He ended up included in the list of the “ring-leaders” of the protests against the removal of generators, and spent a year in detention.

Case 18

Date: 22 February 2004.

Victim: Enoque Jeremias, 32.

Perpetrators: Members of the National Police.

Location: Town of Cafunfo, close to generator installation.

Description of events: Enoque Jeremias had joined the people's demonstration against the removal of the town's generators when, about 15h00, agents of the National Police, with shots and beating tried to disperse the gathering, estimated at more than 300 people. Policemen arrested Enoque Jeremias in the OGM automobile workshop, close to the place of the incident, with a beating.

46

"Many agents, including the investigator Kimba, beat me with rifle butts and kicked me with boots over my whole body. I bled everywhere until I lost consciousness", recounted the victim, who has since been temporarily freed.

When he regained consciousness he found himself in the Cafunfo jail, where "the detective, Lucas, plus Kimba, hit me with batons and they beat me up for 15 minutes."

On 27 February, with 15 more people selected for detention from among the more than 150 supposed demonstrators, they were transferred to the three cells of the Cuango Municipal Command of the National Police, where they passed two nights with a further 50 prisoners who were already there. The conditions of imprisonment can be summarised by the fact some people slept in the bathroom, in the corridor, and on top of the walls between the corridor and the roof, for lack of space.

About 22h00, on 28 February, the search and arrest officer, identified as Mário, removed the youth Júlio Cahucana, who was part of the group, from the cell. Nothing more is known of his whereabouts.

On 1 March, the 15 detainees arrived in Dundo, the provincial capital of Lunda-Norte where they were taken to the Provincial Criminal Investigation Division. There, the local police forcibly undressed the detainees and they forced them to walk naked in the back yard and in full view of everybody. For the speaker, that "was a very great humiliation. They exposed us naked at a site where a lot of women passed by."

Once the charge sheets had been registered and prepared, the investigators tied the detainees in single file, Enoque Jeremias said. A single rope was used to tie the 15 detainees, one at a time, by the waist. They put us in a pick-up headed for the Conduege prison.

This prison establishment, which serves the entire province of Lunda-Norte, is an old warehouse, which previously belonged to the former mining company Diamang. At the time of the prisoners' detention there were already over 170 people there.

Enoque Jeremias was formally accused, on 23 March, of having participated in the attack by the population on the Fiscal Police unit, which happened on 23 February 2004, one day after his arrest.

His statements, corroborated by other victims, confirmed the continuation of abuses against the prisoners. "In the prison, the police instructed the longer-serving prisoners to beat us. They forced us to lick the four sinks, which were soiled with excrement. The police watched the scene while they incited the other prisoners to be more cruel with us."

By 10 March the number of the group has reached 17, according to official declarations, with the inclusion of Muhunga Morais, arrested on March 4, and Pinto Lucas Kulissoho.

On 13 March tied back-to-back by the arms in pairs, the Cafunfo 17 mounted a Kamaz Truck belonging to the National Police, and were transferred to the Caposhi underground jail, under the surveillance of the Angolan Armed Forces (FAA).

The 17 spent one month there without taking a bath, and the first three days without food or water, followed by a daily ration of 50 grams of food person which, according to the detainees' description, was not suitable for human consumption. 47

Moments after their arrival in Caposhi, the 17 made contact with a citizen of DR Congo, Mbulampongo Kiss, who had a serious wound in the middle of his head as the result of a baton blow, and who had not received any medical assistance.

Enoque Jeremias described the case: "Captain Está Escrito, of the FAA, showed the man to us and asked him 'who did this to you?' and the Congolese replied that it was 'the chief himself', referring to Está Escrito.

"He said that if he had not already removed his duty armband, we would have been tortured by him, in the [electric] shock room, as had happened to the Congolese. He even promised to continue on duty to torture us", Enoque Jeremias said, adding he was relieved that Captain Está Escrito's coincidentally left for Benguela, for a military course.

The fate of the Congolese man is unknown. Enoque Jeremias was admitted into Dundo hospital, on 9 June, due to constantly vomiting blood, and was hospitalised for more than two months. He was discharged on 5 September.

Case 19

Date: 22 February 2004.

Victim: Estevão Jeremias, 38, resident in Cafunfo (brother of Enoque Jeremias, see case 17 above).

Perpetrators: Members of the National Police.

Description of events: "Around 14h00, I went to the generator site to prevent them from being taken," Estevão Jeremias explained. "After about 30 minutes, police agents, transported in a Toyota pick-up, took up positions around the generator building.

"We were inside there and we heard the shots coming from outside. The sergeant in command of the operation entered with two other policemen and informed us that he had orders from the deputy municipal administrator of Cuango, Silva Cambende," continued Estevão Jeremias.

The demonstrators showed the police that the cables of the generators had been cut, as proof of malicious intent by the authorities. The sergeant left and ordered a halt to the firing. According to the witness, the sergeant “said that he was going to a meeting with the police commander to report to him what happened.”

Several minutes later, a representative of the deputy municipal administrator appeared on the scene, to request calm and a meeting, within 15 minutes, with the deputy administrator, who was prepared to explain about the removal of the generators.

Contrary to what was agreed, another person arrived, this time commandant Hilário. “He turned towards the sergeant and said ‘why are you being hostile to these comrades?’ Before the sergeant answered, the commandant began to push the people”, said Estevão Jeremias.

48

In reaction, the demonstrators affirmed they were determined to wait for the administrator, in accordance with the agreement made with his emissary. “At that point, Commandant Hilário fired three shots into the air, and immediately after that, the other police began to fire on the people, and panic took hold. In the middle of the confusion, the commandant ordered an agent to fire at me. The agent fired three shots, but none hit me,” Estevão Jeremias said.

As a shield, “I grabbed an agent who was standing next to me to protect myself and only then, the other agent stopped firing. Six police caught me and they began to kick me and beat me with batons and rifle butts. The police dragged me and when we were close to the Endiama workshops I lost consciousness. I was taken to the hospital in a comatose state. I was hospitalised for 3 days”, recounted the victim.

On 24 February, about 17h00, several members of the National Police raided the hospital, looking for patients related with the generator case and to expel them from the hospital or take them to jail. “A male nurse friend told me to pretend to be a visitor, and this helped me to escape the raid by the National Police. Thus was the reason I was not taken”, said Estevão Jeremias.

Case 20

Date: 22 February 2004.

Victim: Salvador Frago, born on 14 January 1968, in Lubalo district, Lunda-Norte.

Place: Municipal ex-command of the National Police, Cafunfo, Cuango district, Lunda-Norte.

Perpetrators: Members of the National Police.

Description of events: About 19h30, Salvador Frago went to the main police barracks in Cafunfo, the former municipal command, to find out about the detention of his friend Joaquim Paulo Cauaia, two hours earlier, in relation to the generators case.

“On arriving at the barracks, a policeman welcomed me by cuffing me twice, and ordered me to enter immediately. A sergeant pulled out a baton and hit me twice on the head and once in the back. He then asked me if I had any money,” Salvador Fragoso said.

Thereafter, the investigator entered on the scene, to interrogate me about the generators. “I answered that the generators did not belong to Governor Gomes Maiato. Then he ordered them to hit me twice more with the baton.”

He continued: “In the holding area they showed me the blood spread on the ground. The investigator told me that it was the blood of the others that had already passed through, and he asked me if I had money. They took my car keys. My brother, Geraldo, appeared, by coincidence, to learn about the case of Joaquim Cauaia, and found me jailed. He went to the house to look for US\$150 and because of this they released me. The following day, we paid US\$200 for the release of Cauaia.”

Case 21

Date: 22 February 2004.

Victim: Silvestre Marcos Jacinto, born on 15 September 1984 in Camaxilo, Caungula district.

Perpetrators: Members of the National Police.

Place: Antenas District, Cafunfo, Cuango district, Lunda-Norte.

Description of events: Arrested near his residence, Silvestre Marcos suffered several injuries to his head as a consequence of the policemen having beaten him with rifle butts. They accused him of being one of the people who had demonstrated against the removal of the generators case and of forming part of the “Cafunfo Case”.

Case 22

Date: 22 February 2004.

Victim: Luciano Filipe Muassumomo, born on 14 April 1961 in Cuílo district, Lunda-Norte.

Perpetrators: Members of the National Police.

Place: Cafunfo, Cuango district, Lunda-Norte.

