



# What Future? Street Children in the Democratic Republic of Congo

- I. Summary ..... 1
- II. Recommendations ..... 6
  - Recommendations for the pre-election period ..... 6
  - Recommendations for the post-election period..... 7
- III. Methods ..... 11
- IV. Background ..... 12
- V. Abuses Against Street Children ..... 14
  - Police and Military Abuse..... 14
    - Physical abuse..... 14
    - Extortion..... 16
    - Sexual abuse of girls ..... 17
    - Police misuse of street children..... 19
    - Arbitrary arrests and roundups..... 21
    - Special Protection Unit of the police..... 24
  - Child Labor ..... 25
  - Physical Abuse by Adults and Older Street Children..... 27
  - Sexual Abuse of Street Girls..... 29
  - Sexual Abuse of Street Boys..... 31
  - Street Children Used for Political Purposes ..... 33
- VI. Factors Pushing Children into the Streets ..... 41
  - Violence in the Home ..... 41
  - Children Accused of Sorcery..... 43
    - Abuses in the home related to sorcery accusations..... 45
    - Abuses in churches..... 46
    - After the accusations..... 48
  - HIV/AIDS..... 50
  - Education ..... 52
- VII. International Standards ..... 55
  - Overview ..... 55
  - Rights of Children to Protection from Abuse, including children in custody, or otherwise deprived of their liberty ..... 56
  - Protection from Sexual Abuse and Exploitation ..... 58

Arbitrary Arrest and Detention .....	58
Education .....	61
Acknowledgments .....	63
Appendix .....	65

## I. Summary

*Our worry is this, what will become of these kids tomorrow? Thousands of children living on the streets with no supervision, no education, no love or care, accustomed to daily violence and abuse. What future for these children and for our country?*

—Street child educator in Lubumbashi

*After my parents died, I moved in with my uncle. But things were bad at his home. He was often drunk and would beat me. He took my parents things but he wouldn't take care of me. I began spending more and more time in the streets.*

—Street boy in Kinshasa

*The [military] police bother us at night. They ask for money, and if we have none, they threaten us with arrest and beat us.*

—Street boy in Goma

Tens of thousands of children living on the streets of Kinshasa and other cities of the Democratic Republic of Congo (DRC) suffer extreme hardship and exposure to daily violence. Turned out of their homes and without family care and support, they are victims of physical, sexual and emotional abuse. With no secure access to food, shelter, or other basic needs, they are exploited by adults, including law enforcement personnel, who use them for illegal activities to the detriment of their health and welfare and in violation of their basic human rights. The government of the DRC has failed to meet its obligations to protect these children from abuses committed by its own police and military forces and by private actors. Of particular concern is the deliberate and opportunistic recruitment of street children to participate in political demonstrations with the intention of provoking public disorder, events in which dozens of street children have been killed or wounded. During the upcoming national elections tentatively scheduled for June 18, 2006, the government must protect street children from political manipulation. The government in power after the 2006 elections must begin to comprehensively address the many other abuses committed against street children.

This report is based on interviews with more than fifty street children—children who might not necessarily be without families, but who live without meaningful protection, supervision, or direction from responsible adults. Although many children spend some

time in the streets, the term “street child” is used here to refer to children for whom the street, more than any family, residence or institution, has become their real home.

Many street children live in fear of the very state forces charged to protect them. The testimonies from children we interviewed revealed a common pattern of routine abuse by police, soldiers, and members of the military police. These figures of authority approach street children, often at night, and demand their money or articles of clothing, threatening them with their fists, boots and batons. One fourteen-year-old boy, who sleeps with his friends in empty kiosks near a Goma market, told us, “We are regularly harassed by the military police. In the evenings, they come to where we are sleeping and take whatever they can from us. We are chased and if caught, they beat us with their fists or a piece of wood.” In addition to physical violence, police and soldiers forcibly rape or sexually assault street girls. Girls can also be approached by soldiers or police officers who offer them small amounts of money in exchange for sex. The police use street children to spy on suspected criminals, provide decoys in police operations, and in some instances recruit them to participate in robberies of stores and homes. Children told us that they have no choice but to comply with whatever law enforcement personnel demand or risk further abuse and harassment.

The police routinely arrest street children when crimes are committed in areas where they are known to gather. While it is true that street children are sometimes involved in crimes, the police often hold them collectively responsible for crimes or knowledgeable about the events or the perpetrators. During interrogations, the police regularly beat children with their fists, batons, belts, or pieces of rubber to elicit a confession or information about a crime. Officials in the Ministry of the Interior also periodically order general roundups of street children under a colonial-era law that forbids vagrancy or begging by minors. Large groups of children, guilty of nothing more than homelessness, are apprehended and held in overcrowded and unsanitary police lockups. Once in detention, children are often kept together with adult criminals and receive little or no food or medical attention. They are rarely charged with crimes, but instead are released back to the streets after several days or weeks, in part because the state has no alternatives to prison or the street for vagrant children.

Civilians also exploit street children. They employ children as porters, vendors, cleaners, or laborers in homes and stores, often paying them little money for long hours and physically demanding work. Some street children told us that they are used by adults to work in hazardous or illegal labor, such as mining, prostitution, or selling drugs and alcohol. Street children also report that many adults, like the police, taunt them, beat them, and chase them from places where they congregate. The youngest street children we interviewed said that some of the worst treatment comes from older street boys and

men. Both boys and girls are survivors of rape and sexual assault perpetrated by older street boys and men; some girls are the survivors of brutal gang rapes. Street children told us that the police fail to investigate these crimes or offer protection from abusive adults.

Conflict, internal displacement, unemployment, poverty, disease, the prohibitive cost of education, and myriad other factors have all contributed to the growing number of children living and working on the streets in the DRC. Two additional and interrelated factors, however, are helping to fuel the increasing numbers of street children: the abuse and abandonment of children accused of sorcery, and the impact of HIV/AIDS on families and children affected by or infected with the virus.

Boys and girls accused of sorcery are often physically and emotionally abused, segregated from other children, pulled out of school, and denied physical contact with other family members. Parents, guardians, or older siblings may accuse a child of engaging in sorcery or being “possessed” due to sickness or death in the family, loss of a steady income or a job, or perceived abnormal behavior in the child. In our interviews, we found that children who were orphaned and cared for by extended family members or children whose mothers or fathers had remarried were far more likely to be accused than those living with both their biological parents. Some accused children were forced out of their homes; others fled when the abuse became intolerable.

Many accused children are brought before pastors, cult leaders, or self-proclaimed “prophets” and forced to undergo often lengthy “deliverance” ceremonies in an attempt to rid them of “possession.” Deliverance ceremonies can take place in “churches of revival” (*églises de réveil*) found throughout Kinshasa and Mbuji-Mayi and rapidly spreading to other cities. The growth in the number of new churches of revival is both a consequence of child sorcery accusations and a cause of new allegations; more than 2,000 churches practice deliverance in Kinshasa alone. Some prophets who run these churches have gained celebrity-like status, drawing in hundreds of worshipers in lucrative Sunday services because of their famed “success” in child exorcism ceremonies. This popularity rewards them for their often brutal treatment of children. Children who undergo deliverance rituals are sequestered inside churches anywhere from a few hours to several days or weeks. Many are denied food and water to encourage them to confess to practicing witchcraft. In the worst cases, children are beaten, whipped, or given purgatives, to coerce a confession. One twelve-year-old street boy in Kinshasa, held in a church with dozens of other children, said, “We were not allowed to eat or drink for three days. On the fourth day, the prophet held our hands over a candle, to get us to confess. So, I accepted the accusations and the abuse ended. Those who did not accept were threatened with a whip.” After the ceremonies, children who do not confess are

often sent away from their homes. Even children who do confess may be subjected to future abuse and abandonment. Despite the prevalence and seriousness of abuses stemming from accusations of sorcery in homes and churches, and despite the new constitution's prohibition of accusations of child sorcery, the state has failed to stop the violence. In fact, the government has failed even to investigate the most serious cases of abuse by parents or prophets and bring those responsible for the mistreatment of children to justice.

The growing number of street children and increases in accusations of sorcery are strongly correlated with the spread of HIV/AIDS in the DRC. The estimated national HIV/AIDS prevalence rate is 4.2 percent, lower than many countries in eastern and southern Africa, but resulting in approximately one million Congolese children orphaned by the epidemic. The impact of the disease has been enormous and has strained the fabric of communities and families. Children infected and affected by AIDS face stigma and discrimination inside and outside their homes. They are likely to be pulled from school to care for sick family members or to find work in the streets to support their families, leaving them susceptible to abuse and exploitation. Some children who have lost one or both parents to the disease are taken in by the extended family, only to be abused or neglected and end up on the street. Worse still is the link between accusations of sorcery and the epidemic. Several street children we interviewed whose parents had died of AIDS were blamed by family members for the deaths, told that they had transmitted the disease to their parents through sorcery. These children were physically and emotionally abused, thrown out of their homes, and had been denied their right to inherit their parent's property and valuables, including the smallest mementos to recall their parents. Even children who are themselves HIV-positive and in desperate need of medical care and protection are targets of accusations, abuse, and abandonment. HIV/AIDS awareness and prevention campaigns stressing ABC (Abstinence, Be faithful, and use Condoms) have to date failed to refute the commonly held view that HIV can be transmitted through sorcery and have done nothing to address the abuses experienced by children or to reduce their vulnerability.

In the first half of 2006, the DRC will face important democratic national elections. Political party leaders and their followers, opposed to the electoral process or the final results, may again attempt to recruit street children to intimidate voters, disrupt the elections, or contest the outcome. Street children who in past years were paid to join the ranks of party loyalists and march in political rallies and demonstrations faced sometimes brutal consequences. In several cities in the DRC in June 2005, troops and police killed or wounded scores of demonstrators, including street children, who were recruited to protest the extension of the transitional government's mandate. In the worst example to date, at least twenty street children associated with one political party were massacred by

angry civilians in Mbuji-Mayi in September 2004, while the police and the military largely failed to intervene. In the coming months there is a risk that street children, as in the past, will once again be manipulated, wounded or killed in political unrest. The Congolese government must protect these children from exploitation and, together with support from the international community, halt the abuse of street children and begin to address the underlying causes and violence that drive thousands of children into the streets each year.

## II. Recommendations

### *Recommendations for the pre-election period*

#### **To the government of the Democratic Republic of Congo**

- **Protect street children during the electoral period.** The government should remind political parties of their obligations under the national code of conduct and prohibit them from using children in activities that expose them to danger. Working with national and international child protection agencies, the government should use existing urban networks to approach street children and warn them of the risks involved in participating in political protests.
- **Ensure that law enforcement personnel, when policing political demonstrations, respect the right to peaceful protest.** If required by the situation to resort to force, the police and military should apply non-violent means before resorting to the use of weapons, including firearms and, if such resort is necessary, restrict such force to the absolute minimum necessary. Particular care should be used to protect children from injury and harm. Law enforcement officers should abide by international standards governing police conduct as set forth in the United Nations (U.N.) Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the U.N. Code of Conduct for Law Enforcement Officials.
- **Train and educate all police on issues affecting street children.** Sensitize police to the special needs of children to ensure that rights accorded to children are enforced. Special attention must be placed on the protection of street children from adults who physically and sexually abuse them.
- **End the practice of arbitrary arrest and roundups of street children.** The government should amend or repeal colonial-era juvenile delinquency laws that criminalize children for vagrancy and begging. Instead, the government should promote family reintegration and assistance to vulnerable children.

#### **To United Nations Agencies working in the DRC including the U.N. Mission in the DRC (MONUC)**

- **Work with the government to protect street children during the electoral period.** Building on some initial success in preventing street children from political abuse during the events of June 2005, and using existing urban networks, work with the government and Congolese nongovernmental

organizations to ensure that street children are not manipulated or abused in the electoral process.

### **To Donor Governments to the DRC**

- **Raise concern over the DRC's treatment of street children and related abuses.** In bilateral meetings with Congolese authorities, donors should specifically stress to the government and to leaders of political parties the need to protect street children during the electoral process. They should use their influence with the government to seek accountability for law enforcement personnel who abuse children including by extortion and physical and sexual abuse.
- **Emphasize the protection of street children in police training.** In donor funded training programs for law enforcement personnel in crowd control and general policing, ensure that protection of children is included.

### ***Recommendations for the post-election period***

#### **To the government of the Democratic Republic of Congo**

- **Together with international child protection agencies, launch a national awareness campaign that addresses violence and abuse against children accused of sorcery.** Programs should stress the important role that parents and guardians can play in protecting children and remind them that abandonment, abuse and accusations of sorcery are punishable by law.
- **Launch an HIV/AIDS prevention and awareness campaign that specifically refutes the belief that sorcery is a vehicle for transmission of the virus.** Working together with U.N. agencies and international and national nongovernmental organizations, HIV/AIDS prevention campaigns and messages should address the mistakenly held view that HIV/AIDS is transmitted through sorcery. Prevention messages should provide accurate information on how the disease is transmitted and comprehensive information on how people, including young people, can protect themselves from the virus.
- **Create a government task force, led by senior government officials, that focuses on issues of street children.** The task force should serve as a focal point to coordinate awareness campaigns, promote street child protection, and monitor law enforcement practices. The government should solicit international funding for the creation of the task force which should include individuals from national and international nongovernmental organizations.

- **Finalize and enact the draft code of child protection currently under review.** As a matter of priority, the government should complete the redraft of the Children's Code which provides protection and guarantees against many of the human rights violations related to street children highlighted in this report.
- **End arbitrary arrests and roundups of street children.** Building on efforts by the transitional government, the newly elected government should amend or repeal colonial-era juvenile delinquency laws that criminalize children for vagrancy and begging. Instead, the government should promote family reintegration and assistance to vulnerable children.
- **Enforce the prohibition on physical or sexual abuse of children by police and military personnel.** The government should prosecute any official found guilty of such abuse to the full extent of the law. Prompt investigations of complaints concerning the use and abuse of street children should be conducted, and disciplinary measures and criminal procedures ordered where appropriate.
- **Expand special child protection units of the police to all major cities.** Recognizing the positive role in eastern DRC that officers from child protection units play in expediting cases involving children, limiting their abuse, and promoting their reconciliation with family members, the government should create these units in other urban areas of the country.
- **Ensure that every child deprived of liberty is held separately from adults.** Children should be afforded prompt access to legal assistance and the right to challenge the legality of the deprivation of liberty. Arrest, detention, or imprisonment of children should always be a measure of last resort and then only for the shortest possible time. Children should be protected from all forms of torture and cruel, inhuman or degrading treatment by police, officials and other government employees, and by other detainees.
- **Rehabilitate centers for children in trouble with the law as an alternative to prison.** Ten of the twelve centers created to house juvenile delinquents have fallen into disrepair and misuse. The state should refurbish and reopen these centers to provide alternatives for children in trouble with the law and ensure that the centers promote rehabilitation and provide appropriate education and health care.
- **Immediately launch investigations into churches that practice abusive child deliverance ceremonies.** Pastors or prophets who physically or sexually abuse children should be arrested, charged, and promptly tried in an impartial court of law. The accused should be punished to the maximum extent of the law as stipulated in the newly ratified and adopted constitution that prohibits

accusations of child sorcery, abandonment and abuse.

- **Investigate cases of child abuse in homes where parents or guardians are reported to physically or sexually abuse children.** Specific attention should be placed on cases of abuse related to child sorcery and abandonment as prohibited in Article 41 under the newly ratified constitution. Cases should be immediately referred to the appropriate judicial or social affairs personnel.
- **Prioritize primary education for every child in the DRC.** Recognizing the link between lack of educational opportunity and the number of children living and working on the streets, the government should ensure that all children enjoy their right to free primary education. The government should formulate and put in place a national strategy to progressively reduce and eliminate school fees and other related costs of education that prevent children in the DRC from going to school.

#### **To United Nations Agencies working in the DRC including MONUC**

- **Assist the government in promoting relevant sections of the new constitution that protect children.** Together with the government, launch awareness campaigns that address violence and specifically the abuses against children accused of sorcery. Programs should stress the important role that parents and guardians can play in protecting children and remind parents that abandonment, abuse and accusations of sorcery are punishable by law.
- **Promote national HIV/AIDS awareness campaigns that address the belief that the virus can be transmitted through sorcery.** Prevention messages should refute the view that HIV/AIDS is transmitted through sorcery and should address other local beliefs and practices that may fuel the epidemic and increase abuses against children. National campaigns should provide accurate information on how the disease is contracted and comprehensive information on how people, including young people, can protect themselves from the virus.

