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PREFACE

This report is based primarily on research conducted by Peter Rosenblum in Zaire from March 22 to April 5. During that time, Mr. Rosenblum visited four prisons: the central prison of Makala in Kinshasa, the Luzumu detention camp in Bas Zaire, Kasapa prison in Lubumbashi and Buluo detention camp near Likasi. He also visited several police lock-ups in the Kinshasa area, interviewed prison officials as well as many current and former detainees. Mr. Rosenblum is a consultant for Human Rights Watch who has worked on human rights issues in Zaire for Africa Watch and the Prison Project. The report was written by Peter Rosenblum.

The research for this report was conducted in the context of the near-total breakdown of the Zairian state which is discussed in the introduction. Under such conditions, seeking official permission to visit prisons was practically unthinkable. Nevertheless, many individual prison and judicial officials did cooperate with Human Rights Watch, and without that cooperation, this report would not have been possible. Moreover, the research for this report benefitted from the active collaboration of several Zairian human rights groups, including the *Ligue des Droits de l'Homme (Zaire)*, *Association Zairoise pour les Droits de l'Homme (AZADHO)*, *La Voix des Sans Voix pour les Droits de l'Homme*, *Les Toges Noires* and *L'Association des Cadres Pénitentiers*. All of these groups have continued to perform

exceptional work in spite of what appear to be overwhelming hardships and major personal risks. The last-named association, which is composed entirely of Zairians who work within the prison system, was particularly helpful in the research for this report.

Finally, Human Rights Watch would like to thank a number of people whose identity cannot be disclosed without putting them at exceptional risk. It is only with their support and assistance that we can know what is happening within the prisons of Zaire.

INTRODUCTION

This is a report about prisons under conditions of acute crisis. It is not only about decayed facilities, poor sanitation, and overcrowding, but primarily about prisons facing the economic and political disintegration of the state. Since 1990, a pattern of neglect and corruption has given way to complete abandonment. Prisons are left to their own devices and prisoners left to live or die according to whim and chance. In the past year, only the intervention of humanitarian and religious associations has prevented mass starvation. Even so, the high rate of death and disease dwarves any of the other problems faced by the prison population.

Legal and Historical Background

Seventy-five years of Belgian colonialism, followed by five years of chaos and 28 years of Mobutu dictatorship laid the foundation for the current crisis. The barbarism of King Leopold in the "Congo Free State" had already created a scandal at the turn of the century. Later, the Belgians built many prisons as well as schools, roads and clinics, but their racist and paternalist policies did little to lay the ground for human rights at independence. After their hasty departure in 1960, the new state quickly descended into chaos with the United States and

Belgium, among other nations, playing an interested role. Over the course of the next 5 years, thousands lost their lives and thousands of others were imprisoned in struggles for control over the country and its vast resources.

In November 1965, Joseph Desiré Mobutu took power in a military coup. It was the second time that he had done so, but this time the takeover was definitive. Mobutu declared the advent of the "Second Republic" under the banner of the Popular Movement for the Revolution (or "MPR" as it is known by its French initials), the single party of his creating. Its ideology was "Mobutism", never more than a reflection of the thoughts and utterances of the "Founding President", himself. The Constitution of the rebaptized "Party-State" of Zaire gave de jure approval to the President's nearly absolute power over all aspects of life -- social, economic and political.

Human Rights suffered correspondingly. In addition to co-opting major political adversaries, the president relied on massive and continuous repression to maintain his rule. Despite severe restrictions on the flow of information, western human rights organizations began to receive reports of summary executions, torture, internal banishment, political arrest and long term detention without trial. Prison conditions were one primary focus of the international criticism that began to emerge at the beginning of the 1980s. In a series of reports issued primarily between 1980 and 1983, Amnesty International attacked

the widespread use of torture, banishment and incommunicado detention of political prisoners in Zaire as well as the deprivations of routine detention.¹

The criticisms irked the President, who liked to portray himself as the great ally of the West. "People are fond of attacking us in matters of human rights by referring to the prison conditions in Zaire," President Mobutu said in his opening speech to the 3rd ordinary congress of the MPR in December 1982. "Some have made this issue of prisoners in Zaire a real battle horse and have even made it one of the key issues of their country's or political party's program of action."² But, in fact, the President said, "We have a completely clear conscience in this regard and have nothing to hide In Zaire, freedom is the rule and detention is the exception."³

The President responded to the attacks with a series of carrots and sticks. He invited Amnesty International into the country, vaunted his openness to the world and then excoriated Amnesty and "dis-invited" them when their conclusions remained

¹Amnesty International, *Human Rights Violations in Zaire* (1980), *Memorandum to the Head of State concerning Amnesty International's mission to Zaire in July 1981* (1981) *Political Imprisonment in Zaire* (1983).

²President Mobutu's Speech at Third Ordinary Congress of the MPR; Kinshasa December 7, 1982, Zaire Press Agency; December 8, 1982, translated and reprinted in BBC Summary of World Broadcasts, December 11, 1982.

³*Id.*

unchanged.⁴ He played the same game with the International Committee of the Red Cross, inviting them to establish an regional office in 1982 and then refusing to give them access to signficant detention centers.⁵ On several occasions, ICRC prisons visits were cut off entirely. Church workers and humanitarian aid organizations, as well, were barred from the prisons whenever they were suspected of leaking information about the conditions inside. A group of nuns who provided vital aid to the poorest prisoners at Makala prison in Kinshasa were barred from the prison in 1984 when news of a cholera epidemic there was released in Europe.

Throughout the 1980s, President Mobutu announced reforms that never took place, non-existent refurbishing programs and vast sums of money that never reached the prisoners. "Jail facilities aimed at improving the conditions of the detainees are continually being provided and since 1978 large-scale extension work has been undertaken, particularly in the main prisons and in the very congested detention camps," the President said at the end of 1982.

⁴Zaire invited Amnesty International to send a mission in 1981 with the understanding that a second mission would follow. After the first mission in July 1981 AI submitted a memorandum to the President. Seti Yale, the security advisor to Mobutu, wrote to Amnesty in December 1981, saying "Since your delegates have not been disposed to understanding us, we don't see the use in receiving them again in our country as envoys of Amnesty International." Reprinted in Amnesty International, *Zaire: Dossier sur l'emprisonnement politique et commentaires des autorités* (1983). Throughout 1982, AI sought without success to gain approval for another mission. AI, *Political Imprisonment in Zaire* at 1.

⁵See ICRC Annual Reports for 1982 - 1989.

"Every year, the Executive Council spends about 28,000,000 Zaires [also the name of currency] on food, agricultural equipment and other items, such as bedding. I mean to say 28,000,000 good Zaires, that is over half of the money allocated to the Department of Justice ... per annum. That is the truth about the conditions of prisoners in Zaire. What more has to be done?"

In fact, none of this was occurring. Prison facilities decayed from the absence of maintenance and the weight of overcrowding. Equipment in prison workshops was diverted by prison officials and sold, vehicles were converted to private use.

By the end of the 1980s, most of the country's prisons had been reduced to mere shells -- cells and group pavilions without water, sanitary or medical facilities. Food was primarily provided by families or by church organizations. Medical care depended on the ability of the individual or his family to pay. Seventy-five percent of the prison budget for 1989 was spent (or at least allocated) in a vain effort to make the central Makala prison publicly presentable.⁶

The Security Forces and the "Informal Prisons"

President Mobutu prided himself on the claim that he had

⁶Interview by Peter Rosenblum and Makau Mutua with Nsinga Udjuu, then Minister of Justice ("President of the Judicial Council"), August 1989.

built no new prisons.⁷ To some extent this was true. All of the acknowledged prisons reporting to the Ministry of Justice were reportedly built by the Belgians. On the other hand, secret prisons and interrogation facilities proliferated in the major cities and the interior. It has never been possible to fully document the number of such facilities; as one gains public repute, another quickly supersedes it.

Each of the major security and intelligence units has or has had its own detention facility or facilities. This includes, for example, the civilian and military intelligence units, the intelligence unit of the police, the regular army and individual units like the Special Presidential Division. But less likely organs have also maintained their own detention facilities, for example, the security unit of the single party's youth wing, CADER. The military prisons have also served as detention centers for political detainees and a series of detention camps have served as sites for internal banishment of dissidents.

One characteristic of these prisons has been the absence of any governmental or non-governmental oversight. Each security force operates with wide autonomy under a leader subject only to the President himself. In response to international criticism, Mobutu continuously announced reforms intended -- theoretically --

⁷Zaire Press Agency, "Mobutu Sese Seko's Review of Zaire's Problems", June 24, 1980, reprinted in BBC Summary of World Broadcasts, June 26, 1980.

to control the rampant power of the security forces to arrest and detain. First there was the famous "Eye of the People", announced by Mobutu in 1977. This was to be a sort of ombudsman located in the office of the President with authority to investigate citizen complaints. For years human rights groups sought without success to confirm its existence. Then, in February 1980, Mobutu announced the creation of a "Joint Commission" of the Justice Ministry and the civilian intelligence force to exercise control over security forces in matters of arrest and detention.⁸

Neither of these ever came into existence. By 1987, the Zairian government reported to the Human Rights Committee of the United Nations that practical difficulties, "mainly in respect of transport" had prevented the Commission from achieving any concrete results.⁹

The idea of a human rights ombudsman was recycled by the President in 1986 after another bout of international criticism; at that time he announced the creation of the Department of Citizens Rights and Liberties. With great fanfare, the Department concluded a series of "protocols" with the security forces which established elaborate procedures for regular visits to detention facilities and emergency intervention in the case of arbitrary arrest. But the Department was never more than a propaganda organ

⁸See Makau Mutua & Peter Rosenblum (Lawyers Committee for Human Rights), *Repression as Policy* (1990) at 167 et seq.

⁹*Repression as Policy* at 167.

for the Mobutu regime and the Protocols remained without force or effect.¹⁰

Law of Arrest and Detention

As a legal matter, the security force prisons have no justified purpose, except for *garde à vue*, or 48 hours police detention. Under Zairian law, anyone arrested must be brought before a magistrate, usually a prosecutor, within 48 hours.¹¹ The prosecutor can order investigative detention for up to five days at which point a judge may issue an order for pre-trial detention.

The order must be renewed after fifteen days, and every thirty days thereafter.

During the first 48 hours, detainees can be held in police lock-ups under the control of Officers of the Judicial Police ("OPJs"). One problem is the plethora of officials with OPJ status and their power vis-à-vis judicial authorities. For example, all of the territorial officials are OPJs as are members of the intelligence forces. In the hierarchy of the single party and the state, regional officials and intelligence agents exercised far more authority than judicial officials. Despite

¹⁰In a 1989 interview, the head of territorial security essentially mocked the highly touted protocols as meaningless. Interview by Peter Rosenblum & Makau Mutua with General Singa, August 1989.

¹¹Art. 73, Ordinance Law 78-289 of July 3, 1978.

what appeared to be sincere efforts by the Ministry of Justice and even the Central Committee of the MPR -- supposedly the highest organ of the Party and the State -- to curb and control the arrest authority of "statutory" OPJs in the late 1980s, nothing changed.

Although required by law, it was -- and remains -- unthinkable for a civilian court to order the transfer or release of a detainee illegally held by the governor or a local security force chief.

Although a 1961 decree permitted administrative detention by the civilian intelligence force, the provisions of the decree were never put into effect.¹² In any event, Zairian officials told international organizations on a number of occasions during the 1980s that administrative detention was illegal and that all security forces were bound "in exactly the same way by the legal provisions regarding arrest and detention of persons."¹³.

It was thus difficult to explain the continuing practice. In 1989, when a number of Zairian opposition members disappeared after meeting a delegation from the Lawyers Committee for Human Rights, an official of the Department of Citizens Rights and Liberties eventually responded by stating that they were detained

¹²Decree-law No. 1 of 1961 relative to state security.

¹³Report of Special Rapporteur, Mr. P. Kooijmans, pursuant to Commission on Human Rights resolution 1989/33, Addendum, Visit by the Special Rapporteur to Zaire, Commission on Human Rights, Forty-sixth Session, Item 10(a) of the agenda, E/CN.4/1990/17/Add.1 Feb. 2, 1990.

in accordance with the authority of the civilian intelligence service. The Department refused to say anything more. They were released several months later without ever having contact with the judicial system.

Finally, in 1990, the government implicitly recognized the illegal practice when the National Security Council announced that administrative detention would end and that all detention centers would be placed under the control of the ministry of justice, except for the period prior to formal charge.¹⁴ Despite a modicum of improvement, this most recent promise has also gone unfulfilled.