Description of events: Around 09h00, Luciano Filipe Muassumomo was in the medical clinic, in the company of his wife Ana, queuing for treatment as he was suffering from a high fever, according to his testimony.

Members of the National Police, passing by the medical clinic, noticed his presence and “they began to beat me in front of my wife.” I was included in the group of the “ring leaders” without further delay.

8.2.2. Legal notes

On 23 March 2004, the accusation was formulated, by the Department of Justice, according to the correctional police process, for the *crime of resistance as provided for and punished by art. 186 no. 1 of the penal code (P. C.), together with the crime for striking an officer as provided for and punished by art. 184 of the P.C., of the crime of illegal ownership of firearms as provided for and punished by art. 123 of Decree Law 3778/67, of the crime of corporal offences against the public authority as provided for and punished by art. 183 of the P.C., with reference to art. 181 of the same code, for the crime of defacing the country's symbols as provided for and punished by art. 25 of law no. 7/78, of May 26, use of firearms as provided for and punished by art. 363 of the P.C., and the attempted crime of setting fire to property as provided for and punished by art. 463, no. 1 of the P.C., with reference to art. 467 of P.C.*²⁰

It has been a very complex process, not only in the number of defendants involved, but also from existence, from the very beginning, of countless irregularities likely to lead to the annulment of charges.

1. The prosecution sent forward the process for judgement under the correctional police form. However, the penal framework applicable abstractly to the crimes of which the defendants stand accused does not allow the judgement to run under the process form in question, but only in the form of a complaint procedure. Because, according to article 63 of the P.C.P. (Penal Procedural Code) in conjunction with article 55 of the penal code (P.C.), the crimes will be judged in a complaint process that may correspond to any major penalty of imprisonment, in other words, the most serious crimes, the penalties for correspond to major prison terms.

Only those crimes that correspond to prison sentences of up to one year may be judged in correctional police processes.

One of the crimes imputed to the defendants can carry a penalty from 12 to 16 years of imprisonment.

Since the defendants are accused of several infractions, where their penalty framework is varied and, as the articles 56 and 57 refer, relative to the objective connection, the competent court is that of the most serious infraction, in other words, the process form shall be applied which corresponds to longer prison sentences, which, in this case, is the complaint process.

The application of a different process form from what is legally prescribed, in some situations prejudices the defence of the defendant thereby reducing the defence warranties accorded to him.

²⁰ The italics are ours.

Thus, the consequence of applying a less solemn form of due process, when the law demands a more solemn form, is nullification, which can be acknowledged officially, or at the request of the interested parties, and at any time of the process.

2. When formulating a generic accusation it turns out that agents of the same infraction and the agents of different infractions committed simultaneously shall answer, jointly, in the competent court for the most serious infraction.

However, the rules of objective connection do not prevent each defendant from being specifically charged with the infraction committed by them.

For this reason, the accusation violates what is ruled in article 28 of P.C., according to which the criminal liability relapses solely and individually in the agents of crimes or misdemeanours which makes it impossible to know exactly what were the crimes, or the crime, that each co-defendant committed.

51

3. In the act of detaining the defendants an arrest warrant was not presented.

Except in the cases when the perpetrator is caught in the act, nobody can be arrested without a warrant, legally ordered by the competent authorities, according to the combined provisions of articles 10 and 12 of the Law of Preventive Detention in Preparatory Hearings, Law no. 18–A/92, of July 17.

However, in the absence of an arrest warrant, imprisonment can be directly and legally performed by the Magistrates of the Department of Justice. The same powers are conferred upon the Head of the National Police Division of Criminal Investigation, on the Head of National Police Division of Procedural Investigation, on the Head of the National Police Divisions for Inspection and Investigation of Economic Activities, to the Heads of Provincial Police Divisions of Criminal Investigation, to the Heads of Provincial Police Divisions for Procedural Hearing, to the Heads of Provincial Police Divisions for the Inspection and Investigation of Economic Activities.

Now, none of the abovementioned circumstances has been verified, since, besides the fact no arrest warrant was presented. Agents who are not included within the abovementioned categories performed the arrests.

4. Regarding preventive detention, a procedural measure of coercion, which consists of the deprivation of the freedom of the defendant to make them available to the entity entrusted with a criminal investigation or a judge, it is important to make the following distinction:
 - a) Arrests in the act is admissible when the perpetrator is apprehended while committing the felony, in the cases where he has just finished committing it, or further, when the perpetrator is, soon after the practice of the infraction, pursued by anybody or found with objects or signs that clearly show that he had committed or participated in it.

In addition to what was mentioned previously, in order for preventive detention to occur in cases of *flagrante delicto* it is necessary that the crime correspond to a prison sentence in accordance with the determination in article 6 of the Law of the Preventive Detention in Preparatory Hearing, Law 18–A/92, of July 17.

- b) There may be preventive detention outside of cases of *flagrante delicto* when, cumulatively, the following requirements are verified:
- 1) The crime is fraudulent and punishable with a prison sentence of greater than one year;
 - 2) Justified suspicion exists of the commission of the crime by the defendants;
 - 3) Provisional freedom is inconvenient;
 - 4) Provisional freedom is inadmissible;
 - 5) It has been directly ordered or performed by the Magistrates of the Department of Justice, the Head of National Police Division of Criminal Investigation, the Head of the National Police Division of Procedural Investigation, the Head of National Police Division of Inspection and Investigation of Economic Activities, the Heads of Provincial Police Divisions of Criminal Investigation, the Heads of Provincial Police Divisions of Procedural Hearing, the Heads of Provincial Police Divisions of Inspection and Investigation of Economic Activities.

In relation to the specific case, in the accusation no reference is made to the detention of the defendants in situation of *flagrante delicto*, being restricted to a generic description of events, the day in which they were carried out and the crimes of which they stand accused.

It is important to stress that three of the defendants were stopped one day before the occurrence of the facts and, eight of the defendants, in concordance with their statements, were arrested during the morning of 23 February when, actually, the facts of which they stand accused happened in the afternoon of the same day in the period of the afternoon. Which places doubt on application of the preventive detention in situations of *flagrante delicto*. Angolan authorities would seem in this case to have adopted the doctrine of pre-crime, popularised by the movie picture “The Minority Report”.

We still have to verify whether the preventive detention presuppositions of *flagrante delicto* are met or not.

Once again we call attention to the fact the accusation was generic and has not separately identified the facts specifically practiced by each one of the defendants, which hinders the verification of all the presuppositions for application of the preventive detention outside of *flagrante delicto*.

As referred to above, besides the case involving a fraudulent crime punishable with prison sentence greater than one year, sufficient indications will have to exist, or strong

indications of the commission by the defendants of the crimes of which they stand accused: indications directed to one person.

Now, if in relation to some defendants this requirement is plainly placed in doubt – for example, because of arrests performed before the occurrence of the events,²¹ things become even more complicated with the formulation of a generic accusation, which does not allow separating out specifically what each accused did, so that preventive detention can be decreed. For which reason, we are of opinion that the preventive detention is illegal.

5. As referred to above, three of the defendants to who stand accused of the crimes stated above, were arrested on 22 February 2004, when in fact the actions of which they are accused happened on 23 February 2004.

53

In order that criminal law may apply, it is necessary that human conduct occur which formally coincides with the description made in the incriminating standard.

This conduct corresponds to positive or negative conduct, as fulfils the legal definition.

According to the provision in art. 20 of the P.C. the author of a crime is he who executes or it takes direct part in its execution.

Now, on 22 February, Silvestre Marcos Jacinto, João Lourenço and Enoque Jeremias, were detainees in police custody²², which removes the possibility of being co-authors in the cited crimes.

Similarly the above described situation happened with defendants Josefo Adão, Castro Paulino, Lucas Muacahia, João Manuel David, Francisco Muxito, José Novas Filipe, Luciano Filipe Muasumomo and Jamaica Timóteo, all arrested in the morning of 23 February when, the facts which are attributed to them happened in the afternoon of the same day.

6. João Lourenço, defendant in this process, is 15 years old and is imprisoned preventatively. Since September, following petitions presented by the defence, he has been transferred to an enclosure of the prison establishment, where he is separate from the adult prisoners.

In the penal process today culpability begins at sixteen years, in other words, those under 16 years are immune from penal liability and censure.

Those under 16 years enjoy non- culpability, which in this case is absolute.

In agreement with the provision in the P.C. article 109, *minors under 16 years are subject to the jurisdiction of the lower courts and, in relation to them, those measures of assistance, education or correction can only be taken as provided for in the special legislation.* The special legislation to which the code refers is Law no. 9/96 of April 19, a diploma that establishes the legal regime for the Judgement of Minors.