#### **To Donor Governments to the DRC**

- **Support comprehensive HIV/AIDS programs.** Donors should fund programs that:
  - provide treatment and care for persons living with AIDS;
  - strengthen legal protections for property inheritance;
  - raise general HIV/AIDS awareness refuting myths and fighting stigma and discrimination;
  - support children orphaned by AIDS; and,

- launch prevention interventions that provide not only comprehensive and accurate information but also information that reduces the vulnerability of youth to the disease.
- **Work with the government to promote children's rights.** Donors to the DRC should consider earmarking assistance for:
  - training for police and law enforcement personnel on the rights of the child and the handling of juvenile cases;
  - creation of a senior government task force that coordinates government action on issues concerning street children;
  - improving conditions in all detention facilities where children are held including the rehabilitation of centers that can provide alternatives to adult prisons for children in trouble with the law;
  - programs that identify and provide assistance to street children and that facilitate the reunification of street children with their families; and,
  - education to help the government admit every child to school— funds should be targeted to assist the government in any shortfall arising from the elimination of school fees and other related costs to parents or guardians for primary education.

### III. Methods

This report is based on information gathered in the DRC in September and October 2005 and on extensive prior and subsequent research. Two Human Rights Watch researchers interviewed ninety-one persons currently or formerly living on the streets, seventy-nine of whom were boys and girls under the age of eighteen.<sup>1</sup> We spoke with street children in markets, outside of homes and businesses, and in other public places in the evenings and early mornings. Working with nongovernmental organizations that assist street children, we also spoke to numerous former street children living in rehabilitation centers or who spend part of their days in open centers. During a four-week period we conducted investigations in Goma, Lubumbashi, Mbuji-Mayi, and the capital Kinshasa. Most interviews were conducted in French, Kiswahili, Tshiluba, or Lingala (with translation into French provided when a language other than French was used).

In our work, we interviewed numerous officials in the Divisions of Justice, Social Affairs, and Interior. We spoke with officers of the police and the military and representatives in the mayors' offices in several cities. In Kinshasa we met with the Minister of Social Affairs and the Special Ambassador for Children. We also spoke with officials from various United Nations agencies, including individuals in the child protection section of the U.N. Mission in the DRC (MONUC) and from the United Nations Children's Fund (UNICEF). We collected information from administrators and educators at Congolese nongovernmental organizations (NGOs) that work with street children. We also received information from health service providers, religious leaders, pastors, academics, human rights activists, and child welfare activists. Secondary sources from peer-reviewed published literature, NGO reports, and other materials supplemented what we gathered in the DRC. All materials cited in this report are either publicly available or on file at Human Rights Watch. The names of children quoted or described in this report have been changed to protect their identity.

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<sup>1</sup> In this report, "child" refers to anyone under the age of eighteen. The U.N. Convention on the Rights of the Child states: "For purpose of this present Convention, a child is every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier." Convention on the Rights of the Child, Article 1, adopted November 20, 1989 (entered into force September 2, 1990).

## IV. Background

Children living and working on the streets, outside of the care and protection of their parents, are a relatively new phenomenon in the DRC, as in many countries in sub-Saharan Africa. Congolese child protection activists, jurists, and academics familiar with issues involving street children, told us in interviews that prior to the 1970s there were few, if any, permanent street children in the DRC. Up until that time, vagrant children were promptly brought before a judge, and either reunited with their families or placed in private or government institutions for children known as Etablissement de Garde et d'Education de l'Etat (EGEE). According to Floribert Kingeshi in the office of child delinquency in the Ministry of Justice, the state response to vulnerable children in need changed in the 1970s and 1980s, with diminished resources available to pay police, judicial personnel and to support government institutions. Police no longer systematically arrested children for vagrancy, and government institutions to care for them fell into disrepair and disuse.<sup>2</sup> Around the same time, a declining Congolese economy coupled with a rise in unemployment made schooling unaffordable to many poor Congolese parents. Some children, often pushed by their families, began looking for work in the streets or begging in markets, bus stops, or other public places. For the first time, small groups of children began spending the majority of their time living and working on the streets.

Street children also began loitering around universities, begging for food or money in exchange for domestic labor. An official in the Division of Social Affairs in Lubumbashi told us that because many university students were provided with meals and government scholarships, children would beg them for their leftovers. They would offer to wash students' clothes or clean their rooms in exchange for small amounts of money or food.<sup>3</sup> Groups of children living on the streets, hanging around schools, and doing piecemeal work became collectively known as "moineax" or "balados,"<sup>4</sup> derogatory names which referred to their daily activities, or "phaseur" in reference to their habits of napping during the day.<sup>5</sup>

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<sup>2</sup> Human Rights Watch interview, Ministry of Justice, Kinshasa, October 3, 2005.

<sup>3</sup> Human Rights Watch interview with Mme. Kabera Mujijima Bora, Division of Social Affairs, Lubumbashi, September 16, 2005.

<sup>4</sup> "Moineax" meaning sparrows or "balados" meaning one who walks around.

<sup>5</sup> Human Rights Watch interview with Mme. Germaine Akonga, Division of Social Affairs, Kinshasa, September 29, 2005.

## [DRC 4 photo]

Many street children spend time in the markets selling goods, transporting loads and playing with their friends.  
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In the last fifteen years, numerous interrelated and complex socio-economic factors have led to the explosion in the number of children on the streets in DRC including, but not limited, to: the civil war, resulting in countless children orphaned or abandoned, huge numbers of people displaced, a sharp deterioration in essential state services, and a related increase in poverty and unemployment; rapid urbanization and the breakdown of traditional support structures of the African extended family; the difficulty that some women and older children face as heads of single- or child-headed households; the impact of HIV/AIDS on society; and, the inability of parents or guardians to pay for school fees and other related costs of public education. Although their exact numbers are unknown, an estimated 30,000 children live on the streets in Kinshasa, and tens of thousands more in other urban areas.

The large number of street children and adults in cities throughout the country comprise a growing urban subclass, with their own adult leaders who tightly control large and sometimes competing groups of street people, and their own language, with terms and vocabulary used uniquely among them.<sup>6</sup> Since at least the mid-1990s, street children in the DRC have been known as “shegue”, a term that was popularized by Congolese musician Papa Wemba in his song, “Kokokorobo”, and has largely replaced previous names used to refer to street children. “Shegue” was described to researchers as an abbreviation of the name Che Guevara, in reference to the independent spirit and toughness of street youth. Other names for street children are “mayibob” or “tshell”, often used in reference to girls who engage in prostitution. An older street boy or adult can be called a “yankee”, a term of respect used only among younger street children to address older street boys or men who command obedience from them.<sup>7</sup> Some street men and women, having grown up on the streets, are having children of their own, raising a second, and in Kinshasa sometimes a third, generation of children who know nothing of life but the streets.

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<sup>6</sup> For further analysis on the history of street children and their societal impact, see: Gilbert Malemba-M. N'Sakila, *Enfants Dans La Rue, Le Sans et le Hors Famille*, (Lubumbashi: Presses Universitaires de Lubumbashi, 2003); Division of Social Affairs, “Enquete sur les Enfants Victimes du Secteur Minier du Kasai Oriental Vivant Dans les Rues, et Grands Places de Mbuji-Mayi et Ses Environs,” Rapport Final, January 2000; and Marie Louis Bawala et. al, “Rapport de Rechere sur les Enfants Séparés des Familles Mbuji-Mayi,” November 2003.

<sup>7</sup> Human Rights Watch interview with staff of the Association des Jeunes de la Rue pour le Développement (AJRD), Kinshasa, September 30, 2005.

## V. Abuses Against Street Children

*On the streets, their situation is precarious. Street kids live in dirtiness and total insecurity. They have no rights and no access to education, healthcare or security. They are victims of different types of violence—they are beaten and kicked, they are victims of sexual violence, both girls and boys, and they are at risk of economic exploitation. Bandits and gangs, the police, and the military use and abuse these children. Girls are especially vulnerable to rape and sexual assault by military and sentinels who guard offices and buildings at night.*

—Mme. Bashizi Mulangala, Division of Social Affairs and the Family,  
September 15, 2005

### **Police and Military Abuse**

Some police officers help to reintegrate street children with their families and protect them from abusive adults. For example, in Goma we noted the positive role of the Special Police for the Protection of Children (see sub-section below). But many street children live in fear of the forces meant to protect them and all other civilians. Ordinary police, military police and soldiers threaten, rob, beat, and harass children during the day and at night when they are sleeping. Under threat of arrest and imprisonment, children are forced to hand over money or material goods to men in uniform.

In the worst cases, police officers recruit children to steal and loot in exchange for a share of the booty or a small sum of money.<sup>8</sup> More generally, the police use street children to assist in sting operations, provide surveillance at the scenes of robbery, or to act as decoys. Street children are also forced to provide information on the whereabouts of other street children or other people suspected of crimes. Children who perform these activities on behalf of the police risk imprisonment or beating for failing to comply.

### **Physical abuse**

In Goma in eastern DRC, street children mentioned the particularly abusive nature of soldiers and military police who are responsible for security in the town. According to one seventeen-year-old street boy, it is the military police, not the civilian police, who approach them at night and take their money, shoes or clothes. Those who resist are

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<sup>8</sup> Human Rights Watch interviews, Goma, September 13-15, 2005, Lubumbashi, September 16-18, and Mbuji-Mayi, September 21-22, 2005.

beaten.<sup>9</sup> Emmanuel, a fourteen-year-old orphan, who sleeps in an abandoned kiosk with several friends, told us, “Life is hard here in the streets, we are all the time harassed by the military. They come at night, any time after 10:00 p.m. They beat us with their hands or kick us with their boots. They regularly demand money or items they can sell, like mobile phones. Only those who run away and don’t get caught are safe. If we have worked all day for 100 francs (U.S.\$0.20) they can even take that.”<sup>10</sup> Fourteen-year-old Raphael, who sleeps with his friends in empty kiosks near the Virunga market in Goma, told us, “We are regularly harassed by the military police. In the evenings, they come to where we are sleeping and take whatever they can from us. We are chased and if caught, they beat us with their fists of pieces of wood.”<sup>11</sup> Many of the children whose interviews with Human Rights Watch in Goma and other cities are described elsewhere in this section also mentioned beatings by police or military personnel.

Several employees of a center for street children in Goma linked the demeanor of children at the center during the day with the events of the preceding night. They reported that soldiers and military police chase the kids, beat them, and steal their money and goods. They told us that the following day at the centers, the kids recount to staff members their stories of police harassment and abuse and their desire to sleep, exhausted from running from the police at night.<sup>12</sup>

In Mbuji-Mayi, Lubumbashi, and Kinshasa, street children reported that some police officers harassed them at night, kicking, slapping or beating them. Children in Lubumbashi told us that they also risked abuse from police officers for playing in the squares or markets, or when groups of them try to congregate. Unlike in Goma where such abuse was regularly reported by street children, in these cities children told us that they were sometimes able to avoid such police harassment by not bringing attention to themselves. One street youth in Lubumbashi offered this explanation, “If you are stealing things or looking for trouble, this is when you risk beatings or arrest. One time I was guarding a car with friends. When the *patron* [owner] paid us, we started fighting over the money. The police arrived, arrested us, and later, beat us for the disturbance.”<sup>13</sup>

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<sup>9</sup> Human Rights Watch interview with Solomon, Virunga market, Goma, September 13, 2005. All names used in this report have been changed to protect the identity of street children.

<sup>10</sup> Human Rights Watch interview with Emmanuel, street children center, Goma, September 14, 2005.

<sup>11</sup> Human Rights Watch interview with Raphael, Goma, September 13, 2005.

<sup>12</sup> Human Rights Watch interview, street children center, Goma, September 13, 2005.

<sup>13</sup> Human Rights Watch interview with Robert, twenty-three, Lubumbashi, September 17, 2005.

## ***Extortion***

A street child's ability to avoid physical abuse or arrest can be contingent on furnishing money to the police. As described in more detail below (see sub-section "Arbitrary arrests and roundups"), in the DRC children found in the street can be charged with vagrancy, brought before a judge, and by law should be either reunited with their families or placed in a public or private institution. In very few cases does this actually happen. Instead, police can use the threat of arrest or prolonged detention to extort money from children.

### **[Photo – DRC 5]**

A street child asleep on the street. At night, street children are at particular risk of physical and sexual abuse by adults and law enforcement personnel. © 2005 Marcus Bleasdale

According to twelve-year-old Noah, "Around the Olympia bar area at night, the money we have is often stolen by members of the military police. They come and rough us up, threatening to beat or arrest us if we don't give them what we have. Or, if they see a nice piece of clothing, they take it from us." Noah is from Goma and has lost his parents to disease. At night, he sleeps with a group of his age-mates under old sacks or flattened, cardboard boxes, on verandas.<sup>14</sup> A former street boy named Benjamin told us that during his time on the street, he would never sleep in the same place for too many nights in a row because the police would harass him. "At night, the police would come and we would have to run. If they caught you, they would take things from your pockets and then let you go. They would hit us with their fists and intimidate us."<sup>15</sup>

Street children are often the first suspects when money or goods are stolen in areas where they congregate. Police roundup groups of street children suspected of crimes and detain them for investigation. In some cases, police officers beat street children during interrogation to obtain information or a confession about a crime, and later demand payment for their release. According to the seventy-nine street children interviewed for this report, beatings during interrogation are frequent in Goma and Lubumbashi but appear to be less common in Mbuji-Mayi and Kinshasa.

Emmanuel, an orphan from Goma, told us that in March 2005 police conducted a roundup of street children who spend time at the Virunga market because U.S.\$150 had

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<sup>14</sup> Human Rights Watch interview with Noah, Goma, September 13, 2005.

<sup>15</sup> Human Rights Watch interview with Benjamin, seventeen, street children rehabilitation center, Goma, September 14, 2005.

been stolen from a merchant. Twenty-six children were arrested, interrogated, and for those who could not pay a bribe, detained for three days in the police lockup next to the market. Emmanuel reported that the police beat him on the back and buttocks with a baton during the interrogation.<sup>16</sup> Peter, in Lubumbashi, left home because he hoped life would be better on the streets—he didn't get enough to eat at home and he couldn't go to school because his mother couldn't afford the cost of primary education. He said that one time he was arrested in early 2005 for playing in a square with other street boys. The police demanded 500 Congolese francs (U.S.\$1) from him for his immediate release. He didn't have the money and so was detained for several days in the lockup. According to Peter, during his detention the police kicked him.<sup>17</sup>

Fifteen-year-old Frederic from Lubumbashi said:

I have had problems with the police. There was theft of cooking oil at the factory near the market. I don't know who was involved. But the police were there and they picked us up and brought us to the police station at the market. I was beaten on the feet with a large stick that is used for making fufu (corn or cassava meal). I was tied up at the arms and ankles during the beating. The other boys paid the police some money and were immediately released. I spent several days at the station.<sup>18</sup>

Seventeen-year-old Rebecca told us that in 2005, “a few kids were stealing from the market, and the police arrested a whole group of street kids in the area. We were more than twenty kids in one small room at the lockup. We were whipped with a plastic cord on the buttocks. The kids would cry and scream. My friends paid the police 400 francs (U.S. \$0.80) to make them stop, I was released that day.”<sup>19</sup>

### ***Sexual abuse of girls***

Some members of the police and military take advantage of the vulnerability of street girls, raping and sexually assaulting them. Many of these girls are already survivors of rapes, often multiple rapes, committed by civilian street boys and men (sexual abuse by civilians is discussed later in this chapter). Counselors at one center for street girls reported that girls will talk about rape and sexual violence that they experienced on the

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<sup>16</sup> Human Rights Watch interview with Emmanuel, fourteen, Goma, September 14, 2005.

<sup>17</sup> Human Rights Watch interview with Peter, fifteen, Lubumbashi, September 16, 2005.

<sup>18</sup> Human Rights Watch interview with Frederic, Lubumbashi, September 18, 2005.

<sup>19</sup> Human Rights Watch interview with Rebecca, Goma, September 14, 2005.

streets, but it takes time and counseling. Many girls feel shame in recounting the stories of sexual abuse and will not give the names of individual police or soldiers, either because they don't know the perpetrators, they fear retaliation, or both. According to these counselors, girls at their centers, some as young as ten years old, regularly speak of soldiers, police, and men in uniform who rape street girls, demand sex in exchange for protection or release from custody, or offer them small amounts of money for sex.<sup>20</sup>

Thirteen-year-old Margaret, physically abused by her stepmother at home, ran away to live on the streets. She passed her days collecting pieces of charcoal that had fallen to the ground at distribution sites to later re-sell to get enough money to buy food. She told Human Rights Watch:

In early 2005, men in uniform arrested all the kids in the market and we were confined in a house nearby. Those men said we were under arrest because their superiors had given orders that all children should get off the street. They arrested many boys and girls. Some of the boys were beaten but not the girls. The soldiers slept with some of the older girls. They said, 'if you don't sleep with us, we won't let you go.' So, many of the girls accepted. They said the same thing to me, but I was spared because a nun came and secured my release. Who could do something like this?<sup>21</sup>

An official in the provincial Division of Women and the Family reported that the vast majority of street girls are victims of rape, including multiple gang rapes. In addition to civilians, she cited soldiers and police officers as being responsible for the sexual abuse of street girls. In her work, she has uncovered that perpetrators during these crimes, rarely, if ever, use condoms, leaving girls at risk of sexually transmitted diseases, including HIV/AIDS. According to her, sexual violence against girls further complicates their rehabilitation and makes it more difficult for successful reintegration with their families, particularly in cases where girls have children born of rape. Girls who are survivors of rape can be as young as eight years old.<sup>22</sup>

Studies done on the sexual abuse of girls and women in DRC support these findings. In one study conducted in Lubumbashi in 2003, all of the fifty street girls interviewed reported sexual violence. The girls named soldiers and the police among those

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<sup>20</sup> Human Rights Watch interview, street girl center, Lubumbashi, September 17, 2005.

