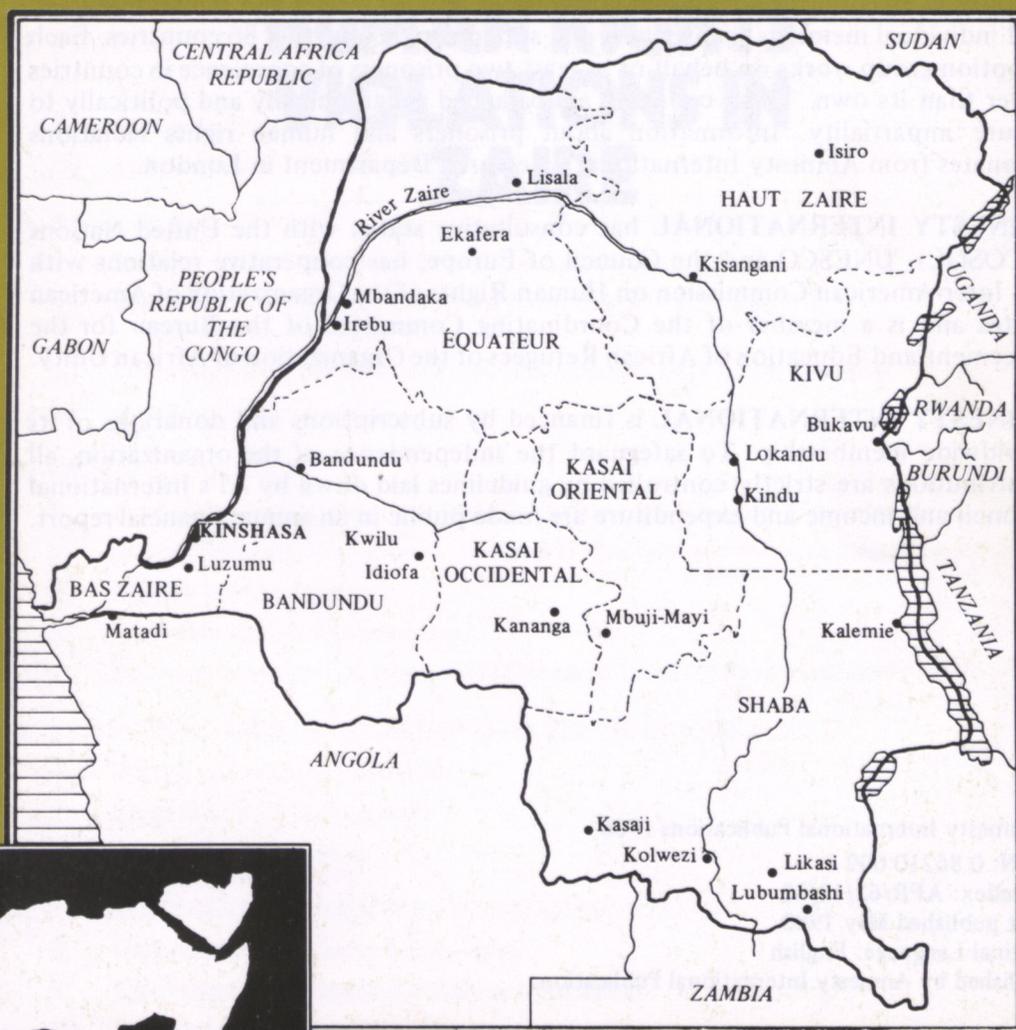


HUMAN RIGHTS VIOLATIONS IN ZAIRE

an amnesty international report



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©Amnesty International Publications 1980
ISBN: 0 86210 009 7
AI Index: AFR/62/12/80
First published May 1980
Original Language: English
Published by Amnesty International Publications

Copies of Amnesty International Publications can be obtained from the offices of the national sections of Amnesty International. Office addresses and further information may be obtained from the International Secretariat, 10 Southampton Street, London WC2E 7HF, England. Printed in Great Britain by Russell Press Ltd., Forest Road West, Nottingham.

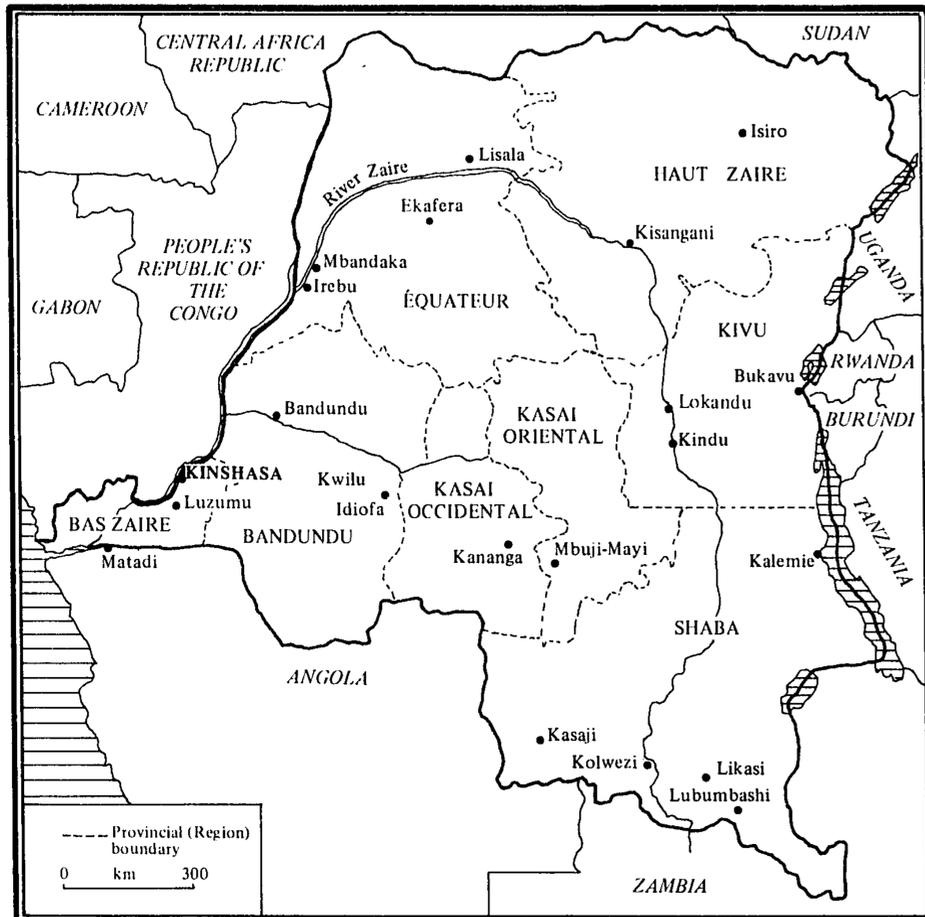
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Introduction



MAP OF ZAIRE

Events in Zaire acquired international prominence in the early 1960s when, within weeks of independence, the first of a series of rebellions broke out against the new central government. During the subsequent five years the Congo, as Zaire was then called, became a byword for political upheaval and confusion, extrajudicial killings and foreign military intervention. The political ideology and motives of the various rebellions varied considerably but they shared the common aim of overthrowing the centralized administration which the Congo inherited from its Belgian colonial rulers. After the present Head of State, General MOBUTU Sese Seko, took power in 1965 he imposed his own brand of nationalism and political unity upon the country. In spite of violent opposition to his rule in the south and east, he has remained in power for almost 15 years and has not only succeeded in holding the country together but is also now launching an important plan to rebuild Zaire's economy.

During the first five turbulent years of independence thousands of people were arrested, tortured and killed for political reasons. President Mobutu's subsequent long period in power has also been achieved at considerable human cost, not only because of the number of people killed during rebellions against his government, but also on account of the massive repression carried out by the security forces after outbreaks of rebellion against the government and the routine repression of suspected opponents and critics of the government.

Amnesty International has been concerned about human rights violations in Zaire for many years. The organization has decided to focus attention on Zaire now partly because the human rights situation there has been extremely serious for so many years and partly because events in early 1978 indicated that at times of political crisis flagrant and gross violations of human rights still occur. During the first half of 1978 at least 500 extrajudicial executions took place in Kwilu sub-region, 13 people were executed and 50 others imprisoned after a major political trial in Kinshasa and, following a further rebellion in Shaba region, hundreds of civilians were arrested and detained without charge or trial both in Shaba and in other parts of the country. During 1979 the situation seemed more calm. However, convicted political prisoners and untried detainees remained in prison and Amnesty International continued to receive reports of political arrests and detention without trial, particularly of students arrested in March and April 1979. Reports were also received of torture, harsh prison conditions and both judicial and extrajudicial executions.

This report describes the major violations of human rights in Zaire that are of concern to Amnesty International. It is limited by the fact that few individual cases are known about

from among the thousands of people who, over the past 10 years, have been detained without trial, convicted and imprisoned for political reasons, and those who have been tortured, executed or killed by the government or who have died in prison as a result of the harsh conditions of imprisonment. The difficulty in obtaining information is partly due to the large size of the country (it is five times larger than France and 70 times larger than Belgium) and the poor state of its internal communications, which has the additional effect of limiting the central government's control over events in the provinces. It is also due to the government's own policy of preventing publicity about events which might embarrass the government or lead to its being criticized either at home or abroad.

During the past two years the Zairean Government has had to deal with a series of major problems: the continuing economic crisis, a famine in Bas-Zaire region, a cholera epidemic in the northeast and a rebellion and massacres in Shaba region. During this period there were some signs that the government was trying to improve its human rights record. Amnesty International hopes that in response to the publication of this report the government will take further major steps to put an end to the violations of human rights described here.

The Zairean Government has already ratified several international treaties concerned with human rights, but these treaties have yet to be fully implemented in the country. Concrete steps which Amnesty International believes that the government should take as soon as possible to improve the human rights situation include the following:

- i. the immediate and unconditional release of all prisoners of conscience, both those who have been convicted and those detained without trial;
- ii. the establishment of a system for regularly reviewing the cases of detainees held without trial;
- iii. a review of the use and interpretation of those laws and articles of the penal code which have consistently led to the imprisonment of prisoners of conscience;
- iv. an immediate end to torture and extrajudicial executions and to those conditions of detention that have resulted in the deaths of prisoners in custody and in prison;
- v. regular inspections of all places of detention to ensure that conditions of imprisonment accord with national legislation and internationally recognized standards;
- vi. measures to abolish the death penalty; in the short term the use of the death penalty would stop if the President commuted all death sentences.