²² See accusation formulated by the public prosecution service, that is enclosed in annex, where it is said that *all those interrogated were them arrested on 23 February 2004, except Silvestre Marcos Jacinto, João Lourenço and Enoque Jeremias, who were arrested on 22 February.* The italics are ours.

²³ Idem.

By force of the determination in article 13 of the cited diploma, for minors, when the urgency of the situation so demands, provisional measures can be applied.

However, the provisional measures cannot be applied for a period greater than three months and only for weighty reasons they can be extended by an equal period and time, but no more than once.

The choice of the measure of provisional nature is intimately linked to the seriousness of the situation. We understand that in the analysis of the gravity of the situation, objective and subjective aspects should be taken into consideration such as, the nature of the infraction, the agent's personality and the possibility of the practice for the agent of other criminal facts.

54

Preventive detention is the most serious of the measures of provisional nature, for this reason it should be ordered only in the last resort, that is, it functions as a last measure when, in the specific case, the application of any other provisional measure becomes manifestly non-viable.

It happens, therefore, that the limit provided for under the law for the duration of the provisional measure is manifestly exceeded. ***Therefore, preventive detention of a minor is illegal, since the same has already lasted one year.***

7. In the session of 16 July the sobas (traditional leaders) Samuquimba, Muriamabo Sacaluimbi and Daniel appeared to render declarations, without however being notified by the court. They revealed that the indication for them to be present in court and to make statements there came from the MPLA Municipal Committee. These entities were called to the proceeding not by the court, but, by the party administration, which called upon them to testify, not knowing under what heading, whether as state witnesses or as witnesses. In any of the cases, the evidence obtained through the hearings of the three sobas is invalid, because, according to article 214 of the Code of Criminal Procedure. the witness or state witness can only be called to court by the president judge, in other words, by the court, by the prosecution or by the defence.

8.3. Murders

Case 1

Date: 29 December 2004

Victim: Eduardo Felipe, 19, born in Bote, Xá-Muteba district

Perpetrator: Member of the National Police

Location: Gika neighbourhood, Cafunfo, Cuango district, Lunda-Norte

Description of events: Four young men, João Bernardo, Sebastião David, Carlos Ngato and Mingo, were playing a card game under a mango tree in Bernardo's yard. About 10h40, a patrol of six members of the National Police, alerted by the smell of cannabis smoke in the area, stormed into the yard and accused the card-players of being cannabis smokers. Before the suspects could respond, the policeman started beating them with truncheons and rifle butts. The suspects fled.

55

Coincidentally, three other youths, Eduardo Felipe, Mabanza and Santos Castro, were walking past the yard when the suspects fled, and the police demanded to see their documents.

Eduardo Felipe, according to the testimony of his companions, recognised the policemen known as Tomé and Jony, and refused to hand over his documents to the police.

According to the witnesses, "the policeman Jony said to Eduardo, 'you're causing trouble for us. I'm going to shoot you' and took out his gun."

A fourth person, Fató Gabriel, Eduardo Felipe's sister-in-law, who heard the commotion and arrived at the scene, confirms that she begged the policemen not to shoot since the people in question were known to her.

Eduardo tried to flee, and then, according to Fató Gabriel, "Sergeant Jony ordered Tomé to shoot, Eduardo was hit first in the arm and then in the chest".

Eduardo Felipe died instantly. People took his body and deposited it at the former Municipal Police Headquarters, now the main police station in Cafunfo. They then protested by throwing stones at the police unit. The police responded by shooting in the air for about half an hour. According to local sources, the Lunda-Norte provincial police commander, Elias Divula, was visiting Cafunfo at the time.

The police took the body and carried it, while the shooting continued, to his relatives' home. According to relatives, the police abandoned the body in the yard and continued shooting to prevent the people from marching from Gika neighbourhood towards the town centre, where the commander was known to be at the police station.

Case 2

Date: 12 September 2004.

Victim: Mohamed Kase, 34, Malian citizen.

Perpetrators: Members of the National Police.

Location: Conduege jail, Dundo, Lunda-Norte.

Description of events: During an uprising in Conduege jail, in which about 20 prisoners escaped, the Malian citizen was shot dead by a prison guard. The man had been in preventative detention, suspected of diamond dealing.

56

Case 3

Date: 13 December 2004.

Victim: Manuel Augusto Keshi Jina, born 5 July 1958 in Cuilo district, Lunda-Norte.

Perpetrators: Security guards from the security company Alfa 5.

Evidence: Testimony.

Location: Polio informal diamond mining area, Cafunfo, Cuango district, Lunda-Norte.

Description of events: Maria Sebastião had gone with her husband, Manuel Augusto Keshi Jina, to a cultivated field next to an artesanal diamond mining area, according to her affidavit.

About 14h00 she set off home, while her husband remained working, Gabriel Sukumuna, a peasant farmer in an adjoining plot, told how operatives from the security company Alfa 5 appeared while Manuel Keshi Jina was on his way home, carrying a machete.

They ordered him to stop, suspecting him of being a diamond digger. When Manuel Keshi Jina continued walking, the guards started shooting at him, according to the testimony of Gabriel Sukumuna, who by this time had hidden himself. The guards ran after Manuel as far as the River Cuango, where he was carried away by the current. His family searched along the river, and a week later found his body in Dunge lake, more than 20 km from the scene of the event. His body was already decomposed, and was buried before being examined for bullet wounds, so it is not known whether he had died from being shot, or drowned while trying to escape.

Case 4

Date: 7 December 2004.

Victim: Carlos Malembe, 35, born in Caungula.

Perpetrators: Guard of private security company Alfa 5.

Location: Tchimango mine, Cafunfo, Cuango district, Lunda-Norte.

Description of events: About 7h30, a group of diamond diggers encountered operatives from the security company, Alfa 5 near the abandoned Tchimango mine. The guards opened fire, fatally wounding Carlos Malembe. According to the diamond diggers, the guards took the body to the River Cuango. Acting on the diggers' advice, the family followed the course of the river and retrieved the body for burial.

Case 5

Date: 3 December 2004.

Victim: Dany, 24, born in Benguela.

Perpetrators: Members of the National Police.

Location: Muxinda, Capenda-Camulemba district, Lunda-Norte.

Description of events: Around 14h00, residents of Muxinda were bathing in the River Cuango, when they discovered two sacks. Opening the sacks, they found a body in each sack. One of the bodies had the name "Dany" tattooed on one of the arms. One of the witnesses recognised Dany, a young man born in Benguela.

The witnesses say that some days earlier, the two victims had been involved in a discussion, at which point members of the local police took them to the Muxinda jail. When friends went to look for them there they were informed that they had been transferred to Capenda-Camulemba, the main town in the district.

Case 6

Date: 11 November 2004.

Victim: João Pinto da Silva, 32.

Perpetrator: Member of the National Police.

Location: Antenas neighbourhood, Cafunfo.

Description of events: According to eyewitness reports João Pinto da Silva was on his way home after finishing his day's work at the cold storage facility, carrying a mosquito net. A policeman confronted him and ordered him to hand over the mosquito net immediately, according to information supplied by Catete Popi. When João Pinto da Silva resisted, the policeman pulled out his pistol and shot him fatally on the right side of the neck. Representatives of the company for which the deceased worked, went to his house the following day and offered help in the form of a coffin and two sacks of rice, according to Catete Popi. The family do not know the whereabouts of the killer.

Case 7

Date: 17 August 2004.

Victim: Tximuanga Jonasse.

Perpetrators: Members of the National Police.

Location: Luremo commune, Cuango district, Lunda-Norte.

Description of events: A National Police patrol confronted Tximuanga Jonasse on the banks of the River Cuango, while he was on his way to the main centre of Luremo commune, carrying a motorised pump used by artisanal diamond diggers. After an exchange of words, one of the police shot him at close range in the right foot, according to the testimony of other diamond diggers who witnessed the event. He subsequently died as a result of the wound, without receiving first aid.

58

Case 8

Date: 17 August 2004.

Victim: Rafael Muangungi.

Perpetrators: Members of the National Police.

Location: Luremo commune.

Description of events: As a result of the death of Tximuanga Jonasse, the people from the area surrounded the scene of the crime and began protesting against the police. When police fired into the air to try to disperse the crowd, one of the police fired a shot that struck Rafael Muangungi in the abdominal area, wounding him fatally.