<sup>21</sup> Human Rights Watch interview with Margaret, street girl center, Mbuji-Mayi, September 23, 2005.

<sup>22</sup> Human Rights Watch interview with Mme. Kabera Mujijima Bora, Lubumbashi, September 16, 2005.

responsible for the rapes. The author of the study concluded that street girls have little protection or redress from abuse and that the perpetrators of these rapes take advantage of their vulnerability.<sup>23</sup> Another study conducted in eastern DRC included numerous examples of rapes and other acts of sexual violence in Goma and other cities in the east, committed by soldiers and members of the police.<sup>24</sup>

### ***Police misuse of street children***

Street children who are rounded up during police operations or accused of crimes, can be forced to perform labor while in detention: some roundups even appear to be with the express purpose of getting free labor for menial tasks. For example, children report that they are often made to dig latrines and clean cells when held in police lockups. One boy who spends his time at the Star roundabout in Mbuji-Mayi told us that in August 2005 he and his friends were rounded up by the police and forced to dig pit latrines at the central prison. According to him, eighteen boys aged ten to seventeen were tied up, walked to the prison, and made to dig three holes for pit latrines, labor that took them all day to finish. At the end of the day, the commandant of the police gave them each 200 Congolese francs (U.S.\$0.40) to buy soap to wash themselves.<sup>25</sup>

Timothy, who lost both his parents to HIV/AIDS, was living at the central market in Mbanza-Ngungu in the province of Bas-Congo. In 2004, the police rounded up a large group of children in the market and detained them in a lockup. According to Timothy, they were accused only of being street kids; the police never explained why they were incarcerated. The children were held in lockups together with adults, some of whom physically abused them. During the day, they were made to clean latrines at the prison and cut the grass around municipal buildings in town. Never charged with a crime, they were released two days later.<sup>26</sup>

Street boys are also enlisted to assist the police with gathering information and participating in police operations. Sixteen-year-old Russell, from Kasai Orientale, told us that in early September 2005, two street children were stealing food from a warehouse in the night. Police suspected the street children in the area and questioned many of them about the incident. Russell said he was recruited to hang about the warehouse and alert

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<sup>23</sup> Bashizi Mulangala, "Les Résultats de l'Enquete sur les Abus et Violence Sexuelles à Lubumbashi," March 2003, p. 4. See also Mulangala, "L'Exploitation Sexuelle des Enfants et des Femmes à Lubumbashi, Mythe ou Réalité?" 2004, p. 3.

<sup>24</sup> Human Rights Watch, *The War Within the War, Sexual Violence Against Women and Girls in Eastern Congo* (New York: Human Rights Watch, 2002), pp. 52–63, [online] <http://www.hrw.org/reports/2002/drc>.

<sup>25</sup> Human Rights Watch interview with Deo, sixteen, Star roundabout, Mbuji-Mayi, September 25, 2005.

<sup>26</sup> Human Rights Watch interview with Timothy, fifteen, street children center, Kinshasa, October 1, 2005.

the police the next time the boys attempted to rob the warehouse. In exchange for his cooperation, he was promised 1,000 Congolese francs (U.S.\$2) but never received the money. According to Russell, “There is no way we can refuse this work; if we do, we can be accused and arrested.”<sup>27</sup>

### [Photo – DRC 7]

Many street children sleep together in the evenings for warmth and safety. © 2005 Marcus Bleasdale

Worse still is the use of street children by police and soldiers to rob and steal from civilians. In exchange for assisting in illegal activities, children can be given a piece of the loot and possible protection by individual police officers. According to staff members of a street children’s organization in Lubumbashi, several cases were brought to their attention earlier in 2005 of children from Kenya commune being used by the police to stand guard and act as lookouts when police entered stores and stole goods. They reported that these children received a share of the stolen goods or some money from the police following the robberies.<sup>28</sup> Employees of two street children centers in Mbuji-Mayi reported similar abuse, as described to them by the kids in their centers, with street children being used by some police officers to create distractions when thefts are occurring or to help with the robberies. Staff members explained that the police seek out children to participate in theft because of their smaller size and ability to fit through narrower spaces than adults. In exchange for children’s assistance, the police reward them with money or goods, sometimes protecting them from angry civilians, or falsely accusing other street children of these thefts.<sup>29</sup>

Street children in several cities gave us the names of individual police officers or military personnel who were abusive to them. One military police officer, however, was singled out as particularly abusive. Several street boys in Goma cited Commandant Rajabu as notorious for enlisting children for criminal activities. According to one street boy, Commandant Rajabu has in the past arrested groups of street boys and detained them at Camp Katindo, a military camp in Goma of the former fifth brigade. Their prompt release was conditioned on their providing future assistance to Rajabu in stealing. One street boy knew of a case where his friend stole a mobile phone, gave it to Rajabu, and received U.S.\$20 from him. He also claimed that Rajabu will assist street boys who work for him with their release from police lockups should they be apprehended during a

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<sup>27</sup> Human Rights Watch interview with Russell, Mbuji-Mayi, September 25, 2005.

<sup>28</sup> Human Rights Watch interview with staff at a street children center, Lubumbashi, September 16, 2005.

<sup>29</sup> Human Rights Watch interviews with staff at two street children centers, Mbuji-Mayi, September 21-22, 2005.

criminal operation.<sup>30</sup> Similarly, another street boy spoke of a roundup of street children in the area around Cap-Sud by Rajabu in August 2005. The older boys were allegedly held for some two weeks and pressured to furnish Rajabu in the future with stolen goods.<sup>31</sup> Several other children spoke of Rajabu as particularly brutal with street children, beating and stealing from them in an effort to intimidate and convince them to work for him.<sup>32</sup> Employees working in street children centers in Goma reported that children in their centers had described Rajabu to them in the same way.<sup>33</sup>

When questioned about Rajabu, officers from the special police unit for the protection of children in Goma said that street children often complain about abuse by military police, including Rajabu. They said Rajabu was known for his cruelty to children, and it was possible he recruited children to steal for him, but they had not done an official investigation into the accusations. According to one officer, Rajabu is from Idjwi Island and is attached to the military intelligence office of Bureau II.<sup>34</sup> He was arrested in September 2005 for crimes unrelated to street children.<sup>35</sup> In an interview with the military prosecutor in Goma, a Human Rights Watch researcher was informed that Rajabu is not a military officer, but an intelligence agent from the T2 battalion that is attached to the 8<sup>th</sup> military region. As of December 2005, the military prosecutor was still collecting evidence against Rajabu, who had been dismissed from service and was under home surveillance.<sup>36</sup>

### *Arbitrary arrests and roundups*

Police forces roundup and detain groups of street children when crimes are committed in areas where they are known to assemble. Such roundups are likely to occur when the victims of the crime are connected to those in power or when considerable amounts of money or goods are taken. In other instances, officials in the Ministry of Interior or urban security councils order general roundups of street children to clear neighborhoods of their presence. When rounded up in these circumstances, children are not charged with crimes; roundups are done under a colonial-era law that makes it an offense for children to be vagrant or to beg.<sup>37</sup> According to the law, children must appear before a

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<sup>30</sup> Human Rights Watch interview, Goma, September 14, 2005.

<sup>31</sup> Ibid.

<sup>32</sup> Human Rights Watch interviews, Goma, September 14-15, 2005.

<sup>33</sup> Human Rights Watch interviews with staff at street children centers, Goma, September 13-14, 2005.

<sup>34</sup> Bureau II refers to an intelligence office attached to a military battalion.

<sup>35</sup> Human Rights Watch interview with PSPE officers Justine Safi and John Matata, Goma, September 14, 2005.

<sup>36</sup> Human Rights Watch interview with Maj. Bwa Mulundu Guzola Jean Blaise, Auditeur de Garrison, et Auditeur Supérieur ad interim, Goma, December 8, 2005.

<sup>37</sup> Décret du 6 décembre 1950 relatif à l'enfance délinquante, complété par l'ordonnance loi no. 78/016 du 4 juillet 1978, art. 1er. In most cases, street children are not arrested and charged with the offense of vagrancy.

judge who will attempt to reunify them with their families or place them in private or government institutions.

On Friday, November 4, 2005, the police rounded up some 430 adults and children in Kinshasa who were congregating around the city's main market—reportedly the police had been ordered to arrest all vagrants in the area because of growing crime there. Over 180 were boys and girls; the youngest child was nine years old. The children were held for six days, reportedly given only one meal in the entire time they were detained, and held in deplorable conditions among adult detainees. Congolese law requires that a person appear before a judge within forty-eight hours of arrest, but the children were never charged with a crime nor presented before a judge. Instead, the following Thursday, some were released to their parents or guardians, the remainder to private centers for street children.<sup>38</sup> Child protection agencies protested the children's prolonged detainment and unsanitary conditions and were instrumental in securing their release. One child protection officer told us that the governor of Kinshasa and officials from the Ministry of Interior had ordered the arrests, which were later condemned by the ministers of justice and social affairs.<sup>39</sup>

In another incident, eighty-five children and adults were rounded up during the last two days of September 2005 in Goma. In interviews, police officers reported to us that the provincial security council, which includes the governor and the mayor, met on September 23 and ordered the roundup after they received reports of violence and rape committed by street persons. On September 29, sixty-nine adults and children were arrested and crammed into one cell. They were released the following day, some children to their parents or guardians, others to centers run by Congolese NGOs. On September 30, another sixteen children were detained and some held overnight. During a visit to the lockup on September 30, a Human Rights Watch researcher together with other human rights activists were able to secure the release of the smaller children; the youngest appeared no older than six. On both days, no child was charged with a crime or brought before a judge. Police officers told us in interviews that the operation was necessary to stop the growing number of street children who were committing crimes and to avoid a general street child problem like the one found in Kinshasa. The assistant mayor of Goma further told us that the operation sent an important message both to parents to

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Rather, the existence of this law provides a pretext for authorities to arrest and detain street children during roundups.

<sup>38</sup> UN Integrated Regional Information Network (IRIN), "DRC: Police Still Holding 432 'Vagrants' in Poor Conditions," November 10, 2005 [online], <http://allafrica.com> (November 11, 2005).

<sup>39</sup> *Ibid.*, Human Rights Watch telephone interview with MONUC officer, Kinshasa, November 14, 2005.

take better care of their children and to organizations that protect children that they should do their work correctly.<sup>40</sup>

Most street children who are detained are simply released back to the street after several days. Even in those few cases where children are presented to a judge, there is often neither an identifiable family member who can take responsibility for the child nor a state institution suitable for child placement. Instead the judge will simply release the child back to the streets. The president of a Tribunal of Peace<sup>41</sup> explained his frustration: “If we arrive at the decision that there is no responsible family member who can take the child, we have no other real option. We can’t put them in prison; this is not suitable for a child and there is nowhere else for him or her to go. So in reality, children under sixteen just go back to the streets.”<sup>42</sup>

Twelve-year-old James lives in a village some ten kilometers outside of Mbuji-Mayi where inhabitants are predominantly engaged in diamond mining. He spends his days at gem counters running errands and looking for odd jobs. He told us that he had been arrested just the week before:

A street boy was arrested, and later told the police that I was among the boys who had stolen a shoe bag from the room of a diamond miner. Ten boys were all arrested the same day. We were beaten with bamboo on our feet and backsides. Others were beaten on their feet with pieces of rubber known as ‘boyo.’ The police did this during the interrogation but none of us knew about the theft. We were eventually released.<sup>43</sup>

Another boy, John, left his home after abuse by his aunt became intolerable. He has lived on the streets of Lubumbashi for over a year. He described the unsanitary conditions in the lockups. “I was accused of stealing with a group of street boys last month,” he told us. “We were taken to the lockup at the police station and held for three days. We weren’t given anything to eat, but some of the prisoners shared their food with us. During the interrogation, policemen whipped us with their belts. The conditions in the *cachots* [lockups] were terrible. Someone could have died in the lockup and you

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<sup>40</sup> Human Rights Watch interviews in Goma with: Principal Commissioner of the police, Jacques Chiragada-Ntwali, 30 September 2005; Assistant Mayor of Goma, October 10, 2005; and, Police Major Oscar Tavawuka, November 10, 2005.

<sup>41</sup> The Tribunals of Peace in the DRC handle cases where the penalty for the crime is five years or less.

<sup>42</sup> Human Rights Watch interview with M. Jean Pierre Cakwangasha Kabwenga, president of the Tribunal of Peace, Lubumbashi, September 19, 2005.

<sup>43</sup> Human Rights Watch interview with James, Chimuna village, September 24, 2005.

wouldn't even have known it, the smell was that bad." John described the lockup as a small room with only one window secured by a metal grill. While he was in custody, there were fifteen people in the room, boys and men mixed together.<sup>44</sup> According to John, he was never charged with a crime nor brought before a judge. After his three days in confinement, he was released back to the streets.

**[Photo – DRC 8]**

With no home or parental care, street children sleep together for warmth and protection.  
© 2005 Marcus Bleasdale

In Kinshasa and other urban areas, roundups of large numbers of street children occur nearly every year. Individuals who work and advocate for street children have met with police and government officials to try to stop the roundups and instead focus on reintegration and rehabilitation. They told us their efforts had had some success in limiting the number and duration of roundups in the past year.<sup>45</sup> Nonetheless, as described above, in September and November 2005 authorities ordered the roundups of large numbers of children in Goma and Kinshasa.

***Special Protection Unit of the police***

In Goma and a few other towns in eastern DRC, a special unit for the protection of children (*Police Speciale pour le Protection des Enfants, PSPE*) has been established to handle children in trouble with the law. Nongovernmental organizations, government officials, and ordinary Congolese commended the work of the PSPE and have found better treatment of children handled by that unit than by ordinary police or military. Two officers from the PSPE told Human Rights Watch that they had received specialized training in cases involving children and only detained children as a last resort (and in those cases, kept them separate from adults). They said that street children reported abuse by other police officers to them, but felt that through training and the expansion of children's units in other towns, violence could be curtailed.<sup>46</sup>

Government and judicial officials in other cities spoke of the need to create special police units for children both to ensure that cases are brought more quickly to their attention and also so that children could receive better treatment and protection from the police. One magistrate in Lubumbashi told us that accusations of prolonged or illegal detention and

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<sup>44</sup> Human Rights Watch interview with John, fourteen, Lubumbashi, September 16, 2005.

<sup>45</sup> Human Rights Watch interview with Remy Mafu Sasa, Kinshasa, September 28, 2005.

<sup>46</sup> Human Rights Watch interview with PSPE officers Justine Safi and John Matata, Goma, September 14, 2005.

police abuse were not limited to children, but were reported more generally among the entire population. For him, poor remuneration of police, salaries paid late, and little incentive to prevent crimes, helped account for some of the problems.<sup>47</sup> Another official in the Division of Justice in Kinshasa stressed the need for more training for police to instruct them on other methods of interrogation beyond physical abuse.<sup>48</sup> The state prosecutor in Lubumbashi suggested that police abuse of children is rare and that street children could not always be trusted to tell the truth.<sup>49</sup> Nonetheless, he stated, as did other justice officials we interviewed, that the establishment of special police units for children could provide additional protection for children.

When questioned about roundups and police abuse of street children, police commanders responded that they were following instructions from government officials and they were merely doing their jobs. When asked about the roundup in Goma in September 2005, the police commander responded that children were not arrested nor allowed to be held overnight in jail. Rather, the intention was for their transfer to the PSPE for processing and family placement.<sup>50</sup> In Mbuji-Mayi, a police commander denied that police officers beat or misuse street children but instead protect children from abusive adults, as was the case following the events of September 2004 (see section below, “Street Children Used for Political Purposes”).<sup>51</sup>

### **Child Labor**

For many street children, their ability to survive depends on their finding work to earn enough for food. Street children transport goods, sell food, work in restaurants and homes, load and unload passenger busses, and engage in other temporary work in exchange for food or money. Other street children are involved in hazardous or illegal labor, such as mining, prostitution, or selling drugs and alcohol. Some adults may take pity on these children and allow them to perform labor in exchange for a reasonable sum. But others take advantage of street children, paying them less than they would adults, because they know these children have little choice.