The Current Crisis

The pattern of disregard for the law and neglect of prisons and prisoners took on even more dire characteristics after 1990. The cause of this change lies in the three year-old political stalemate enforced by President Mobutu and his armed forces. On April 24, 1990, Mobutu announced an end to the one party state that he had created and a return to multi-party rule. Few people believed that the long-time dictator would willingly cede power. Nevertheless, the President's announcement unleashed a massive campaign for change. Almost overnight, 25 years of self-

¹⁴Decision of the National Security Council of May 22, 1990.

censorship disappeared and political debate emerged into the open.¹⁵ Mobutu's government was unprepared for the surge, but could do little to stop it. The President first attempted to stanch the flow of change with a "corrective" speech on May 3; since then his security forces have engaged in a consistent campaign of harassment, including periodically bombing newspapers, but without any real impact on the movement for change. Long-time allies broke ranks with the President, political exiles returned home and dissident politicians took center stage in the debate over the future of Zaire.

On the other hand, President Mobutu, whose term of office expired on December 4, 1991, has remained able and willing to block any fundamental changes. In a repeating pattern punctuated by military rampages, President Mobutu has negotiated and appeared to compromise with the opposition, only to violate the compromise and reassert power with the support of his loyal military following:

- On April 24, 1990, the President announced a return to multi-party democracy. On May 3, after security forces attacked a crowd gathered at the home of opposition leader Tshisikedi wa Mulumba, the President chided the population for its haste and announced that political opposition remained illegal.

¹⁵See Africa Watch, "Zaire: Two Years without Transition", Volume 4, Issue 9 (July 7, 1992).

- In July 1991, President Mobutu agreed to the creation of a National Conference to decide the future of the transition to Democracy. In early September the Conference broke down because it was weighted with Mobutu stalwarts. On September 23, Soldiers rampaged through the city of Kinshasa leading a looting spree that caused almost \$1 Billion of destruction and destroyed the modern business sector of the capital before spreading to other cities. Two days later, the President pardoned the soldiers who had participated.
- On September 28, Mobutu met with the opposition "Sacred Union" and agreed to accept their candidate for prime minister. On October 16, the government of opposition leader Etienne Tshisikedi was sworn in. Three days later, Mobutu barred the prime minister from his office on the pretext that he had refused to swear fidelity to the Constitution and the President. On October 22, 1991, Mobutu appointed a discredited former opposition politician as prime minister.
- Immediately afterwards, the President of Senegal intervened to mediate negotiations between the Sacred Union and Mobutu. In his presence, Mobutu signed a "code of conduct" for the transition in which he agreed to accept a Prime Minister from the Sacred Union. Instead of taking the candidate proposed

by the Sacred Union, however, on November 25, 1991, Mobutu convinced a long time ally, Nguz a Karl-i-Bond to break with the Sacred Union and form a government.

- In December the President and the Prime Minister agreed to let the National Conference proceed again. It began on December 12 and was stopped by the Prime Minister on January 19 as soon as it became clear that Mobutu's forces were in the minority.
- On February 16, 1992, lay Christians and local church leaders organized a peaceful march in Kinshasa to call for the reopening of the National Conference. As many as one million people marched as soldiers met the marchers with guns and killed more than thirty.
- On April 6, the President allowed the National Conference to move forward again. Beginning in late July, President Mobutu began to meet with members of the opposition Sacred Union. On August 3, the two sides concluded a transition agreement. According to the Agreement, Mobutu agreed to accept a government named by the National Conference. The government would have full responsibility for managing the economy. Foreign policy and national defense would come under the joint responsibility of the President and the government.

Under the terms of the agreement, Mobutu would be allowed to remain in office until elections were held.

- Etienne Tshisikedi was elected Prime Minister by the National Conference on August 14, 1992. On October 4, Mobutu sent troops to the Central Bank to prevent Tshisikedi from replacing his ally, Nyembo Shabani as governor of the Bank. On December 1, the Bank issued new 5 million Zaire notes over the objections of the Prime Minister. The notes were rejected by the population of Kinshasa and most other cities. Beginning January, soldiers paid with the worthless 5 million Zaire notes turned on the population and rampaged through the city of Kinshasa stealing property. The French Ambassador was killed while watching the violence from the window of the Embassy.
- On February 5, the President "dismissed" Tshisikedi as Prime Minister without the approval of the interim Parliament named by the National Conference. At the end of February, soldiers held the interim parliament hostage for three days, and when the siege ended on February 26, they attacked the residence of Bishop Laurent Monsengwo, President of the Parliament.
- In March 1993, the President circumvented the National Conference by convening his own "Conclave"; he then revived

the MPR parliament to sanction the Conclave's choice for Prime Minister, Faustin Birindwa, another former member of the opposition. The Birindwa government was sworn in at the beginning of April.

The effect on Zairian society has been devastating. With the appointment of the Birindwa Government, Zaire had two governments, in name, and none in function. The modern economic sector has broken down almost entirely; hyperinflation has eaten up the value of the currency and forced a large proportion of the population out of the cash economy. Meanwhile, foreign donors have suspended all significant aid programs and public institutions have effectively ceased functioning.

The Impact on Prisons

The prisons reflect and magnify the general devastation of Zairian society. The corrupt system of the past depended on a flow of money to keep prisons running and prisoners alive. That money no longer exists. It is not only that official subsidies and salaries have stopped arriving -- these were never sufficient - but, now, family members are no longer in a position to pay off guards and feed prisoners, and the decayed prison facilities can no longer produce maintenance income. The words in the annual report of one apply equally to the countries other prisons and detention centers:

The year 1992 was one of black misery for the detainees at the Buluo detention camp who are mostly in a precarious state of health and who were abandoned to their sad fate.¹⁶

The full scale of the current crisis is detailed in the body of this report. Nothing better conveys the extent of that crisis than the rate of death and disease. In 1991, the last year for which general statistics were collected, 2,229 prisoners, or nearly 7.5 percent of the entire prison population died. They died almost entirely from banal causes related to malnutrition and poor health care. Since then, there is no reason to believe that the figures have diminished for most parts of the country. For the first three months of 1993, for example, 27 prisoners had died at Kasapa prison in Lubumbashi -- mostly from "diarrhea"--and 173 out of 350 were sick. Fewer have died recently in the Kinshasa area, largely because of an intensive nutrition effort undertaken by the International Committee of the Red Cross.

But the crisis extends to, and affects, all aspects of prison life:

- All of the officially recognized prisons were built during the colonial era and none of those visited by Human Rights Watch evidenced any significant rebuilding or upkeep.
- Water and sanitary facilities range from insufficient to non-existent. No repairs had been undertaken except by and at

¹⁶Buluo Prison, Annual Report for 1992, at 6.

the expense of religious groups or humanitarian organizations.

- None of the prisons visited by Human Rights Watch had the means of feeding its prisoners or maintaining its facilities.
- All of the subsidies received by the two major prisons in Shaba for 1992 together were equivalent to the cost of 32 sacks of Casava flour. No subsidies had been received by any prison for 1993.
- Although all of the prisons we visited have land for crops, either the tools and seeds had been diverted to the profit of the prison staff, or the production had been privatized to the benefit of the prison staff or prisoners (as in the case of Makala prison).
- Missionaries are the only dependable source of food for many of the prisons. At Kasapa prison in Lubumbashi, for example, catholic and protestant missionaries have taken the responsibility for feeding the prisoners 4 days a week. The prison tries to feed the prisoners two days a week out of the profits from a small saw mill. On the remaining day, Saturday, the director told us, "we just pray." Meanwhile, the prison staffs are severely reduced and prisoners, themselves, have taken over much of the management of prison life. None of the prison staffs had been paid in the four months prior to our visit in March 1993. Most have simply stopped coming to work:

- At Buluo detention camp, near Likasi, the only remaining staff consists of the prison director and three uniformed guards, "who sleep at the gate," (as the prison director told us).
- At Kasapa Central Prison in Lububashi, there are three staff members who regularly work in addition to the director and one other person who comes twice a week.

Other staff members have become calloused to the situation of the prisoners. As one official at Makala prison told us, "As long as we aren't paid, the prisoners don't eat."

In addition, except for Makala prison, none of the prisons we visited had regular visits by a doctor. At Luzumu detention camp, there had been no doctor since August 1990 and no nurse for the 8 months prior to our visit.

One of the other effects is the rise of a powerful and frequently abusive inmate hierarchy at some prisons. No prison director would approach the prisoners without passing through the "Kapita Général" or chief of staff, and no prisoner would defy the "governor" of his pavilion. Inmate officials, chosen primarily by the prisoners themselves, are paid off in food and other benefits.

At Makala prison, prisoners essentially have life and death power over other prisoners: they prepare and distribute the food -- determining who will eat and how much; they also tend the sick, adjudicate disputes, organize the day and mete out most penalties.

Prison officials and guards are almost never seen outside the

administrative offices.

Another way prison officials have controlled prisoners in the current crisis has been by restricting their movement and activities and by resort to draconian measures like chains.

- One hundred ten of the 350 prisoners at Kasapa prison were being held in three large rooms at the prison in order to prevent escapes.
- The practice of using welded leg chains to restrict the movement of prisoners, which was dying out except in the extreme interior of the country, is now increasingly visible at major prisons. Three prisoners at Luzumu detention camp had been held in welded leg chains for four months by the time that we saw them at the beginning of April 1993.

The only bright spots in the otherwise bleak picture are the few prison staffers, human rights activists and missionaries who are seeking to prevent the system from collapsing entirely. A prison director who actually cares about his inmates must employ substantial entrepreneurial skill each day in order to keep his prisoners alive. At two of the four prisons visited by Human Rights Watch, directors demonstrated at least some measure of that skill. But all four prisons were near major urban areas and had the advantage of regular contact with missionaries and humanitarian groups capable of providing at least some food and supplies. It is increasingly difficult to know what is happening in the interior of the country cut off from contact with the major

cities. In any event, it is clear that the "black misery" described by the director of Buluo detention camp shows no sign of abating in the near future.

THE SYSTEM

The prisons of Zaire are governed, in theory, by a law adopted months before President Mobutu took power in 1965, *Ordonnance no. 344 du 17 septembre 1965* relative to the Prison Regime. The law establishes a single national standard for prisons which was to settle the confusion and eliminate the divisions which had emerged during the five years of separatist conflicts following independence. The law demonstrates an admirable desire to ensure basic rights to prisoners and separate them among appropriate categories. There are detailed provisions regarding, for example, food, medical care, housing and discipline. The law also establishes a system for oversight and control, involving detailed provisions for record keeping and inspection.

In practice, the substantive guarantees of the law have become largely meaningless. The law is only applied by ordinary prisons under the control of the Justice Ministry and then, primarily in respect to administrative procedures.

There are 210 ordinary civilian Prisons on record, although it is becoming increasingly difficult to determine how many are actually functioning. At least two of those prisons had closed down -- the prisons in Goma and Mbanza Ngungu -- at the time of our visit to Zaire in 1993; there are likely many others. The data that exists for these prisons is outdated, the Directorate of

Prisons at the Ministry of Justice in Kinshasa itself has stopped functioning, and communications with the interior, which have always been difficult, have broken down entirely in some cases. Human Rights Watch viewed a number of recent reports by Prison Directors and we were assured by employees of the Justice Ministry that no-one had looked at them. What is perhaps more surprising is that many prisons do continue reporting. In general, each region of the country has one detention camp for long term detainees and one central prison in the major city. Where there is another large city in the region, there may be a second urban prison. Each region is then divided into sub-regions with a sub-regional prison and smaller prisons in each Zone. The Zone prisons may hold as few as a dozen to twenty prisoners. The Sub-Regional prisons may hold more than 100. All of the prisons are combinations of what the law refers to as "Prisons" and "Detention Centers" (*"maisons d'arrêt"*). In other words, they combine prisoners subject to a definitive sentence with pre-trial detainees and detainees in the process of appeal.

There are 9 detention camps, 11 central prisons, 5 urban prisons, 25 sub-regional prisons and 158 Zone prisons.¹⁷ On the basis of observation and incomplete statistics, Human Rights Watch estimates that there has been an average of about 30,000 prisoners in all of these prisons for each of 1989, 1990 and 1991, the last

¹⁷ See Appendix ____.

year for which any collected statistics are available.¹⁸ The ratio of prisoners to population in Zaire is thus 88 per 100,000. But, as shown below, these numbers don't tell the whole story.