Case 9

Date: 1 August 2004.

Victim: Jomaique Daniel, 16, born in Caungula.

Perpetrators: Police.

Location: The old market in Cafunfo.

Description of events: Jomaique Daniel was hit in the spine and fatally wounded by a shot fired by a local policeman, while he was riding his motorbike. Trying to explain this to his family, the police argued that this was the result of mistaken identity. According to the family, they said they were looking for a Senegalese who was running away, and not an Angolan.

Case 10

Date: 12 July 2004.

Victim: Joaquito Muamuiombo, 22.

Perpetrators: National Police.

Location: Bala-Bala neighbourhood (next to the Evangelical Church of Brothers of Angola), Cafunfo.

Description of events: Members of the National Police were called to intervene in a family dispute concerning the death of Anabel Muamuiombo whose body, according to available information, was still at her home. During the discussion between the victim's relatives and her husband, Nelson Jonasse, the police tried to detain Agostinho Jonasse, the husband's brother, who had been with his sister-in-law when she died. One of the police fired a flamethrower at the agitated crowd, and a bullet hit Anabela's brother in the ribcage. He too died.

59

Case 11

Date: 2 February 2004.

Victim: Tchoma Daniel, 18.

Perpetrators: Cafunfo police.

Location: Cafunfo.

Description of events: During a family argument, one of the family threw a bottle which hit one of the police who had been called to calm the situation.

Witnesses said the policeman who had been hit, fired a pistol, hitting a young man who was among the people who had gathered. The people rose up in protest.

"The policeman ran away still pointing his pistol at people," Joaquim Francisco, 52, said. "My brother was coming out of an eating-house when the policeman fired again, hitting him in the chest."

Joaquim Francisco, a nurse, added that the policeman was detained for only four days, and the family do not know how far criminal procedures have gone.

8.4. Sexual assault

Case 1

Date: 19 January 2005.

Victims: Madalena Agostinho, 13, Celeste Cardoso Muapimbi, Amélia Sebastião and Tina Tomás Muhuleno, of about the same age.

Location: Caumba-Txamacala neighbourhood, near Muxinda, Capenda-Camulemba district.

Perpetrators: Two members of the Rapid Intervention Police.

Description of events: The girls were on their way from Txamacala to Munhangando at midday, when they were confronted by two members of the Rapid Intervention Police, one of whom was known as José.

According to affidavits made by Madalena, the policemen were armed and in uniform. They grabbed the girls and drove them to the bush, and undressed them. The unidentified policeman kept his gun trained on the children while José raped first Madalena and then Celeste. Again according to Madalena's testimony, the policemen then changed positions, the unidentified policemen raping Amélia and Tina.

Tomás Muhuleno, Tina's father, says he went to the Rapid Intervention Police unit in Muxinda to lay a charge. "The chief responded that those policemen did not belong to the unit, but were part of a group that had already been transferred. He said the policemen were deserters."

Several people that the police in question were still going around in the area unpunished at the time when data for this report was being collected.

Case 2

Date: 19 July 2004.

Victim: Sãozinha, 23, mother of two.

Perpetrators: Members of the Rapid Intervention Police.

Description of events: Around 05h00, police detained her husband in an apparent round-up of foreigners, and raped Sãozinha before taking the husband to an unknown location. (The names of the victims are omitted to protect their privacy.)

Case 3

Date: 13 September 2004.

Victim: Margarida, 25.

Perpetrators: Guards from the Teleservice security company.

Location: Sawotcha neighbourhood, Calonda sector, Lucapa district, Lunda-Norte.

Description of events: The young woman was bathing with other women on the banks of the River Chicapa. A guard from Teleservice approached the bathing area, and with his gun in his hand singled out Margarida and attacked Margarida, while the others fled. He raped her there.

“We were not able to lay a charge with the police because we would have had to pass through the Teleservice checkpoint. And we were afraid to complain to the company itself. For this reason, and to protect the husband’s good name we kept quiet,” a local activist said. ⁶¹

8.5. Shootings, beatings, torture and arbitrary detentions

Case 1

Date: 4 February 2005.

Victim: Luciano Filipe Muassumomo.

Perpetrators: Member of the National Police.

Location: Conduege jail, Dundo, Lunda-Norte.

Description of events: Around 13h00, a group of inmates took advantage of the absence of the guards to open the gate to cell 1, and fled into the bush outside.

According to the testimony of Adão Jeremias: “A young woman who was visiting a prisoner started to shout ‘the prisoners are running away’. Luciano Filipe [Adão Jeremias’s co-accused], the last of the prisoners, tried to run away at exactly 13h33, I noted the time. He fell in the prison yard, sprained his foot and was unable to run any further.”

Adão Jeremias said the guards were absent because they had gone drinking in the neighbourhood. “A policeman called Xavier, but better known as Samweneka, was drunk when he arrived. He caught Luciano and shot twice at his head, but missed. Then he shot him three times in the leg. The security guards fired in the air and managed to catch another two [of the men who had escaped].”

He said Luciano Filipe was in agony and was losing blood, until 16h37 when he was admitted to hospital. “I went to accompany him to the hospital, together with the prison director, who only arrived at Conduege after 16h00,” Adão Jeremias said.

He added that “the three shots destroyed the bone and made it necessary for his leg to be amputated. He lost a lot of blood.”

Luciano Felipe Muassumomo had been detained in prison as a result of the generator case (case 21 – Cafunfo case). Castro Paulino, another co-accused in the Cafunfo case, regretted Luciano’s sudden decision to escape, which came after he had received news of the death of his son and brother.

62 **Case 2**

Date: 5 December 2004.

Victim: Rafael Muacahia.

Perpetrators: Members of the Rapid Intervention Police.

Location: Bala-Bala neighbourhood, Cafunfo, Cuango district, Lunda-Norte.

Source: The victim.

Description of events: During the night, a group of policemen from the Rapid Intervention Police tried to attack Radael Muacahia’s home in Bala-Bala neighbourhood, and he was hit with a bullet in his chest. He was taken to hospital in Luanda.

Case 3

Date: 30 November 2004.

Victim: Do-Fernando, 33, born in Uíje, resident in Cafunfo.

Perpetrators: Members of the National Police.

Location: Cafunfo, Cuango district, Lunda-Norte.

Description of events: Around 10h00, a police foot patrol stopped Do-Fernando in the street and subjected him to a thorough search. According to Do-Fernando, the police took US\$450 which he had with him. When he complained, he said, “They took me to the police station where they beat me to the point of breaking my arm”. They set him free without giving back the money.

Case 4

Date: 15 November 2004.

Victim: Adilson Samuel, 27, resident of Muxinda.

Perpetrators: A member of the National Police known as “Um Dia” and two colleagues.

Location: Caumba Tchamacala neighbourhood, Muxinda, Capenda-Camulemba district, Lunda-Norte.

Description of events: Around 10h00, three policemen, one of whom was identified by the nickname of “Um Dia” stopped Adilson Samuel at the checkpoint in the Caumba Tchamacala neighbourhood. He was not carrying documents, and testified that for this reason, the policemen beat him at will, causing serious head wounds.

Case 5

Date: 13 November 2004.

Victim: Mimi Joaquim André, 5, resident of Cafunfo.

Perpetrator: Member of the National Police.

Location: Kapango neighbourhood, Cafunfo, Cuango district, Lunda-Norte.

Description of events: About 09h00, father and daughter went to a shop to buy biscuits. On the way, a policeman ran into them while he was chasing after a citizen of the Democratic Republic of Congo. According to Joaquim André, the policeman lost his balance, and fell on top of his daughter, breaking her arm. The parents went to the local police command to demand that the child be treated. According to Joaquim André the same policeman said the Congolese man must be held responsible. The case was closed.

Case 6

Date: 13 November 2004.

Victim: Mayele, 30, resident of Muxinda.

Perpetrators: First Sergeant Kaley and three other policemen.

Location: Muxinda village, Capenda-Camulemba district, Lunda-Norte.

Description of events: Around 06h00, a sergeant in the National Police by the name of Kaley and three other policemen caught Mayele walking around without documents. As punishment they ordered him to cut the grass in the area around the police station. When he refused, he was kicked and hit with rifle-butts, and left bleeding.

Case 7

Date: 10 November 2004.

Victim: Pancha.

Perpetrators: First Sergeant Kaley from Caumba Tchamacala police post.

Location: Police checkpoint at the entrance to Tchamacala neighbourhood.