At a center for street children in Goma, counselors who work with children reported that children can be easily exploited, for example, accepting work that adults will not, or carrying heavy loads in exchange for smaller sums of money than adults would normally

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<sup>47</sup> Human Rights Watch interview with a magistrate at the Tribunal of Peace, Lubumbashi, September 19, 2005.

<sup>48</sup> Human Rights Watch interview with an official in the division of justice, Kinshasa, September 30, 2005.

<sup>49</sup> Human Rights Watch interview with the state prosecutor, Lubumbashi, September 17, 2005.

<sup>50</sup> Human Rights Watch interview with Maj. Oscar Tavawuka, Goma, November 10, 2005.

<sup>51</sup> Human Rights Watch interview with Commandant Major Israel, Mbuji-Mayi, September 27, 2005.

receive. They highlighted the vulnerability of street children by mentioning one case in particular where street children were entrapped by a woman selling marijuana. After she had sold some to a few boys, she later threatened to report them unless they agreed to sell it for her. They began selling marijuana in town and a few were subsequently arrested.<sup>52</sup>

The following examples from Noah, Nicholas, and Matthew are illustrative of the types of jobs that children do to survive. Twelve-year-old Noah spends his time in the Virunga market looking for work. He told us that on a typical day he gets up when the cathedral bells ring, puts away the cardboard box he sleeps on, and makes his way to the market. He said that there is often little to do but play cards with his friends and beg for money or food, but sometimes he is lucky enough to find a job transporting packages for shoppers. At other times he is paid to clean excrement from an area of the market that people use as a toilet—for this work, he might get 50 francs (U.S.\$0.10).<sup>53</sup>

### [Photo – DRC 2]

Street children's survival depends on their ability to find work. Children shine shoes for small change.  
© 2005 Marcus Bleasdale

Nicholas told us that he left his aunt's home when abuse there became too much. He found work in a restaurant, cleaning and sweeping, fetching water, and running beer crates back and forth to the local distributor. In exchange for his labor, he was allowed to sleep on the floor of the restaurant at night and given food during the day. Nicholas stole money from the owner and left the restaurant after a few months. He was ten years old at the time.<sup>54</sup>

Street children who live in urban areas near mines engage in illegal mining, searching for diamonds and other gems, and assisting with other mine-related work. Although Congolese law prohibits the use of children in the mines, in practice, thousands of children, including street children, are engaged in mining activities. Children may be sent down small tunnels to dig for gems. Others work panning gravel and filtering out precious stones. Still other children are involved in weighing, selling, and other activities around gem buying counters.

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<sup>52</sup> Human Rights Watch interview with staff at a street children center, Goma, September 13, 2005.

<sup>53</sup> Human Rights Watch interview with Noah, Goma, September 13, 2005.

<sup>54</sup> Human Rights Watch interview with Nicholas, eleven, Lubumbashi, September 17, 2005.

Several street children we interviewed engaged in mining activities. Two boys living in Mbuji-Mayi told us they often pan through gravel brought in by diamond diggers to look for diamond chips or stones. Another boy, twelve-year-old Matthew, worked for a time with a team of adults, looking for diamonds illegally in a diamond concession in Mbuji-Mayi. Matthew's job was to sift through the collected gravel. He told us, "This work was very tiring. My back hurt from leaning over all day panning for gems. I was afraid all the time of being spotted by guards and killed." One day, militia members in charge of security at the mine discovered the group in the concession and began firing on them. Matthew escaped unharmed, but he lost his mining pan while fleeing for his life, and so has quit mining.<sup>55</sup>

Experiences of street children engaged in prostitution are described below, in the sections on sexual abuse.

### ***Physical Abuse by Adults and Older Street Children***

In addition to abuse by state security forces, older street boys and men physically assault younger street children. Children report beating, kicking, burning, and knifing, among other kinds of physical abuse. Threats and acts of physical violence toward younger street children appear to serve two purposes. The abuse is usually accompanied by theft whereby younger children are obliged to hand over whatever coveted meager possession or money they have. Equally important, however, is the significance of these actions in creating control and establishing a hierarchical order on the street. Groups of street children are generally self-organized by age group with a leader. Each group is part of a larger group that is controlled by a neighborhood leader. Through intimidation, threats, and physical and sexual abuse, these leaders exact loyalty and exert control over younger street children. In most instances, the police and military fail to protect younger street children from abuse by older street boys and men.

Solomon, a street boy living in Goma, explained that in his immediate group there are eleven members who are loosely organized and led by a leader or "chef." According to him, the boys in his group work together, sharing food and resources. Their group makes up a part of a larger group that operates around the Virunga market. Solomon estimates that there are sixty or seventy street boys in this larger group, all led by one adult leader.<sup>56</sup>

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<sup>55</sup> Human Rights Watch interview with Matthew, Chimuna village, September 24, 2005.

<sup>56</sup> Human Rights Watch interview with Solomon, seventeen, Goma, September 14, 2005.

One group of six street boys in Mbuji-Mayi comes together at night to share food and sleep in a group for protection. According to their leader, sixteen-year-old Deo, their group forms part of a much larger group of street kids and adults that numbers in the hundreds. Deo explained that they must follow the orders of older members of the larger group, turning over food or money on demand. He told us that earlier that day, he had worked transporting flour for women in the market and had received 400 Congolese francs (U.S.\$80) from them. But older street boys demanded he give them some money to buy drugs and they stole the entire sum. He described these street “boys” as men in their early twenties, many who have lived on the streets for years. Deo told us that some of them might even be married and have kids of their own, but still operate as leaders of the street kids, demanding money and goods from them, and beating or burning them when they try to refuse.<sup>57</sup>

Ten-year-old Gabriel spent two years on the street before agreeing to live at a street children rehabilitation center in Goma. On the streets he lived with a group of a dozen boys around his own age. They would sleep together at night for protection from civilians and police. This didn’t stop the harassment from older street persons, however: he showed Human Rights Watch researchers scars on his arms and legs where he said older street boys had melted hot plastic onto his flesh.<sup>58</sup> Similarly, Frederic a fifteen-year-old in Lubumbashi who has been living on the streets for nearly five years, told us, “Much worse than police harassment is the abuse from older street kids. There are two men, named Hamisi and Bertrand. They come here in the night when I am sleeping. They put their hands in my pockets to see if I have any money. They never ask, they just help themselves. They are much bigger than I am, so it is difficult to get away. One time, they burnt me because I refused to give them my money. They took me into an alley and melted pieces of hot plastic from plastic bags on my legs.”<sup>59</sup>

### [Photo – DRC 12]

A street boy enjoys a shower at a center for street children in Kinshasa. © 2005 Marcus Bleasdale

Control over street children and the power, prestige, and income that comes with it appears more entrenched in Kinshasa than other cities. Normally, the abuse used by older street children and adults to gain loyalty and obedience is directed at newly arrived street boys and girls who undergo a period of hazing or what has been described as

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<sup>57</sup> Human Rights Watch interview with Deo, Mbuji-Mayi, September 25, 2005.

<sup>58</sup> Human Rights Watch interview with Gabriel, Goma, September 14, 2005.

<sup>59</sup> Human Rights Watch interview with Frederic, Lubumbashi, September 18, 2005.

“baptism.” One fifteen-year-old street boy in Kinshasa, Edward, described his “baptism” as a period of servitude for older street boys. He was made to run errands, buy beer and cigarettes for them, and turn over his money and possessions when asked. On several occasions, he was beaten by older street boys—one time, one of his front teeth was knocked loose. He explained that police and security forces never intervene to protect young street boys.<sup>60</sup> A former street boy named Jacob told us that when living on the street, “older street boys would sometimes bother us; they would beat us or burn us if we didn’t get them money. They would do this so you would submit to the older ones. It is the new boys who get the abuse, those who have just arrived. Leaders do this to train you to follow orders and be respectful to them.”<sup>61</sup>

A former leader of street children in Kinshasa, now in his thirties, described to us how he used to abuse younger street boys, including beating and intimidating the newly-arrived to teach them to respect him and the hierarchy of the street, and getting money from them to buy food, drugs or other items.<sup>62</sup> (For this man’s comments on rape as a method of control, see the section “Sexual Abuse of Street Boys,” below.)

### ***Sexual Abuse of Street Girls***

Girls living on the street may trade sex for money. Many are survivors of rape and sexual assault, sometimes of multiple gang rapes, and so a street girl may also trade sexual favors with several members of her immediate group in exchange for protection from older street boys and men. A study by Mme. Bashizi Mulangala from the Division of Social Affairs in Lubumbashi found that rape and sexual abuse among street girls was ubiquitous: among the fifty street girls she interviewed, all were survivors of rape. Mme. Bashizi found that girls as young as eight were engaging in sexual relations with street boys and men in exchange for money, something to eat, or protection.<sup>63</sup> She told Human Rights Watch that, “This doesn’t offer them complete protection. Many girls are still forcibly raped by older street youth and in some cases, forced to have sex with several at one time. The effects on their physical and mental health are overwhelming.”<sup>64</sup>

Outreach workers who inform street girls of their rights and the availability of shelters for street children described to us a similar situation among girls with whom they work.

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<sup>60</sup> Human Rights Watch interview with Edward, Kinshasa, October 1, 2005.

<sup>61</sup> Human Rights Watch interview with Jacob, sixteen, Kinshasa, October 1, 2005.

<sup>62</sup> Human Rights Watch interview with a former street child leader, Kinshasa, October 1, 2005.

<sup>63</sup> Mme. Bashizi Mulangala, “Les Résultats de l’Enquete sur les Abus et Violence Sexuelles à Lubumbashi,” p. 4 ; Mulangala, “L’Exploitation Sexuelle des Enfants et des Femmes à Lubumbashi, Mythe ou Réalité?” p. 3 ; and Human Rights Watch interview with Mme. Bashizi Mulangala, Lubumbashi, September 16, 2005.

<sup>64</sup> Human Rights Watch interview with Mme. Bashizi Mulangala, Lubumbashi, September 16, 2005.

Staff from the Association Bumi in Lubumbashi told us that nearly every girl they approach on the street has been raped and many engage in sex work. Girls who come to their center are given medical screenings; some test positive for HIV and others are infected with other sexually transmitted diseases (STDs).<sup>65</sup> Staff from the Amani Center concurred. One coordinator said:

All girls who come here from the street have been raped, *without exception* [emphasis added]. We had two cases last year of girls who arrived here and were HIV positive. It takes time, but with counseling, girls will open up and talk about the rape and violence they have endured. Girls who have prostituted themselves for some time find it difficult to adjust to studies and life at our center. Many leave and return to the streets. They are used to the money and attention.<sup>66</sup>

Even in cases of consensual sex, girls reported that they are often not using condoms either because their partners refuse, their use reduces the amount of money they may receive, or they cannot obtain them. This leaves girls at high risk of contracting STDs including HIV. The study conducted by Mme. Mulangala in Lubumbashi found that street girls having sex with street boys or men were indicating as many as five partners a day, without using condoms.<sup>67</sup>

### [Photo – DRC 6]

A street girl warms herself by a fire in the evening. © 2005 Marcus Bleasdale

Fifteen-year-old Amelie left home at age ten when her parents died, and now lives with a group of girls in Lubumbashi, who share food, sleep in a group during the day, and engage in sex work at night. She told Human Rights Watch researchers that she may go with three or four men each night and can make from 1,000 to 2,000 Congolese francs (U.S.\$2 to \$4). The amount of money she receives is conditional on whether condoms are used. She tries to insist that her clients use condoms every time. She told us, “Sometimes men come and take me by force and afterwards, leave me no money. That

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<sup>65</sup> Ibid.

<sup>66</sup> Human Rights Watch interview with a counselor at the Center Amani, Lubumbashi, September 17, 2005.

<sup>67</sup> Mulangala, “Les Résultats de l’Enquête sur les Abus et Violence Sexuelles à Lubumbashi,” p. 4 ; Mulangala, “L’Exploitation Sexuelle des Enfants et des Femmes à Lubumbashi, Mythe ou Réalité?” p. 3.

happens often...I started this work when I was ten years old. It is not a good life. I would rather go somewhere else and study.”<sup>68</sup>

Rose started engaging in sex work at age fifteen. She told us she can make as much as 4,000 Congolese francs (U.S.\$8) in one night. She reported sexual abuse by older men who take advantage of her. “These are men who come in cars, they have sex with you, and then leave you with no money. Other men they come and beat us. They steal our money, pull our hair, or take our clothes. Police and military don’t bother us in the same way. They sometimes offer us protection.”<sup>69</sup>

Marie Noniyabo, who works with an organization for the promotion of women and girls in Mbuji-Mayi, attempts to reconcile street girls with their family members. She told us that street girls having consensual relations with other street boys and men can be the most difficult to reintegrate with their families. She said that many are taken as “wives” by street boys or men on a semi-permanent basis and may even have their children, complicating a return to family life away from the streets.<sup>70</sup> Numerous older street boys we interviewed spoke of their “wives” as girls they slept with occasionally, often in exchange for money. Christopher, who lives on the streets in Kinshasa, said his “wife” also sells her services to other boys and does not “belong” to him permanently. Fifteen-year-old Edward said that although he calls his girl his “wife,” they are not living together and that he sleeps with her only occasionally. Both boys told us they don’t use condoms when having sex with their “wives.”<sup>71</sup>

### ***Sexual Abuse of Street Boys***

Like street girls, street boys are at risk of sexual abuse and many are survivors of rape by older street boys and men. Young street boys and those who have recently arrived on the streets are particularly vulnerable to sexual assault. Some cases of rape of street boys are linked to their hazing period or “baptism” as described above. Many boys are reluctant to speak of sexual violence, a reluctance exacerbated by additional stigma and shame as homosexual relations are considered taboo in the DRC as in many parts of Africa. Nonetheless, a few street boys we spoke with were open about the sexual violence they had endured on the streets. Of those, not one boy had officially reported the rape or sought medical help, in part, they explained, because they were too

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<sup>68</sup> Human Rights Watch interview with Amelie, Lubumbashi, September 18, 2005.

<sup>69</sup> Human Rights Watch interview with Rose, twenty, Lubumbashi, September 18, 2005.

<sup>70</sup> Human Rights Watch interview with Marie Noniyabo of the Conscientisation et Promotion de la Femme et Enfants (COPROFE), Mbuji-Mayi, September 22, 2005.

<sup>71</sup> Human Rights Watch interviews with Christopher and Edward, Kinshasa, October 1, 2005.

embarrassed to report these acts, or felt that the police would do nothing, or worse, would laugh at them.

Eleven-year-old Jim left home after his mother died when he was nine years old. He lived on the streets of Mbuji-Mayi for nearly two years, together with a group of six boys around his age. He spent his time collecting flour that fell from a grinding mill to make fufu (cassava meal) to eat or sell, looking for work, and playing with his friends. At night, they would take their cardboard boxes and sleep in churches and abandoned buildings. Jim told us that older boys would come and anally rape him, taking him as their “wife.”

This happened to me many times. Sometimes we would get promises of food or money if we agreed to do this, but I never got anything. Other times, I would submit to anal sex in exchange for protection or to share sleeping spaces. It was different men or boys at different times, not always the same man. They would never use condoms. When they did this to me, it could hurt a lot and cause me pain. I often took drugs, so I wouldn't think too much about it.<sup>72</sup>

Zachary left home when he was ten years old and spent two years on the streets of Kinshasa, begging and hanging about the Victory roundabout. He told us that at night he would sleep in different places because he feared the older street boys. According to Zachary, these boys would beat them and anally rape him and his friends when they weren't able to run away. He said that the majority of young street boys are survivors of rape and he witnessed many rapes of street boys, some happening to a friend in his presence. Zachary said that the police were not able to protect them from such abuse because it often happened in dark alleys or abandoned buildings. After two years on the street, he moved into a shelter for street children but left soon afterwards because of sexual abuse by older boys in the dormitories.<sup>73</sup>

Counselors who work in centers for former street children told us that they are aware that rape and sexual assault of boys takes place on the street because some boys will discuss the violence with them, and because others continue to sexually abuse younger boys in the shelters where they sleep at night. Staff at a shelter in Goma, and a priest working at a center in Lubumbashi, told us that they occasionally have cases where

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<sup>72</sup> Human Rights Watch interview with Jim, eleven, Mbuji-Mayi, September 23, 2005.

<sup>73</sup> Human Rights Watch interview with Zachary, twelve, Kinshasa, October 1, 2005.

young boys complain of sexual abuse by older boys in the dormitories.<sup>74</sup> A teacher at a center for street boys in Mbuji-Mayi told us that only one in ten boys may talk about sexual abuse on the street, but he believes it to be a widespread problem due to instances in their shelter where, the following day, boys have complained about older boys forcing them to have sex in the evenings.<sup>75</sup> In these cases, counselors separate the boys and talk with them to discourage the abuse.