1. Zaïre in Outline

Zaïre is one of the largest countries in Africa, covering an area of approximately 2,354,000 sq kms. It is one of Africa's richest countries in natural resources, but it is also one of the poorest in *per capita* income. It has attracted world attention on a number of occasions when major rebellions have broken out and when foreigners living in the country have been killed. However, events in Zaïre generally receive little publicity outside Belgium, the former colonial power.

The territory which now constitutes the Republic of Zaïre was welded into a single state by King Leopold II of Belgium at the end of the nineteenth century. The Congo Free State, as it was called, was not a Belgian colony but an independent kingdom over which King Leopold ruled in a separate capacity. The Congo Free State became a Belgian colony, known as the Belgian Congo, in 1908, and achieved independence as the Democratic Republic of the Congo in 1960. In 1972 the country's name was changed to Zaïre.

The population of Zaïre was decimated during the last half of the 19th century by slave traders and Congo Free State troops. However, it has grown very rapidly during recent years, from an estimated 13.5 million in 1959 to approximately 25 million in 1978. The population consists of a large number of ethnic groups speaking more than 250 different languages and dialects. The country's official language is French, but most Zaïreans speak one of the four main national languages: Lingala, Kikongo, Swahili or Tshiluba.

Zaïre's recent population growth has been reflected in the rapid expansion of its towns. Kinshasa, the capital (formerly known as Léopoldville), had under 400,000 inhabitants in 1959, but now has a population of about 2.5 million—almost 10 per cent of the country's entire population. The capitals of the eight provinces have grown rapidly also, and throughout the country there has been a move from the countryside to the towns.

In addition to ethnic, political and linguistic diversity, there are also a great number of different religious sects and groups. The Roman Catholic Church is the largest single church, but more than 50 Protestant Churches are incorporated into the Protestant *Eglise du Christ au Zaïre* (The Church of Christ in Zaïre). Another major Christian church is the *Eglise de Jésus Christ sur la terre par le Prophète Simon Kimbangu* (The Church of Jesus Christ on Earth through the Prophet Simon Kimbangu) which is known as the *Kimbanguiste* Church. There is also a variety of other Christian and neo-traditional sects and Islam has many adherents in the east of the country. In recent years new religions such as the Baha'i have made converts.

During the colonial period, the administration divided Zaïre into six provinces. Soon after independence these were increased to 21, but in 1967 the number was again reduced to nine, including the capital, Kinshasa. The other provinces, which are known as *régions* (regions) are: Bas-Zaïre in the extreme west, Bandundu to the east of Kinshasa, Equateur in the northwest, Haut-Zaïre (formerly oriental) in the north-east, Kasai Occidental and Kasai Oriental in the centre (formerly one province), Kivu in the east, and Shaba (formerly Katanga) in the south. These regions have only limited autonomy under President Mobutu's centralized government, and the regional governors are appointed in Kinshasa. Each region is composed of several sub-regions (*sous-régions*), which are divided into local government *zones*, *collectivités* and *localités*.

During Zaïre's first five years of independence, the new state was shaken by a series of government crises, rebellions against the government's authority and the attempted secession of several provinces. In November 1965, when a major rebellion was still being suppressed, the armed forces staged a coup and the commander-in-chief, General Mobutu, became Head of State. In 1967 he founded a new political party, the *Mouvement populaire de la révolution* (MPR), the People's Movement for the Revolution and in 1970 Zaïre officially became a one-party state. President Mobutu has been confirmed in office by presidential elections in 1970 and 1977 and has considerable personal control over Zaïre's government. He is assisted by the MPR Political Bureau, some of whose members are elected and some appointed, and by a government which he appoints, which is known as the National Executive Council.

The MPR has a strong nationalist ideology, and has adopted "Mobutism" as its official doctrine. An important aspect of this ideology is the policy of "authenticity" which has led to the replacement of European and colonial culture by an indigenous Zaïrean one: European and "Christian" names have been replaced, and other aspects of Western influence eradicated. President Mobutu himself changed his "Christian" names, Joseph Désiré, to the "authentic" Mobutu Sese Seko Kuku Ngbandu Wa Za Banga (the family name now always precedes other "authentic" or ancestral names), usually shortened to Mobutu Sese Seko. However, he is usually referred to in Zaïre as the "Guide", the "Great Helmsman" and the "President Founder of the MPR".

An important economic aspect of the President's policy of "authenticity" was the take-over of foreign-owned companies by Zaïreans: "Zaïreanization". The country's export economy has nevertheless continued to be dominated by firms which are subsidiaries of Belgian or other Western companies which have remained mainly under foreign control. Zaïre's most important export, copper, is mined in Shaba by a company known as the GECAMINES (*Générale des carrières et mines du Zaïre*), formerly the *Union minière du Haut-Katanga*. Although nationalized in 1966 it has retained strong links with Belgium.

Cobalt, a by-product of copper, is also an important export. Other important minerals found in Zaïre are diamonds, in Kasai Oriental province, manganese and tin. Agricultural exports are much less important than they used to be. Although wild rubber was one of the first commodities that attracted King Leopold to the Congo in the 19th century, the export of palm oil, cotton, coffee and other tropical products now earns only a small proportion of the country's foreign exchange.

In spite of Zaïre's considerable mineral wealth and agricultural resources, the standard of living of most Zaïreans has fallen drastically during recent years. Average wages paid in Kinshasa are now estimated to be worth only about 10 per cent of their value in 1960. During 1979, the government imposed both a price and an income freeze, but in practice the devaluations of the national currency, the *zaïre*, by 100 per cent over a period of 18 months in 1978 and 1979 meant that the prices of imported products, including many basic foodstuffs, soared while incomes remained static.

The government's monetary policy has been heavily influenced by the International Monetary Fund (IMF), which has insisted on major devaluations and financial reforms to restore Zaïre's credit-worthiness before approving further

foreign currency loans. The latter are needed to finance an economic plan proposed by President Mobutu—the "Mobutu Plan"—to relaunch Zaïre's economy. The "Mobutu Plan" is a blueprint for rebuilding Zaïre's infrastructure—railways and roads—in order to stimulate economic growth; but the Plan requires considerable foreign funding from the World Bank, countries in the European Economic Community, the United States of America (USA), Saudi Arabia, Canada and Japan. The

major condition placed on loans from the IMF has been the devaluation of the *zaïre* to bring the official exchange rate into line with the black market rate. Although these measures are intended to achieve eventual economic growth, they have caused considerable hardship and, during 1979, provoked a number of illegal strikes and arrests in Kinshasa. Elsewhere in the country farmers have returned to an almost subsistence economy because the prices of food and other goods have become prohibitive.

2. The Political Background

i) *The First Republic (1960–1965)*

When Zaïre became independent in June 1960, it was immediately faced with a major breakdown in law and order. The new President, Joseph KASA-VUBU, and the Prime Minister, Patrice LUMUMBA, had been in office only a few days when the security forces, known collectively as the *Force publique*, mutinied against their Belgian officers. A week later the Governor of Katanga (now Shaba) province, Moïse TSHOMBE, announced the secession of the copper-rich province from the rest of the country.

During the first five years of its existence the new republic was shaken by a series of major crises. The divisive political forces representing the various ethnic groups and different regional and economic interests and political ideologies had been prevented from expressing themselves before 1960. During the ensuing five years thousands of Congolese and foreigners living in the Congo lost their lives in secessions, rebellions and political conflicts. The Prime Minister at the time of independence, Lumumba, was forced out of office and subsequently murdered in January 1961. Thousands of others, including senior government ministers, were imprisoned for long periods without trial, and states of emergency (*états d'exception*) were usual in much of the country.

The most noteworthy events of this period were the Katangan secession, which finally came to an end in 1963, and the rebellion by followers of Lumumba, which broke out in 1963 and was not suppressed until mid-1965, after the former Katangan leader, Tshombe, had become Prime Minister of the whole country and had called in mercenaries to fight the rebels.

Between 1960 and 1965 the government in the capital, then known as Léopoldville, went through a series of internal crises. In September 1960 a confrontation between President Kasa-Vubu and his radical Prime Minister, Lumumba, was resolved only by a military coup in the course of which the Army Chief of Staff, Joseph Désiré Mobutu, temporarily took power. Between 1961 and 1965 several attempts were made to establish a stable system of government, but in November 1965 a constitutional crisis again occurred following the dismissal of Tshombe as Prime Minister. President Kasa-Vubu appointed Evariste KIMBA as Prime Minister, but the latter failed to win parliamentary approval for his government. On 24 November 1965 General Mobutu once again intervened and declared himself Head of State.

ii) *The Second Republic (1965–)*

After he came to power in November 1965, President Mobutu pursued strongly nationalist policies and bolstered up both the power of the central government over the regions and his own power, as Head of State, over the rest of the government, the army and the country as a whole. There were repeated alterations both in the structure of his government, sometimes through constitutional changes, and among its members, the various ministers who comprise the government. Many of the President's original political colleagues in 1965 have been dismissed from the government and a considerable number have been prosecuted and imprisoned on charges of corruption or for offences against the security of the state. President Mobutu has maintained his personal hold over Zaïre with the help of a strong personality cult, based on his portrayal as the

"President Founder" of the country's only legal political organization, the MPR.

President Mobutu has faced considerable opposition. Soon after he came to power he had to cope with several major mutinies among troops engaged in suppressing the rebellion in the east, and in 1977 and again in 1978 rebel forces occupied towns in the mining area of Shaba region. President Mobutu and the MPR have managed to make Zaïre seem a strong nationalist state, but dissent and opposition are nevertheless still just below the surface. The President is accused by his opponents of monopolizing power not only for himself but also for members of his own ethnic group and his native province, Equateur region in the northwest.

a) *Constitutional and Political Developments*

Parliament remained in existence after President Mobutu came to power, but he soon began to legislate by decree, and all political parties were banned. The parties were initially replaced by a movement supporting President Mobutu entitled the *Corps des volontaires de la République* (Republican Volunteer Corps), which was incorporated into the MPR. In May 1967 the manifesto of the MPR, outlining its doctrine and policies, was published at N'Sele, near Kinshasa. It is still the basic policy document of President Mobutu and his governments. It states that the MPR is opposed both to capitalism and communism and that Zaïre is aligned with neither of the world's major power blocs. It also expresses the MPR's intention to put an end to the domination of the economy by foreign companies and capital. In practice the government has maintained a strong anti-communist position and has generally had good political and economic relations with Western countries including Belgium, France and the USA.