Description of events: Around 10h00 a woman identified only by the name of Pancha was on her way to the Tchamacala neighbourhood police post, having come from Muxinda. According to affidavits made by Soba (traditional chief Tchamacala), the sergeant identified by the name of Kaley ordered the woman to take off all her clothes to be searched. When she refused, he beat her, inflicting cuts on her head.

Case 8

Date: 6 November 2004.

Victim: Fidel Pitshi, 44, born in Capenda, resident of Muxinda.

Perpetrators: Members of the National Police.

Description of events: After being cheated in a diamond deal by a buyer from the Democratic Republic of Congo working for Lazar Kaplan International, Fidel Pitshi went to the police station to lay a complaint. According to his affidavits, the inspector Domingos and detective Lito first carried out the search for the accused and the subsequent investigation. They then personally beat the complainant, according to his own affidavits. At the time when this report was being researched, Fidel Pitshi still bore scars.

Case 9

Date: 6 November 2004.

Victim: Orlando Nvula André, 44, born in Capenda, residente of Muxinda.

Perpetrators: Members of the National Police.

Location: Muxinda, Capenda-Camulemba district, Lunda-Norte.

Description of events: Orlando Nvula André was on his way between the neighbourhoods of Muxinda and Caumba Tchamacala, on a motorbike. When he arrived at the checkpoint, he said, "I didn't see anyone and decided to go ahead". He said that when he had gone a few metres forward, he was stopped by a traffic officer, whom he identified as "Miranda, the head of the vehicle and transport section of the Capenda-Camulemba district".

"He said I had violated the traffic laws and would have to pay a fine of US\$500. He and detective Bambi put me in prison, where I spent the night. The next day I paid and they let me free," the motorcyclist said.

Case 10

Date: 7 October 2004.

Victim: Jonito Rodrigues, 43, Romeu Gustavo, 23, Alexandre Gustavo, 36.

Perpetrators: Officials of the Immigration and Border Service, one known as Xavier and three colleagues.

Location: Muxinda, Capenda-Camulemba district, Lunda-Norte

Description of events: The three friends were on their way back from hunting. On the banks of the River Tchishingo, a group of Immigration and Border Service officials, one of them identified by the name of Xavier, stopped them and ordered them to produce licences for their hunting weapons. They did not have licences. The officials sent them to the police station in the district centre of Capenda-Camulemba, where they were detained for 24 hours. They were released on payment of 200 kwanzas (about US\$2) each. They say their weapons were confiscated without their being able to see the confiscation register.

Case 11

Date: 4 October 2004.

65

Victim: João de Oliveira Marcolino, 37, Alexandre Ngunza, 43, both residents of Muxinda.

Perpetrators: Members of the National Police.

Location: Between Muxinda and Tchamacala, Capenda-Camulemba district, Lunda-Norte

Description of events: João de Oliveira Marcolino and Alexandre Ngunza were travelling in a public vehicle. A traffic officer ordered the vehicle to stop and demanded 500 kwanzas (about US\$5) from each passenger. The two abovementioned men refused to pay and, according to their own testimony, were kicked and beaten with rifle butts by five members of the National Police, one of them identified by the nickname “Cobra”.

Case 12

Date: 2 October 2004.

Victims: Tshikulu, 37, resident of Muxinda.

Perpetrators: First Sergeant Bardeado and two other policemen.

Location: Kissema River informal diamond digging zone, between Muxinda and Mussange, Capenda-Camulemba district, Lunda-Norte.

Description of events: Tshikulu told how he was stopped by a sergeant in the National Police, known by the nickname of Bardeado, and two of his colleagues, who demanded Tshikulu’s documents. Since he did not have documents, Tshikulu was ordered to pay a fine, he said. He added that when he refused this demand, they grabbed him and beat him. “They searched my pockets, took US\$140 and 500 kwanzas and left me completely naked,” Tshikulu said.

Case 13

Date: 1 October 2004.

Victim: Manuel Tshihueno, 46, resident of Muxinda.

Perpetrators: Policemen.

Location: Muxinda, Capenda-Camulemba district, Lunda-Norte.

Description of events: Manuel Tshihueno was arguing with his wife early in the morning. Three policemen detained him in the course of the dispute. He spent ten hours in prison and had to pay US\$150 to secure his release. He says he was ordered, in a threatening way, to leave his wife immediately – an order with which he regrets having complied.

66

Case 14

Date: 12 October 2004.

Victim: Abrigo Adriano, 24, resident of Luremo.

Perpetrators: Members of the National Police.

Description of events: When he heard that informal diamond digging at the Luremo bridge was being stopped, Abrigo Adriano went to the local administrator to ask for the order to be revoked so that informal digging could continue and so that he could recoup his investment.

“I said to the administrator that I should at least allowed to finish prospecting, since I had spent a lot of money,” Abrigo Adriano said, without adding further details on the investment he had made in informal diamond digging.

According to Abrigo Adriano’s testimony, the administrator considered the request “a lack of respect” and sent for the police. Abrigo Adriano was kicked and beaten with sticks by the police, and spent four days in solitary detention without any written authorisation.

“I had to pay US\$300 to be freed,” Adriano said.

Case 15

Date: 24 September 2004.

Victim: Bitadi Cacuata, 22.

Perpetrators: Members of the National Police.

Location: Luremo commune, Cuango district, Lunda-Norte.

Description of events: A group of policemen shot at a diamond digging pit in the Txatxo informal diamond digging area. One of the policemen surprised Bitadi Cacuata and hit him in the left eye, causing him serious injuries.

Case 16

Date: 19 September 2004.

Victim: André Jorge Honda, born 2 February 1958, Xaca-Ssa commune, Lucapa municipality, Lunda-Norte.

Location: Sawotcha neighbourhood, Capaia commune, Lucapa district, Lunda-Norte.

Perpetrators: Guard from the Teleservice security company, working for the diamond company ITM.

Description of events: André Jorge Honda, a peasant farmer, and his son Paulo Eugénio were bathing on the banks of the River Cula when they were surprised by a patrolling guard from the Teleservice security company, working for the ITM/Calonda diamond project.

According to André Jorge Honda, the guard accused him immediately of being a diamond digger, which he denied. According to his affidavit, after speaking with the guard he bent down to pick up his clothes, when the guard opened fire with an AKM and hit me in the back of the neck.

André Jorge Honda says the guard then ran away, and Paulo Eugénio ran after him when he saw his father bleeding. The guard then turned around and fired at Paulo Eugénio; the bullet grazed him in the abdominal region.

The people of Sawotcha neighbourhood heard the shots and ran to the place on the river bank where men go to bathe, and went to the assistance of André Jorge Honda. They lifted him up and carried him to the Teleservice checkpoint between the neighbourhoods of Sawotcha and Chapa (also known as Primeiro de Maio). They accused the company of the deed, and went away, leaving the injured man there.

André Jorge Honda was evacuated to Luanda where he remained in a private clinic for about a month. The shot had passed through the back of his neck and exited through his left cheek.

He returned to his village once the treatment was finished. He complained that he had received no compensation for his suffering, and that he never received a hearing from the police. He knows no more of his case. He still experiences difficulties in movement.

Case 17

Date: 2 September 2004.

Victims: Ângelo Kissongo, 22, Seti José Alexandre, 30 and 18 other artisanal diamond diggers.

Perpetrators: Members of the Rapid Intervention Police.

Evidence: Testimony gathered from victims within hours of the event.

Location: Luanganzo artisanal diamond mining area, Cafunfo, Cuango district, Lunda-Norte.

Description of events: About 03h00, members of the Rapid Intervention Police raided the Luanganzo artisanal diamond mining area next to the River Lué. They attacked the diamond diggers they found there, kicking them and beating them with rifle butts and machetes. Some escaped in the darkness. According to the victims' accounts, the policemen thoroughly searched their belongings, taking what they wanted (diamonds, clothes and money) and burnt the rest.

According to Kissongo and Alexandre, as the soldiers were leaving after beating the diamond diggers, they lined up ten young men and forced the other ten – including those who are identified here by name – to have sex with the others. The police held the group at gunpoint and beat them with machetes on the backs and buttocks.

68

The day before these events, the authors of this report had visited the area and noted the presence of tens of policeman, soldiers, including two Military Police officers, and the anti-terror unit, who were monitoring the diamond digging and practically forcing the diggers to work. The boss, or patron – the term given to the person who finances informal diamond digging activities in a particular area, and whose name has been withheld, must have been responsible for summoning the first group of police.