A former leader of street boys in Kinshasa explained that heterosexual relations between street boys and girls and homosexual relations between street boys are very common. He described sex between street boys and placed their sexual relations in three categories. For him, there are boys who engage in consensual sexual acts with each other. Then, there are boys who engage in sex work—those who exchange sex for money, food, or a place to sleep. He said that the most common form is anal rape of younger street boys by older ones as part of their hazing or “baptism.” He told us, “Those younger ones, they are victims of sexual abuse. I had sex with many of them in the streets. You would go to them at night where they are sleeping, grab them around their neck, pull down their pants and rape them. They would try to struggle but the young ones can’t get away. Plus, many have been taking drugs and are in deep sleep. I don’t do this anymore, but it is done regularly to the boys by older street youth. It is part of the system of “baptism”—to establish control.”<sup>76</sup>

### ***Street Children Used for Political Purposes***

The tens of thousands of children living on the streets are easy targets for manipulation by adults. As described above, for small sums of money or food, children engage in legal and illegal activities, and in many cases are exploited by men and women. Their vulnerable status makes them equally easy fodder for political opportunists who have, in the past, recruited street children to march in demonstrations, intimidate political leaders, and help create public disorder and unrest. In addition, because street children are self-organized in groups and in an established hierarchy, it can be easy to attract a few leaders of street children who can efficiently organize hundreds of children in a short period of time. In some instances, street children, often with nothing to do, are naturally drawn to crowds and demonstrations and may willingly participate. But in many cases street children have been intentionally recruited to swell the ranks of participants in public demonstrations, to the detriment of their health and safety. In the

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<sup>74</sup> Human Rights Watch interviews with staff of the Concert d’Actions pour Jeunes et Enfants Defavorisés (CAJED), Goma, September 13, 2005, and with Father Serge Mwaka, Lubumbashi, September 16, 2005.

<sup>75</sup> Human Rights Watch interview with a teacher at the International Children’s Rights Organisation (BICE), Mbuji-Mayi, September 23, 2005.

<sup>76</sup> Human Rights Watch interview with former street child, Kinshasa, October 1, 2005.

last several years in the DRC, dozens of children have been killed and many more wounded while participating in political rallies, during clashes with police and with those holding opposing political views.

In May and June 2005, government troops and police killed scores of civilians who were protesting the delay of national elections.<sup>77</sup> Among those killed and wounded were street children who had been recruited to participate in the protests. According to MONUC investigators from the child protection section, seven children in Mbuji-Mayi, Tshikapa, and Goma were killed during political activities in those two months; another later died while in detention for his participation. In addition, nineteen children were wounded and scores of street children were arrested and illegally detained following the events.<sup>78</sup> Some of the worst unrest took place in Mbuji-Mayi, an area known for its support to one opposition party, the Union for Democracy and Social Progress (*Union Pour la Démocratie et le Progrès Social*, UPDS). Street children were approached in Mbuji-Mayi by UPDS leaders and recruited, with promises of gifts and future benefits, to march in protest against the extension of the transitional government. In other urban areas, party organizers from different political parties tempted street children with money or other gifts in exchange for their participation in political events.<sup>79</sup>

In comparison with other cities, the vast majority of street children in Lubumbashi and Kinshasa did not participate in planned political rallies around June 30 in part because government authorities had specifically warned them not to get involved. In Lubumbashi, one street boy who spends his time near the post office in the center of town told us that he was approached by UPDS supporters but he refused to work for them. He told us that he had been warned not to protest.<sup>80</sup> An employee in the Division of Social Affairs told us that not only the UPDS but also the party of President Joseph Kabila, the People's Party for Reconstruction and Democracy, (*Parti du Peuple pour la Reconstruction et la Démocratie*, PPRD) had approached street children to participate in their events they were staging, but that the children had heeded officials warnings and avoided the rallies.<sup>81</sup> Similarly in Kinshasa, street children were told not to demonstrate to protest

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<sup>77</sup> Human Rights Watch, "Democratic Republic of Congo - Elections in Sight: 'Don't Rock the Boat'?" *A Human Rights Watch Briefing Paper*, December 15, 2005, [online] <http://www.hrw.org>, p. 11.

<sup>78</sup> MONUC Child Protection Section, "Incidents and Risks of Children's Rights Violations During the Electoral Process," 2005.

<sup>79</sup> *Ibid.*, Human Rights Watch interview, MONUC Human Rights and Children Protection Staff, Mbuji-Mayi, September 22, 2005. See also, MONUC Human Rights Section, "Report on the Events in Mbuji-Mayi, Province of Kasai Oriental," July 2005.

<sup>80</sup> Human Rights Watch interview with William, fifteen, Lubumbashi, September 17, 2005.

<sup>81</sup> Human Rights Watch interview with a staff member of the Division of Social Affairs, Lubumbashi, September 16, 2005.

the extension of the transitional government. Several leaders of street children we interviewed told us that in the days before June 30 they were approached by representatives of the mayor's and governor's offices and asked to keep "their" kids out of political events. They instructed their networks not to become involved, an order they told us their kids obeyed.<sup>82</sup> Instead, many children took shelter in street children centers on June 30 to avoid potential unrest.<sup>83</sup>

Staff at street children's centers in Mbuji-Mayi reported that the police and military had prohibited demonstrations, but that some street children were still recruited and involved in the unrest. They reported several clashes between police and demonstrators in May and June 2005. Following the events, they received street children who were wounded and in need of medical care: some children had been beaten with batons or crushed by crowds attempting to flee, others were wounded when police opened fire on demonstrators to diffuse the crowds.<sup>84</sup> More than thirty children were arrested during the disturbances—some who had participated in the events, others who were caught up in sweeps.<sup>85</sup> One fifteen-year-old girl arrested in late June told Human Rights Watch researchers that she and her three friends were outside the market chatting when police from the special intervention force (*Police d'intervention Rapide*, PIR) arrived and arrested them. Held for several days in the lockup, she was later released after a friend came to the jail and paid 1,000 Congolese francs (U.S.\$2) to the police.<sup>86</sup>

The use of street children in Mbuji-Mayi in events concerning the extension of the transitional government, and their getting caught up in the ensuing violence, was minor compared to events of September 2004. On September 25, 2004, street children were the target of a mass killing campaign led by diamond miners and orchestrated with the help of other civilians. During the slaughter, attackers killed at least twenty street children, some as young as ten years old, burning street children alive and throwing their bodies into the river.<sup>87</sup> Scores of street children were wounded in the attacks, and many were afraid to seek medical attention for fear of further mistreatment. Centers for street children were also targeted and looted by angry mobs, causing children who had taken shelter there to flee once again. In the days that followed, the center of Mbuji-Mayi was

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<sup>82</sup> Human Rights Watch interview with staff of the Association des Jeunes de la Rue pour le Développement (AJRD), Kinshasa, September 30, 2005.

<sup>83</sup> MONUC report, "Incidents and Risks," p. 6.

<sup>84</sup> Human Rights Watch interview with staff at street children's centers, Mbuji-Mayi, September 21-23, 2005.

<sup>85</sup> MONUC report, "Incidents and Risks," p. 4.

<sup>86</sup> Human Rights Watch interview with Nancy, Mbuji-Mayi, September 23, 2005.

<sup>87</sup> "Mbuji-Mayi: The 'Diggers' Impose the Law of the Jungle," Centre d'Etudes et Formation Populaires (CEFOP) press release, September 27, 2004.

described as a ghost town, devoid of the estimated 5,000 street children who had gone into hiding to avoid the killings.<sup>88</sup>

Numerous sources indicate that the massacre in Mbuji-Mayi and the popular uprising against the street children had its roots in past events and the political manipulation of street children.<sup>89</sup> According to one human rights activist, street kids had been organized for some time into two groups: one supporting the former governor and the PPRD, and the other supporting the opposition, UPDS. In May 2003, during a political march in support of the president, street children for and against the march began assembling, security services were brought in, and in dispersing the crowds they killed several street children. Leaders of both groups of street children were reportedly given money, food or material goods to distribute to their respective groups in exchange for their participation.<sup>90</sup>

Following the May 2003 events, a group of street children, allegedly supported by the former governor and the PPRD to counter local UPDS support, became more powerful and began operating more systematically at the market of Bakwa Dianga, collecting money from civilians who were doing business there. This group was led by a former street child, Hubert Kanda, who told Human Rights Watch researchers in an interview, that he had been the “president” and protector of street children at this market.<sup>91</sup> According to government and military officials, the activities of this group of street children and adults throughout 2004 became intolerable: they demanded “taxes” from the population to work and operate in the market, and physically abused men and women. They told us that at the same time the police would not, or could not, control these children and adults who were terrorizing the population, and were referred to as the “red army” (*l’armée rouge*).<sup>92</sup> Emboldened street children identified with this same group began attacking women and girls on their way to the river to gather water, or

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<sup>88</sup> Human Rights Watch interviews, Mbuji-Mayi, September 21-24, 2005.

<sup>89</sup> For a more detailed analysis of the events of September 2004, see: “Rapport de la Commission d’Enquete Sénatoriale sur les Evénements Survenus a Mbuji-Mayi du 20 au 25 Septembre 2004, Enquete Effectuée du 03 au 08 Octobre 2004,” Parliamentarian Report of the Senate of the Democratic Republic of Congo, October 2004; “Rapport: Attaques Perpétrées sur les Enfants et Jeunes de la Rue à Mbuji Mayi du 20 au 25 Septembre 2004,” MONUC, April 2005; “Rapport des Evénements Sanglants qui ont Oppose les Creuseurs aux Enfants du Marche du 17 au 25/09/2004,” Œuvres Sociales Betu Bana, November 2004; and, “Rapport Sur les Massacres des Enfants de la Rue a MbujiMayi du 18 au 27 Septembre 2004,” Training Center for People and Human Rights (TCPHR), September 27, 2004.

<sup>90</sup> Human Rights Watch telephone interview with Charles Mfwamba Mukendi, Mbuji-Mayi, September 30, 2004. See also “MbujiMayi: Des Shagues en Danger d’Extermination par des Elements des Services Speciaux de la Police,” Centre d’Etudes et Formation Populaires (CEFOP) press release, May 2003.

<sup>91</sup> Human Rights Watch interview with Hubert Kanda, Mbuji-Mayi, September 24, 2005.

<sup>92</sup> Human Rights Watch interviews with the president of the Tribunal of Peace, Mbuji-Mayi, September 26, 2005 and with Maj. Mukonko Lemba, Mbuji-Mayi, September 26, 2005.

those coming from the water after bathing. In order to pass, the women were reportedly forced to undress in front of groups of street boys, and in some cases, older boys and men gang raped them.<sup>93</sup>

The situation came to a head following an incident on September 19, 2004, when older street youth attacked diamond miners from Binza quarter in Dibindi commune, and stole their sacks of gravel allegedly containing several large stones of value.<sup>94</sup> The following day the miners came to town, reported the incident to police, and fighting between the miners and some street youths ensued, police being brought in to calm the situation. Several street children were injured as well as one policeman and one miner. On September 21, the diamond miners approached the Bakwa Dianga market and issued a warning to the street children and government authorities: clear the streets of Mbuji-Mayi of street children or they would take matters into their own hands.<sup>95</sup>

According to military reports,<sup>96</sup> on September 23, with no visible movement on the part of the authorities to diffuse the situation, a group of diamond miners, reportedly led by Mukishi aka Chimbole, broadcast a message on a local radio station.<sup>97</sup> They gave the authorities forty-eight hours to react and heed their warning, or the miners would seek out the street children and “finish them.” This message was repeated on several radio and television stations, that night and the following day.<sup>98</sup> The miners reportedly called on all people who had problems with the street children to come together and take action. They told listeners to consider the street children as enemies of the state and to deal with them as decisively as the Tutsis had been hunted in Rwanda.<sup>99</sup> On Saturday September 25, hundreds of diamond miners armed with sticks, batons, rocks, machetes, and gasoline entered town and attacked the street children. An even larger number of other civilians joined in, helping to identify the street children and indicate to the miners where they were hiding. At least twenty and possibly many more children were killed: some had tires thrown around their bodies, gasoline poured on them, and they were burnt alive, their charred corpses then thrown into a nearby river. Scores of other street children were wounded in the attacks and thousands fled the center of town and went

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<sup>93</sup> Human Rights Watch interviews, Mbuji-Mayi, September 24 and 26, 2005.

<sup>94</sup> Human Rights Watch interview with Maj. Mukonko Lemba, Mbuji-Mayi, September 26, 2005.

<sup>95</sup> Human Rights Watch interview, Mbuji-Mayi, September 24, 2006. See also *Œuvres Sociales Betu Bana*, “Rapport des Événements Sanglants.”

<sup>96</sup> Human Rights Watch interview with Maj. Mukonko Lemba, Mbuji-Mayi, September 26, 2005.

<sup>97</sup> Human Rights Watch interviews, Mbuji-Mayi, September, 22-26, 2005. See also MONUC “Rapport: Attaques Perpétrées,” p. 17.

<sup>98</sup> MONUC “Rapport: Attaques Perpétrées,” p. 25; Senate Report “Rapport de la Commission,” p. 16.

<sup>99</sup> Human Rights Watch interview with Maj. Mukonko Lemba, Mbuji-Mayi, September 26, 2005.

into hiding.<sup>100</sup> According to survivors, no distinction was made between older street youths responsible for past abuses of civilians and the general population of street children. Some street boys as young as ten years old were slaughtered. Witnesses also reported that initially the police and military played no role in stopping the killings, and that only later did they break up the crowds and protect children, locking some in jail for their own protection.<sup>101</sup> The leader of the street children of the Bakwa Dianga market, Hubert Kanda, went into hiding following the events and was later taken into police custody, reportedly for his own protection.

Three children we spoke with described their experiences that day. Ten-year-old Daniel was at Bakwa Dianga market the day of the attack, washing clothes for a vendor. He told us that crowds of civilians came into the market swinging clubs and batons and shouting out to attack the children. Daniel was beaten on his back and both his arms were broken. He was left for dead with other bodies, only to be later discovered by the police and brought to a hospital. Daniel bears the scars from the beatings and both his arms are deformed from the injuries he sustained.<sup>102</sup> George sells charcoal in town to make money for food. At the time of the September 2004 events, he was ten years old and working at the market, selling charcoal with a friend. He said, “All of a sudden, we saw a group coming at us with machetes, knives and batons. The mamas of the market cried out, ‘They are here, there is one, right there.’ My friend was stabbed with a knife and I was later told that he died. Myself, I was able to flee and was saved by a businessman who took pity and hid me from the attackers.”<sup>103</sup> On the day of the attack, Rachel was with her friend on the way to the market. Surprised by a crowd carrying rocks and sticks, her friend was identified as a street kid, undressed and badly beaten. Rachel was able to flee to safety.<sup>104</sup>

### [Photo – DRC 3]

Street children gather pieces of charcoal that have fallen at distribution sites to later re-sell and earn money to eat. © 2005 Marcus Bleasdale

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<sup>100</sup> Human Rights Watch interview, September 25-27, 2005.

<sup>101</sup> Ibid.

<sup>102</sup> Human Rights Watch interview with Daniel, Mbuji-Mayi, September 23, 2005.

<sup>103</sup> Human Rights Watch interview with George, eleven, Mbuji-Mayi, September 24, 2005.

<sup>104</sup> Human Rights Watch interview with Rachel, fifteen, Mbuji-Mayi, September 23, 2005.

In the weeks and months following the events, government bodies, U.N. agencies, and Congolese NGOs investigated the events and published reports of their findings. The government arrested and prosecuted five diamond miners who had participated in the massacre. In April 2005 they were each sentenced to five years in prison.<sup>105</sup> On appeal, two of the accused were acquitted and the others were given reduced sentences. Dissatisfied with the outcome of the appeal, the public prosecutor told us in September 2005 that he has appealed the case to the Supreme Court in Kinshasa. He said that the convicted men were not the ringleaders, but had been identified through a film taken by a local news channel. When questioned by Human Rights Watch on why the leaders of the miners, including Mukishi, were not tried, he responded that a file was opened on them, but their whereabouts were unknown. When asked about the role of the media in inciting the population, he replied that their actions were still under investigation.<sup>106</sup> When we asked the prosecutor about the detention of the street kid leader, Kanda, he told us that he was unaware under whose orders he was being detained and knew of no charges against him.<sup>107</sup> The commandant Major Israel at police headquarters told Human Rights Watch that the decision to protect Kanda had been taken by the provincial committee of security and that questions about his detention should be directed to the Minister of Interior in Kinshasa.<sup>108</sup> When we interviewed Kanda in September 2005 he told us that he had been held at the communal lockup without charge since 2004 and was waiting for transfer to another city.<sup>109</sup>

Since the events of September 2004, government officials, the police and NGOs have met regularly in Mbuji-Mayi to address issues around street children and try to avoid future killings. We interviewed a group of them, amongst whom several recognized that more needs to be done to prevent children from ending up on the streets. A nurse who works with street children summed up the killings of September:

What people have failed to identify and address is that the pitiful state of workers, and particularly diamond miners, is one reason there are so many street children in Mbuji-Mayi. They are largely uneducated men. They drink and take drugs. They don't receive a steady income, many have several "wives" and numerous children they can't, or won't, care for. They are often away for weeks at a time, leaving the burden of the

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<sup>105</sup> "Sentences of Only 5-Years for Killing Street Children," Missionary Service News Agency (MISNA), April 15, 2005.