The current number of detainees is much less, judging from the prisons in Kinshasa and Lubumbashi area. These urban areas have felt the full effects of recent economic collapse and political turmoil. Transportation is difficult and the Justice system has not been fully functional. There has also been a conscious effort by magistrates and prison officials in those areas to avoid overburdening the prisons and to release sick detainees who, if held in prison, would inevitably die. It is impossible to know the extent to which the same thing is occurring in other parts of the country.

Zaire's prisons have always experienced large numbers of escapes each year, although recently the number appears to have increased. Between 1989 and 1991, the number of escapes increased from 1,934 to 5,110. There appear to be two main reasons for the increase. Each time that the military has launched a pillaging campaign, a number of prisons have been emptied. 1991 was the

¹⁸Our estimate is primarily based on the statistics collected by the Association of Prison Cadres on the basis of Justice Ministry files, see Appendix _____, as compared with our observations of particular regions where we have direct information. This estimate does not take full account of the turnover population which, according to the statistics collected by the Prison Cadres is very substantial. Nevertheless, it is unlikely that the total prison population is much more than 30,000 judging from our observations and past estimates.

beginning of a period of such pillaging that spread through the country and continues intermittently. The other reason is the lack of food. As one prison official told us, "After three days without food, the prisoners begin to chant, 'hungry! hungry!', and then they just leave."

The prisons which do not fall under the Justice Ministry control include police lock-ups, special detention facilities belonging to the various security forces, interrogation cells, military prisons and rural detention camps. In contrast to the Justice Ministry Prisons, far less is known about this other category of prisons. The exact number of prisons is unknown as is the number of prisoners. There are vast numbers of police lock-ups, usually little more than concrete cells attached to neighborhood police stations. There are at least 61 in the city of Kinshasa. There are two major military prisons in the country, the Ndolo prison in Kinshasa and the Angenga prison in Equateur as well as another one, Shinkakasa, that is reportedly near Boma in Bas-Zaire. Ndolo prison alone has held more than 400 prisoners at one time. Many other military camps have, at various times, also been used to hold political detainees.¹⁹

The following specialized forces, among others, maintain separate prison facilities:

¹⁹Amnesty International, Human Rights Violations in Zaire (1980) at 17.

The Civil Guard -- an elite force composed of about 10,000 soldiers under the command of Kpama Baramoto, a relative of the president. In the Kinshasa area, the Civil Guard has a prison attached to its headquarters that holds between 50 and 60 prisoners, and detention cells in the Kasavubu neighborhood.

Special Presidential Division -- an elite force of about 7,000 soldiers under the command of General Nzimbi. The DSP has prison cells at its Camp Tshatshi headquarters. It also appears to be responsible for the prison known as OAU2 or "*Deuxième Cité de l'OUA*". The prison has underground and ground-floor cells located near the Camp Tshatshi military base where President Mobutu had maintained a Kinshasa residence. Previously, OAU2 was thought to be under the control of the civilian intelligence force.

National Service for Intelligence and Protection ("SNIP") -- the most recent name for the civilian intelligence service, known as the National Documentation Agency (AND) between 1982 and 1990. The AND maintained a prison at its headquarters on the Avenue des trois "Z" in the central Gombe area of Kinshasa, which frequently held up to about 100 prisoners. Until 1990, Avenue des Trois "Z" was a necessary stopping point for all major political detainees in Kinshasa and also

many businessmen held for ransom. From 1990 until 1993, when SNIP was placed under the control of General Likulia Bolongo, the prison on the Avenue des Trois "Z" was largely unused. General Likulia was replaced Admiral Mavua in 1993, however, and, beginning in March, the SNIP prison was again put to use to hold political detainees. There are also SNIP detention cells at other SNIP headquarters around the country.

Service for Military Action and Intelligence ("SARM") -- the military intelligence unit. SARM has detention facilities at its headquarters in Kintambo and at other locations in Kinshasa and around the country.

Brigade spéciale de recherches et de surveillance (BSRS) - the security and intelligence branch of the National Gendarmerie, the militarized police force. The BSRS has a major prison in Kinshasa, known as "Circo" (for "Circoscription Militaire) and detention facilities in other cities around the country.

All of these prisons served, throughout the 1980s, as detention centers both for political detainees and other civilians. In 1980, Amnesty International estimated that the number of political detainees frequently exceeded 1,000.²⁰ The

²⁰Amnesty International, Human Rights Violations in Zaire

ICRC typically saw more than 300 security detainees in a given year, despite restrictions on access to detention centers.²¹ After Mobutu's 1990 speech announcing a return to democracy, almost all political detainees were released. The battle shifted instead to the streets where political meetings were suppressed, the homes of opposition politicians destroyed and press offices blown up. SNIP stopped arresting altogether, at least in the Kinshasa area. This left BSRS as the principal informal detention center for civilians. Since March 1993, however, as noted above, political arrests have recommenced and in Kinshasa the civilian intelligence service has put the famous prison at the Avenue des trois "Z" back into service.

(1980) at 12.

²¹See ICRC Annual Reports, 1982-1989.

CONDITIONS IN POLICE LOCKUPS AND SECURITY FORCE PRISONS

The police lock-ups and security force prisons were not, for the most part, built for long term detention, though they have all served that purpose at one time or another in the recent past. They are largely holding cells or interrogation cells, without additional facilities or outdoor space. Overcrowding has been a severe problem in Kinshasa's security force prisons, where, in the view of Amnesty International, there were times that prisoners were deliberately crowded together to deprive them of comforts including the possibility of sleep. In general, most serious reports of torture also arise out of treatment at the security force prisons.

Police Lock-ups

Since 1990, at least in the major cities, there has been little interference with the authority of the *parquet*, or office of the prosecutor, to oversee arrest and detention in police lock-ups. Nevertheless, it has been impossible to stop illegally prolonged detentions. The main problem is apparently a logistical one. As one magistrate explained,

Each *parquet* prints a list of magistrates with the police lock-ups they are assigned to oversee. In principle, we are

each supposed to go out twice a week to insure that the registries are well kept and that no one is held beyond 48 hours. But we are expected to do it at our own expense. The office doesn't even have paper or pens to record our findings, not to mention transportation.

At the point of this interview, no magistrates had been paid in four months. Had he been paid, this magistrate, Magistrat Ndolo Tshivungila, would have earned a salary of 60 million Zaires per month at a time when transportation to and from his office cost 8 million Zaires each day.

The same penury of transportation and salaries is perhaps the main reason why police do not bring detainees to the *parquet* after 48 hours. Nevertheless, according to magistrates in the Kinshasa area, it is rare in the central areas of Kinshasa to find detainees in police lock-up who have been held longer than one week.

Human Rights Watch made unannounced visits to a number of police lock-ups in Kinshasa, accompanied by a magistrate and lawyer and a member of the human rights group "*La Voix des Sans Voix*". The lock-ups were chosen at random within the jurisdiction of the *parquet* of Ndjili and included Camp Badaia Gendarmerie, Kingasani II Gendarmerie and Gendarmerie Pascal Mbua Mabe. Despite some skeptical comments from the gendarmes, the officials respected the right of the magistrate to review the records and

interview each of the detainees. The delegation was able to walk around inside the cells and even to take pictures. Following the visit, however, the magistrate was called in by his superiors and ordered to provide a written justification for his actions.²²

The condition of the detention cells in each location was deplorable. At the Pascal Mbua Mabe Gendarmerie, the commanding officer, himself, made a strong plea to shut down the lock-up facility since they were unable to maintain decent standards. In each case, the cell consisted of small enclosed concrete space attached to a neighborhood police station. At Kingasani II and Pascal Mbua Mabe, there were no windows and no artificial light. There were no sanitary facilities at any of the lock-ups. As we arrived at Camp Badaia, gendarmes quickly dumped a soldier's helmet full of urine. At the other two locations, detainees used one wall of the cell for all bodily needs. The smell of urine was so intense, that it burned the eyes within moments of entering. There were no beds or mattresses.

Of the 19 prisoners whose records were reviewed at the three named lock-ups, 6 had been held longer than 48 hours and no one had been held longer than one week, although Camp Badaia had no updated register. No food was provided by the gendarmes, nor any exercise or diversion. Many of the detainees were weak or in bad

²²Although the magistrate was threatened with further sanctions, we were told in July 1993 that no action had been taken against him.

health. At Kingasani II, one prisoner who had apparently been beaten by the crowd when caught during a theft had a seriously injured foot with open and infected sores. The gendarmes were openly violent with the detainees. At one point, in our presence, a gendarme struck one of the detainees who was arguing about the cause of his detention.

The same conditions have been observed by the human rights group AZADHO during visits to police lock-ups during July and August 1992.²³ AZADHO noted the general filth, the high incidence of illegal detention, and the absence of any hygienic facilities. The lock-ups visited were primarily in central locations, the central market, the headquarters for the National Gendarmerie (known as "B2"), the Palace of Justice and the territorial brigade in the central neighborhood of Gombe. According to AZADHO, "These cells were overcrowded and inhumanly filthy. They are without any sanitary infrastructure: neither toilets nor showers : a bucket placed in the middle of the cell took the place of any WC." According to AZADHO, the lock-up at the central market was used by gendarmes to extract money.²⁴

At all the lock-ups visited by Human Rights Watch, the detainees were male, although some were minors who were housed in the same cell with adults. AZADHO visited the central "zone"

²³AZADHO, *Rapport sur les Conditions Carcérales au Zaïre*, September 30, 1992.

²⁴*Id.* at 3.

lock-ups (Zairian cities are divided administratively into "zones") for the neighborhoods of Kalamu, Lemba, Matete and Ngaba. At Ngaba and Kalamu, men, women and children were put in the same cell, without light or sanitary facilities. On July 11, 1992, according to AZADHO, the Kalamu lock-up facility, measuring about 8m² (87 square feet) held 15 detainees including civilians, soldiers, men, women and children, some of whom were sick.²⁵

Security Force Prisons

The security force prisons suffer from many of the same problems as the police lock-ups. However, these prisons also tend to be the site of illegal detention, torture and severe physical abuse. Information about these sites has come primarily from political prisoners who were held there in the past. Since 1990, there have been far fewer political prisoners and some of the prisons have, at least temporarily, stopped functioning.

On the other hand, there have always been a large number of non-political prisoners held in the same prisons. For the most part, they enter the prisons and are released without ever passing through the normal justice system. "Whenever they do send me a file -- which is rare -- I order release immediately," said one

²⁵ *Id* at 2.

prosecutor referring to prisoners initially held by the *Brigade spéciale de recherches et de surveillance* (Special Brigade of the Gendarmerie known as the "BSRS"). "Those guys are always seriously beaten up before they get to us -- legs broken, body destroyed. Whatever they are accused of, I end up releasing them."

During the early 1980s, Amnesty International documented hundreds of cases of political detention and torture at the security force prisons. Some of harshest conditions and most consistent reports of torture came from prisoners held at OAU2 prison near Camp Tshashi and the SNIP prison on the Avenue des Trois "Z". "Prisoners are known to have been tortured and killed in both places," Amnesty reported in 1980. Many long term political detainees were sent to distant detention camps, primarily in the north of the country.

At the SNIP prison, 10 to 20 prisoners were held together in cells measuring about 6m x 2m (20 x 6.5 feet). In the cramped conditions that were maintained through the 1980s, the prison held up to about 100 prisoners. "A barrel in the corner of the cell serves as a toilet." According to Amnesty, writing in 1980, "Some inmates are held for months on end in these cells, often with little or no idea why they have been detained. Others are interrogated and subjected to beatings and torture, including application of electric shocks."²⁶

²⁶Amnesty International, Human Rights Violations in Zaire

By the end of the 1980s, as the Lawyers Committee for Human Rights confirmed, reports of 'sophisticated' forms of torture at the SNIP prison had largely diminished.²⁷ They had been replaced with beatings, systematic upon entry and frequently continuing during interrogation. Gauthiers de Villiers, a Belgian sociologist teaching in Kisangani was arrested by the civilian intelligence (then the "AND") in February 1989. He described the reception that he got when he arrived at the prison on the Avenue des Trois "Z":

The committee 'welcomes' all prisoners by beating them quite thoroughly. About twenty agents pounded me with their fists repeatedly, while calling me things like 'dirty Belgian'.²⁸

Dozens of other political detainees, ranging from student protestors to minor and major political dissidents had similar stories to tell about the passage through the prison. The illegal opposition tried to maintain contact with the prison and bring food to political detainees. Aubert Mukendi, formerly head of the national airlines, was one of the opposition members who was in

(1980) at page 18.