According to the diggers, the operation by the Rapid Intervention Police must have been the consequence of a denunciation by a group of diggers who were unhappy with the forced labour and the way in which the stones were shared out. They confirmed there had been no confrontations between the two armed groups because the first had left the area without resisting.

Case 18

Date: 30 August 2004.

Victims: A. Neves, 27, and other diamond diggers.

Perpetrators: Policemen under the command of an officer called Xamucunzu.

Location: River Lué, in the Bundo area of Cafunfo, Cuango district, Lunda-Norte.

Description of events: According to victims' testimony, the diamond diggers who had been sleeping were woken around midnight by Xamucunzu, the leader of the operation, shouting that Jonas Savimbi had risen from the dead. He then led his men in beating the diamond diggers. Neves says he was assaulted by the officer himself, who kicked him and beat him with a spade; Neves says the officer was the most violent of all the agents.

Another digger said they were forced, under threat, to dig diamonds during the night for the benefit of the policemen. He said there had been about 200 diamond diggers in the area, but most managed to escape owing to the smaller number of policemen.

Case 19

Date: 29 August 2004.

Victims: Jorge Castigo, 56, various diamond diggers and female traders.

Perpetrators: Policemen from unit 820.

Location: Bundo village, Cafunfo, Cuango district, Lunda-Norte.

Description of events: During a raid on a diamond digging area next to the River Lué, policemen attacked Jorge Castigo, who was coming back from hunting, carrying his hunting rifle and an antelope he had killed. They beat him severely, kicking him in the chest and abdomen, and took away his gun and the animal. At the same time, various diamond diggers who wish to remain anonymous were also beaten, and had their most valuable possessions stolen and the rest burnt. The female traders, who sell food and other goods to the diamond diggers, were also beaten and had their goods stolen by the police. Jorge Castigo had to be taken for treatment in Cafunfo.

69

Case 20

Date: 29 August 2004.

Victims: Unknown.

Perpetrators: Members of the Rapid Intervention Police.

Location: Luremo commune, Ngungo diamond digging area, Cuango district, Lunda-Norte

Description of events: Around 9h30, a group of four policemen from the Rapid Intervention Police, under the orders of a policeman identified by the name of Nicolau, stopped a Toyota car in front of a restaurant belonging to a Senegalese man called Charles, in Luremo.

The police forced the driver, Maurício, to take them to the Ngungo informal diamond mining area. According to the driver, when they arrived at the site, Nicolau ordered his men to fire at the diamond diggers. "One was hit in the buttocks and the other in the abdomen," said Maurício, who is a former Special Forces member.

Those diamond diggers who were not able to run away were then beaten as the police took the diamonds and money they had. The police then set fire to the diggers' tents and belonging. Maurício confirmed that the man who had been hit in the abdomen died before he could leave the site, and that the other victim, wounded in the buttocks, was left there. Maurício also said that Soba (traditional chief) Baptista, whose chieftainship covers that area, also was also a witness to the case. The operation ended around 23h00, and Maurício was allowed to go his own way after driving the police back to Luremo town.

Case 21

Date: 24 August 2004.

Victim: Almeida Domingos Gonçalves, 32.

Perpetrators: Members of the National Police.

Location: Camutué mine, Luremo commune, Cuango district.

Description of events: As a patron of an informal diamond digging site, Almeida Gonçalves was expecting on the day of the incident to receive US\$11,000, duly divided among himself as patron, the diggers and the four policemen who were on guard at the Luremo River bridge. "Before the money was shared out, the ninjas (Rapid Intervention Police) helped themselves to a 24-carat stone. They forced us to work only by night to avoid suspicion of being involved in informal digging," Almeida Gonçalves said.

The police in Luremo continued to keep watch, from a reasonable distance, on diamond production at the Camutué site. On 2 September, six policemen detained and handcuffed Almeida and his brother Miguel Gonçalves, 22, in front of the Catholic church in Luremo.

"They accused us of having obtained diamonds to the value of US\$120,000. The detective asked us: 'where is our money?'" Almeida reported.

At the police post, the men were released on payment of US\$1,400 without any case having been brought against them.

They threatened to put the diamonds in our hands and send us to Dundo prison. The suffering there is great. So as not to have our hands cut off, we chose to give them the money. Tomorrow we will work once again," Almeida explained.

Case 22

Date: 23 August 2004.

Victims: António Francisco, 22, António Joaquim, 39 and others.

Perpetrators: Members of the Rapid Intervention Police.

Location: Txatxa informal diamond mining area, Luremo commune, Cuango district, Lunda-Norte.

Description of events: Around 10h00, about 15 policemen detained 24 artisanal diamond diggers, and beat them with machetes and clubs, according to the testimony of those victims who agreed to be named.

The following day, 24 August, they were taken to Cafunfo, after spending the night in an old water tank which has been converted into a cell next to the police station.

When the detainees had been registered, they were taken to Unit 820, where they were subjected to forced labour, completing wood and adobe houses to accommodate mem-

bers of the unit. After a day of work, their shoes and certain other items of clothing were taken away from them, and they were sent home.

Case 23

Date: 7 August 2004.

Victim: Carlos de Almeida, 29.

Perpetrators: Members of the National Police.

Location: Camba-Chicondo neighbourhood, Cafunfo, Cuango district, Lunda-Norte.

Description of events: Around 06h30, two traffic police officers mounted an ambush where one leaves the neighbourhood in the direction of Bundo, with a rope tied around a tree. As Carlos Almeida rode by at some speed on his motorcycle, the police pulled up the rope, which struck him in the neck, causing him serious wounds. 71

The police ran away, with the local population running after them. At the main police post in Cafunfo, where the policemen took refuge, "Commander Sakayoya, second provincial commander for protection and intervention, who happened to be at the police post, intervened and made the policemen pay for my medical treatment, which cost US\$380," the motorcyclist said.

The young man said he was not fined, the arrangement being he would thenceforth be allowed to move freely without hindrance from the traffic police. The police paid for his treatment and the case was considered closed.

Case 24

Date: 1 August 2004.

Victim: João Francisco, born 14 October 1977, in Cuango district.

Perpetrators: Members of the National Police.

Location: Zona do Pensamento, Bala-Bala neighbourhood, Cafunfo, Cuango district, Lunda-Norte.

Description of events: João Francisco was at a family gathering where there was a discussion around an accusation that a child had died because of witchcraft. Someone present asked the National Police to intervene. In front of the police, João Francisco announced his intentions as the one who had convened the meeting. As he tried to take the chair, he was shot twice in each thigh. After shooting, the police left. The family struggled to pay the medical expenses, and João Francisco is now semi-paralysed.

Case 25

Date: 26 July 2004.

Victim: João Manuel, 28, born in Cafunfo.

Perpetrators: Members of the National Police.

Location: Cafunfo market, Cuango district, Lunda-Norte.

Description of events: João Manuel went to Cafunfo market to buy nails, according to his affidavit. While he was changing a US\$50 note, seven members of the National Police accosted him. As they argued, the police tried to handcuff him and “broke my left arm,” the victim said. Then they abandoned the matter. The wounded man, lacking the means for proper medical treatment, was treated at home.

72

Case 26

Date: 18 July 2004.

Victim: Carlos Mbambi, 46, Catholic catechist’s assistant.

Perpetrators: Police from the Luremo commune headquarters

Location: Curva neighbourhood, Luremo commune, Cuango district, Lunda-Norte.

Description of events: As normal, the catechist’s assistant woke around 05h00 and went to clean his teeth outside the door of his house that opens onto the street. He was preparing to go to church. The member of the commune police, identified by the name of Jaime, interrupted him, held a machete to his chest, and demanded that he go with him.

“The other policemen held me by my t-shirt, while Jaime accused me of being the father of the young man who had burnt his house, even though I told him that my children live in Cafunfo,” Mbambi said. He demonstrated how, shortly afterwards, Jaime delivered a blow with a machete on his right foot, causing serious injury.

Mbambi said Jaime’s brutality was witnessed by “his commander, Gonçalves, who saw everything from behind the mango tree next to the house”. The victim asked Gonçalves, whose rank he could not determine, why the policeman had attacked him with a machete. Gonçalves responded only “go to hospital”.

Until now he has received no medical assistance from the local authorities, only from the Catholic church which has offered treatment to ease his pain. Moving around causes a swelling in his leg.

Case 27

Date: 17 July 2004.