President Mobutu's belief in a strong presidency and a single national party found expression in a new constitution approved by referendum in June 1967 which abolished the post of prime minister and gave the president sole executive power. Many of the institutions provided for in the constitution, such as the single chamber National Assembly, did not come into existence until 1970, when Zaïre formally became a one-party state. Between 1970 and the introduction of the next constitution in August 1974, Zaïre passed through its most nationalist stage when the policy of "authenticity" was put into effect. In addition to the replacement of "Christian" and non-Zaïrean names in 1971 and 1972 by indigenous Zaïrean ones, many place names were changed too. The French terms of address, "*Monsieur*" and "*Madame*" were replaced by "*Citoyen*" (Citizen), and within the government and administration the titles of many institutions and officials were altered. The National Assembly became the Legislative Council, the government became the Executive Council and individual ministers became known as State Commissioners. Apart from the conflict which the ban on "Christian" names led to with the Roman Catholic Church, the economic aspects of "authenticity" and "Zaïreanization" caused friction between the Zaïrean Government and the foreign companies which were required to replace foreign personnel with Zaïreans.

The constitution introduced in 1974 stressed the importance of the N'Sele manifesto and the MPR and its Political Bureau, whose members were appointed by President Mobutu. It also emphasized the nation's adherence to the doctrine of

"authenticity" and to the President's ideas, known collectively as "Mobutism". It reinforced the powers of the President and involved the MPR in all aspects of political life, stating that "the MPR is the Zaïrean nation organized politically" (Article 29). All Zaïreans are therefore considered to be members of the MPR. The presidential powers were modified in the most recent constitution, adopted in February 1978. Until 1978 the President was not only head of the executive (the Executive Council and the Political Bureau of the MPR), but also of the Legislative Council and the judiciary. Under the 1978 constitution both the Legislative Council and the Council of Justice were given individual heads and the post of Prime Minister (known as First State Commissioner) was re-created. However, President Mobutu remains head of all branches of the executive (both the government and the MPR Political Bureau), and the Presidents of both the Legislative and Judicial Councils are close relatives of President Mobutu as well as members of the Political Bureau bound to endorse its decisions. President Mobutu is in addition responsible for appointing or dismissing provincial governors (known as Regional Commissioners).

Presidential and parliamentary elections were most recently held in 1977, when President Mobutu was re-elected unopposed for a further seven-year term, more than 98 per cent of the total vote having been cast for him. Candidates competed within the framework of the MPR for 274 seats in the Legislative Council. Under the 1978 constitution more than half the 30 members of the MPR Political Bureau were elected, the remainder being appointed. President Mobutu has subsequently enlarged the Bureau by appointing several more members.

There have been three new constitutions since President Mobutu took over, and there have been numerous changes of government. This has made Zaïrean politicians feel insecure, as they believe they are likely to be dismissed from office if they grow too powerful. The imprisonment of former ministers occurs regularly and is described in Section 5.

b) *Internal Security*

President Mobutu has faced armed uprisings on several occasions since he came to power. Although the major rebellion in the east had almost been suppressed by November 1965, military operations against the rebels continued in 1966; and when President Mobutu tried to bring former Prime Minister Moïse Tshombe back to the Congo to face trial for his role in the Katangan rebellion, Katangan troops based in Stanleyville (Kisangani) mutinied. This mutiny was suppressed, but in 1967 another pro-Tshombe mutiny broke out, this time among the foreign mercenaries employed initially by Tshombe and subsequently by Mobutu himself. These mutinies, together with the vestiges of the rebellion itself, meant that a

climate of insecurity persisted in the east of the country. Government control over towns was re-established relatively quickly; it was much more difficult to achieve this in the countryside. In southeast Kivu region, guerrilla resistance against the government led by the *Parti de la Révolution populaire* (PRP), the People's Revolutionary Party, continued into the 1970s, and there have been frequent arrests, killings and military operations in the vicinity of Lake Tanganyika. Even once military control was re-established, the MPR has not always been able to maintain successful political control over large tracts of the area dominated by the rebels in 1964.

Rebellion recommenced in Kwilu sub-region (Bandundu region) in January 1978. This rebellion was closely connected with a millenarian religious movement led by a Kasaian prophet, KASONGO, and took place near the native village of the 1964 rebel leader Pierre MULELE. The rebels launched attacks on Kanga and Madimba, villages near the town of Idiofa, and the army immediately moved in to suppress the rebellion. About 500 people were summarily executed without trial, including Kasongo and 13 other alleged rebel leaders who were publicly executed in Idiofa on 25 January 1978.

The other province which has presented major security problems is (as was the case in the early 1960s), Shaba. In March 1977 and again in May 1978, the forces of the rebel *Front de libération nationale du Congo* (FLNC) the Congo National Liberation Front, occupied several towns in the province, and in May 1978 hundreds of Zaïreans and Europeans working at the copper mining town of Kolwezi were killed. The FLNC claimed that it was a national movement fighting to overthrow President Mobutu, but in practice it derived most of its support from Shaba region. In both 1977 and 1978 the rebels were driven out of the towns which they had occupied only when foreign troops intervened on behalf of President Mobutu; Belgian and French paratroopers and soldiers from Morocco and other French-speaking countries in Africa all helped the Zaïrean armed forces. Following the first Shaba rebellion in 1977, a number of senior army officers and the Foreign Minister NGUZA Karl-i-Bond were arrested and convicted for their failure to do more to defeat the rebels. In the aftermath of both the Shaba rebellions hundreds of civilians in Shaba region were detained and held in detention camps. Most of those arrested were members of the Lunda ethnic group, which had not only supported Tshombe in the early 1960s, but furthermore was suspected of supporting the FLNC in 1977 and 1978.

In addition to the armed opposition which President Mobutu has faced in the east and south, students throughout the country have repeatedly clashed with the security forces. Further, the government has alleged that there has been a succession of plots against the President by politicians and members of the armed forces.

3. The Legal Situation

i) Constitutional rights

Each of Zaïre's successive constitutions has contained sections about the citizen's fundamental rights or duties. The 1978 constitution does not refer to such civil liberties as freedom of the press, which was guaranteed by General Mobutu in November 1965, but it is more concerned with basic rights than the 1967 and 1974 constitutions. The use of torture and all forms of degrading and inhuman treatment are prohibited and imposition of the death penalty permitted only after due legal process (Article 13). Arbitrary arrest and detention are prohibited also (Article 15), except during states of emergency when the President is empowered to take any measures deemed necessary, including restricting individual liberties and rights and introducing martial law. The 1978 constitution mentions several rights not safeguarded in 1974, such as the right to be defended by a person of one's own choosing; and it forbids the setting up of special courts, as was done in the past (for example between 1966 and 1968) to try political cases.

A number of rights guaranteed by the 1978 constitution are nevertheless curtailed by other laws and constraints. Article 17 safeguards freedom of conscience and religion, but in 1971 a law was introduced limiting the number of different religions and sects permitted to practice in Zaïre. Sects which are not recognized by the law are occasionally forced to disband. Article 18 of the 1978 constitution guarantees freedom of expression, "provided that it does not cause a breach of the peace or offence to public morality". In practice, a number of people have been prosecuted for "offending the Head of State", and many Zaïreans have been detained for criticizing the government, even when they have expressed their opinions in private.

The 1978 constitution, like the two preceding ones, also forbids any form of discrimination based on religious belief, sex, racial or ethnic or regional origin. This prohibition is extremely difficult to enforce, and many Zaïreans from Shaba, Kivu or Bandundu regions claim that they are discriminated against, mainly because those in power tend to come from the northwest of Zaïre.

ii) Legal restrictions on human rights

Some violations of human rights, such as torture, beatings and summary executions, contravene either the Zaïrean constitution or the penal code. Other infringements are, however, directly permitted by the wording of the penal code and other laws. Certain laws limit the freedoms of conscience and expression guaranteed by Articles 17 and 18 of the constitution; others restrict such political and economic activities as forming political parties or going on strike for higher wages.

During the colonial period many indigenous Christian sects were severely restricted. Some of the restrictions continued after independence, and in 1971 President Mobutu signed a law (No. 71-012 of 31 December 1971) limiting the number of religious sects permitted to practice in Zaïre. The Roman Catholic and *Kimbanguiste* Churches received official recognition, but Protestant and Islamic groups had to get official authorization, and certain groups such as Jehovah's Witnesses (some of whom are known as *Kitawalistes* in Zaïre) have never been officially recognised. Since 1971 Jehovah's Witnesses have often been arrested and detained without trial for periods

of from several months to several years. After an inquiry reported in the Zaïrean press in January 1979, which indicated that some 400 illegal sects were practising throughout the country, these were all ordered to dissolve. The 1971 law on religious sects makes it difficult for new religions to establish themselves in Zaïre, although recent Zaïrean history has shown that new sects frequently gain support very quickly. During 1979 Amnesty International heard about the arrest of members of illegal sects, such as the Bima Church in Kinshasa, and knew that a number of Jehovah's Witnesses were in detention.

When the policy of "authenticity" brought the Zaïrean Government into conflict with the Roman Catholic Church in 1972, the Church's leader in Zaïre, Cardinal Joseph MALULA, condemned the banning of "Christian" names, and his life was subsequently threatened by members of the MPR. He left Zaïre and sought refuge in Rome for six months. Since his return to Kinshasa in July 1972 he has been the only Zaïrean Roman Catholic bishop to keep his "Christian" name.

Freedom of expression is restricted by a variety of laws. The sale, distribution or public display of anything considered offensive to public morality (*contraires aux bonnes moeurs*) is punishable under Article 175 of the penal code. Article 199 makes it an offence deliberately or unintentionally to circulate "false information to alarm the population and incite them against the established authorities". Insulting the Head of State or other officials is also an offence. Under these laws people have been convicted and imprisoned, including Clement VIDIBIO, the editor of *Zaïre* magazine, in 1971; and in recent years many Zaïreans have been detained for similar offences even though they have rarely been brought to trial.