<sup>106</sup> Human Rights Watch interview with the Procureur de la République, Mbuji-Mayi, September 24, 2005.

<sup>107</sup> Ibid.

<sup>108</sup> Human Rights Watch interview with Commandant Major Israel, Mbuji-Mayi, September 27, 2005.

<sup>109</sup> Human Rights Watch interview, police lockup at Chacaca quarter, September 24, 2005.

family on their wives who can be victims of physical abuse. The deplorable family life is what drives many of these children to the streets. These street children did not drop from the sky, they are our children. In some ways the killing of the street kids by the miners is comparable to parents killing their own children. The events leading up to and including the slaughter was just one desperate group preying on the other.<sup>110</sup>

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<sup>110</sup> Human Rights Watch interview with a nurse at a street children's center, Mbuji-Mayi, September 26, 2005.

## **VI. Factors Pushing Children into the Streets**

An ever increasing number of children live and work in the streets of the DRC. Although exact numbers are unknown, child protection activists estimate that the number of street children in Kinshasa and other urban areas has doubled in the last ten years. They have identified multiple and sometimes inter-related causes to explain the increase. The two successive civil wars, one that began in 1996, the other in 1998, left more than 3.5 million Congolese civilians dead and has devastated the country. Some children living on the streets lost parents in the war—either directly in the conflict or due to hunger or disease—or were separated from them while fleeing violence, particularly in the war-ravaged east of the country. Entrenched poverty made worse due to the fighting has taken an equally heavy toll on Congolese families. Unable to feed their children, much less pay for their education, some parents send their children out into the streets to beg or look for work, or parents abandon their children when, faced with unemployment, they leave their homes in search of work in other regions or countries. Men and women who become single parents due to divorce, separation, or the death of a spouse often increase the vulnerability of their children to violence and abandonment when they re-marry. In many cases, a recently wedded second wife or husband does not want to care for children from a previous marriage, and the children are neglected or sent away. In the past, children not cared for by their parents would be taken in by extended family members. But some families, already struggling to care for their own children, are unwilling or unable to take on the additional burden of more children.

### ***Violence in the Home***

Street children we interviewed gave graphic descriptions of physical abuse at home, in some cases so severe that they had left because of it. Stepmothers or stepfathers were often the perpetrators of the abuse, giving differing treatment (including harsh punishment) to children from former marriages as compared to their own biological children. In interviews in Lubumbashi and Mbuji-Mayi, judges told us that physical abuse of children in the home is common in many Congolese families, but cases of child abuse and neglect rarely enter the court system. They reported that under Congolese law, a parent can be charged and judged responsible if a child is severely beaten but neither parents nor children generally report the abuse to the police. Rather, neighbors or extended family members will try to intervene to settle family disturbances. Emphasis in

most family disputes is placed on reconciliation not retribution, in part because the state has no facilities to take children who are abused or abandoned into care.<sup>111</sup>

Jacques was eight years old when his parents divorced. He lived with his father in Lubumbashi after his mother left for Kinshasa. Soon after the divorce, his father remarried a woman who had several children from a previous marriage. He told us that not long after moving in with the family, his stepmother began giving him more and more work to do around the home. He was responsible for washing all the clothes and fetching water, while her own children were exempt from domestic chores. He said that she would often hit him and in some cases whipped him when his father was not around, telling him he was not wanted in their home. Although he complained to his father, the situation did not improve. Jacques left home because of the abuse when he was ten years old.<sup>112</sup>

Fifteen-year-old Aaron was born and grew up in Limete commune in Kinshasa. His mother died of complications from AIDS in 1999, and soon after her death his father remarried. He told us that his stepmother mistreated him from the very beginning, favoring her own children from her first marriage. She gave him less food than her own children, and when they watched television he was made to leave the room. She beat him for the smallest infraction, sometimes with her hands, sometimes with the handle of a broom, and one time, she slammed his hands in a door. Aaron complained to his father, but he was often not at home. His father eventually became sick, was hospitalized, and later died, presumably also from AIDS. During the time of his father's illness, his stepmother blamed Aaron for the sickness and made him sleep outside the house. After his funeral, she chased him from their home.<sup>113</sup>

### [Photo – DRC 15]

Street boys playing at a center for children in Kinshasa. © 2005 Marcus Bleasdale

Isaac lost his father during the war and his mother remarried after moving the family to Goma in the late 1990s. Using the term “uncle” to refer to his stepfather, he said:

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<sup>111</sup> Human Rights Watch interviews with the president of the Tribunal of Peace, Lubumbashi, September 19, 2005, and with the president of the Tribunal of Peace, Mbuji-Mayi, September 26, 2005.

<sup>112</sup> Human Rights Watch interview with Jacques, twelve, Lubumbashi, September 18, 2005.

<sup>113</sup> Human Rights Watch interview with Aaron, Kinshasa, October 1, 2005.

My uncle never accepted me in their home. He would pick on me in front of the other children and say terrible things about my father. He refused to pay my school fees and instead would lock me in the house during the day when the other kids were at school. He would buy clothes and shoes for the other children, but never for me. When the abuse became too much, I finally decided to leave.<sup>114</sup>

### ***Children Accused of Sorcery***

Related to the increase in the number of children on the streets are accusations that children, through sorcery, are responsible for the various economic and social problems that plague families. Accused children throughout the DRC, but particularly in Kinshasa and Mbuji-Mayi, can be physically and verbally abused, neglected, and sometimes abandoned by their families. Individuals who work with children in Kinshasa estimate that as many as 70 percent of street children had been accused of sorcery in their homes before coming to live on the streets. One activist who advocates for assistance and protection of street children told us that there is no bigger factor in pushing children on to the streets today than accusations of sorcery.<sup>115</sup>

It is rare that children who live with both biological parents are accused of sorcery. In interviews we conducted with accused children, every one of them had lost one or both parents and had been living with extended family members who were facing extremely difficult economic problems. A Roman Catholic priest who shelters street children in Kinshasa conducted a survey of 630 children accused of sorcery in 2004. Of that number, only seventeen had both parents living.<sup>116</sup> Children in the DRC who have lost one or both parents are traditionally taken into the care of stepmothers or stepfathers, grandparents, uncles and aunts, or older siblings. But numerous organizations that work with children told us that this tradition was being undermined as a growing number of families were being expected to care for their relatives' children while at the same time facing increasing economic difficulties themselves. They told us that some families were simply unable to cope with the care of their relatives' children, but stressed that sending children to the streets would be culturally unacceptable.

Accusations of sorcery, particularly by a religious leader, however, provided an excuse for guardians to chase children from their homes. The same Roman Catholic priest who conducted the survey of accused child sorcerers in Kinshasa told us, "I believe that for

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<sup>114</sup> Human Rights Watch interview with Isaac, fourteen, Goma, September 13, 2005.

<sup>115</sup> Human Rights Watch interview with Remy Mafu Sasa, Kinshasa, September 28, 2005.

<sup>116</sup> Human Rights Watch interview with Pere Zibi, ORPER center, Kinshasa, September 29, 2005.

the most part, parents or guardians do not necessarily believe it is sorcery. They are just looking for a reason to get rid of the kids, the extra mouths they can't feed. The children are the victims of larger social problems and the breakdown of the family."<sup>117</sup>

Accusations of witchcraft and belief in the ability to cause harm to others through sorcery have existed in the DRC since before colonial rule, according to numerous Congolese we interviewed who are familiar with child sorcery cases. They reported that the major difference today is the age of the accused, and the number and location of the accusations. In the past, it was usually a widow or a woman who had remained single, not children, who were accused of sorcery. Accusations were usually made against rural women, who were made to live in relative isolation often at the edge of a village for fear that they would harm others. In the last fifteen years, however, children living in urban areas have become the primary targets of witchcraft allegations. Each week in the DRC, hundreds of children are accused of sorcery and endure abuse at the hands of their accusers—normally extended family members but, increasingly, self-proclaimed prophets or pastors as well.

In tandem with the increasing number of children accused of sorcery has been the creation of churches that specialize in the exorcism of evil spirits from the “possessed.” These *églises de réveil* or churches of revival combine prayers, fasting and abuse in “deliverance” ceremonies to rid children of “possession.” Approximately 2,000 churches perform “deliverance” ceremonies in Mbuji-Mayi and an even larger number operate in Kinshasa.<sup>118</sup> Some of these churches and their leaders have attracted large followings and have become lucrative businesses. Although the deliverance ceremonies are reportedly performed for free, in reality, parents or guardians are strongly “encouraged” to make a financial donation or give a gift to the church in exchange for deliverance of a child. In addition, deliverance ceremonies are a way to attract new church members who may become regular contributors at Sunday services.<sup>119</sup>

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<sup>117</sup> Ibid.

<sup>118</sup> Human Rights Watch interview with Jean Valea, Save the Children-UK, Mbuji-Mayi, September 22, 2005.

<sup>119</sup> For more information on street children and accusations of child sorcery, see: Javier Aguilar Molina, *The Invention of Child Witches in the Democratic Republic of Congo Social Cleansing, Religious Commerce and the Difficulties of Being a Parent in an Urban Culture*, Summary of the research and experiences of Save the Children's 2003-2005 programme funded by USAID, 2006; and Filip de Boeck, “On Being Shege in Kinshasa: Children, the Occult, and the Street,” in Theodore Trefon ed. *Reinventing Order in the Congo. How People Respond to State Failure in Kinshasa* (London and New York: Zed Books, 2004), pp. 155-173.

## [Photo – DRC 9]

Thousands of children in the DRC undergo “deliverance ceremonies” to rid them of “possession.”

© 2005 Marcus Bleasdale

### *Abuses in the home related to sorcery accusations*

Children can be accused of sorcery for any number of reasons. The loss of a job, an illness or death in the family, or marital difficulties can lead parents or guardians to look to their children as the cause. Perceived “unusual” behavior in children, such as bed wetting, aggressive behavior, sleep walking, nightmares, or simply sharing food with neighboring children, can trigger sorcery accusations. Children who suffer from epilepsy, chronic illness, or mental illness can also be fingered. Once a child has been identified as a sorcerer, then he or she receives different treatment from other children in the family. They are sometimes made to eat their meals alone or sleep separately from the rest of the family. They can have food withheld or be given the least and last. They may be pulled out of school, made to do disproportionate amounts of domestic work, or be forced to work on the streets to earn their keep. Children accused of sorcery report particularly brutal behavior at the hands of their parents or guardians. They are beaten, whipped, or slapped in an attempt to rid them of the “possession” or to coerce them to confess to being a sorcerer. They are insulted, called derogatory names and made to feel less than human. Street children we interviewed about sorcery accusations expressed confusion and frustration about the accusations and the abusive treatment they received. Many expressed great sadness about the abuse by family members, and fear to return to their homes should reunification be possible.

Eleven-year-old Michael began living on the streets three years ago after he was forced from his home by his stepmother. Soon after he began living with his stepmother, she accused him of sorcery. He was forced to eat separately from the other children in the family and given smaller portions of food. He was not allowed to sit near his half-siblings and slept in a corner of the kitchen by himself. Michael told us that his stepmother insisted that this was necessary so he wouldn’t transmit the sorcery to his brothers and sisters. On several occasions he was beaten at night by his stepmother with the handle of a shovel on his hands and back so that he would confess to being “possessed.” He was told to leave home unless he turned over the physical items he used in conducting sorcery. Not knowing what to do, and of course not having such items, he left home when he was eight years old.<sup>120</sup>

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<sup>120</sup> Human Rights Watch interview with Michael, Mbuji-Mayi, September 23, 2005.

Aubrey was twelve years old when he fled his home to escape abuse. After his parents died, he went to live with his older brother, his brother's wife, and their children. He told us that his sister-in-law accused him of being responsible for the death of their youngest son, who died soon after his birth. She began treating Aubrey badly, not giving him the same amount of food as her own children. If he complained, she would slap him or beat him with the handle of a broom. She insulted him, calling him a sorcerer and a murderer. After she had convinced his brother that Aubrey was responsible for the death of their baby boy, Aubrey fled the house and began his life on the streets.<sup>121</sup>

We interviewed ten-year-old Albert at a center for vulnerable children supported by the Catholic Church. His mother died of tuberculosis and after her funeral he went to live with his father and his father's second wife and children. According to Albert:

After my father left home on business, this is when the problem started. My half-brother, who lived with us, accused me of stealing food and practicing sorcery. We never had enough to eat, sometimes we ate only once a day and I was given less than the others. This is because my half-brother was the only one making money. He made sure that the others got food and clothes and I did not. He said I was a sorcerer and should leave. He would beat me with a large spoon that the mother would use to make fufu (cassava meal) to get me to leave.... I began spending more and more time away from the house at the compound of a church nearby. My brother found me there one day and beat me severely with his fists, telling me to leave the neighborhood. The pastor there told my brother to stop the beating, but seemed to believe him that I was a sorcerer and made me leave the church. I had no choice but to go to the streets.<sup>122</sup>

### ***Abuses in churches***

Parents or guardians who accuse children of witchcraft may send the child to a church for deliverance ceremonies organized by pastors or prophets. In the last fifteen years, self-proclaimed pastors and prophets have established numerous "churches of revival"<sup>123</sup> that specialize in the deliverance of children from alleged possession. Many of these churches combine traditional Congolese beliefs and rituals with elements of Christianity.

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<sup>121</sup> Human Rights Watch interview with Aubrey, fourteen, Kinshasa, September 30, 2005.

<sup>122</sup> Human Rights Watch interview with Albert, Mbuji-Mayi, September 23, 2005.

<sup>123</sup> According to a group of pastors we interviewed, the majority of deliverance ceremonies take place in churches of revival (*églises de réveil*); other exorcism ceremonies are conducted in churches of black magic (*églises de noir*), churches of healing (*églises de guerir*), or Christian churches.

The ceremonies that pastors perform range from simple prayers and singing to holding the children for several days at the churches, denying them food and water, and whipping or beating confessions out of them. Save the Children/UK has been active in attempting to change the behavior of the worst of these pastors. According to a Save the Children/UK project manager in Mbuji-Mayi, the most abusive pastors withhold food and water from children, whip or burn them to coerce their confessions, or pour salt water in their anuses or down their throats to purge the “evil” from their bodies.<sup>124</sup> An organized group of pastors in Kinshasa which, through peer outreach, tries to change the behavior of abusive pastors confirmed these accusations. They additionally reported that sometimes children are tied up during their confinement at the churches and that in a few cases boys and girls have been sexually assaulted by members affiliated with the churches while in confinement.<sup>125</sup>

We interviewed several children who had undergone particularly brutal deliverance ceremonies. Twelve-year-old Brian never knew his real father but was accused by his stepfather of sorcery soon after his mother remarried. He told us that the accusations began the night after he wet his bed. In the following days his stepfather beat him, called him names, and later took him to a church for deliverance. Brian was not kept at the church at night, but had to come each day during a four-day period. He told us, “We were not allowed to eat or drink for three days [either at church or at home]. On the fourth day, the prophet held our hands over a candle, to get us to confess.” When it was Brian’s turn, he was told that he would be whipped if he didn’t confess. Weak from thirst and hunger, he admitted that he was a sorcerer so that he could leave the church.<sup>126</sup>

**[Photo – DRC 11]**

Pastors or prophets who perform deliverance ceremonies blend elements of Christianity with Congolese traditions and rituals. © 2005 Marcus Bleasdale

Malachi was only nine when he and his brother were brought by his stepfather to a deliverance ceremony. He told us that his stepfather brutally beat him and his brother in front of the pastor at the church. The pastor then agreed that Malachi and his brother were “possessed” and needed deliverance. Malachi told us only that his brother went through the painful ceremony, but refused to describe to us what had happened.<sup>127</sup>

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<sup>124</sup> Human Rights Watch interview with Jean Valea, Save the Children/UK, Mbuji-Mayi, September 22, 2005.

<sup>125</sup> Human Rights Watch interview with Reverend Gode and other pastors, Kinshasa, October 3, 2005.

<sup>126</sup> Human Rights Watch interview with Brian, Kinshasa, September 30, 2005.

<sup>127</sup> Human Rights Watch interview with Malachi, eleven, Kinshasa, October 1, 2005.