Victim: Baptista Kibumo, 19.

Perpetrators: Members of the National Police.

Location: Luremo commune market, Cuango district, Lunda-Norte.

Description of events: Around 15h00, Members of the National Police raided the local market to confiscate spades, picks and other tools used in digging diamonds. According to Xavier Marcos, the people objected to the police action and “asked whether Operation Brilliant [the government campaign against illegal immigrants] was intended to round up strangers or to inconvenience Angolans”.

73

Baptista Kibumo, one of the prominent protesters, was kicked in the belly by a policeman, and once he was on the ground was hit in the mouth with a rifle butt, and lost consciousness.

“The people were furious, and caught a policeman unawares, by his collar, and one of the people broke a bottle and stabbed the policeman in the neck with the neck of the bottle,” a local source said.

The same agent continued his account as follows: “After the young man passed out, the people thought he had died, and started carrying him to the Luremo police post, while the police withdrew to take up firing positions about 800 metres away.

“The people deposited the body at the police post and the police soon opened fire,” he added.

The policeman who had kicked the man was identified as Jaime Muacassenha. In retaliation, “Baptista’s brother, David, set light to Muacassenha’s house in Quinongue neighbourhood, and he [Muacassenha] then came and injured my foot,” explained Carlos Mbambi (Case 26).

Various statements have confirmed that the real motive for the police raid on the market had to do with diamonds. According to the source, the police under the command of an officer identified as Superintendent Cololo from the Cafunfo sub-unit of the Border Police, “confiscated diamond-digging tools for his own benefit. For his benefit they had collected stones which the people had found in the diamond-digging site near Cainguende stream and Luremo bridge, and in the Ngungo area,” a well-placed source confirmed.

Case 28

Date: 17 July 2004.

Victim: Marta Cunha, 14, resident of Luremo.

Perpetrators: Member of the National Police.

Location: In front of the Catholic church in Luremo commune, Cuango district, Lunda-Norte.

Description of events: Marta was at the church when members of the National Police started shooting in response to the protests in Luremo market (case 27). According to the girl's father, Cunha Cassongo, 51, who is currently head of Civil Defence in Luremo, a policeman identified by the name of Cabaço was chasing after and shooting at a man named António. A bullet grazed António's foot, ricocheted on the ground and hit Marta in the neck.

74

Case 29

Date: 17 July 2004.

Victim: Américo André, 29, resident of Luremo.

Perpetrators: Members of the National Police.

Location: Next to Luremo police post, Luremo commune, Cuango district, Lunda-Norte.

Description of events: Américo was on his way to mass at the Luremo Catholic church. When he came near to the Luremo police post, he found himself in the firing line as the police shot at the crowd in the market. He realised he was bleeding – a bullet had hit him in the left arm. He spent a month in a private health post in Luremo. He still complains of sharp pains in his arm when he moves it a lot.

Case 30

Date: 17 July 2004.

Victim: Bernardo Pinto, 27.

Perpetrator: Member of the National Police.

Location: Luremo police post, Luremo commune, Cuango district, Lunda-Norte.

Description of events: After Baptista Kibumo had been kicked and hit with a rifle butt, several people ran to Mussango neighbourhood to tell Bernardo Pinto that a man they believed to be his brother was unconscious. Only when he arrived on the scene did he realise that it was another Baptista, and not his brother, who was involved.

As he left the scene, "Inspector Caetano shot at me and hit me in the right leg. I fell on the spot. People helped me, and I had to sell my freezer for US\$400 to pay for the treatment," Bernardo Pinto said.

Case 31

Date: 16 July 2004.

Victims: Sebastião Cambolobolo, 32, and André Sebastião, 12.

Perpetrators: Policemen from the Luremo commune command, identified by the names of Cambala and Poeira, and three others.

Location: Luremo town.

Description of events: Around 03h00, five policemen from the commune command broke down the door of Sebastião Cambolobolo's house, on the pretext that he was renting rooms to foreigners. When they did not find any foreigners in that house, the police beat Sebastião Cambolobolo and his son, André Sebastião, slapping them, kicking them and hitting them with rifle butts.

75

As a result of the attack, André Sebastião, a minor, was left with a scar next to his right eye.

Around 15h00, a policeman called Cambala and another three police from the unit went to the victims' house and took away a television, a video recorder, a generator and a radio.

A few days later André Sebastião went to the commune police command to retrieve the items which had been taken. He was told that to get them back he would have to pay US\$300. He did not pay, and did not get the possessions back.

Case 32

Date: 15 June 2004.

Victim: António Manuel Tumba Buyamba, 63, born in Dundo and resident of Muxinda.

Perpetrators: Policemen.

Description of events: António Manuel Tumba Buyamba was with some friends when suddenly a group of about seven policeman appeared and demanded to see his identity document. When he handed it over, they kept it and ordered António to get up and come with them to the police station, where he was detained for no reason for three hours.

Case 33

Date: 8 March 2004.

Victim: Manuel André António, born 30 January 1976 in Kalandula district, Malanje province.

Perpetrators: Police from the Municipal Criminal Investigation Headquarters, Nzagi, Lunda-Norte.

Location: Ferme informal diamond digging area, Cambulo district, Lunda-Norte.

Description of events: A police force estimated to number about 40 members had surrounded the Ferme diamond digging area the night before. During the afternoon, they started detaining foreign citizens involved in the diamond trade, according to Manuel André António's account. "They only took the West Africans (Senegalese and Malians), while the Congolese and the diamond diggers continued with their activities."

After the detentions, they went to the *contuário* (diamond evaluation centre) belonging to Manuel André António, a member of the Rapid Reaction Police.

They confiscated from me diamonds to the value of US\$75,000, a satellite dish, two motorised pumps, three televisions, sound apparatus, two decoders, an electric fan, and *libanga* (a drug derived from cocaine). They took my pistol, a uniform and a pair of boots," the policeman said.

He said his colleagues "because they were distracted" had not seen his AK75 and two grenades, RDG5 and F1. "The friend who was living with me, a National Police sergeant and other civilians, must have hidden this material," he added.

"They detained me and took me to the Ferme police station. There, the policemen talked to the West Africans' co-ordinator, a Senegalese by the name of Aruna. The police demanded a payment of US\$10,000 to release the ten Senegalese. The West Africans paid and were freed. The other two Angolans who had been detained for possessing cannabis each paid US\$100 and went away."

António himself "offered to pay US\$15,000 but they refused. They thought it was convenient to take me with them. They transferred me to Nzagi jail. This prison has only one cell of eight by three metres, without windows, and people had to defecate and urinate in one of the two buckets in the cell, the same place where we ate. The days I was there they gave us nothing to eat. Sometimes the buckets stayed in the cell for three days."

When he was transferred to Conduege, Manuel André António learnt from the head of the cell, who had a register of names, that there were 230 prisoners in a single cell.

"When I arrived, the prisoners told me that more than 50 people had already died in that cell during the course of two years. I did not want to believe that. During the second month, April, I witnessed the death of two prisoners: Sérgio Makiess from the Democratic Republic of Congo (11 April) and José André Ngunza (23 April).

“The police took the bodies and buried them in a secret location without coffins and without informing the families. After that I formed a society within the prison to defend human rights. We did not even have the right to drinking water,” Manuel André António said.

“The prison director learnt what I had done, and called me and threatened he would have me transferred to Caposhi (underground prison) if I were to continue speaking out for human rights.

On 15 May two more detainees died: Cristiano Francisco (from the Xá-Muteba case) and Dines Matoca from the Democratic Republic of Congo. Two weeks later, on 1 June, another two detainees died.

“They were taken to the mortuary by Cabo Dias, the provincial director of broadcasting, who happened to be passing by. He announced the deaths of these people on the radio,” 77
Manuel André António said.

At midday, the Second Provincial Commander of the National Police, First Superintendent Nascimento, and the head of medical services of the Provincial Command of the National Police went to inspect the jail.

“In their presence, I asked why the head of the cell, Josefo Adão, was afraid to speak out because he had been appointed by the prison director. I spoke about the people who were dying and said that I, who had been a member of the Rapid Reaction Police had been detained without trial for four months already, for trading in diamonds and drugs,” Manuel André António said.

Bravely, the prison warden was conciliatory: “I explained that in a time of peace, it made no sense for people to be mistreated by government agents and to die of hunger in jail. I said that if nothing were done, I would encourage the prisoners to escape from prison.”