²⁷Testimonies collected by Peter Rosenblum and Makau Mutua for the Lawyers Committee for Human Rights. See *Repression as Policy*, Chapter 5: "Torture and cruel, inhuman or degrading treatment."

²⁸*Repression as Policy*, at 73.

charge of the efforts. "It was an expensive proposition," he said.²⁹ Mr. Mukendi himself was held at the SNIP prison for two weeks in 1988. "I had to bribe the guards for everything -- to let my family know where I was and, especially, to bring food."

As in the other security force prisons, however, not all the prisoners were political dissidents. Mr. Mukendi was "thrown into a small airless room with 8 young men who had been caught trying to leave the country hidden in boats."³⁰ Along with others -- mostly businessmen caught up in conflicts with people in power³¹ -- they remained until they obtained the money to pay off the right officials.

Conditions were similar at OAU2 near Camp Tshatshi and the Civil Guard Prison. According to Amnesty, OAU2 has several underground cells measuring approximately 2m x 3m (6.5 x 10 feet) and five ground floor cells. As they wrote in 1980 "Torture is apparently inflicted regularly in this interrogation centre and some of the prisoners have died after their bodies had been mutilated."³² More recently, soldiers held at Camp Tshatshi following what appeared to be a takeover attempt at the state radio, testified that they had been stripped and beaten with whips

²⁹Interview with Aubert Mukendi, July 28, 1993.

³⁰Interview with Aubert Mukendi, July 28, 1993.

³¹See for example, *Repression as Policy* at 77.

³²Amnesty International, *Human Rights Violations in Zaire* (1980) at 18.

and guns and then cut with bayonets. One soldier reported that he and his companions were raped by soldiers of the Special Presidential Division.³³

In 1989, Aubert Mukendi was arrested and held by the Civil Guard for one and half months at their headquarters prison in Kinshasa. He was the only political prisoner being held there at the time. One night, together with other prisoners, he overheard members of the Civil Guard beating two new prisoners:

First we heard the prisoners screaming and then, at a certain point, the guards began to panic. One of them said, 'Let's take him to the morgue at Mama Yemo Hospital.' They had killed one of the prisoners and were going to report that they found the cadaver on the streets. They brought the other prisoner into our cell. But every time he tried to stand, he collapsed. So we called the guards; we weren't going to let them blame us for having beaten him. They took him away and we heard later that they dumped him in the *cité* [a densely populated area of Kinshasa]. He couldn't have lived long.³⁴

The BSRS prison known as "Circo" is one that has continued to detain civilians illegally since 1990. Circo is located across

³³Africa Watch, "Zaire: Two Years without Transition" News from Africa Watch, Vol. 4, Issue 9, July 7, 1992, at 13.

³⁴Interview with Aubert Mukendi, July 28, 1993.

from the "People's Palace" at the office of the military commander for the city of Kinshasa ("Military Circumscription"). For many years, Circo was the private domain of the then military commander of the city, General Bolozi Gbudu Kpani, married to Mobutu's older sister. It is one of the best known of the detention centers which operates outside the legal provisions on arrest and detention. Built for about 50 prisoners, the prison holds on average about 150 prisoners (169 on July 5, 1992, 130 at the end of March 1993) in unlighted cells most of which measure about 8m² with semi-functional sanitary facilities.

It is difficult to determine why certain prisoners are held at Circo rather than other routine detention facilities. According to interviews with magistrates and former prisoners, it appears based on money and the whim of General Bolozi. Ninety percent of prisoners are held without any warrant or police report.³⁵ According to AZADHO and the Prison Fellowship of Zaire, most of the prisoners held at Circo in recent months have been military (70% according to AZADHO). The remainder come from all sectors and include men, women and children. But the BSRS appears to concern itself primarily with wealthier prisoners who have crossed influential Zairians or who have been involved in some suspect commercial affairs. According to both AZADHO and the Prison Fellowship, a substantial number of prisoners (25 out of

³⁵AZADHO, *Rapport sur les Conditions Carcérales au Zaire*, at 6.

156 when AZADHO visited in July 1992) are baited by BSRS officers selling stolen goods. Most prisoners are released after days or weeks, or in some cases, years, without ever having contact with the judicial system.

THE CRISIS OF BASIC NEEDS

Article 61 of the 1965 Prison Law gives detainees the right to "meals which must have sufficient value to maintain the detainee in perfect physical condition." The law even dictates that the meals "correspond as much as possible" to what detainees would normally eat. Each month, an officially appointed doctor is supposed to visit the prison, in part to ensure that the food is "healthy and sufficient" and that the "hygienic conditions" are satisfactory.³⁶ This includes basic sanitary facilities and clothing that is appropriate to the climate and is not "degrading or humiliating".³⁷ Nurses and doctors are meant to assure their daily health care and in cases where the prison medical facilities are insufficient, prisoners are to be transferred to the nearest health facility.³⁸

In contrast to the provisions of the law, Zaire's prisoners live without regular meals, without sufficient clothing or bedding, and without meaningful medical care in conditions which facilitate the epidemic spread of disease. In itself this is not new. Cases of starvation and epidemic disease have been reported

³⁶Ordonnance no. 344 du 17 septembre 1965, "Régime Pénitentiaire & Libération Conditionnelle," ("Prison law") art. 27.

³⁷*Id.* Art. 51-52.

³⁸*Id.* Art. 54 - 60.

in Zaire's prisons for many years. In 1978, 40 prisoners starved to death at Kinshasa's Makala prison.³⁹ Prisoners at Luzumu and Buluo were reported to live on small rations of manioc.

Nevertheless, even if widespread, these cases were treated as aberrations when they became public. After the 1978 incident, for example, the Minister of Justice (then known as the State Commissioner for Justice) Mampuyu Kanunka was convicted to 15 years imprisonment for embezzling the funds intended to buy food for the prison. In other cases, near starvation conditions were maintained as a policy in order to sanction political prisoners.

Prison Deaths

More recently, however, starvation conditions have become widespread and generalized. In 1989, there were 1,448 officially recorded prison deaths. By 1991, the last year for which collected statistics are available, the number of officially recognized deaths in prison reached 2,229 or more than 7.5% of the prison population.⁴⁰ (By contrast, one quarter of 1 percent of prisoners died in the United States in 1989, the last year for which such data is available.) Since then, there are anecdotal

³⁹Amnesty International, *Human Rights Violations in Zaire* (1980) at 15.

⁴⁰Association des Cadres Pénitentiaires, *Statistiques Pénitentiaires*. [add statistics to appendix?]

reports from around the country that suggest that the rate is undiminished. The underlying causes are severe malnutrition and the absence of any significant medical care. Large numbers of prisoners are dying from causes that are easily treated, such as "severe diarrhea" or dysentery. The number of deaths at Makala prison in Kinshasa reached 2-3 per day until the International Committee of the Red Cross (ICRC) intervened in the summer of 1991. At Kasapa prison in Lubumbashi, an average of 9 prisoners a month have died since beginning of 1993 (out of a total prison population of 350).

Disintegration of Prison Infrastructure

It is easy to understand the cause of the current desperation. Since independence there has been no noticeable investment in prison maintenance and upkeep by the state. The basic infrastructures were allowed to decay and workshops, which were often a source of income for the prisons were diverted to the profit of prison staff and run into the ground. Notwithstanding the rare prosecutions, a large proportion of the funds intended for the prisons -- like other public funds in Zaire -- were diverted to the accounts of government officials. By 1989, 75% of the prison budget was allocated to Makala prison, and even so, Makala did not benefit in any noticeable way.⁴¹

⁴¹See memorandum of *Association des Cadres Pénitentiaires* to

The inconsistent flow of funds to the prisons slowed to a trickle in 1992 and effectively ended in 1993. This was true both for salaries and for necessary subsidies. In 1993, no salaries have been paid to prison staff and only minimal subsidies have reached the prisons for food and upkeep. As one prison official unabashedly stated, "As long as we aren't paid, the prisoners aren't fed."

The same dire conditions exist with respect to medical care and the sanitary installations. None of the prisons visited by Human Rights Watch had adequate facilities for drinking water or waste disposal. Neither were prisoners adequately clothed or housed. Malnutrition and unhygienic living conditions contribute to an extremely high rate of disease. The director of Kasapa prison in Lubumbashi reported that 173 of 350 prisoners were sick.

Because of a lack of salaries and transportation, doctors are an increasing rarity at the prisons. But the absence of medicine is even more severe, making it practically impossible to treat any

the National Conference, August 6, 1992.

significant disease. Finally, it is often impossible to transfer severe cases to hospitals because of transportation costs and hospital expenses. While visiting Buluo prison, one patient thought to be suffering from an appendicitis was writhing in pain in the courtyard of the cell section. The hospitals themselves require patients to provide the necessary drugs and payment in advance, further complicating hospital care. As a result, almost nothing is left of the guarantees provided by the 1965 Prison law.

The only significant food and medical care that has reached the prisons over the past two years has come from foreign missionaries, local benevolent associations and international humanitarian groups. The bulk of the responsibility for prisons has been taken over by the diminished foreign missionary community.⁴² In many prisons throughout the country, the missionaries provide the only certain meals served each week. In order to maintain access to the prisons, missionaries are required to operate discretely. Ten years ago, missionary nuns were banned from Makala prison for several months when news was leaked of a cholera epidemic inside the prison. The missionary community is still sensitive to such a threat; nevertheless, it is a sign of the new desperation that prison officials have openly courted their assistance during the current times.

⁴²Most of the missionaries in the country were evacuated in the fall of 1991 following violent rampages by soldiers. Many, though far from all, have returned since then.

PHYSICAL CONDITIONS

The country's prisons are in an accelerating state of decay. All of the prisons in the country were built before 1960. In the prisons which we visited, there was little sign of any basic upkeep, not to speak of new construction. There were more signs the opposite -- the active deconstruction of the prisons: equipment in prison workshops had been sold off, furniture had disappeared, and at Buluo prison, the wooden doors to unused cells were being ripped off to build coffins.

A number of prisons had crumbled beyond use in recent years. The prison in Luebo "collapsed" in November 1991. The prison in Mbanza-Ngungu was closed in 1992. And according to the *Association des Cadres Pénitentiaires*, five other prisons had recently "sounded the alarm" to indicate that they couldn't last much longer.⁴³

In its submission to the National Conference, the Association of *Association des Cadres Pénitentiaires* put the situation as follows:

[Our prisons] are today in a state of such total decay that they represent a permanent danger for the detainees who are held there. [T]hese establishments are nothing more than

⁴³Memorandum of the *Association des Cadres Pénitentiaires* to the Sovereign National Conference, August 6, 1992.

dormitories in which detainees are piled up, the privileged sleeping on mats, the rest on the ground.⁴⁴

Conditions of Living Quarters

Most of the cells visited by Human Rights Watch at least contained some kind of mat, usually a collection of old food sacs. Only more privileged prisoners had raised cots. If there were mats in the cells, there were few other amenities -- no tables, chairs or artificial light. Ceilings were in very bad repair at many of the prisons. Some cells showed clear evidence of recent inundation. The women's pavilion at Makala prison, for example was flooded whenever there was rain.

Conditions of Sanitary Facilities

The sanitary facilities ranged from semi-functional to completely non-functional. Where there are some functioning facilities it is usually because of a special effort undertaken by an outside organization. Prisoners at Makala prison said that they had never seen a repairmen enter the premises except when paid for by the ICRC or a religious order. When water stopped running at Makala prison, nothing was done for more than two

⁴⁴ *Id.*

months until the ICRC had the facility repaired. At Luzumu detention camp, a Belgian Jesuit, Guy Verhaegen acquired a pump and installed water pipes, though drinking water must still be sought from the source. The same is true of waste disposal facilities. Toilets are cleaned out by hand at many of the prisons. At Makala prison, this is a task assigned to new prisoners. At Luzumu, fecal matter is cleaned out by hand and dumped into an open hold in the middle of the court yard. Not surprisingly the stench pervades the area. At Buluo, the director has been working for three years to try to rebuild a septic tank, a project for which he has gotten some recent support from Médecins sans Frontiers.

Allocation of Living Quarters

Title V of the Penitentiary Law regulates the distribution of detainees in the prisons and detention centers. Article 39 states the general rule that detainees should be housed in group pavilions and that women and minors should be housed separately.⁴⁵

Article 44 provides that unconvicted prisoners should be housed separately from convicted prisoners; it also provides for the separation among categories of convicted prisoners whose conviction is still subject to appeal. All of these separations

⁴⁵Minors are not to be housed in prisons at all unless there is no separate facility.

are, however, contingent upon the capacities of the facilities.