Although President Mobutu guaranteed freedom of the press when he came to power, in practice the independent press has almost ceased to exist in Zaïre. Numerous papers were banned or suspended in the 1960s or early 1970s and several editors and journalists were arrested. Even when newspapers were government controlled, journalists who stepped out of line were arrested; for example, in January 1979 three journalists from *Elina* newspaper were detained for failing to appear at an official function in order to report on it.

Zaïre's labour legislation severely restricts the right of workers to go on strike, and all unofficial strikes are illegal. In 1966 there was a ban on all strikes, but this was modified the following year when all trade unions were incorporated into a single national union, which is now known as the *Union nationale des travailleurs zaïrois* (the Zaïrean Workers' National Union), which was given the right to call official strikes in very limited circumstances. All major strikes in recent years have been illegal, and many have resulted in arrests. In December 1977, for example, at least five university teachers from Lubumbashi campus were detained by the national security police for a week when teachers went on strike for better wages.

iii) International treaties affecting human rights

Zaïre has signed and ratified the two major international treaties which are intended to ensure implementation of the rights in the Universal Declaration of Human Rights. These are the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political

Rights, both of which were ratified in 1976. By ratifying the International Covenant on Civil and Political Rights, the Zaïrean Government committed itself to guaranteeing that all those sentenced to death would have the right to seek commutation of their death sentences (Article 6.4), that no one would be subjected to torture (Article 7), that no one would be arbitrarily arrested or detained and that anyone arrested for breaking the law would be brought to trial as quickly as possible. Although, in accordance with the Covenants, many of these rights were incorporated into the February 1978 constitution, nevertheless they are still regularly infringed.

In addition to ratifying the International Covenant on Civil and Political Rights, Zaïre has also ratified the Optional Protocol to the Covenant. Under this protocol, which came into force for Zaïre in February 1977, individual citizens who have not been able to obtain redress from the authorities are permitted to ask the Human Rights Committee established under the Covenant to examine their complaints about violations of rights ensured by the Covenant. At the time of writing, the Committee had not reached a conclusion on any Zaïrean cases referred to it, but was known to have declared one case admissible.

iv) Organization of the judiciary

The State Commissioner for Justice and the Department of Justice have been responsible since January 1980 for the administration of the judiciary, for the appointment of judges and other members of the judiciary and for supervising the prison system. The courts are organized within the framework of the *Conseil judiciaire* (National Council of Justice). Until January 1980, the President of the Council of Justice, KENGO-wa-Dondo (formerly known as Léon LOBITSH), was responsible for the administration of the judiciary. He also served as *Procureur général de la République* (Chief Public Prosecutor) and a member of the MPR Political Bureau. This combination of offices called in question his impartiality as President of the Council of Justice and in January 1980 he was replaced as Chief Public Prosecutor by another official.

Zaïre's courts are organized in a hierarchy from local to national level which was reorganized in 1968. Local and district courts have rarely had to adjudicate in political cases, but the Courts of the First Instance, which exist in Kinshasa and all the provincial capitals, were involved in trying political cases until 1972, when a special Court of State Security (*Cour de sûreté de l'Etat*) was established. While the findings of the Courts of the First Instance can be challenged in both ordinary and political cases by the appeal courts and the Supreme Court there is no right of appeal from the State Security Court, which deals with cases where the security of the state has been endangered (*atteinte à la sécurité de l'Etat*), or where armed robbery or illicit dealings in precious stones such as diamonds are involved.

State security cases which concern members of the armed forces or civilians alleged to be implicated with them are tried under military law by Zaïre's main military court, the General Council of War, in Kinshasa. Zaïre's military law was reorganized in September 1972 when the President approved a Code of Military Justice. The Code created a central military court (the General Council of War) in Kinshasa, together with regional military courts and special police courts. The Head of State may also order the creation of military courts in areas where a state of emergency or a state of siege has been declared. These military courts may summarily sentence members of the armed forces and, during states of emergency, may replace the regular courts and try civilians for criminal offences. In mid-1977, such military courts sentenced several senior members of the armed forces to death for treason on account of their failure

to deal more effectively with the FLNC rebels in Shaba region.

In August 1975 and again in March 1978 cases involving both members of the armed forces and civilians were tried by the General Council of War. In both trials, involving more than 40 civilians and soldiers in 1975 and 80 people in 1978, civilians accused of complicity with soldiers in conspiring against President Mobutu were dealt with under military law. However, it is Amnesty International's view that in neither trial were the proceedings in accordance with internationally recognized standards and the organization believes that some of those convicted were prisoners of conscience. These two trials are described in greater detail in Section 4.

Although the present constitution prohibits the creation of special tribunals, before 1978 a number of special courts were set up to adjudicate in particular cases. At the end of May 1966, a special military tribunal was established to try the former Prime Minister, Evariste Kimba, and three others accused of treason. The tribunal was held in public and summarily sentenced all four defendants to death. In October 1968 a special tribunal was reported by the government to have sentenced to death Pierre Mulele, the leader of the 1963 rebellion in Kwilu who had returned to Zaïre under an amnesty; however, opposition sources maintained that he was summarily executed without receiving any proper trial.

v) Law enforcement

A number of different institutions share responsibility for enforcing the law and for protecting national security; these are coordinated at national level by a National Security Council, whose head, SETI Eale, is directly responsible to the President. The national security service, or security police, is known as the *Centre national de documentation* (CND), the National Documentation Centre, and has a leading role in arresting dissidents in Zaïre and watching the activities of opposition figures living abroad. It is directly responsible to the President, and its head, Administrator-General MOKOLO wa Mpombo, is at present also a Principal Counsellor at the Presidency. President Mobutu held the post of State Commissioner for National Defence himself until January 1980 and he presides over the National Defence Council; consequently he is in a position to supervise the armed forces closely as well as deal with other security matters.

The armed forces play a major part in law enforcement. Certain provinces, such as Shaba, have frequently been under military rule (a state of emergency was lifted in Shaba region at the end of 1978), and the army in Shaba arrested civilian dissidents in 1979 as well as Zaïreans returning from abroad who were suspected of having been members of the FLNC. Following disturbances at universities throughout the country in February 1979, soldiers were called in to restore order. Students on Lubumbashi campus, for example, were detained without charge or trial for almost three weeks at an army headquarters in Lubumbashi.

The armed forces have also been involved in political killings during the repression of rebellions and other forms of opposition to the government. Killings of this kind were reported in Sud-Kivu sub-region in November 1976, and in February 1979 troops were called in to Kinshasa university campus to quell student disturbances; at least one student was killed and many others wounded.

The armed forces have been responsible also for routine law enforcement in areas where a state of emergency has not been in force. In July 1979 soldiers shot dead a number of people who were searching for diamonds near Mbuji-Mayi, the capital of Kasai Oriental region. In theory, the diamond mining company, MIBA (*Société minière du Bakwanga*), has a con-

cession in the area and diamond mining by private individuals is illegal. In practice, hundreds of local people depend on diamonds to augment their incomes, and in some areas illegal diamond mining has been semi-officially organized. Although MIBA has a special police force, which is responsible for preventing illicit diamond mining, on 19 July 1979 it was the armed forces who intervened and tried to disperse people looking for diamonds on the Lubilashi river. When the diamond miners refused to move, troops opened fire. Some people were shot dead; others tried to escape by jumping into the river and were drowned. Estimates of the total number of people killed varied from three (according to the government) to several hundred.

Several other firms as well as MIBA have created their own security forces. For example, the GECAMINES police play an important role in Shaba region and in northeastern Shaba security matters have for several years been largely in the hands of a rocket-launching company, OTRAG, which is based in the Federal Republic of Germany.

The youth wing of the ruling party, the JMPR (*Jeunesse du mouvement populaire de la Révolution*) also has a policing role. The JMPR consists of a number of different sections, whose activities vary from organizing support for President Mobutu and the MPR in schools to arranging for young people to undertake voluntary agricultural work. The most important section, and the one which consumes most of the JMPR's

resources, comprises the Disciplinary Brigades which in 1975 were given the task of "ensuring discipline in the Party" and which in 1976 became paramilitary bodies with powers of arrest. Members of the Brigades are expected to report minor criminal offences to the appropriate authorities, but in the case of major offences they are empowered to carry out arrests. In December 1976 two students in Lubumbashi were arrested by the JMPR Disciplinary Brigade for producing and distributing pamphlets complaining about the inadequacy of student grants; the two students were subsequently handed over to the CND and accused of endangering the security of the state. They were detained without trial for 19 months.

All branches of the security forces aim to uphold the law. However, the various institutions involved have all been accused by former prisoners of abusing their power and in particular of detaining people without charge or trial. The CND is responsible for detaining large numbers of people for political reasons. The JMPR has detained students. The armed forces have had a bad reputation inside and outside Zaïre since the days immediately following independence in 1960 when the *Force publique* mutinied. They also harshly suppressed the rebellions which occurred between 1960 and 1965 and again in 1977 and 1978. Both soldiers and members of the National Gendarmerie are frequently accused of making arbitrary arrests, of stealing from people whose documents they are ostensibly checking and of breaking the law in other ways rather than maintaining it.

4. Political Imprisonment

i) *Detention without charge or trial*

Hundreds of people have been arrested every year and detained for weeks, months or even years without ever being either charged or tried. Detention without trial is permitted by law under special circumstances in Zaïre: during states of emergency the president may suspend some constitutional rights, including the right to trial, and the security forces may detain for 24 hours anyone suspected of complicity in the breakdown of public order. Those accused of being vagabonds and beggars may also be detained under laws dating from 1896 and 1913.

In practice, it is the CND and the army who are generally responsible for detaining political suspects. The CND is legally permitted to serve administrative internment orders on individuals suspected of endangering the security of the state. It may also detain suspects for up to five days if there is a possibility that they may eventually be interned. These legal procedures for detention without trial are, however, generally ignored, and suspects arrested by either the CND itself, or by other forces such as the Gendarmerie or the JMPR Disciplinary Brigades, are simply held in custody incommunicado and without any opportunity to appeal against their detention or to ask for its review for as long as the CND wishes. This is in contravention of Article 15 of the 1978 constitution. Detainees are initially held for questioning, if they are political suspects, at either CND headquarters (for example, in Kinshasa and Lubumbashi), or at other CND interrogation centres. In such cases the CND justifies their detention by claiming that a case is being prepared against them, even though some detainees are never interrogated and few are brought to trial. Longer-term detainees who are not tried are transferred to detention camps in isolated rural areas or are sometimes confined to their villages of origin.