According to Manuel André António, the commander felt insulted and said “I was making fun of them.” Coincidentally, two more detainees died during the conversation. “I sent the other prisoners to place the bodies in front of them (the visitors). They put their heads in their hands. The lady (the head of medical services) began weeping. They said nothing. They turned their backs and walked away. They sent a car to collect the bodies,” Manuel André António said.

Shortly after that the prisoners elected the Rapid Reaction policeman as the head of the cell. The prison director did not approve. The prisoners refused to accept any other nomination imposed by the director.

The following day, 2 June, when Manuel André António woke at 0600, he saw his companions weeping over another dead body. “Old Kabeto had died. I became frustrated, and encouraged an escape from prison. We found ways of breaking through the roof and the railings. The police called the director. He said I had always been making trouble and that I had already been warned,” Manuel André António said.

"I said we were not dogs, and that after 32 years of struggle it was unjust that the sons of the peasant farmers who had struggled the most were still being treated inhumanely. The director replied that he was not to blame for the situation and he had come to persuade us to hand over the body," Manuel André António said. The prisoners refused to hand over the body, because of the deputy head of the cell's emotional insistence that the director "would not like to see his own son buried like a dog, with neither a coffin nor a funeral".

Manuel André António continued: "The director threatened me. He said I was going mad, and I said I was prepared to die to save the lives of many."

78 The director, according to accounts that were verified by several detainees who were interviewed, defied the challenge and said he would drag the body out of the cell by force. His subordinate, on the other side of the bars, confirmed that the director was a strong man. When he tried to open the door of the cell, was confronted by a mass of people pressing against the door so as to break it and escape. The police fired several times into the air to try and calm the rebellion. The director took the opportunity to close the door, and "said that if I tried again, the next shot would be for me," Manuel André António said.

Several of the detainees who were interviewed said that the director then proposed negotiations, which Manuel André António accepted only on condition that they take place in the presence of the highest provincial authorities. "The director asked me whether I was afraid of dying, and I replied that being in that jail was in itself already a death sentence," Manuel André António said.

Complaining of a headache, the director informed his superiors. According to Manuel André António, "the provincial commander, Elias Divulo, the second-in-command for the operation area, Sakayoya, Brigadier Sachimbo, the provincial prosecutor and many others appeared.

In front of these dignitaries, "I addressed them as 'your excellencies' and expressed our satisfaction with their presence. They replied to me saying "good afternoon, Mr Rebel'. I explained our reasons for keeping the body hostage, so that the authorities might listen to us," Manuel André António explained.

When Sakayoya asked Manuel André António what solution he envisaged, the leader of the cell said he was prepared to hand over the body in return for a serious commitment to improving conditions in the prison, medical assistance, three meals a day, the re-evaluation of the cases of those detained, and the immediate release of the innocent.

He added that "if they [the authorities] did not comply with the demands within three days, I would provoke a riot in the prison. They were startled and agreed. I handed over the body, and 15 emaciated detainees for medical treatment. I was right to do so. Of the 15, one died later. The police let the others free. The following day they gave us blankets, sent a medical orderly, promised three meals a day. On the third day, a committee arrived from Luanda which dismissed the director and appointed a new official. Ten days later, another delega-

tion from Luanda, headed by the assistant prosecutor general, visited the jail and spoke to me. I don't remember his name," Manuel André António said.

On 12 June, the authorities began freeing the prisoners. Five days later, Manuel André António received his release order. He went to his police unit and spent five days waiting for a permit to travel away from the unit. He eventually gave up, borrowed US\$150 from an acquaintance and caught a flight to Luanda to join his family. "I had a urinary tract infection, typhoid fever and malaria. I was emaciated," he said.

Case 34

Trial: Xá-Muteba case.

Accused: Agostinho Manuel, 31, born in Xá-Muteba.

Date: 18 February 2004.

Location: Municipal centre of Xá-Muteba, Lunda-Norte.

Description of events: Members of the National Police detained Agostinho Manuel at his home, around 08h00. At the time of his detention, policemen beat him with truncheons and machetes. He has been in Conduege jail since 20 February 2004.

In total, the National Police detained 13 people in relation to the Xá-Muteba case, which involved a handgun attack on an off-road vehicle travelling from Cafunfo on the way to Luanda. Nine people died in the attack, with only one child surviving.

Of the 13, the only ones remaining in detention are Agostinho Manuel, Cristiano Francisco and Joaquim Cabeto. Five died, namely André Gunza, 13, his brother Nandilson Kitamba, aged about 20, António Cabeto, 75, José Kanangue and Monteiro Armindo. The whereabouts of the others are unknown. According to eyewitnesses, the missing people had been transported, in an emaciated condition, to Dundo hospital.

On 13 March, the detainees were transferred to Caposhi prison. According to Agostinho Manuel, they were routinely subjected to sessions of beating. They slept on the floor and ate only the skins of papaya and cassava root. André Gunza, the youngest, was the first to die, followed by his brother, Nandilson.

The death of old Kabeto, who was well known among the prisoners, prompted his cell-mates to go on strike on 2 June, refusing to hand over the body to the National Police (case 33).

On 5 June the prisoners sent a letter to the commander in chief of the National Police, Commissioner José Alfredo "Ekuikui", describing their ill-treatment.

"What frightens us at this point is the fact that most of the cases dealt with by the court will be of people already dead. (...) Will it be that the court releases only the dead?" the letter asked.

The letter denounced the excessive use of preventative detention: “this excess is from six months to two years” and deplored “what has happened here and the bail granted to the so-called accused. The amounts vary between US\$300 and US\$1500. Will these sums be deposited into the state coffers?”

The prisoners took the opportunity to tell Commander Ekuikui about the number of deaths within two months, and their identities.

Name	Date of death	Origin
1 Sérgio Makiessa	11 April	<i>D.R. Congo</i>
2 José André Ngunza	23 April	<i>Xá-Muteba</i>
3 Cristiano Francisco	15 May	<i>Xá-Muteba</i>
4 Dines Matoca	15 May	<i>D. R. Congo</i>
5 Nandilson António Kitamba	01 June	<i>Xá-Muteba</i>
6 Monteiro Armindo	01 June	<i>Xá-Muteba</i>
7 Simão José Célio	01 June	<i>Malanje</i>
8 José António Kassarje	01 June	<i>Xá-Muteba</i>
9 António Kabeto	02 June	<i>Xá-Muteba</i>
10 José Kanangue	02 June	<i>Xá-Muteba</i>
11 Mutema Maurício	03 June	<i>D.R. Congo</i>

8.6. Freedom of movement

Case 1

Date: 1 September 2004.

Location: Cafunfo sector.

Perpetrators: Members of the local administration and police.

Description of events: When the MPLA secretary general, Dino Matross, visited Cafunfo, the local authorities ordered the suspension of commercial activity and the closure of the market. Primary school children were mobilised to wait at the airfield from 08h00 until 13h00, standing in the sun and without being given water to drink, to welcome the MPLA representative.

Several drivers and motorcyclists revealed during conversations that they had been made to fly the MPLA flag on their vehicles, under threat of being detained by the traffic police.

In reaction to this, administrator Paulo Passos Gongga insisted that “the administration did not send anyone to close commercial establishments and the market nor to gather up satellite phones. The MPLA, for its part, does not have the jurisdiction to do this.”

Case 2

Date: 26 April 2004.

Perpetrator: André Muacumbi, representative of the Lucapa administration in Calonda

Location: Calonda sector, Lucapa district, Lunda-Norte.

Description of events: Between Lucapa and the communes of Xaca-Ssau and Capaia, a distance of more than 100 km, one passes through a vast mining concession area belonging to ITM. This company has established a checkpoint at the River Chicapa crossing, and only vehicles authorised by the local representative may proceed to those communes.

On the abovementioned date, David Baptista obtained authorisation from André Muacumbi, addressed to the management of the Lumanhe / Calonda project management, requesting that the bearers be allowed to proceed to Capaia on a business mission.

“The people want only that there be free movement on the national road. Teleservice (security company) mans the ITM checkpoint and searches everyone who passes through there,” said Fernando João, a resident of Calonda.

The contents of this publication is the sole responsibility of Rafael Marques and can in no way be taken to reflect the views of the European Union.





This project is funded by:



The contents of this publication is the sole responsibility of Rafael Marques and can in no way be taken to reflect the views of the European Union

Apoios

FUNDAÇÃO
MÁRIO SOARES

Open Society - Angola

ISA
Institute for Southern Africa

Fatal Transactions