Many of the children we talked with were unable to identify which church or pastor had performed the deliverance ceremony. One boy in Mbuji-Mayi, however, told us that his stepmother had brought him and his little brother to Prophet Kabuni Wa Lesa at the Charismatic Evangelical Center. The two boys were held for three days at the church and given no food or water, but were not otherwise physically abused. On the third day they were given some murky water, at which point his little brother began vomiting. His little brother's expulsion of the water reportedly led the prophet to identify him as the source of sorcery in the family.<sup>128</sup>

In an interview with Human Rights Watch, Prophet Kabuni told us that the vast majority of his clients at the deliverance ceremonies were children. He said that he was well known in the community as a successful diviner of sorcery, and that because of his reputation he had scores of children brought to him each week. He told us that it was necessary to withhold food and water from everyone undergoing deliverance ceremonies to decrease the evil power that held those who were possessed. When questioned about the practice and the harm this could cause a child, he replied that there had never been a death at his church and that they do not withhold food and water from young children—defined by him as less than four years old.<sup>129</sup>

### *After the accusations*

Some children who undergo these ceremonies are reunified with their family members who believe that the spirits have been exorcised. Some families, though, appear unconvinced that the ceremony was successful. They may accept the child initially and wait to see whether another perceived evil occurs and if so, throw the child out. In other cases, children returning from the churches are immediately made to leave the home, whether or not the ceremony was deemed successful by the pastors.

According to a Roman Catholic priest working with street children in Kinshasa, many pastors who perform these ceremonies are most concerned with the wishes of the adults who bring the child in for deliverance. If they appear not to want the child to return, then the pastor may advise the parent or guardian not to take the child back, or may suggest the boy or girl may need to return to the church for further consultations.<sup>130</sup> A prophet who “delivers” children in Kinshasa, confirmed that one challenge was reunifying children with their families after performing a ceremony. He told us, “Our

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<sup>128</sup> Human Rights Watch interview with Francis, nine, Mbuji-Mayi, September 25, 2005.

<sup>129</sup> Human Rights Watch interview with Kabuni Wa Lesa, Charismatic Evangelical Center, Mbuji-Mayi, September 27, 2005.

<sup>130</sup> Human Rights Watch interview with a priest, Kinshasa, September 29, 2005.

biggest problem is that children come here, we do the service, but then the parents do not want the children back. This is especially true in cases where the child has ‘eaten’<sup>131</sup> someone in the family. We try to convince the parents where we can.”<sup>132</sup>

Twelve-year-old Brian, who was abused during a deliverance ceremony, told us:

After I confessed to being a sorcerer, I didn’t have to go back to the church. But things at home got worse. My stepfather never believed that the prophet was successful. He would beat me when he saw me. Even my mother began to believe I was a sorcerer. One time when I was sleeping, she poured petrol into my ears.<sup>133</sup> Another time, she brought me to a section of town I didn’t know and abandoned me there. I eventually found my way home but was not welcomed into the house. I decided at that point it was better to live on the streets.<sup>134</sup>

### [Photo – DRC 10]

Small children at a deliverance ceremony. During the ceremony, children’s eyes and ears are blocked to disrupt the transmission of “sorcery.” © 2005 Marcus Bleasdale

Activists who try to reunify street children with their families identified cases of children accused of sorcery as being the most difficult and least likely to succeed. Guardians or family members often refuse to listen to social workers or accept a child back once he or she has left the home. For these activists, the general failure to reunify children accused of sorcery makes successful prevention all the more important, but they told us that despite the efforts of some nongovernmental organizations, the government was doing very little to deter the abuse.

The police, judicial investigators and government officials rarely intervene in cases of child sorcery accusations and physical abuse in homes or in churches. Police personnel we interviewed claimed that cases of physical abuse were not generally brought to their

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<sup>131</sup> Children or adults who are blamed for the death of another person were often described as having “eaten” them, apparently referring to their soul.

<sup>132</sup> Human Rights Watch interview with Prophet Bisombolo, Eglise Viaka, Kinshasa, October 3, 2005.

<sup>133</sup> Children who have undergone “deliverance” ceremonies, pastors who perform them, and child welfare activists, all told us that blocking or covering the eyes and ears of a child is an integral part of deliverance ceremonies. It reportedly interrupts visual or audio communication from “evil spirits” and helps the message from the deliverer to be received.

<sup>134</sup> Human Rights Watch interview with Brian, Kinshasa, September 30, 2005.

attention since it was children who would have to make the accusations.<sup>135</sup> Judges in the Courts of Peace in Mbuji-Mayi and Lubumbashi were aware of only a few cases of parents or guardians charged with physical abuse, and none related to accusations of sorcery.<sup>136</sup> For abusive pastors and prophets, little has been done to curb their practices. In Mbuji-Mayi, Congolese human rights organizations, judicial personnel, and the police themselves knew of no case where a pastor or church had been investigated for abusing children. In Kinshasa in 2004, the then Minister of Social Affairs, at the insistence of children's rights groups, reportedly led an investigation into a case where church leaders were abusing children. The pastor was arrested and the church temporarily closed, but the pastor was never brought to justice.<sup>137</sup> Officials in both the Ministries of Justice and Social Affairs agreed that more needed to be done to curb abusive practices by both parents and pastors, particularly because such abuse is expressly prohibited and punishable by law under the new constitution.<sup>138</sup>

## **HIV/AIDS**

The ongoing HIV/AIDS epidemic is increasing both the number of children who are orphaned, and the accusations of child sorcery. The estimated national HIV/AIDS prevalence rate is 4.2 percent in the DRC, lower than many countries in eastern and southern Africa, yet some one million Congolese children have been orphaned by the epidemic.<sup>139</sup> Orphaned children are often taken in by extended family members who may not be able to properly care for them. These children are less likely to go to school, more likely to be working in the streets to support their families, and face other considerable disadvantages in comparison with other children.<sup>140</sup> Additionally, stigma, discrimination against people living with or affected by AIDS, and misinformation about the disease are widespread in the DRC.

Many Congolese appear to believe that HIV/AIDS can be spread through sorcery. In the worst instances we documented, family members blamed surviving children for

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<sup>135</sup> Human Rights Watch interviews with police, Goma, September 14, 2005, and Mbuji-Mayi, September 27, 2005.

<sup>136</sup> Human Rights Watch interviews, Lubumbashi, September 19, 2005, and Mbuji-Mayi, September 26, 2005.

<sup>137</sup> Human Rights Watch interview with officials in the Ministry of Justice, Kinshasa, September 30, 2005.

<sup>138</sup> Article 41 of the Constitution of the Democratic Republic of Congo, 2005. Article 41 states that, "the abandonment and mistreatment of children especially pedophilia, sexual abuse as well as accusations of sorcery are prohibited and punishable by law."

<sup>139</sup> Joint United Nations Programme on HIV/AIDS (UNAIDS) and World Health Organization (WHO), *Epidemiological Fact Sheets on HIV/AIDS and Sexually Transmitted Infections: Democratic Republic of Congo (2004 Update)*, p. 2.

<sup>140</sup> Human Rights Watch, "Letting Them Fail: Government Neglect and the Right to Education for Children Affected by AIDS," *A Human Rights Watch Report*, vol. 17, no. 13(A), October 2005, [online], [www.hrw.org](http://www.hrw.org).

causing the death of their parents from AIDS through sorcery. For example, fifteen-year-old Timothy, whose parents both died of complications related to AIDS in 1995, has been living in an orphanage for almost ten years. Following his parent's deaths, he briefly lived with his older brothers and sisters, but they accused him of sorcery, transmitting the virus to his parents, and "eating" them. He was shunned by his siblings, made to stay outside of their home, and not given proper care. A neighbor who noticed his wretched state eventually intervened and placed him in an orphanage.<sup>141</sup>

Many pastors and prophets who specialize in child "deliverance" reinforce the message that children can transmit the virus to family members through sorcery. They may explain to parents or guardians that a child is responsible for spreading the disease to a family member through witchcraft in an effort to convince them to allow the child to undergo deliverance at the church. When questioned about HIV/AIDS, a prophet in Mbuji-Mayi told us, "Child sorcerers have the power to transmit any disease, including AIDS, to their family members. AIDS is a mysterious disease that is used as a weapon by those who practice witchcraft."<sup>142</sup> HIV/AIDS awareness and prevention campaigns stressing ABC (Abstinence, Be faithful, and use Condoms) have to date failed to refute the idea that HIV can be transmitted through sorcery, and have done nothing to address the abuses experienced by children or to reduce their vulnerability.<sup>143</sup>

The director of the Youth Movement for Excellence, a Kinshasa-based organization that cares for street children and widows, told us that nearly half of the children they care for are affected by HIV/AIDS. Many of those children have been accused of sorcery and held responsible for the deaths of their parents or siblings due to complications from HIV/AIDS. Accused children can be physically and emotionally abused by their caregivers and are either forced from their homes or leave the house on their own because of the abuse.<sup>144</sup>

Worse off still are children who are themselves HIV positive and are made to believe they are responsible for their illness and for the deaths of family members. We interviewed one boy and one girl, both infected with HIV, who, in place of care and treatment, were physically abused by their family members, accused of being sorcerers, and thrown out of their homes. One twelve-year-old boy who has been living with HIV for over a year said that because he was often sick, his paternal uncle accused him of being a sorcerer and held him responsible for the death of his parents who had died of

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<sup>141</sup> Human Rights Watch interview with Timothy, Kinshasa, October 1, 2005.

<sup>142</sup> Human Rights Watch interview with Pastor Kabuni Wa Lesa, Mbuji-Mayi, September 27, 2005.

<sup>143</sup> Human Rights Watch interview, Kinshasa, September 29-30, 2005.

<sup>144</sup> Human Rights Watch interview with John Lisumba, Kinshasa, September 29, 2005.

AIDS. His food and care were withheld and he was forced from his home. A social worker familiar with the case told us that in discussions with family members, the paternal uncle told him that he had refused to accept that his nephew was HIV positive, and instead insisted that he was possessed, which for him explained the boy's illness. The uncle told the social worker that the boy had put a spell on the parents which caused their sickness and eventual death, and that he believed that if he agreed to take the boy back, a similar fate awaited other family members.<sup>145</sup>

### **[Photo – DRC 14]**

A street boy sleeping in a shelter in Kinshasa. © 2005 Marcus Bleasdale

Some children orphaned by AIDS and later accused by family members of sorcery are also victims of disinheritance and property grabbing by their relatives. Several children orphaned by AIDS and later accused of sorcery by their aunts or uncles told us that soon after the property of their deceased parents had been divided or sold, they were accused of sorcery and abused. Paul, an orphan living on the streets of Kinshasa, said that when his parent's died from complications due to AIDS, his paternal uncle sold his parents' house and refused to care for him and his siblings. His uncle accused them of sorcery, refused to properly feed and clothe them or pay for their schooling, and kept the money from the sale of the property as well as other valuables that belonged to their parents.<sup>146</sup> Twelve-year-old Simon told us that his father had several parcels of land that he rented out for use by other farmers. When his father died from AIDS, his uncles divided up the land and sold it. Like Paul, Simon was accused of sorcery and thrown out of an uncle's house where he had been living after the death of his parents.<sup>147</sup> An official in the Division of Social Affairs in Kinshasa has observed a link between cases of children orphaned by AIDS, accusations of sorcery by relatives, and property grabbing of these children's parents' valuables. She told us that even though children under Congolese law are able to inherit their parents' property, very few children know this right or are able to effectively challenge family members in court.<sup>148</sup>

### **Education**

Numerous officials and children we interviewed for this report stressed that the inability of parents or guardians to pay school fees and other related costs of primary education

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<sup>145</sup> Human Rights Watch interview with a social worker, Mbuji-Mayi, September 23, 2005.

<sup>146</sup> Human Rights Watch interview with Paul, twelve, Kinshasa, September 30, 2005.

<sup>147</sup> Human Rights Watch interview with Simon, Mbuji-Mayi, September 23, 2005.

<sup>148</sup> Human Rights Watch interview with official in the Division of Social Affairs, Kinshasa, September 29, 2005.

was one reason that children began spending time in the streets. The Minister of Social Affairs, M. Laurent Otete Omanga, told us that, “Many parents can not pay for their children’s education. These children stay at home with nothing to do and soon go out on the streets looking for work or amusement. They can easily be exploited by adults who pay them very little, often for very hard work. Or, they begin to associate with children who have lived on the streets for some time. They may begin drinking alcohol, using drugs and committing crimes. Once they are used to life on the streets, they leave home and join criminal street gangs.”<sup>149</sup>

Like many of the street children we interviewed, Peter, in Lubumbashi, told us that once he dropped out of school, he began exploring life on the streets. “I had to leave school after I finished the third grade. My parents could no longer afford the fees, so I started coming to the streets to look for something to do. Life here on the streets is hard, there is never enough to eat and I am hungry. I would like to return to school and continue my studies.”<sup>150</sup> Similarly another street boy, Benjamin, in Kinshasa, told us that after his mother died, his father stopped paying for his schooling. He only finished his fourth year of primary school. With nothing else to do, he began working on the streets, selling matches and water.<sup>151</sup>

A children’s rights activist in Mbuji-Mayi who has done research on abusive forms of child labor around mining activities believes that lack of schooling for many Congolese children is what drives them into child labor and eventually onto the streets. He told us that many parents and guardians in the country are unable to afford the prohibitively high cost of schooling. In the DRC, a parent or guardian must pay several dollars a month to send a child to primary school and also supply a uniform and school materials—costs beyond the means of many families who survive on one meal a day. For this activist, the inability of adults to pay for school leads their children to begin working at young ages in activities around the mines. He explained that as some children begin to receive small amounts of money for their labor, they may not want to share it with their family members. As they begin spending more and more time away from home, they become habituated to the street and can become full-time street children.<sup>152</sup>

Albert is an orphan living on the streets of Mbuji-Mayi. He told us that upon the death of his parents he moved in with his older sister and her husband. He said that his brother-in-law was abusive, would beat him, and refused to pay for his schooling. He

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<sup>149</sup> Human Rights Watch interview with the Minister of Social Affairs, Kinshasa, September 29, 2005.

<sup>150</sup> Human Rights Watch interview with Peter, fifteen, Lubumbashi, September 16, 2005.

<sup>151</sup> Human Rights Watch interview with Benjamin, seventeen, Kinshasa, October 1, 2005.

<sup>152</sup> Human Rights Watch interview with M. Chimanga, Mbuji-Mayi, September 22, 2005.

decided to seek work in the mines to bring in income for the family. During several months of working and sharing his meager salary with his family the abuse by his brother-in-law continued. He finally decided that he would manage on his own and began living on the streets outside of town.<sup>153</sup>

After years of warfare, economic decline, and limited to nonexistent state services, providing education for Congolese children, much less free primary education, remains a serious challenge for the government. Nevertheless, it must be recognized that the lack of educational opportunities for children in the DRC drives thousands of children into child labor each year, including hazardous and illegal child labor, and for some children, into the streets. The new constitution, adopted by the National Assembly in 2005 and overwhelmingly approved by voters in 2006, makes clear in article 42 that primary education must be obligatory and free in public schools.<sup>154</sup> The government, therefore, should make every effort to provide education to the maximum number of children possible and create a national strategy to progressively reduce and eliminate school fees and related costs of education that prevent poor children from going to school.

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<sup>153</sup> Human Rights Watch interview with Albert, twelve, Chimuna village, September 24, 2005.

<sup>154</sup> Article 42 of the Constitution of the Democratic Republic of Congo, 2005.

## VII. International Standards

### Overview

The Democratic Republic of Congo has ratified the principal international treaties that protect the basic and fundamental human rights of children: the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the U.N. Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (Convention against Torture), and the U.N. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which has particular relevance for the rights of girls in the DRC.<sup>155</sup> The DRC is also a party to the regional African [Banjul] Charter on Human and People's Rights which protects fundamental civil, political, economic, and social rights and requires the State to ensure "the protection of the rights of the woman and the child as stipulated in international declarations and conventions."<sup>156</sup>

In 2001, the DRC periodic report under the Convention on the Rights of the Child was examined by the relevant U.N. Committee. Specifically on the rights of street children, the Committee concluded the following:

70. The Committee is concerned at the high number and difficult situation of children living in and/or working on the street. The Committee is concerned at, *inter alia*, the lack of access of these children to food and health and education services and the exposure of these children to several risks, including those related to substance abuse, violence, sexually transmitted illnesses and HIV/AIDS. The Committee is concerned in addition at the tendency of the criminal justice system to treat these children as delinquents.

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<sup>155</sup> Convention on the Rights of the Child, adopted November 20, 1989, G.A. Res. 44/25, U.N. Doc. A/RES/44/25 (entered into force September 2, 1990); International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 999 U.N.T.S. 171 (entered into force March 23, 1976); International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3 (entered into force January 3, 1976); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted December 10, 1984, G.A. Res. 39/46, U.N. Doc. A/RES/39/46, 1465 U.N.T.S. 85 (entered into force June 26, 1987); Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. Res. 34/180, U.N. Doc. A/34/46 (entered into force September 3, 1981).