Convicted political prisoners in Zaïre have few safeguards. Untried detainees have even fewer. At CND centres and other military and gendarmerie camps, political detainees are frequently beaten or tortured and are usually held in extremely cramped conditions. The authorities sometimes tell the relatives of those who die in detention that the death occurred in hospital. More often than not, the deaths go unrecorded and relatives are informed of neither the person's arrest nor death. Untried detainees are almost always held incommunicado and are unable to inform their relatives of their arrest. It is only on release or if they escape that their relatives find out why they had disappeared.

Detainees are sometimes held for several years without trial. These longer-term detainees are usually transferred to detention camps, such as Irebu camp near the confluence of Lac Tumba and the Zaïre river in Equateur province and Ekafera camp near Befale in the same region. Conditions in both these camps are reported to be appalling, and many detainees are said to escape from them. Releases are usually as arbitrary as arrests. Following release, some detainees have tried to obtain redress for their arbitrary detention, but without success.

The Zaïrean authorities have not yet publicly acknowledged the frequency of detention without trial.

ii) *Detainees held without trial*

Hundreds of people are interned every year either for security reasons or under laws dealing with vagabonds and not carrying proper identity documents. Many detainees have been mem-

bers of particular groups. For example, in November 1971 President Mobutu ordered the large-scale expulsion of non-Zaïrean Africans. Hundreds of Nigerians, Congolese and other African nationals spent several months in detention before being expelled. Numerous members of the Mbunda ethnic group were detained following disturbances in Kwilu sub-region in January 1978, and members of certain religious sects, including Jehovah's Witnesses, have also been detained. There was an atmosphere of insecurity in Kinshasa too in January 1978, and Zaïreans of mixed racial descent and non-Zaïrean Africans were particularly subjected to harassment and arrest; some were known to be still in detention in mid-1979. More recently, hundreds of young men were detained in Lubumbashi during 1978 following the second FLNC rebellion because they were members of the Lunda ethnic group. Most of them are believed to have been released in late 1978.

In Kinshasa arbitrary arrests are frequent, and it is difficult to distinguish between people held for political reasons and others who are detained because they are suspected of having committed criminal offences. In both cases detainees are held for short periods at Ndolo military prison before being transferred to detention camps outside Kinshasa. Zaïre's current laws and practice of administrative detention are liable to abuse. Many detainees were arrested after being asked to produce their identity documents; failure to do so, or even failure to pay a bribe in order to buy back the documents, has sometimes resulted in arrest and detention. Such detention is believed to be provided for by laws about vagabonds and beggars. Amnesty International regards prisoners arbitrarily arrested and detained without trial under these circumstances as political prisoners, and believes that detention without trial is being used in Zaïre as a means of political repression to intimidate potential opponents of the government.

The CND, in addition to detaining numerous people in Shaba and Kwilu and frequently holding without trial both students and people who have returned to Zaïre under an amnesty, detains individuals suspected of political opposition to or criticism of the government for periods varying from several weeks to several years. The reasons for detaining some suspects are unclear, although their interrogation and the searching of their homes suggests that they are suspected of political opposition. In other cases the motives are more obviously political.

In October 1979 the relatives of several Zaïrean opposition figures living in exile were detained in Sud-Kivu sub-region because the exiles were alleged to be planning to invade Zaïre. Sud-Kivu has been subjected to almost continuous repression since it was one of the heartlands of the 1964 rebellion in Kivu. One of those arrested was a farmer, SABUNI Mauridi Kabwe, who was detained on 7 October 1979 at his home village in Fizi zone. He was later transferred with six others to prison in Uvira, at the northern end of Lake Tanganyika, where he was believed to be still in detention, without charge or trial, at the end of 1979.

In May 1979 a number of lawyers, including the President of the Kinshasa Bar Association, Maître MATUNGA Lumina Ntoka, were detained for several weeks. Me Matunga was arrested following his refusal on behalf of other Zaïrean lawyers to accept a proposal made by the President of the Council of Justice, Kengo-wa-Dondo, that all lawyers should give up their independence and become civil servants.

Another person believed to be in detention during 1979 was MANGA René, who was detained in Kinshasa in January 1978 because his identity papers were not in order. In addition he is a mulatto—his father is Belgian and he himself was brought up in Belgium. He was sent back from Belgium to Zaïre in 1977 and was arrested at the same time as a number of other mulattoes and non-Zaïrean Africans. He was detained for six weeks in Kinshasa and was transferred to Ekafera detention camp in March 1978. He was known to be still there, held without trial, in early 1979.

Others detained during 1979 included a prominent former member of an opposition party, WANADI Boyd ca Booto, and a man named MPAKA who requested official permission to create a new political party. Several doctors who were suspected of criticizing the government's failure to control a cholera epidemic were detained briefly in early 1979.

iii) Political trials

Since President Mobutu came to power there has been a series of trials of people accused of plotting to overthrow him. At the first, at the end of May 1966, the former Prime Minister Evariste Kimba and three others were sentenced to death after a summary trial by a special military tribunal. They were subsequently hanged in public. Another former minister, KAMITATU Massemba (Cléophas), was also subsequently imprisoned. Since 1966 conspirators' trials have become more formalized, and at the last one, in March 1978, the Zaïrean authorities made every attempt to give the impression that the defendants were being tried fairly and openly. Prisoners accused of plotting against the President and of endangering the security of the state have been tried by a variety of different courts over the past 14 years, but in almost all cases the judges have taken little or no notice of the case for the defence and have convicted people for political reasons. In 1966 it was announced in advance, before the trial, that Kimba and the three others would be convicted and sentenced to death. Although recent trials have not flouted the course of justice so blatantly, and indeed some defendants have been acquitted or given light sentences, there are almost always signs that the outcome of the trial has been arranged in advance, the verdicts and sentences predetermined.

Major political trials took place in 1971, 1975, 1977 and 1978. The prisoners convicted in 1975 and 1977 are all believed to have been released. Ten students convicted at a political trial in 1971 were released too. However, prisoners convicted at trials in August 1971 and March 1978 are thought to be still in prison.

In most cases defendants at political trials are accused of "conspiring" to overthrow the government. However, the actual charges have varied considerably: members of the armed forces have been convicted on the charge of involvement in a "plot", civilians on the charge of "criminal association" (*association de malfaiteurs*); and in 1971 six students were convicted on the charge of "spreading false information". These charges have usually referred to "conspiracy", "plotting" and "criminal association" with intent to commit an offence. Apart from the 1971 student trial, political prisoners have usually been convicted of offences of *intention* rather than actual offences.

In 1971 there were two political trials by the Court of the First Instance in Kinshasa. Since 1972 political cases have been tried either by the Court of State Security or the General Council of War in Kinshasa. Sentences have included the death penalty and life imprisonment on several occasions, but in 1975 seven death sentences were not carried out and in 1977 the death penalty imposed on Nguza Karl-i-Bond was commuted to life imprisonment. Although sentences imposed

at political trials have been very severe, President Mobutu has often taken steps to reduce them. He ordered the release of the students condemned to life imprisonment in 1971 and of all prisoners convicted in September 1975. However, other convicted political prisoners have not been released.

In August 1971 five people were sentenced to 10 years' imprisonment and one other to two years. Their trial took place at a time when the government was looking for scapegoats for serious disturbances which had occurred at Kinshasa university campus about three months earlier. The five were convicted of endangering the security and sovereignty of the state and of spreading subversive propaganda. The public prosecutor claimed that the defendants had been plotting with a representative of the neighbouring People's Republic of the Congo to overthrow President Mobutu and that the plot was organized by a movement known as the *Mouvement du 17 janvier* which was intended to develop into a National Liberation Front. His evidence relied heavily on the confession of one of the defendants, TSHIKANGU, and on the testimony of a witness, MULAMBA, who said he had joined the National Liberation Front as an under-cover agent for the CND. The defendants denied his story and their lawyer, Maître YOKA, claimed that he had not had an adequate opportunity to prepare the defence.

The leader of the plot was said to be the President of an organization known as LICOPA (*Ligue congolaise pour la paix et l'amitié avec les peuples*) the Congolese League for Peace and Friendship between Peoples, Jean-Willy TSHIMBILA. Another prominent person accused of complicity in the plot was Nicolas OLENGA, who had been the most senior general in the rebel army which occupied most of eastern Zaïre in 1964. Olenga had been living in exile, mostly in prison in Sudan and Uganda, until January 1971 when, along with other ex-rebels, he was allowed to return to Zaïre under an amnesty granted by President Mobutu in November 1970. Although there have been several amnesties for all political prisoners since the LICOPA trial in 1971, Tshimbila, Olenga and the others sentenced to 10 years' imprisonment are not known to have been released.

In June 1975 President Mobutu announced that a plot had been discovered to overthrow him as Head of State. This plot was said to have the backing of several foreign powers. Although the government did not specify which countries were allegedly involved, the press accused the USA and Israel, and the US Ambassador was recalled to Washington. Between June and August 1975 more than 40 soldiers and civilians were arrested in connection with this conspiracy and 41 people went on trial before a military court between 20 August and 1 September. On 1 September 1975, 32 of the defendants were convicted of offences including treason, conspiracy, regionalism, fraud and insubordination. Seven were condemned to death, but the sentences were not carried out. The other defendants were sentenced to terms of imprisonment ranging from six months to 20 years.

The evidence that there had been a conspiracy came almost totally from the "confession" of one of the prisoners, KABAMBA Belin-jika, who was alleged by the prosecution to have incriminated most of the others. The other evidence for the existence of a conspiracy was insubstantial, and there is some doubt whether a plot really existed at all.

Both soldiers and civilians were tried by a military tribunal of six officers. The proceedings were held *in camera* (*huis clos*), supposedly for security reasons, but the trial was reported by the official Zaïrean press agency. The defendants were allotted defence lawyers by the authorities and were not allowed to choose their own. The convicted prisoners were not permitted to appeal against their sentences. The death sentences, although not commuted, were not carried out. Despite claims by the

Zaïrean authorities that the prisoners received a fair trial, Amnesty International believes that the defendants were convicted on insufficient evidence for political reasons and were not given adequate opportunity to defend themselves.