These rules of separation are not generally respected, except to some degree with respect to women and minors. Dangerous prisoners and prisoners convicted of serious offenses tend to be housed in separate pavilions. However, there is no separation of prisoners awaiting trial or prisoners who have not been served with a definitive judgment. The women's pavilion at Makala prison is fully separated from the men's living quarters. However, minors, including children as young as 13 are housed in the same area with adult men.

At most prisons new prisoners are put in cells rather than dormitories when they first arrive. At Luzumu, they are actually put into the lock-up cells which are slightly smaller than regular cells and are shut off from other detainees. They are only allowed out of the cells for about one and a half hours each day.

At Makala prison, in contrast, new detainees are placed in group quarters, in pavilion 5.

Overcrowding

Crowding, which has been a problem in the past is not severe at the current time, at least in those prisons visited by Human Rights Watch. The crowding which has been reported lately results from the effect of recent political and economic turmoil on the prisons. Reduced staff and damaged facilities have forced prison

directors to consolidate prisoners in a number of prisons. In Kasapa prison, for example, 110 prisoners are living in three rooms 8 x 5 meters (26.4 x 16.5 feet) each. It is only because of the reduced number of people held in detention that the prison system in Zaire has managed to avoid an even more massive crisis.

Once the numbers begin to increase again, as they will inevitably do, the strain on the prisons will become overwhelming.

Activities and Work

One of the many sad chapters in the recent history of Zaire's prisons is the destruction of prison workshops. The major prisons were equipped with substantial workshops for carpentry, blacksmithing, sewing, printing, baking and other crafts. They provided activities to prisoners, as well as training and income to the prison.⁴⁶ The carpentry shop at Makala prison was once one of the best training grounds for carpenters, according to Zairians who worked in the prison. In the absence of consistent funding they were also the major means of assuring the solvency of the prison. In 1978, the government established the *Direction de Production Pénitentiaire* to "rehabilitate prison production in

⁴⁶Prisoners were apparently never paid for their labors, since the money was contributed directly to the budget of the prison. See Association of Prison Cadres Submission to the National Conference at 11.

order to insure the self-sufficiency of prison".⁴⁷ It was shut down in 1982 without substantial explanation.

Today, very few of the workshops are functional. Most usable equipment has been sold off for the benefit of prison officials. A continuous effort by aid workers at Makala prison keeps the printing shop semi-functional (it still prints release papers), but other workshops have stopped functioning. At Buluo Detention camp, the director was seeking to reclaim a saw that was reportedly sold to a local businessman by the past director when we visited in March. At Kasapa prison, the functioning saw-mill is the main source of income for the prison.

The essential prison regime appeared to leave prisoners with substantial unallocated time and little to do. Prisoners were locked-down in the cells or rooms in the evening and allowed out in the morning. There is a morning and an evening roll-call. During the course of the day, prisoners are generally free within their court-yard or other common space. There are some major exceptions to this general situation. At some prisons in the interior of the country, like the prison in Mbanza Ngungu, prisoners were forced to sit all day long in a circle around the courtyard, because the lack of adequate personnel made it impossible to control escapes. Last year, however, this prison was shut down.

⁴⁷ Association of Prison Cadres submission to the National Conference at 11.

Conditions at Each of the Prisons Visited

Human Rights Watch visited four prisons -- two central prisons and two detention camps -- and interviewed aid workers and prison staff from several other prisons. The visits were arranged informally with the approval of prison officials and, in the case of Makala with the approval of the prisoners themselves. The Zairian human rights groups, *Les Toges Noires*, *La Voix des Sans Voix*, *L'Association des Cadres Pénitentiaires* and Shaba chapter of *La Ligue des Droits de L'Homme* were all involved at one point or another in arranging or carrying out the visits. At Makala prison and Luzumu Detention Camp, the delegation had free roam of the prison without any officials present. At Kasapa prison and Buluo detention camp, the delegation was accompanied by the prison director. In general, the prisons directors were extremely forthcoming. As one of them commented, "We used to do everything possible to keep outsiders from knowing what was going on. Now, we invite them in. Without their help, the prisoners would die." In contrast, we had to be more discrete in our conversations with prisoners. In light of the strict control operated by prisoners over the conduct of other prisoners, prisoners were hesitant to discuss some sensitive issues relevant to conditions at the prison.

Makala Prison

Makala Prison is the central prison for the Kinshasa region, housing all categories of detainees -- men, women, minors, long and short-term detainees and detainees awaiting trial. It is located in the zone of Selembao in the south of the city, about 20 minutes by car from the central Gombe area of Kinshasa. It was originally built during colonial times. Prison officials told Human Rights Watch that it was originally built to house about 500 prisoners.⁴⁸ In the 1980s the prison population ranged between 2,000 to 3,000. Like most of the major prisons in Zaire, prisoners are housed in pavilions divided into either individual cells (*quartier cellulaire*) or large rooms (*quartier communautaire*). The cells measure 3m x 2m (10 x 6.5 feet) in two of the pavilions and 3.5m x 3m (12 x 10 feet) in one pavilion. The remaining pavilions are divided into larger rooms that measure 13m x 6.5m (43 x 11.5 feet). The women's pavilion is one vast room with a high ceiling resembling a small airplane hangar.

There are 6 pavilions in the men's section along a single walkway which leads to the main courtyard. In the men's section of the prison, convicted prisoners and detainees awaiting trial are mixed together. There is some effort to divide prisoners according to their crime, and to place younger prisoners -- or prisoners who are physically smaller -- in a separate pavilion.

⁴⁸Amnesty International reported in 1980 that the prison was designed to hold 900 prisoners.

From the courtyard, there are separate entries to the women's section, the dispensary, the administrative buildings and the section for privileged detainees. Privileged detainees -- usually wealthy or politically important prisoners -- live in well tended individual cells on what was once death-row, where they are served by other prisoners.

On March 24, 1993, there were 511 prisoners of whom 75% were awaiting trial. In recent surveys by the Prison Cadres and the Prison Fellowship, prisoners at Makala were found to have waited up to 8 years before trial.⁴⁹ Twenty one of the prisoners on March 24 were women. Thirteen were housed in the section for privileged prisoners, including a number of high-ranking security force and political officials convicted for their involvement in the so-called Lubumbashi massacre of 1990.⁵⁰

According to the *Association des Cadres Pénitentiaires*, there were 263 deaths at Makala Prison in 1989, 287 in 1990 and 436 in 1991. In July 1991, the International Committee of the Red Cross took the extraordinary measure of instituting a nutrition program

⁴⁹See below, "Pre-trial Prisoners".

⁵⁰On May 11-12, commandos attacked students on the campus of the University of Lubumbashi in Shaba, killing an unknown number, and traumatizing the inhabitants of the city. See Africa Watch, "Zaire: Two Years without Transition". The government's version of the attack was that two rival groups of students clashed and that one student died, but it soon became clear that local security force chiefs had been involved. Eventually, a number of local government and security force leaders from Shaba were prosecuted, without implicating the central government.

inside Makala prison. Initially, the program was directed to minors and ill prisoners. But when they realized the extent of malnutrition, the ICRC extended the program to treat up to 200 severely malnourished inmates each day on the basis of height/weight statistics. The ICRC also repaired broken water pipes and provided medical assistance and basic necessities such as soap.

The ICRC program corresponded with the complete collapse of basic services at the prison. According to Bossassi Epole, one of the elite prisoners who has been detained since 1989, conditions began to decay in 1990. If the quality of the food was poor in 1989, the quantities were at least sufficient. In any event, many family members provided food to prisoners. When the author visited Makala prison in 1989, for example, the courtyard in front of the prison resembled a market place with a constant stream of food passing into the prison; the inside courtyard was dotted with people preparing their own meals.⁵¹ In 1992 and 1993, the outside courtyard was abandoned, even on official visiting days, and there was no sign of visitors or food being prepared inside the prison.

What food exists is prepared in a communal pot in the courtyard. First the fufu, or manioc, is prepared. "I saw a fight one day in the courtyard," an aid worker told Human Rights

⁵¹Human Rights Watch consultant, Peter Rosenblum, had previously visited Makala on two occasions in 1989 and 1992 on missions for Africa Watch and the Lawyers Committee for Human Rights.

Watch. "When I saw what it was they were fighting over, I didn't know whether to laugh or to cry: it was the charred remains from the bottom of the fufu pot. I saw the same thing happen on another day for a banana peel." After the manioc is distributed, the same pot is used to heat up some beans. Prisoners usually get the beans an hour or two after the manioc is served.

According to the Deputy Director of the prison, Mr. Mirambo, interviewed on March 26, 1993, there had been no regular supply of provisions to the prison since October 1992. Truly dire conditions set in by the month of December. Staff had not been paid since then and very few bothered to come to work. Those who did rarely stayed more than a couple of hours a day. The prison's transportation vehicle had broken down in May 1992 and had never been repaired.

By the end of February 1993, all effort to feed the prisoners came to an end. "There was nothing left," Mr. Bossassi told Human Rights Watch. The ICRC found itself in a vicious cycle where detainees released from their feeding program in good health returned severely malnourished soon afterwards. Eventually, the ICRC determined that it could not go on fulfilling the role of the state. After many warnings, they brought their program to an end at the beginning of April 1993.

Besides the ICRC feeding program, most of the food has come from missionaries and, now, from a program instituted by the prisoners themselves. Elite prisoners, including Bossassi and the

former Shaba governor Koyagialo travel around Kinshasa accompanied by a prison guard, soliciting donations of food for the prisoners. Although a number of people expressed skepticism about their altruism, at least some food has been collected for the prisoners in this manner.

The same conditions of crisis affect health care at the prison. There is usually a doctor at Makala each day, in contrast to the other prisons visited by Human Rights Watch. But there are few drugs and no materials left in the laboratory. When the *Association des Cadres Pénitentiaires* visited in March 1992, the entire pharmacy consisted of little more than 2 boxes of anti-malaria medication. The prisoners have suffered from severe problems related to general malnutrition, tuberculosis, diarrhea and skin diseases. According to Mr. Bossassi there were five deaths during February and March resulting from what was termed simple diarrhea. Many of the basic skin problems were eliminated when the ICRC distributed soap to prisoners. However, they had begun to return by the time Human Rights Watch visited the prison in March 1993.

Beginning in 1992, the Justice Ministry instituted a policy to release sick prisoners who were awaiting trial. This has resulted in a substantial drop in the population of the prison. While it appears that genuinely sick were released it was also the occasion for profiteering by prison officials.

Luzumu

Luzumu detention camp, built between 1955 and 1957, is located in the region of Bas Zaire about 75 km from the city of Kinshasa. The prison has a coffee plantation of 3.5 hectares and a palm oil plantation of 14 hectares which have been largely untended for 30 years. The situation is similar with respect to fish ponds that were abandoned and 25 pigs which reportedly died in a diarrhea epidemic. None of the workshops is functional.

Luzumu prison serves the regions of Bas Zaire and Kinshasa. It was intended only to receive prisoners sentenced to serve more than two years. Since the recent break-down of the regional prison in Mbanza-Ngungu, 150 km away, however, many prisoners awaiting trial have been transferred there. The last 13 kilometers to the prison cannot be traversed except on foot or by private four wheel vehicle. The prison was built in the 1950s. There were 71 prisoners at Luzumu in March 1993 and 69 in March 1992. In the past, the number of prisoners averaged about 400 and reached as high as 700.

The prison consists of 16 dormitories, 100 full size single cells and 19 small detention cells. At Luzumu, the cells form a prison within a prison. In the *quartier cellulaire*, full size cells of about 6m² (65 square feet) line a court-yard with a communal building in the center. The gate to the rest of the prison grounds is permanently locked and guarded. The smaller,

detention cells line the far wall of the court-yard. More than half of the prisoners, including all of the unconvicted detainees currently live in cells, usually two prisoners to a cell. In the past, as many as 400 prisoners were housed in the dormitory-cell section.

Luzumu prison has been without electricity since 1990. The Director told Human Rights Watch that he had received no subsidies since June 1992 and only one food delivery in 1993 which was sufficient for one month. No staff have been paid since November 1989. They have no vehicle and no means of communication with the outside world.

Despite its agricultural surroundings and 18.5 hectares of land for cultivating manioc, corn, peanuts and soy, prisoners are not able to produce sufficient food to feed themselves. The director told Human Rights Watch that the soil was not of good enough quality. He also complained about the lack of equipment (though we learned later that humanitarian groups had donated machetes on a number of occasions that had quickly disappeared).