<sup>156</sup> African [Banjul] Charter on Human and People's Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982) (entered into force October 21, 1986), article 18.

71. The Committee urges the State party to strengthen its assistance to children living in and/or working on the street by, *inter alia*, studying the causes and implementing preventive measures and improving the protection of children already in this situation, including through the provision of education, health services, food, adequate shelter and programmes to assist children to leave street life. The Committee urges the State party to ensure that children living/working on the street are not treated as delinquents for acts such as their presence in the street or begging.<sup>157</sup>

Human Rights Watch research in 2005 suggests that the concerns of the Committee have not been met, that the violation of children's rights identified therein persist, and that more effective action must be taken if the rights of these vulnerable children are to be protected.

### ***Rights of Children to Protection from Abuse, including children in custody, or otherwise deprived of their liberty***

The ICCPR, the Convention against Torture, and the Convention on the Rights of the Child require states to prevent torture, defined as any act by which severe pain or suffering is intentionally inflicted on a person for such purposes as obtaining information or a confession, punishing, intimidating, or coercing him or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.<sup>158</sup>

States must also prevent other cruel, inhuman, or degrading treatment or punishment that do not amount to torture.<sup>159</sup> This prohibition applies “not only to acts that cause physical pain but also to acts that cause mental suffering to the victim.”<sup>160</sup> The prohibition on torture and other cruel, inhuman and degrading treatment is absolute and infliction of such treatment cannot ever be justified. While this prohibition extends to all persons in the DRC, based on our research Human Rights Watch is concerned that the

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<sup>157</sup> Committee on the Rights of the Child, *Concluding Observations of the Committee on the Rights of the Child: Democratic Republic of the Congo*, CRC/C/15/Add.153 (July 9, 2001), paras. 70-71.

<sup>158</sup> Convention against Torture, article 1.

<sup>159</sup> Convention against Torture article 16. Article 37 of the Convention on the Rights of the Child and article 7 of the ICCPR also prohibit torture and cruel, inhuman, or degrading treatment or punishment. U.N. Human Rights Committee General Comment 20 concerning torture or cruel treatment or punishment (Forty-fourth session, 1992) provides authoritative guidance on the implementation of ICCPR article 7.

<sup>160</sup> ICCPR General Comment 20 concerning prohibition of torture and cruel treatment or punishment, para. 5.

vulnerability of street children places them at particular risk of abuse of these basic rights.

Many of the instances of police abuse and extortion documented in this report constitute cruel, inhuman, or degrading treatment; in some instances this ill-treatment rises to the level of torture. Beatings by police of children with batons, whips, belts, or other implements that cause children severe pain or suffering and are intended to punish or intimidate children constitute torture. In cases where beatings and harassment of children by police do not rise to the level of torture, they may nevertheless produce a level of physical or mental suffering that constitutes cruel, inhuman, or degrading treatment or punishment. In addition, violence and exploitation of children by parents or guardians in their homes, by pastors or prophets in churches of revival, and by police on the streets or in lockups violate children's right under the Convention on the Rights of the Child to protection from "all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child."<sup>161</sup>

The U.N. Committee on the Rights of the Child has already noted that Congolese children are regularly the victims of cruel, inhuman, or degrading treatment, sometimes constituting torture, committed by, among others, the police, the military, teachers, and family members and has called on the DRC government to strengthen its efforts to address the causes and incidence of these violations with a view to bringing them to an end and preventing reoccurrence.<sup>162</sup> At the end of 2005, the U.N. Committee against Torture also considered the record of the DRC in implementing its obligations under the Convention against Torture.<sup>163</sup> The Committee continued to be concerned about the risk that street children face from torture and other cruel and inhuman treatment. The Committee told the DRC that it must adopt and implement as a matter of urgency all legislative and administrative measures that would protect particularly street children from such abuse, and to ensure their rehabilitation.<sup>164</sup>

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<sup>161</sup> Convention on the Rights of the Child, article 19.

<sup>162</sup> Committee on the Rights of the Child, *Concluding Observations*, CRC/C/15/Add.153, paras. 32-33.

<sup>163</sup> Thirty-Fifth Session of the Committee Against Torture, November 7-25, 2005.

<sup>164</sup> Committee Against Torture, *Conclusions and Recommendations of the Committee Against Torture: Democratic Republic of Congo*, CAT/C/DRC/CO/1/CRP.1 (November 24, 2005), para. 14.

## ***Protection from Sexual Abuse and Exploitation***

In this report, Human Rights Watch has documented the specific problem of sexual abuse and sexual exploitation of street children. Particularly when committed, instigated, or acquiesced to by police officers or other agents of the state, sexual exploitation and abuse can in and of itself amount to torture or cruel and inhuman treatment. Moreover, such abuse and exploitation are also explicitly prohibited by Article 34 of the Convention on the Rights of Child.<sup>165</sup> The Committee on the Rights of the Child has urged the DRC to pursue more vigorously the prosecution of adults who engage in sexual abuse and exploitation<sup>166</sup> and the U.N. Human Rights Committee has asked the DRC government to provide it with further information on incidents of abuse of street children by the police and on the forcing of girls into prostitution. In order to assess the extent to which the DRC is meeting its obligations under the ICCPR, the Committee has requested the DRC to provide specific information on the steps being taken to stop these practices, punish the perpetrators, and help the victims.<sup>167</sup> The U.N. Committee on the Elimination of Discrimination Against Women has also expressed its concern about the number of girls in the DRC forced into prostitution, often through poverty, and for some time has recommended to the DRC to adopt and enforce laws prohibiting the prostitution of girls and to assist girls forced into prostitution, having specific regard to the risk of HIV infection and their health needs.<sup>168</sup>

## ***Arbitrary Arrest and Detention***

The ICCPR, the Convention on the Rights of the Child, and the African Charter on Human and People's Rights prohibit all arbitrary or unlawful deprivations of liberty.<sup>169</sup> There are also a number of U.N. instruments that provide authoritative guidance under

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<sup>165</sup> Article 34, "States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent: (a) The inducement or coercion of a child to engage in any unlawful sexual activity; (b) The exploitative use of children in prostitution or other unlawful sexual practices; (c) The exploitative use of children in pornographic performances and materials."

<sup>166</sup> Committee on the Rights of the Child, *Concluding Observations*, CRC/C/15/Add.153, para. 47.

<sup>167</sup> U.N. Human Rights Committee, *List of issues to be taken up in connection with the consideration of the third periodic report of the Democratic Republic of the Congo*, CCPR/C/COD/Q/3 (December 7, 2005), para. 20.

<sup>168</sup> Committee on the Elimination of Discrimination against Women, *Report of the Committee on the Elimination of Discrimination against Women*, 22<sup>nd</sup> Session, A/55/38, (January 17–February 2, 2000) paras. 219-220.

<sup>169</sup> ICCPR, articles 9(1) and 9(3) and Convention on the Rights of the Child, article 37(b). The U.N. Human Rights Committee, in its authoritative interpretation of the article 9 right to liberty and security, states that article 9(1) is "applicable to all deprivations of liberty, whether in criminal cases or in other cases such as, for example, mental illness, vagrancy, drug addiction, educational purposes, immigration control, etc." U.N. Human Rights Committee, General Comment 8: Right to liberty and security of persons (Art. 9), Sixteenth session, (June 30, 1982), para. 1.

international law for interpreting the U.N. treaties' provisions relevant to the treatment of children in conflict with the law.<sup>170</sup>

Arrest campaigns that round up large numbers of children without distinction are by their nature arbitrary and unlawful, as are arrests intended to extort money or information from children. Even when arrest or detention of children accused of vagrancy or begging is not conducted in an arbitrary manner, it may still be unlawful if children are held for several days in custody without being charged with an offense. The government of the Democratic Republic of the Congo advised the U.N. Committee on the Rights of the Child in 2001 that vagrancy laws are not applied against street children, and that street children were only arrested when committing an offence.<sup>171</sup> Human Rights Watch research in 2005 suggests that this is not the case, at least in the urban areas where the research was conducted, and that many children are still detained under the vagrancy laws. Human Rights Watch urges that this law be repealed or at a minimum amended to prevent its use against street children.

The Convention on the Rights of the Child specifies that deprivation of liberty of children “shall be used only as a measure of last resort and for the shortest appropriate period of time,” and that “[e]very child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.”<sup>172</sup> As this report documents, the government’s policy of routinely holding in custody children accused of vagrancy and begging violates the principle that detention should only be used as a measure of last resort.

The ICCPR guarantees all persons deprived of their liberty the right to be treated with humanity and respect at all times, and for accused persons to be segregated from

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<sup>170</sup> See the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), G.A. Res. 40/33, annex, 40 U.N. GAOR Supp. (no. 53), U.N. Doc A/40/53 (1985); the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), G.A. Res. 45/112, annex, 45 U.N. GAOR Supp. (no. 49A), U.N. Doc A/45/49/ (1990); the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (The U.N. Rules), G.A. Res. 45/113, annex, 45 U.N. GAOR Supp. (no. 49A), U.N. Doc. A/45/49 (1990); the United Nations Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of July 31, 1957 and 2076 (LXII) of May 13, 1977; the Basic Principles for the Treatment of Prisoners, G.A. Res. 45/111, December 14, 1990; and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, G.A. Res. 43/173, December 9, 1988.

<sup>171</sup> Committee on the Rights of the Child, *Summary record of the 706<sup>th</sup> Meeting: Democratic Republic of Congo*, Twenty-seventh session, CRC/C/SR.706 (June 3, 2002), para. 12.

<sup>172</sup> Convention on the Rights of the Child, articles 37(b) and 37(d).

convicted persons.<sup>173</sup> In recognition of the special vulnerability of children in custodial care, the ICCPR and the Convention on the Rights of the Child provide additional protections to every child deprived of liberty, including the right for both accused and convicted children to be separated from adults, and the right to be treated in a manner that takes into account the needs of persons of his or her age.<sup>174</sup> The U.N. Rules for the Protection of Juveniles Deprived of their Liberty provide authoritative guidance on the minimum factors to be taken into account when determining these needs:

The detention of juveniles should only take place under conditions that take full account of their particular needs, status and special requirements according to their age, personality, sex and type of offence, as well as mental and physical health, and which ensure their protection from harmful influences and risk situations. The principal criterion for the separation of different categories of juveniles deprived of their liberty should be the provision of the type of care best suited to the particular needs of the individuals concerned and the protection of their physical, mental and moral integrity and well-being.<sup>175</sup>

As this report documents, the police's routine mixing of children with unrelated adult criminal detainees, as well as the mixing of children of different ages, backgrounds, and legal status during detention, places children at risk of torture, ill-treatment, and exploitation, and violates children's right to be held separately from adults and to be treated with humanity and respect and in a manner which takes into account their needs. Such practices also violate children's right to protection from "all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child."<sup>176</sup> Insofar as many children who are detained under the offense of vagrancy or begging are by definition entitled to "special

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<sup>173</sup> Article 10(1) of the ICCPR states: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person." Article 10(2)(a) states: "Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons."

<sup>174</sup> Convention on the Rights of the Child article 37(c) states: "Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances." ICCPR article 10(2)(b) states: "Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication," while article 10(3) requires that "[j]uvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status."

<sup>175</sup> The U.N. Rules, article 28.

<sup>176</sup> Convention on the Rights of the Child, article 19.

protection and assistance provided by the state,” these abuses are particularly egregious.<sup>177</sup>

Conditions of extreme crowding in detention facilities and the conditions in adult police lockups in the Democratic Republic of Congo are acknowledged to violate international minimum standards for facilities and services.<sup>178</sup> In particular when children are placed in these conditions their health and well being are endangered and their right under the Convention on the Rights of the Child to be treated with humanity and respect for the inherent dignity of the human person is violated. Such conditions also facilitate the spread of disease, and may contribute to violence among detainees.<sup>179</sup> International standards require that children deprived of their liberty “have the right to facilities and services that meet all the requirements of health and human dignity.”<sup>180</sup> The U.N. Committee Against Torture has called on the DRC to take immediate measures to ensure that these conditions are changed to meet the minimum standards, and that children are held separately from adults.<sup>181</sup>

Finally, the sequestration of children in churches of revival, sometimes for days at a time, is an unlawful deprivation of their liberty. The prevalence of this practice and the failure of the state to effectively prevent such sequestration and prosecute violations amount to a violation of the state’s obligations to protect children from such arbitrary detention.

## **Education**

The right to education is enshrined in numerous international human rights instruments, including the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child.<sup>182</sup> These instruments specify that primary education must be “compulsory and available free to all.” Unique among the rights enshrined in the Covenant on Economic, Social and Cultural Rights, the right to primary education is subject to a special provision

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<sup>177</sup> “A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.” Convention on the Rights of the Child, article 20(1).

<sup>178</sup> Committee Against Torture, *Conclusions and Recommendations*, CAT/C/DRC/CO/1/CRP.1, para. 11.

<sup>179</sup> Convention on the Rights of the Child, article 37(c).

<sup>180</sup> The U.N. Rules, paras. 30 and 33.

<sup>181</sup> Committee Against Torture, *Conclusions and Recommendations*, CAT/C/DRC/CO/1/CRP.1, para. 11.

<sup>182</sup> Universal Declaration of Human Rights, adopted December 10, 1948, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948), art. 26; International Covenant on Economic, Social and Cultural Rights (ICECSR), adopted December 16, 196, G.A. Res. 2200A (XXXI), 993 U.N.T.S. 3 (entered into force January 2, 1976), art. 13; Convention on the Rights of the Child, adopted November 20, 1989, G.A. Res. 44/25, U.N. Doc A/REX/44/25 (entered into force September 2, 1990), art. 28.

that obligates states “to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.”<sup>183</sup>

The right to education is also recognized in the African Charter on Human and People’s Rights.<sup>184</sup> As outlined in this report, many children began looking for work or spending time on the streets because they were not in school. The high drop out-rate, and the high proportion of children—particularly girls—who never attend school is a matter of grave concern to the U.N. Committee on the Rights of the Child, which has noted that in practice in the DRC primary education is not free, and that the cost of fees, uniforms and equipment remain too expensive for most families. The Committee has called on the DRC to establish a minimum age for the completion of compulsory education and to move towards genuine free primary education, with emphasis on assisting children from the most disadvantaged backgrounds (as children who become street children often are).<sup>185</sup> School fees or related costs of education should never result in the denial of the right to education and push children towards a life on the street. By ensuring that the maximum number of children can go to school in the DRC through progressively reducing and eliminating the costs of primary education as a barrier, the government can fulfill its human rights obligations and help prevent future generations of children from ending up on the streets.

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<sup>183</sup> ICESCR, art. 14.

<sup>184</sup> African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990), entered into force November 29, 1999, to which the DRC is a Party also calls in Article 11 on states to “provide free and compulsory basic education” and to “ensure equal access to education for all sections of the community.”

<sup>185</sup> Committee on the Rights of the Child, *Concluding Observations*, CRC/C/15/Add.153, paras. 60-61, see also, Committee on the Elimination of Discrimination against Women, *Report of the Committee*, A/55/38, para. 223.

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This report is dedicated to the memory of Polycarp Mpoy, director of SOLIDEC-K, who tragically lost his life in a car accident in November 2005.

## Appendix

### Articles Relevant to Children's Rights in the New Constitution<sup>186</sup>

#### Article 40

All persons have the right to marry with a person of their choice, and of the opposite sex, and to form a family.

The family is the natural group unit of society and is organized in a manner to assure its unity, stability and protection. The family is placed under the protection of public authorities.

The care and education to be given to children constitutes, for parents, a natural right and an obligation that they exercise under the supervision and with the help of public authorities.

Children have the duty to assist their parents.

The law sets the rules on marriage and the organization of the family.

#### Article 41

A child means every human being, without distinction between male and female, who has not yet reached the age of eighteen years.

All children have the right to know the name of their father and mother.

It is also the right of children to enjoy their protection of their family, of society, and of public authorities.

The abandonment and mistreatment of children, notably pedophilia, sexual abuse as well as accusations of sorcery, are prohibited and punishable by law.

Parents have a duty to care for their children and to assure their protection against all acts of violence both inside and outside the home.

Public authorities have the obligation to assure the protection of children in difficult situations and to bring to justice the perpetrators and their accomplices who commit acts of violence against children.

All other forms of exploitation of children are severely punishable by law.

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<sup>186</sup> This is an unofficial translation by Human Rights Watch from the original French version.

**Article 42**

Public authorities have the obligations to protect youth against all harm to their health, education and personal development.

**Article 43**

All persons have the right to education in school. Education is provided by national instruction.

National education consists of public establishments and registered private establishments.

The law sets the conditions for the creation and functioning of these establishments.

Parents have the right to choose the type of education given to their children.

Primary school is compulsory and free in public establishments.

**Article 190**

No one may, under penalty of high treason, organize militias, paramilitary groups, or private militias, nor maintain an army of youths.