Out of the 32 people convicted in September 1975, three of the defendants were living outside Zaïre at the time and were sentenced *in absentia*. Six were given short sentences and are believed to have been released. Five civilians sentenced to long prison terms were released under an amnesty granted by President Mobutu in July 1978 and the remaining 18 military prisoners were freed in October 1979 when the seven death sentences and remaining prison sentences were commuted. These 18 prisoners were not, however, given their full freedom, but were confined to their home towns and villages.

Following the 1977 FLNC rebellion in Shaba region, the State Commissioner for Foreign Affairs, Nguza Karl-i-Bond was dismissed in July and arrested. He was accused of undermining Zaïre's external security, failing to reveal his knowledge of FLNC plans to invade Shaba and offending the Head of State. He was tried by the State Security Court in September 1977 and condemned to death. His dismissal and arrest occurred after the Western press had cited him as a possible successor to President Mobutu. He was, moreover, the only member of the Executive Council who belonged to the Lunda ethnic group, the same group as most of the FLNC rebels, and was closely related to the Lunda Paramount Chief, the *Mwant Yav*, who was also arrested in mid-1977.

Although Nguza Karl-i-Bond had no opportunity to appeal against the death sentence passed by the State Security Court in September 1977, it was subsequently commuted by President Mobutu to life imprisonment and Nguza was released less than a year later, in July 1978, as part of a general amnesty for political prisoners. He was reappointed Commissioner for Foreign Affairs in March 1979 after a 20-month absence from the government.

In February 1978 the discovery of another plot to overthrow President Mobutu was reported in Zaïre and almost 250 people, most of them members of the armed forces, were detained for questioning. In March 1978, 79 of those arrested—62 soldiers and 17 civilians—were tried by a military court in Kinshasa. At the same time five other people were tried *in absentia*. The trial was held in open court and the defendants appear to have been defended by lawyers of their own choice. The evidence that there was a conspiracy against President Mobutu and a plan to disrupt Zaïre's economy was insubstantial and was mostly based on the alleged confession

of one of the prisoners, Major KALUME Hamba. Several of the prisoners were eventually convicted of conspiracy simply because they were present at allegedly conspiratorial meetings in a bar known as "Chez Brigitte" or at a church service held in St Dominique's Church, Limete, to commemorate the death of one of Major Kalume's colleagues. Others were convicted on charges unconnected with the alleged conspiracy. Several prisoners were accused of complicity in it but were convicted because they belonged to a religious sect (the Mahikari sect, of Japanese origin) which the military prosecutor, without producing evidence to support his claims, stated was "incompatible with order" and therefore illegal in the armed forces. The charges against the defendants varied considerably, but they were all indicted as "terrorists". The evidence presented by the prosecution was accepted by the military judges when they convicted 70 of the defendants on 16 March 1978. The court passed 19 death sentences, including five *in absentia*, and a further 21 people received sentences of between five and 20 years. Thirty others were given shorter sentences.

The day after the sentences were passed 13 of those sentenced to death were executed by firing squad. They had no opportunity to appeal; however, President Mobutu commuted one death sentence, passed on a woman, to life imprisonment. Twenty-six of the remaining prisoners are believed to be still in prison.

In several of these conspiracy trials, the prosecution's evidence depended almost entirely on "confessions" made by one of the prisoners. In 1975 and 1978 civilians who were accused of plotting with members of the armed forces were tried by a military court under military law. The military judges took little or no notice of the defence cases at these two trials and Amnesty International believes that they were "show trials". In both cases the soldiers who were convicted came from the south and east of the country and their removal from the armed forces has bolstered the power of officers from President Mobutu's own region. Furthermore, on several occasions prisoners appear to have been convicted for political reasons which had nothing to do with the alleged conspiracies: MWARABU Mak Lubia was prosecuted in 1975 on account of his marriage to a non-Zaïrean woman; two officers were convicted because of their membership of a particular religious sect in 1978; other prisoners appear to have been indicted because of their native region or their rivalry with high government officials. The conviction of Nicolas Olenga in 1971 is widely interpreted as the government's "revenge" on him for his role in the rebellions of the 1960s.

5. Number and Description of Political Prisoners

It is impossible for Amnesty International to estimate the precise number of political prisoners in Zaïre as it varies considerably from time to time. For example, during the first six months of 1978 between one and two thousand people were arrested for their suspected complicity in a plot against the government, disturbances in Kwilu sub-region, or the FLNC rebellion in Shaba region. By late 1979, about 30 convicted political prisoners were believed to be still serving their sentences but it was impossible to calculate how many political detainees were being held without trial. It is clear, however, that the number of political prisoners increases rapidly following political crises, and has frequently exceeded 1,000 in recent years. Zaïre's total prison population, including criminal prisoners, is officially estimated to average about 13,000.

Many political prisoners come from regions in southern and eastern Zaïre: Bandundu, Kivu, Kasai Occidental, Kasai Oriental and Shaba. Arrests have been particularly frequent in Kwilu sub-region and Sud-Kivu sub-region. Ethnic groups such as the Bambunda, Baluba and Balunda have been among the victims of recent waves of arrests. In addition, numerous students, politicians and intellectuals have been arrested, and detained for varying lengths of time on account of their suspected opposition to the government (see Section 4).

The government has frequently amnestied political prisoners and exiles but has then arrested and detained some of those who returned to Zaïre under the terms of the amnesty. During the past 10 years the authorities have frequently asserted that there were plots against President Mobutu or his government, and produced insubstantial evidence to support such allegations. Charges of complicity in a plot or endangering the security of the state have regularly been used as pretexts for arresting political rivals or suspected opponents.

i) Imprisonment of former members of the government

Members of President Mobutu's successive governments have frequently been arrested, imprisoned and accused of either conspiring against the President or of embezzling state funds. In some cases there has been little evidence against them and the real reasons for their imprisonment have been clearly political: the President or his close colleagues have either come into conflict with the minister or commissioner concerned, or the arrested person has been suspected of becoming too powerful and has been punished by a period of imprisonment. In other cases it is difficult to establish whether the prisoner concerned really was guilty of the charges against him or her or whether they were merely a pretext for the imprisonment—particularly in embezzlement and corruption cases. During the past few years the government's anti-corruption campaign has resulted in a series of convictions for embezzlement (*détournement de fonds*); however, the campaign is believed to have also provided an opportunity for bringing false charges against senior members of the administration.

Among the former ministers who have been imprisoned for conspiring against the President are a number who previously held senior posts and were considered to be among President Mobutu's most trusted colleagues. For example, after a series of disturbances and major political trials in mid-1971, two senior political figures who had been ministers until August 1969 were arrested in October 1971; they were BOMBOKO

Lokumba (Justin-Marie), who was Minister for Foreign Affairs in successive governments during the 1960s, and NENDAKA Bika (Victor), who held various ministerial posts under Tshombe and Mobutu. Both Bomboko and Nendaka were disgraced in 1970 and accused of plotting to kill the President in October 1971. They were subsequently held for almost a year without trial and were released in September 1972. Both the former ministers were subsequently rehabilitated and in October 1977 were elected to the MPR Political Bureau.

At a major political trial in August 1975 (see Section 4), several former ministers and close collaborators of the President were convicted of plotting against him. They included LWANGO (KASHAMVU Kalwango), a former Minister of Trade, and TSHOMBA Somwa Kimbayo, a former Minister of Posts and Telecommunications. In 1977 another former minister, Nguza Karl-i-Bond, was arrested and convicted. All these former ministers are now free; those still in prison have been convicted of corruption. It is difficult to know how many of these convictions were influenced by political considerations. In at least one case known to Amnesty International, that of a former State Commissioner for Land Affairs, ALUMBA Umba w'Otshtudi (condemned to nine years' imprisonment for corruption in September 1978) it appears that both the prisoner's conviction and heavy sentence were influenced by his bad relations with the President of the Council of Justice, Kengo-wa-Dondo.

ii) Civilians and members of the armed forces convicted of conspiring against President Mobutu

Some 31 convicted political prisoners were believed to be in prison in early 1980. Five of them were convicted in 1971, at the LICOPA trial, and 26 others were convicted in March 1978. It is not clear why none of these prisoners were released under amnesties for political prisoners granted by President Mobutu in November 1974 and July 1978.

The five LICOPA prisoners are thought to have been initially held at Bula-Bemba prison camp in Bas-Zaïre region, at the mouth of the Zaïre river. One of them, Nicolas Olenga, is known to have been imprisoned in Ekafera detention camp in 1977, but was subsequently transferred elsewhere. Another prisoner, KABEYA Tshang, escaped to Angola in 1976, but when he returned to Zaïre in mid-1979 under an amnesty granted in June 1978 for political exiles he was re-arrested.

The 26 prisoners who are believed to be still serving sentences imposed at the March 1978 trial are mostly held in Angenga military prison in Equateur region. They are not allowed visitors, nor may they write to their relatives. Four civilians and one woman convicted at the same trial are held in Ndolo military prison in Kinshasa. The woman is KISONGA N'Sunda, a former army adjutant, who was condemned to death in March 1978. Her sentence was commuted to life imprisonment but she was still kept in prison for more than a year before she was allowed to see her three children, all aged under eight. Her husband was convicted at the same trial and was sentenced to five years' imprisonment. She has not been allowed any contact with him since the trial.

Another person convicted at the March 1978 trial is PAMBU Baruti, who until then had been a captain in the armed forces. After his conviction he was stripped of his rank

and sentenced to five years in prison. He was charged with disobeying orders and belonging to a religious sect, membership of which was illegal in the armed forces. The military prosecutor claimed that membership of the Mahikari sect was incompatible with order and discipline. At his trial Pambu did not deny being a member of the Mahikari sect, but he maintained that there was nothing subversive or clandestine about the sect and the prosecutor did not produce any evidence to support his allegations. Pambu is believed to be held at Angenga military prison. Amnesty International believes that he and Kisonga N'Sunda and some of the others convicted in March 1978 are prisoners of conscience and has appealed repeatedly for their release.