The general appearance of prisoners, especially those in the cellular bloc, is even worse than Makala. Everyone except the "governor" (see below, Inmate Hierarchy) appeared emaciated and without spare flesh. Many were incapable of walking unassisted. When we visited, prisoners in the cell section of the prison were receiving only a minimal supply of manioc and manioc leaves. There was no oil, no salt, no beans and certainly no fish or other

source of protein. The *Association des Cadres Pénitentiaires* estimated the total food consumption of detainees at between 100 and 120 grams of food per day. Drinking water had to be sought by the prisoners from several kilometers away.

The dispensary at Luzumu is a huge abandoned building on the prison grounds without beds or other materials. There has been no doctor at the prison since August 1990 and no nurse for the 8 months prior to our visit. In 1992, the *Association des Cadres Pénitentiaires* determined that 90% of the detainees were in a situation of precarious health. At the time of their visit in March 1992, the pharmacy consisted of 120 aspirin tablets, four bottles of penicillin and one bottle of mecurichrome.

Kasapa Prison

Kasapa prison is the central prison for the city of Lubumbashi, the major city of the Shaba province in the South east of the country. It is located outside the city on roads that are largely impassable for the last several kilometers after the University Campus. Like the other prisons it was built shortly before the end of the colonial era and began functioning in 1958. The prison has 32 dormitories and 22 cells. In the 1980s the prison population ranged between 600 and 1,000 inmates. The population dropped to 350 by March 1993, 85% of whom were awaiting trial. Because of decayed facilities and absent staff members 110

of the prisoners had been moved into three rooms of 8m x 5m (26 x 17 feet) each.

The number of recent deaths has been very high at the prison. Twenty-seven prisoners died between January and the end of March 1993, primarily from an epidemic of dysentery. There has been no doctor at the prison for some time and the medical assistant who comes 4-5 days a week is largely ineffectual. According to the records of the director, 173 of the 350 detainees are ill, primarily with dysentery or severe malnutrition.

For food, the prison depends entirely on missionaries and the precarious income from a small functioning saw-mill. The prison received subsidies on three occasions during 1992. Together, all of the money received during the year was sufficient to purchase about 20 sacks of flour (and nothing else). No subsidies had been received for 1993 by the time that Human Rights Watch arrived at the prison.

The Director of the Prison, Mr. Kasongo described his strategy for feeding the prisoners: Catholic and protestant missionaries bring food to the prison four days a week. Two days a week, Monday and Wednesday, the prison tries to feed itself. But there is frequently no income from the saw mill -- particularly when it rains. "Yesterday," the director told us when we visited on a Thursday, "the prisoners did not eat." In any event, the prison has given up trying to find food for the prisoners seven days a week. "On Saturday," the director said, "we

just pray."

Buluo Detention Camp

Buluo Detention camp is located about 10 kilometers south of Likasi on the main road to Lubumbashi. Like Luzumu, it was built to hold convicts under long-term sentences. At one time, prisoners were sent there from all over Zaire to serve their terms. The layout out of the prison resembles Luzumu, where the small cell section is in the form of a prison within a prison. During the 1980s the prison held on average between 200 and 300 prisoners. There are currently 124 prisoners of whom 36 are in cells. Only the "governor" has electricity.

Buluo suffers from the same problems as the other prisons with respect to food and health care. The doctor refuses to come to the camp except when requisitioned and the hospitals resist taking inmates without payment in advance. In addition, the situation at the prison has been complicated by regional violence intended to expell residents who originally come from the neighboring region of Kasai.⁵² The city of Likasi, where more than 60,000 Kasaiens have been expelled from their homes, was one of the first major cities affected by the violence. This has put additional pressures on the prison and its administration. The

⁵²See Africa Watch, "Zaire: Inciting Hatred -- Violence against Kasaiens in Shaba" Vol. 5, No. 10 (June 1993).

camp director, Eduard Kalenga Jamba, and his assistant -- the only staff that remained at the prison beside three gendarmes "who sleep at the gate" (as he told us) -- are both originally from Kasai. When we visited in March, the assistant was living at the train station with tens of thousands of other Kasaiens, awaiting his evacuation to Kasai. The director had been attacked on several occasions. "I'm at the end of my rope," he told us when we first met with him. "There is nothing more I can do. Its the end."

In its annual report to the Ministry of Justice, the director conveyed his sense of despair:

The year 1992 was one of black misery for the detainees at the Buluo detention camp who are mostly in a precarious state of health and who were abandoned to their sad fate. The critical political situation in the city of Likasi as well as the instability of the government has only contributed to their misery.⁵³

Like Kasapa, Buluo received three installments of government subsidies during the course of 1992, which together equalled the cost of 12 sacks of flour at the time the subsidies were received.

In both cases, the bulk of the money was delivered during the

⁵³Buluo Prison, Annual Report for 1992, at 6.

short term of the opposition prime minister, Etienne Tshisikedi.

In his report, the prison director notes that he sought and received help from the missionaries and humanitarian groups but that no assistance was provided by the local authorities. In addition, the prisoners were able to produce some food locally from seeds which were donated. "If it weren't for the humanitarian groups that have assisted me," he told us, "I would have one hundred dead prisoners."

CATEGORIES OF PRISONERS

Pre-trial Prisoners and Illegally Held Detainees

The vast majority of the prison population is composed of prisoners awaiting trial. The figure has remained relatively constant since the 1980s when Amnesty International reported that about 80% of prisoners were awaiting trial. From 1989 to 1992, the figure was closer to 85%.

The primary problems with pre-trial detainees concern the length of detention and the legal status of the detention. According to the Prison Fellowship, a largely religious association concerned with prison conditions, some of the prisoners awaiting trial at Makala prison have been there for as many as 8 years. This is the case for Mr. Mpale in Pavilion 1; others identified by the Prison Fellowship have been detained 4, 6 and 7 years.⁵⁴ The Association des Cadres Pénitentiaires reached a similar conclusion.⁵⁵

Many of the pretrial detainees throughout the country are being held illegally because their detention orders have not been renewed every thirty days as required by law. All of the pre-trial detainees at Luzumu prison, for example, had gone several

⁵⁴Papers compiled by the Prison Fellowship in 1992.

⁵⁵Association des Cadres Penitentiaires du Zaïre, Rapport des Visites dans les Prisons et EGEE, 1992 at 7

months without coming before a judge. Two of the detainees had been held for 9 months. The prison director told Human Rights Watch that a judge had promised on several occasions to come from Mbanza Ngungu, but that he had not been able to secure transportation.

Largely because of the efforts of a few activist prosecutors and a team of devoted religious aid workers, the extent of illegal long term detention at Makala appears to have diminished in recent years. In many cases observed by Human Rights Watch, the aid workers filled the role normally played by lawyers, bringing lost cases to the attention of the *parquet* and ensuring that files were not ignored over long periods of time. According to magistrates who have worked with the aid workers, their efforts have led to the release of many prisoners in the recent past. Nevertheless, the assistant director at Makala prison acknowledged that many prisoners were illegally detained, but that the law did not permit him to release them.

The problem is primarily one of transportation, difficulties in communication and the general collapse of the justice system. At Makala prison, for example, the court holds its sessions at the prison. But, as one prosecutor told us, "The judge doesn't go unless we take him. He says, 'Why should I pay for the transportation when nobody is paying me.'" As a result, the court often fails to hold sessions and, hearings are delayed.

Another problem results from inactivity at the Justice

Ministry and the breakdown of communication with Kinshasa. None of the of prisons acknowledged receiving a copy of the Amnesty order issued by President Mobutu in December 1992 that should have affected a large proportion of the prison population. Although we have doubts with regard to Luzumu, it seems likely that the Shaba prisons did not receive the order. If this is the case, it is almost certain that prisons in other regions of the country also did not receive the order. The same lack of communication affects provisional releases. The director of the prison prepares a list of prisoners who he believes entitled to provisional release, but the list must be approved by authorities in the ministry. The director of Buluo prison told us that Kinshasa had failed to respond to his requests for provision release despite several communications from him over a period of months.

Security or Political Prisoners

Almost all of the prisoners in the ordinary prisons are held for ordinary, "common law" crimes. In fact, there have been few known political prisoners in any of the prisons over the past three years; and most have only been held for a few days before release. In the 1980s, the ICRC typically saw more than 300 prisoners held for security offenses during any 12 month period, even though their access to detention centers was severely

restricted.⁵⁶ In 1989, the ICRC visited 341 security detainees in 54 places of detention; in 1993, 41 detainees were visited by the ICRC.

In March 1993, however, the trend reversed itself again. A number of people in the opposition were arrested and detained illegally, either at the SNIP prison or elsewhere. On April 9, Joseph Olenghankoy, a young leader of the opposition was arrested and put into Makala prison. He had been instrumental in organizing several general strikes on behalf of the Sacred Union, the opposition to the Mobutu regime. He was released together with about a dozen other political detainees on July 6, 1993. Six other political detainees remained at the prison.

There are, on the other hand, a number of convicted prisoners whose conviction has a political component. Many are convicted of embezzlement, an omnipresent crime among Zairians in positions of power. "Essentially, anyone convicted of embezzlement was prosecuted for reasons unassociated with the crime itself," as one human rights activist told Human Rights Watch. This is certainly the case with respect to Bossassi Epole at Makala prison. "I'm sure he was guilty," the same human rights activist said, "but that isn't why he was prosecuted." Bossassi was member of the opposition UDPS soon after it was founded in the early 1980s. In addition, he sought to found the first human rights league in the

⁵⁶See ICRC Annual Reports for 1982 - 1989.

country. In 1986, he "returned to the fold" of the single party and was rewarded with a position in one of the para-statal corporations. Soon afterwards, he was prosecuted for embezzlement together with his boss.

Women Prisoners

Of the four prisons which we visited, only Makala prison held women detainees. On March 24, 1993, there were 21 women prisoners in a group pavilion separated from the men's quarters. Almost all of them were awaiting trial.⁵⁷ A number of nursing babies live with the women.⁵⁸ We were told by magistrates that babies could remain with their mothers until the age of one; the rule, if it exists, however, is not strictly enforced. Many older children -- up to two or three years old -- have also remained with their mothers.

At Makala, the women generally appear to be in better health than the men and to live under better conditions. Although the women's pavilion clearly floods during heavy rains, it is immaculately kept and there are currently sufficient numbers of cots or mattresses for all of the prisoners. According to aid workers in the prison, the women are well organized and tend to

⁵⁷Nineteen out of the 22 who had been during a survey taken two days earlier were awaiting trial, while only three were serving sentences.

⁵⁸The Prison Cadres reported that 9 nursing babies lived with 25 women in March 1992.

take care of themselves. Former prisoners told Human Rights Watch that there is a system of prostitution run by the women prisoners and that guards and male prisoners have "wives" among the women prisoners. We did not, however, have an opportunity to interview women prisoners in a setting that would insure their confidence.

The other prisons which we visited have separate facilities for women; however, there were no women prisoners at the time of our visit. In police lock-ups and security force prisoners, in contrast, there appears to be no effort to separate men and women detainees. This is definitely true of the police lock-ups in Kinshasa, the BSRS prison and the Civil Guard Prison. All of the visitors to these facilities and former security detainees report that women and men were held in the same cells. There is some testimony which suggests that at the security force prisons, women have been deliberately put into cells with men in order to intimidate them.

CONTACTS WITH THE OUTSIDE

Official prison rules usually permit visitors on two days during the week. These days prison directors tend to permit visits at any time, because they are a major source of food for the prisoners. However, because of the increasingly dire economic situation, the number of visits has dropped off precipitously in the past two years. This is apparent to anyone who has visited Makala prison during this time. In 1989, so many visitors passed through the doors that, to unfamiliar viewers, it was hard to determine who was a visitor and who a prisoner. The economic situation of family members has been exacerbated by the demands made on visitors by prison guards (see Corruption). Travel back and forth, even to the urban prisons, is extremely expensive and, because of the increasing insecurity in Kinshasa, dangerous in the case of Makala prison. Rural prisons, like Luzumu or Buluo, rarely receive any visitors. Luzumu, for example, had received only two during the first three months of 1993. Although access to the prisons appears relatively unrestricted, some prisoners complained that certain of their visitors were not allowed in for political reasons.