Although amnesties were granted in November 1974 (Law No. 74/024) and July 1978 (Ordinance-law No. 78/019) for all Zaïreans imprisoned for offences against the security of the state, in 1974 at least five prominent prisoners (those convicted at the LICOPA trial) are believed not to have been released. The 1978 amnesty left numerous political prisoners in jail, and although Nguza Karl-i-Bond and some untried political detainees were released, out of more than 50 civilian and military prisoners convicted at the 1975 and 1978 conspiracy trials only the five civilians convicted in 1975 were released.

iii) Detention of former political exiles who return to Zaïre under amnesties

The purpose of the amnesties granted to Zaïrean exiles has been to achieve the return to the country of tens of thousands of Zaïreans who left during or after the rebellions of the 1960s and the Shaba events of 1977 and 1978. Other opponents of President Mobutu and former members of the government who had fled abroad have benefited from them too. Following a major amnesty in November 1970, several leaders of the 1964 rebellion returned home, including Christophe GBENYE and Nicolas Olenga. After a further amnesty in November 1974, another former rebel, Anicet KASHAMURA, returned home along with a previous Foreign Minister, LOSEMBE Batwanyele (formerly Mario CARDOSO), who had been condemned *in absentia* for corruption. In October 1977 KAMITATU Masmamba, who had gone into exile after his release from prison, returned to Zaïre; in January 1980 he was reappointed to the government. Thousands of Zaïreans returned from Angola to Shaba region between June 1978 and June 1979 under an amnesty (Law No. 78/012) granted for all Zaïrean exiles. Most of them had left their homes during the FLNC rebellions.

By amnestying exiles President Mobutu has managed to secure the return of thousands of refugees to the country. When announcing the June 1978 amnesty he cited the cases of several former rebel leaders who had returned to Zaïre with no problems. Yet hundreds of people who should have benefited from these amnesties have been arrested, detained without trial and in some cases tortured and killed. These detainees are only a small minority of the exiles who have returned to Zaïre; however, this does not make it any the less serious that they have been imprisoned in violation of an amnesty granted by the Head of State. The most publicized case was one in October 1968: Pierre Mulele, leader of the 1963–1965 rebellion in Kwilu sub-region, returned to Kinshasa after being assured that he would benefit from an amnesty. Instead he was arrested, summarily tried on charges of war crimes and immediately executed.

Members of Tshombe's force of Katangan gendarmes were detained when they returned to Zaïre, and in the early 1970s other former rebels were detained. They have been held without trial for years in detention camps in northern Zaïre. In 1977 a number of prominent members of the rebellion were

known to be still in Ekafera detention camp. They included Gustave IFEFEKO, François SABITI and Aloys LEHANI. Sabiti had been a senior member of the rebel government in Stanleyville (Kisangani) in mid-1964. Following the rebels' defeat in 1965 he fled abroad to Sudan, but he returned to Zaïre in 1970 under the amnesty granted to political exiles in November 1970. He is believed to have been detained in 1971 and was subsequently held without charge or trial. Six years later, in 1977, Amnesty International learned that he was imprisoned at Ekafera; his present whereabouts are not known.

As a result of detentions such as these, other former rebels refused to return to Zaïre, in spite of attempts by the Zaïrean authorities to persuade the host countries to send them back, and despite pressure brought to bear on the exiles by arresting their relatives. On numerous occasions these political refugees have been imprisoned in their country of asylum and there have also been cases of *refoulement* (forcible repatriation) to Zaïre.

Following the June 1978 amnesty for exiles, the representative of the United Nations High Commission for Refugees in Zaïre complained to the Zaïrean authorities in early 1979 about the arrest of returning exiles. Hundreds were detained and several suspected members of the FLNC who had returned were reportedly shot dead by the Zaïrean security forces. In early 1979 Zaïrean refugees who had returned from Angola were detained. One place where they were held was a military headquarters in Lubumbashi, where they stayed for an unknown length of time in extremely cramped conditions.

iv) Imprisonment of students

Students have regularly been imprisoned and detained without trial for political reasons. In 1968 the leader of the national students' union, André Kanza DOLOMINGU, was imprisoned following anti-American demonstrations. In June 1969 several hundred students were detained, and Dolomingu and more than 30 others were convicted and imprisoned following a demonstration on Kinshasa university campus in favour of greater democracy in Zaïre. Unofficial reports indicated that 10 to 30 people had been killed during this demonstration by the time troops ordered the students to disperse. In June 1971 there was another major disturbance in Kinshasa on the occasion of the second anniversary of the students' deaths in 1969. President Mobutu reacted by ordering all the students in Kinshasa (about 2,500) to be conscripted. In addition, 10 student leaders were tried for attempting to overthrow the government and for insulting the Head of State; they were sentenced to life imprisonment. The student trials of 1969 and 1971 were both in the Court of the First Instance in Kinshasa, and in both cases all the students convicted were released after serving several years of their sentences.

Although the student disturbances of 1969 and 1971 received some international publicity, more recent student arrests have not, such as those of several students on the Lubumbashi university campus in 1976 and 1977. One student had written a pamphlet criticizing the university administration and the meagre student grants. He was detained without trial for 18 months. In December 1977 another student, TANDUNDU, was arrested for writing satirical plays. He was charged with complicity in a university teachers' strike and was detained without trial for more than six months. Only a few arrests were made on each occasion, but they revealed the problems which students faced: student dissidents were likely to be arrested by either the CND or university JMPR Disciplinary Brigade if they openly criticized the government or even the university leadership.

The pressures which built up among students throughout

the country finally burst in February 1979: there were student strikes in Kinshasa and elsewhere and students demanded better living conditions. These disturbances provided the students with an opportunity to express their grievances and their dissatisfaction with the university leadership. In Kinshasa at least one student was killed in a clash between students and soldiers and others were reportedly wounded. Many other students and university employees were arrested in both

Kinshasa and Lubumbashi in the aftermath of the strike. Some are known to have been detained without charge or trial for several months at the CND headquarters in Kinshasa, where some students were interrogated in order to find out who had been responsible for the disturbances. In October 1979 Amnesty International appealed to President Mobutu to confirm that all the students arrested earlier in the year had been released—but received no reply.

6. Prison Conditions

Prison conditions vary widely according to what category of prison, detention camp or interrogation centre political prisoners are held in. Conditions in all Zaïre's prisons are in theory regulated by an ordinance which President Kasa-Vubu approved in 1965—*Ordonnance No. 344 du 17 septembre 1965 relative au régime pénitentiaire*. In practice, only in ordinary prisons are conditions regulated by these rules, and even so they generally fall far short of the standards outlined in the Ordinance. For example, Article 62 of the regulations guarantees prisoners three meals a day; in practice, few Zaïreans outside prison eat three meals a day and very few prisoners are given more than one meal a day. The inmates of most ordinary prisons are constantly hungry, and in detention centres and camps people are frequently severely undernourished and sometimes starve to death.

Untried political detainees are generally held incommunicado and are not allowed to receive visits or letters—rights which are guaranteed by Articles 74 and 75 of the 1965 regulations. Convicted political prisoners also are sometimes deprived of those rights; for example, inmates of Angenga military prison, convicted in September 1975 for complicity in an alleged plot against President Mobutu, were unable to send letters or receive visitors from the time of their arrival in 1975 until their release in October 1979.

Very few prisons have medical services, and once again conditions are worst at isolated detention camps in the country. As they are hard to get to, no doctors or medicines reach such camps—although the inmates are supposed to be regularly visited by the doctor (Articles 54–60 of the 1965 regulations).

Zaïre's civilian prisons are organized in a hierarchy from local to provincial level. Each zone, sub-region and region has its corresponding prison or set of cells. Local (zone) prisons are used only in exceptional circumstances for detaining political prisoners; for example, following the suppression of a revolt in eastern Bandundu region in January 1978 hundreds of political detainees were held in the local prison in Idiofa, which has only three dormitories designed to hold a total of 20 prisoners. These detainees had to sleep on the floor and were not given anything to eat or drink. In many cases such detainees rely on their families to bring them food, but relatives have to bribe prison guards to ensure that the food reaches the prisoners.

At provincial level there is a central prison in each provincial capital where prisoners are held before trial. Most convicted prisoners are transferred to another prison in the countryside to serve their sentences. In each province there is one prison of this type, known as *Etablissement d'exécutions des peines* (EEP), an establishment for serving sentences. Political detainees are sometimes held without trial in provincial central prisons, but convicted political prisoners are usually transferred to an EEP.

Unlike ordinary prisons, detention camps may be established and closed down as the need arises on the order of the State Commissioner for Justice. Most detention camps now operating are in the north. Some convicted political prisoners, such as those convicted at the LICOPA trial in 1971 (see Section 4.), have been held in detention camps, but most of the prisoners in these camps have had no form of trial and are detained indefinitely on the orders of the CND.

Short-term political prisoners are held in numerous

different interrogation centres, including the headquarters of the Eighth Military District in Lubumbashi, CND posts throughout the country and special CND interrogation centres such as the one in the Cité de l'OUA area in Kinshasa. These detention centres are totally unsupervised by any central authority and the officers in charge of them treat prisoners in whatever way they feel inclined. Many detainees have been tortured, deprived of food and held in such cramped conditions that they could not lie down.

In addition to the civilian prisons and other places of detention, there are three special military prisons in Zaïre. Political prisoners are held in two of them.

In theory, all ordinary prisons, both civil and military, are inspected regularly; in practice, inspections by a provincial governor's representative are rare in most prisons and unknown in detention camps. When a military prison inspector named Major Kalume suggested improvements in Angenga prison, he was reprimanded by his superiors. Later, in March 1978, he was convicted and executed, charged with planning to overthrow President Mobutu. Only a few Zaïrean prisons have been inspected by any international organizations; the International Committee of the Red Cross has visited prisons in Shaba region, but is not known to have been to many prisons or camps in the rest of Zaïre.