INMATE HIERARCHY

One of the most striking aspects of prison life in Zaire is the powerful role played by the prisoners themselves. As prison staff disappears from the prisons, the role of the prisoners becomes even more important. Without their cooperation, the prisons could not function. As the director of Buluo detention camp acknowledged, the prisoners could simply leave if they chose to. "Just don't tell them," he said to us only half-jokingly. Buluo prison, for example, functions with one administrator and three uniformed guards.⁵⁹ Kasapa has 3 staff members who work regularly in addition to the director and one who comes twice a week. Luzumu functions without many more. At Makala prison, the prison staff that does work is rarely seen outside the administrative offices.

The extent of prisoner involvement in running the institution ranges, depending on the prison. However, in each of the prisons there exists a hierarchy of prisoners that is respected by both prison officials and prisoners. No prison director would approach the prisoners without passing through the "Kapita Général" or chief of staff, and no prisoner would defy the "governor" of his pavilion.

⁵⁹When he learned this, one Zairian human rights worker said to the director, "So they could all leave if they wanted to?". "Yes," said the director, "but don't tell them."

The Kapita Général is chosen with the accord of the prison director, although it may be largely pro-forma. Kasapa's director told us, for example, that it would pointless for him to try to impose a Kapita. The lesser inmate officials are chosen by the prisoners themselves.

At some prisons, the prisoner hierarchy already plays a predominant role in prison life. Nowhere is this more in evidence than at Makala. There, prisoners prepare and distribute the food, tend the sick, adjudicate disputes, organize the day and mete out most penalties.

At Makala, the Kapita Général, or chief of staff, typically comes from among the privileged prisoners. The current Kapita is Mr. Ezati, detained since 1989 for embezzling government funds; his deputy is Governor Koyagialo, the former governor of Shaba. Under the Kapita is an administrative and a security structure divided into "brigadiers" and "governors". Each pavilion has a governor and a commander in charge of exterior security. The common-ways are patrolled by a team of brigadiers headed by the Brigadier in chief. The kitchen staff is also under the control of the inmate hierarchy.

At other prisons the system of brigadiers seems to be less developed, but the administrative structure is equally strong. At Luzumu, in addition to the Kapita Général and the governors, there is a central committee of prisoners, as well as prisoner sentinels called "Makwata".

Not surprisingly, though the system appears very efficient for prison directors it can be abusive for the prisoners themselves, particularly where -- as in the case of Makala prison -- prisoners have significant control over distribution of punishment, food, and other "favors".

Activities

At Makala prison, as a number of prisoners explained, all movement is carefully monitored by the inmate hierarchy. Before a prisoner can leave his pavilion he needs the permission of the "governor". He must also have permission before he can enter the main courtyard. There is little that prisoners can do, however. There are periodically sports activities, but fewer and fewer. At Buluo they were banned because prisoners were too weak, and too hungry after physical exertion. At Kasapa they were banned as punishment for a massive theft and escape effort. Essentially the only remaining activities at the prisons are the religious services of different denominations, all of which are well attended.

The penitentiary law permits the prison to assign work detail to all convicted prisoners. At Makala this entails primarily maintenance and upkeep. "Governors" assign work for the detainees in their pavilions. At prisons in the interior, convicted prisoners are sent to work in fields. However, as all prison

directors told us, the weak condition of prisoners meant that they could not be compelled to work very hard.

"Prison Economy"

Within Makala prison there is a thriving economic market. According to detainees who were interviewed, everything must be paid for -- from the mat or blanket that prisoners sleep on to the pan on which they heat their beans and manioc. Senior prisoners control plots of land and pay other prisoners to work them. The plots, which are within the prison grounds and were originally planted with the assistance of missionary groups, are now bought and sold among prisoners. Prisoners can also earn money guarding and cleaning up for other prisoners and, reportedly, providing sexual services. There is also a thriving loan-shark market within the prison, and according to prisoners, a trade in marijuana.

Disciplinary System within Inmate Hierarchy

At Makala, any dispute among prisoners is usually regulated by the inmate hierarchy. There are even, "trials" which take place before the elite prisoners of pavilion 8. While this "self-government" has its positive side under the conditions of general abdication of their role by much of the staff, it is also

extremely repressive and dangerous. Wealth and physical strength give some prisoners inordinate power which they use with impunity. Because the kitchen facilities and food distribution are controlled by the prisoners, the prisoners essentially decide who will live and how well. We viewed one prisoner who was clearly on the brink of starvation, abandoned to himself in a field. Prisoners told us that he had provoked an escape attempt which had resulted in the death of several prisoners and now he was being ostracized. Even the ICRC program apparently had trouble reaching him.

Each rank in the prison hierarchy merits an additional increment of food and other benefits, meaning that prisoner officials generally look well fed. One of the great innovations of the ICRC in its feeding program at Makala was to sit the prisoners in a circle and ensure that each one received and ate his appropriate portion.

According to aid workers, the long term convicts, particularly, those "hardened criminals" living in pavilion 2 exercise a reign of terror over other prisoners. They are particularly known for sexually terrorizing younger prisoners. "At one point, we kept hearing about younger prisoners dying from diarrhea," an aid worker told us, "then we investigated one case and found a 15 year old boy whose entire anus has been destroyed."

The elite prisoners tend to live under a separate regime. At Makala prison, a number of the elite prisoners leave the prison

during the day. Others are apparently permitted to spend the night with their family and check in during the morning. Their day-time hours are also not structured and they move freely among the various sections of the prison. In addition, particularly at the rural detention camps, some prisoners after serving the majority of their sentence are allowed to live and cultivate fields outside the prison walls.

DISCIPLINARY MEASURES AND PHYSICAL ABUSE

The penitentiary law establishes the following scheme of punishments, to be ordered by the director of the prison and officially recorded:

- (1) deprivation of visits for at most two months, on condition that the detainee have the right to communication with his counsel;
- (2) deprivation of mail for at most two months on condition that the detainee have the right to correspond with his counsel and write to administrative and judicial authorities;
- (3) supplementary work of one hour per day for at most 15 days;
- (4) handcuffs for at most 7 days;
- (5) lock-up [*cachot*] for at most 45 days.⁶⁰

The Director of the prison has the right to establish internal rules subject to the approval of the territorial inspector. (art. 46) The rules are supposed to be written and

⁶⁰Prison Law, art. 78.

posted. We never saw any rules posted in the prisons we visited.

The severity of punishment at the prisons visited recently appears to have diminished according to the testimony of prisoners and prison officials. As the Director Kasongo of Kasapa prison told us, "I can't deny them visitors -- that would mean death. I can't give them extra work or they would also die. And for the same reason, I can't lock them up except for the shortest periods." In practice, short and long-term lock-up are the most common punishments, but whippings are also an accepted practice in some prisons. The *Association des Cadres Pénitentiaires* reported that, for the month of February 1992, 26 detainees were locked-up for an average of 12 days at Luzumu prison and 268 detainees were locked up for an average of 20 days.⁶¹ The lock-up cells at the prisons we visited were like police lock-ups, without windows or ventilation. At Makala, 4 to 6 detainees are locked up in an unlighted cell measuring 2m x 3.5m (6 x 10.5 feet). At Luzumu, there were also 8 cases of whippings apparently in connection with prisoners who attempted to escape.

The extreme form of physical abuse which we encountered was the use of leg chains and metal spans. According to prison officials, they are used in many of the prisons in the interior, less as a punishment than a means of control for dangerous prisoners. The type used in Zaire are welded together, causing

⁶¹*Association des Cadres Pénitentiaires du Zaïre, Rapport des Visites dans les Prisons et EGEE, 1992.*

severe burns to the skin, and sometimes, according to the *Association des Cadres Pénitentiaires*, creating complications leading to amputations. To remove them requires a hacksaw.

Human Rights Watch interviewed three prisoners while they were still in chains at Luzumu prison. They had been chained upon arrest in December 1992; one with a leg span and the others with chain links. Two were members of the Civil Guard and the third was a civilian. They were reportedly involved in a hold up, however, they had never been tried. Initially, they were chained in order to keep them from escaping. They remained chained at Luzumu prison because the director claimed he did not have the necessary blade. Missionaries from Kinshasa eventually brought a hacksaw blade and removed the chains at the beginning of April.

The Breaking in of a Prisoner

The time when most inmates are subjected to particularly severe physical abuse, usually by their fellow prisoners, is the period following their arrival at the prison.

The initial period may last for several months during which time, the new prisoners are "broken down" (as the director of Luzumu put it) and observed. During this time, at Makala for example, the new prisoners are also given the degrading tasks, such as cleaning out the toilets by hand. On this basis a prison administrator makes a final determination about living quarters.

But as even the prison administrators acknowledged, the final choice depends largely on the determination of the prisoners themselves. It is primarily the prisoners who observe the new arrivals and determine their compatibility. One prisoner released from Makala on March 24, 1993 claimed that he was forced to live with the "hardened criminals" (Pavilion two) for three years because he had mouthed off to other prisoners when he was forced to clean the toilets.⁶²

⁶²Interview with "Jean", March 25, 1993.

CORRUPTION

The crisis in Zaire's prisons is exacerbated by corruption at all levels of the prison hierarchy, from the minister of Justice to the jail guard. At its simplest, corruption requires paying and feeding the jail guards in order to visit the prison or bring food to prisoners. This practice, which is common to all of Zaire's prisons was banished for a few months from Makala prison last fall. A reform minded Justice Minister, Roger Gisanga, under the transition government of Etienne Tshisikedi placed a sign at the entrance saying, "Visits are free" and threatened guards into enforcing it.

The policy was effective, according to aid workers. But the sign was gone as soon as the transition government was displaced by President Mobutu several months later and the practice has quickly returned. "Of course this keeps away visitors," one magistrate said. "People have practically nothing to begin with and feeding prisoners comes low on their list of priorities. When, on top of this, they have to pay off everyone along the way, they just stop coming."

Corruption is responsible for the fact that prisons are without functioning vehicles or machinery for workshops. Much of this has been sold or converted to private use over the years. At Buluo prison, the director recently succeeded in identifying key machinery sold to private businesses by his predecessor. While he

tried to shame the businessman into returning the equipment, he was also seeking a way to rebuild the destroyed electrical connections to the wood-shop. Missionaries in Kinshasa have continuously replaced stolen equipment at the Makala carpentry shop, but to no avail. It always disappears soon afterwards. They have also provided machetes and farming implements to Luzumu prison with the same result.

Corruption also explains why major contributions of food and medicine disappear quickly from the prisons. Everyone seeking to bring food to the prison gives some of it to the guards. In late December 1992, after a highly publicized Christmas donation of food stuffs by a Lebanese businessman, aid workers saw prison staff carting out loads of food from the warehouse. There are several versions of what had happened. According to one Justice Department official, the guards blocked the food from leaving and threatened to expose the director for the theft. The director procured a letter from the Secretary General at the Justice Ministry saying that the food was to feed the staff at the Ministry. In fact, according to this official, the Secretary General and the Director, both of whom were involved in corruption, were just protecting each other.

Missionaries and humanitarian groups have had to fight to maintain control over their own contributions in order to insure that they serve to benefit the prisoners. Even the prisoners have a separate store house for the food that they collect, although

they acknowledge that they give some food to the prison staff.

Finally, corruption in some prisons has created situations where prisoners are forced to work for the account of the director, either in prison fields or in private fields. Directors justify this activity by reference to the needs of the prison. But there exist no control to ensure that the proceeds actually go to its benefit.

In the case of Luzumu prison, it seemed very likely that the prison director had deliberately failed to implement President Mobutu's December amnesty order because he feared losing an essential workforce. On April 4, he complained to our delegation, as other directors had, that he had not received a copy of the amnesty. But in fact, credible witnesses had seen him in Kinshasa the week before at which point he claimed already to have obtained it. At the same time that he mentioned the amnesty, he lamented the difficulties of managing the prison with the small group of prisoners who remained -- particularly since a large number of them were unconvicted prisoners and, therefore, not subject to work detail. Suspicions about his conduct were bolstered by a letter which he had written to a religious superior seeking to have the catholic chaplain, the only independent presence at the prison, transferred.

The problem of corruption extends to other aspects of the judicial system. In the view of many people -- including many prosecutors -- the majority of Zairians who land in prison are

those who were not in a position to pay off the policeman or the prosecutor who ordered their detention. When a policy was instituted at Makala prison to release sick detainees, the policy was quickly distorted to allow other prisoners out on dubious grounds. "one prisoner -- a strong young man in jail for aggravated theft -- came to me and announced that he was being released," and aid worker told us. "I asked what was wrong. He told me, 'I sometimes get headaches,'." When 150 prisoners were released from Makala in March on the grounds that they were sick, the decision was made without consulting the prison doctor who was even denied a copy of the list until after the release.

ANNUAL STATISTICS FOR TURNOVER OF PRISON POPULATION

(Collected by the *Association des Cadres Pénitentiaires du Zaire* on the Basis of monthly reports filed with the Ministry of Justice.)

1989

REGION	TOTAL TURNOVER	NON- CONVICTED	CONVICTED	RELEASED	ESCAPED	DEAD
Bandundu	11843	10073	1770	9377	48	36
Bas-Zaire	13231	11347	1884	10162	210	61
Equateur	22712	20764	1948	20211	193	88
Haut-Zaire	36711	32681	4030	33483	229	206
Kasai Occ.	11523	9255	2268	9544	94	113
Kasai Or.	18617	16701	1916	16551	161	164
Maniema	12364	9926	2438	10105	41	92
Nord-Kivu	27441	22683	4758	24971	176	141
Shaba	34708	29342	5366	31008	242	193
Sud-Kivu	18526	16314	2212	15912	15	91
Kinshasa	43459	35734	7725	38761	467	263
Total:	251135	214820	36315	220085	1934	1448

1990

REGION	TOTAL TURNOVER	NON- CONVICTED	CONVICTED	RELEASED	ESCAPED	DEAD
Bandundu	10923	9183	1740	9143	56	48
Bas-Zaire	13271	11749	1522	10626	228	54
Equateur	22516	20563	1953	20174	201	116
Haut-Zaire	37061	33421	3640	34920	217	201
Kasai Occ.	11328	8972	2356	9746	101	123
Kasai Or.	19103	17005	2098	17769	147	141
Maniema	12511	10112	2399	10871	64	110
Nord-Kivu	27467	23541	3926	24861	172	127
Shaba	35212	30719	4493	31640	326	231
Sud-Kivu	18173	16201	1972	15744	117	81
Kinshasa	43933	35916	8017	41317	405	287
Total:	251498	217382	34116	226811	2034	1519

1991

REGION	TOTAL TURNOVER	NON- CONVICTED	CONVICTED	RELEASED	ESCAPED	DEAD
Bandundu	11184	9317	1867	9421	64	94
Bas-Zaire	12846	11132	1714	10202	327	126
Equateur	22723	20904	1819	20318	401	204
Haut-Zaire	36205	32729	3476	33691	624	318
Kasai Occ.	11472	9167	2305	9662	217	122
Kasai Or.	18542	17722	820	16727	433	148
Maniema	12418	9855	2563	10320	192	133
Nord-Kivu	27124	22643	4481	25145	641	245
Shaba	34635	29274	5361	31225	805	268
Sud-Kivu	18216	16121	2095	16113	234	135
Kinshasa	42529	35208	7321	39432	1072	436
Total:	247894	214072	33822	222256	5010	2229

Prisons of Zaire

(Assembled by the *Association des Cadres Pénitentiaires du Zaire* on the basis
Ministry of Justice files.)

I. Kinshasa

1. Makala Central Prison
2. Ndolo Military Prison

II. Bandundu

A City of Bandundu

1. Bandundu Central Prison
2. Kikwit Urbain Prison

B Kwilu Sub-region

3. Bulungu Sub-regional Prison
4. Bagata Zone Prison
5. Gungu Zone Prison
6. Idiofa Zone Prison
7. Masimanima Zone Prison
8. Mangai Zone Prison

C Kwango Sub-region

9. Kenge Sub-regional Prison
10. Popokabaka Zone Prison
11. Kasongo-Lunda Zone Prison
12. Kahemba Zone Prison
13. Feshi Zone Prison
14. Panzi Zone Prison

D Mai-Ndombe Sub-region

15. Inongo Sub-regional Prison
16. Mushie Zone Prison
17. Oshwe Zone Prison
18. Kutu Zone Prison
19. Kiri Zone Prison
20. Bolobo Zone Prison
21. Belingo Detention Camp

III Bas-Zaire

A City of Matadi

1. Matadi Central Prison
2. Boma Urban Prison

B Sub-region of Bas-Fleuve

3. Tshela Zone Prison
4. Lukula Zone Prison
5. Seke Banza Zone Prison

C Cataractes Sub-region

6. Mbanza Ngungu Sub-regional Prison (closed 1992)
7. Luozi Zone Prison
8. Songololo Zone Prison

D Lukaya Sub-region

9. Madima Zone Prison
10. Kasangulu Zone Prison
11. Kimvula Zone Prison
12. Luzumu Detention Camp

IV Equateur

A City of Mbandaka

1. Mbandaka Central Prison

B City of Zongo

2. Zongo Urban Prison

C City of Gbado Lite

3. Mobayi-Mbongo Urban Prison

D Equateur Sub-region

4. Basankusu Sub-regional Prison
5. Bolombo Zone Prison
6. Bokote Zone Prison
7. Ingende Zone Prison
8. Bikoro Zone Prison
9. Kalamba Zone Prison
10. Lukolela Zone Prison
11. Deb Bomongo Zone Prison
12. Djombo Leza Detention Camp

E Tshuapa Sub-region

14. Boende Sub-regional Prison
15. Djolu Zone Prison
16. Befale Zone Prison
17. Bokungu Zone Prison
18. Monkoto Zone Prison
19. Ikela Zone Prison
20. Ekafera Prison

F	Mongala Sub-region	D	Haut Uele Sub-region
	21. Lisala Sub-regional Prison	24.	Isiro Sub-regional Prison
	22. Bumba Zone Prison	25.	Rungu Zone Prison
	23. Karawa Zone Prison	26.	Niangara Zone Prison
	24. Bongandanga Zone Prison	27.	Dungu Zone Prison
	25. Mondjamboli Zone Prison	28.	Wamba Zone Prison
	26. Bosusimba Zone Prison	29.	Watsa Zone Prison
	27. Mombagi Zone Prison	30.	Defaradje Faradje Zone Prison
G	South Ubangi Sub-region	E	31. Aba Zone Prison
	28. Bemena Sub-regional Prison		Ituri Sub-region
	29. Kungu Zone Prison	32.	Bunia Sub-region
	30. Budjala Zone Prison	33.	Irumu Zone Prison
	31. Libenge Zone Prison	34.	Aru Zone Prison
H	North Ubangi Sub-region		35. Mahagi Zone Prison
	32. Bosobolo Zone Prison	36.	Djugu Zone Prison
	33. Biusinga Zone Prison	37.	Mambasa Zone Prison
V.	Haut-Zaire		38. Mongbwalu Zone Prison
			39. Nioka Zone Prison
			40. Biasa Detention Camp
A	City of Kisangani	VI	Kasai Occidental
	1. Kisangani Central Prison	A	City of Kananga
	2. Annex prison of Konga-Kongo		1. Kanganga Central Prison
	3. Osio Detention Camp	B	Kasai Sub-region
B	La Tshopo Sub-region		2. Luebo Sub-regional Prison
	4. Isangi Sub-regional Prison		3. Tshikapa Zone Prison
	5. Yaangambi Zone Prison		4. Ilebo Zone Prison
	6. Basoko Zone Prison		5. Dekese Zone Prison
	7. Banalia Zone Prison		6. Mweka Zone Prison
	8. Bafwa Sende Zone Prison	C	Luluwa Sub-region
	9. Opala Zone Prison		7. Tshimbulu Sub-regional Prison
	10. Yahuma Zone Prison		8. Demba Zone Prison
	11. Ubundu Zone Prison		9. Dimbelenge Zone Prison
	12. Yanonge Zone Prison		10. Dibaya Zone Prison
C	Uele Sub-region		11. Luiza Zone Prison
	13. Buta Sub-regional Prison		12. Kazumba Zone Prison
	14. Aketi Zone Prison		
	15. Ango Zone Prison		
	16. Poko Zone Prison		
	17. Bambesa Zone Prison		
	18. Bili Zone Prison		
	19. Bambili Zone Prison		
	20. Zobia Zone Prison		
	21. Titule Zone Prison		
	22. Bondo Zone Prison		
	23. Likati Zone Prison		

VII Kasai Oriental

- A City of Mbuji Mayi
 - 1. Mbuji Mayi Central Prison
- B Kabinda Sub-region
 - 2. Kabinda Sub-regional Prison
 - 3. Demwene-Ditu Zone Prison
 - 4. Kamiji Zone Prison
 - 5. Lubao Zone Prison
 - 6. Ngandajika Zone Prison
 - 7. Luputa Zone Prison
- C Sankuru Sub-region
 - 8. Lusambo Sub-regional Prison
 - 9. Kole Zone Prison
 - 10. Benadibele Zone Prison
 - 11. Lomela Zone Prison
 - 12. Katako Kombe Zone Prison
 - 13. Dikungu Zone Prison
 - 14. Lubefu Zone Prison
 - 15. Lodja Zone Prison
- D Tshilenge Sub-region
 - 16. Tshilenge Sub-regional Prison
 - 17. Kabeya Kamuanga Zone Prison
 - 18. Katanda Zone Prison
 - 19. Lupatapata Zone Prison
 - 20. Miabi Zone Prison

VII Maniema

- A City of Kindu
 - 1. Kindu Central Prison
- B Region
 - 2. Lwama Detention Camp
 - 3. Kibombo Zone Prison
 - 4. Punia Zone Prison
 - 5. Lubutu Zone Prison
 - 6. Pangi Zone Prison
 - 7. Kingombe Zone Prison
 - 8. Kambare Zone Prison
 - 9. Kasongo Zone Prison
 - 10. Kailo Zone Prison
 - 11. Samba Zone Prison
 - 12. Wamaza Zone Prison

VIII North Kivu

- A City of Goma
 - 1. Goma Central Prison (closed 1993)
- B Region
 - 2. Niongera Detention Camp
 - 3. Masisi Zone Prison
 - 4. Lubero Zone Prison
 - 5. Beni Zone Prison
 - 6. Debutembo Zone Prison
 - 7. Vuhozi Zone Prison
 - 8. Rutsuru Zone Prison
 - 9. Idjuwe Zone Prison
 - 10. Musienene Zone Prison
 - 11. Wlikale Zone Prison
 - 12. Kaina Zone Prison
- IX Shaba
- A City of Lubumbashi and surroundings
 - 1. Kasapa Central Prison
 - 2. Likasi Urban Prison
 - 3. Buluo Detention Camp
- B Kolwezi Sub-region
 - 4. Kolwezi Sub-regional Prison
 - 5. Lubudi Zone Prison
 - 6. Mutshatsha Zone Prison
- C Haut-Shaba Sub-region
 - 7. Kipushi Sub-regional Prison
 - 8. Mituaba Zone Prison
 - 9. Kambove Zone Prison
 - 10. Pweto Zone Prison
 - 11. Kasenga Zone Prison
 - 12. Sakania Zone Prison
- D Haut Lomami Sub-region
 - 13. Kamina Sub-regional Prison
 - 14. Kaniama Zone Prison
 - 15. Kabongo Zone Prison
 - 16. Malemba-Nkulu Zone Prison
 - 17. Bukama Zone Prison
- E Lualaba Sub-region
 - 18. Dilolo Sub-regional Prison
 - 19. Kapanga Zone Prison
 - 20. Sandowa Zone Prison
 - 21. Kasanji Zone Prison
- F Tanganyika Sub-region
 - 22. Kalemie Sub-regional Prison
 - 23. Manono Zone Prison
 - 24. Kabalo Zone Prison
 - 25. Kongolo Zone Prison

26. Nyunzu Zone Prison
27. Moba Zone Prison

XI South Kivu

- A City of Bukavu
 1. Bukavu Central Prison
- B Region
 2. Uvira Zone Prison
 3. Kabare Zone Prison
 4. Kaleme Zone Prison
 5. Shabunda Zone Prison
 6. Mwenga Zone Prison
 7. Fizi Zone Prison
 8. Idjwi-Bugar Zone Prison
 9. Walungu Zone Prison
 10. Katana Zone Prison
 11. Bushumba Zone Prison
 12. Nyangezi Zone Prison
 13. Baraka Zone Prison
 14. Bunyangiri Zone Prison
 15. Kamituga Zone Prison
 16. Luberizi Zone Prison
 17. Minova Zone Prison
 18. Lemera Zone Prison
 19. Kirotshe Zone Prison

Central Prisons:	11
Sub-regional Prisons	25
Zone Prisons	158
Urban Prisons	5
Annex Prison	1
Detention Camps	9
Military Prison	1
(not including Angenga Prison in Equateur which apparently does not report to the Ministry)	