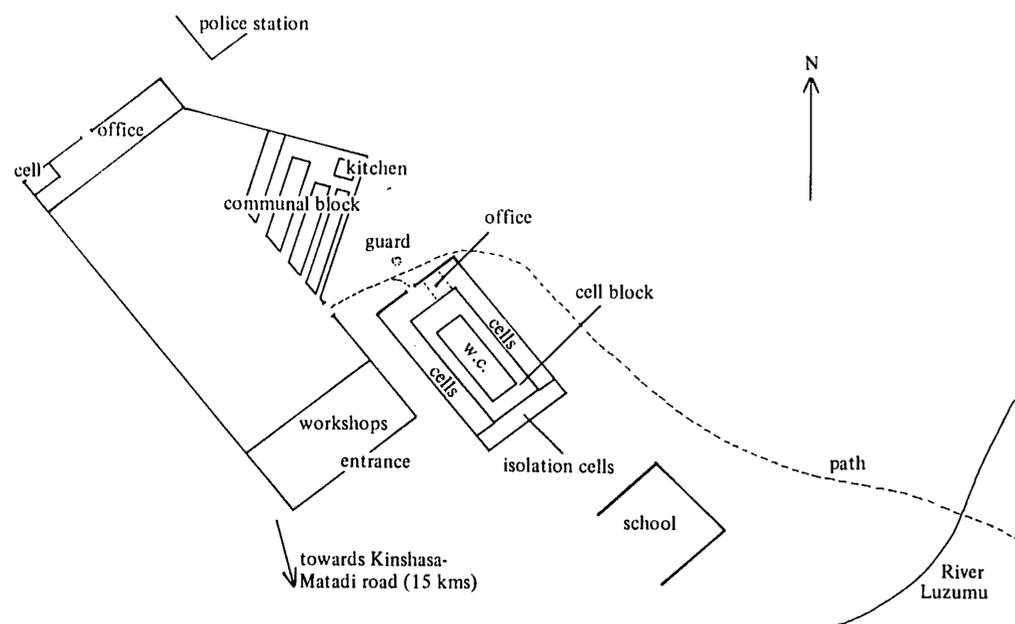
Small groups of political prisoners are held in many different prisons. Most are organized on the same basis: part of the prison (*Quartier cellulaire*) contains cells where prisoners are held either individually or in small groups. Political prisoners and dangerous criminals are generally held in this block. There is also a *Quartier communautaire* where prisoners live in large dormitories and are relatively free to move around. Prisoners in the *Quartier communautaire* are usually given work during the daytime—cooking, farming and general maintenance of the prison. Prisoners held in the cells are sometimes allowed out during the day but frequently have nothing to do.

i) Central Provincial Prisons—Makala in Kinshasa and Kasapa in Lubumbashi

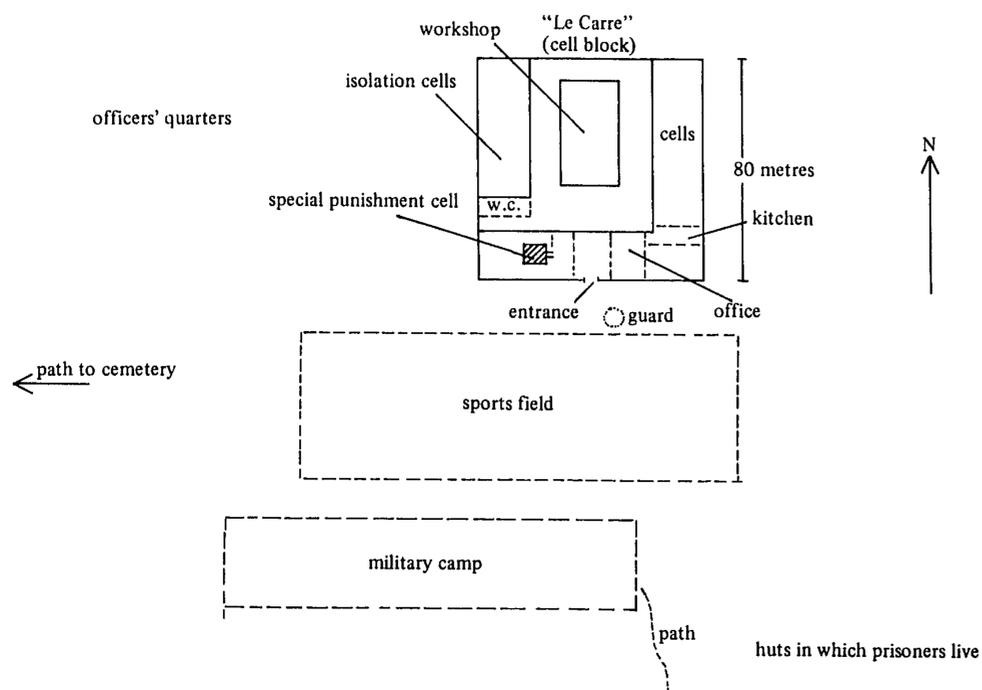
Makala prison in Kinshasa is the largest prison in Zaïre. It was designed to hold 900 prisoners but in recent years its average population is reported to have been between 2,500 and 3,000. Eighty per cent of these prisoners are awaiting trial; the prison is consequently extremely crowded. Meals are grossly inadequate and many prisoners are reported to suffer from malnutrition. In 1978, after 40 inmates had starved to death in Makala prison, the Commissioner of State for Justice, MAMPUYA Kanunka Tshiabo, was convicted of embezzling funds intended to buy food for the prisoners. He was sentenced to 15 years' imprisonment. People sentenced to death in Kinshasa are usually held in Makala, and executions take place in the prison. In 1979 a number of those arrested for political reasons were held in Makala for short periods, including the President of the Kinshasa Bar Association, Maître Matunga.

Kasapa prison in Lubumbashi houses between 600 and 1,000 inmates. The *Quartier cellulaire* unit contains 22 cells, but most prisoners live in the *Quartier communautaire*, where there are 32 dormitories. Political detainees are known to have been held in 1977 and 1978 in the *Quartier cellulaire*, where

PLAN OF LUZUMU PRISON



PLAN OF EKAFERA DETENTION CAMP



their conditions are relatively good; they were allowed visitors and books and could listen to the radio except during the two FLNC rebellions in Shaba region. The political detainees lived in the same conditions as other prisoners.

ii) Prisons for convicted prisoners—Luzumu in Bas-Zaïre and Buluo in Shaba

Luzumu prison in Bas-Zaïre province is about 45 kilometres from Kinshasa beside the Luzumu river. Prisoners who are convicted not only in Bas-Zaïre province, but also in Kinshasa, including prominent members of the government or civil servants who have been convicted for essentially political reasons, serve their sentences here. Untried prisoners too are frequently held in this prison, among them political detainees awaiting trial; so are people detained without trial under the "vagabonds" detention laws, who have no idea how long they will be held.

Luzumu prison was built during the 1950s, and consists of a *Quartier communautaire* containing 16 dormitories and housing about 400 prisoners, and a separate *Quartier cellulaire* (see map on page 16) where there are about 100 large cells and 19 small cells for single prisoners. There are also two special windowless punishment cells. Prisoners are kept in these cells in total darkness—which has led to Luzumu being known as an "underground" prison. Most of the 200 to 300 prisoners held in the *Quartier cellulaire* are convicted criminals, but a number of former government officials are believed to be imprisoned there too. They are held in cells with two or three other prisoners or else individually in single cells. High-ranking political prisoners are said to get better treatment than other prisoners.

Conditions in Luzumu prison are reported to have deteriorated considerably over the past 20 years. There is no longer any electricity or running water and the standard of food has apparently deteriorated in recent years. Prisoners are said to receive only one meal a day, and to be undernourished. Several years ago they were given meals of rice and beans and some fish. In 1978 they were evidently getting one meal a day, consisting of cassava containing much less protein than rice and palm nuts.

Prisoners convicted in Shaba region are held at Buluo prison, 10 kms south of Likasi, on the road to Lubumbashi. The prison usually contains 200 to 300 prisoners, of whom between 50 and 100 are imprisoned in cells and the rest in the *Quartier communautaire*, where there are 27 dormitories. Although this is a civilian prison, military convicts also are detained here, and at least one former minister convicted of corruption is also believed to be in Buluo. In mid 1979 about 30 prisoners there were under sentence of death.

One of the most disturbing aspects of prison conditions at Buluo is the food. Inmates receive one meal a day said to consist of cassava with a soup (or stew) made from cassava leaves—a totally inadequate diet. From time to time, apparently, the prison runs out of cassava, and inmates have gone without meals for several days until more food arrived.

iii) Military prisons—Angenga

Most members of the armed forces convicted of complicity in plots against President Mobutu are held in Angenga. The prison is in Equateur region, about 70 kms east of Lisala, a town on the Zaïre river. It is difficult to get to and political prisoners are not allowed visitors. Until 1979 they were not permitted to receive or write letters either; but in mid-1979 the President of the Council of Justice assured Amnesty International that this was being allowed and informed the organization's adoption groups that they might write to prisoners. In all prisons letters

sent to or received by prisoners are censored.

Prisoners in Angenga have no beds. Their food is poor—they receive an average of 100 grams of rice a day plus a little palm oil and tinned sardine. The water is described as "undrinkable".

In October 1979, 18 political prisoners in Angenga who had been convicted in September 1975 were reported to have been released. Amnesty International believes that 21 others condemned in March 1978 are still there.

In addition to the three established military prisons in Zaïre (Angenga, Ndolo in Kinshasa and Shinkakasa near Boma in Bas-Zaïre), a number of military camps also have been used for interning political detainees.

iv) Detention Camps—Ekafera camp

The State Commissioner for Justice is empowered by the 1965 prison ordinance (Article 7) to establish detention camps to take the overflow from other prisons and to hold untried detainees who are assigned general work (*des travaux d'ordre général*). Although President Mobutu claimed in September 1979 that no prisons had been built since he came to power, a considerable number of detention camps have been reopened. Many of them served as "relegation" camps or agricultural penal colonies during the colonial period when members of illegal religious sects, particularly *Kimbangistes* and *Kitavalistes*, spent long periods in detention. In 1966 at least three detention camps were reopened (at Aba, Irumu and Mongbwali in Haut-Zaïre region) and used for detaining suspected rebel soldiers and sympathizers following the 1963-65 uprisings in eastern Zaïre. Similarly, in 1978 civilian detainees in Shaba were taken to Kasaji detention camp or to a military camp at Lokandu, north of Kindu in Kivu region, which was reopened for a period of between four and six months.

During the 1960s the most notorious prison camp in Zaïre was at Bula-Bemba—an island prison at the mouth of the Zaïre river—where a succession of prominent politicians were detained. Although this camp is reported to be still in use, the most notorious detention camp in recent years had been Ekafera in Equateur region. It is between Basankusu and Befale, about seven kilometres north of the Maringa river. Ekafera was first used as a detention camp in the 1940s and was reopened in June 1974. Between 400 and 500 detainees are usually held there. There is reported to be a high turnover of inmates because of the mortality rate and the transfer and release of some prisoners. In late 1979 it was reported that there were plans to close the camp and that all the young detainees at Ekafera were being transferred to a new camp in Lokandu, in Kivu region. Very few of the Ekafera inmates are convicted prisoners, although at least one of the prisoners convicted at the LICOPA trial was held there until recently.

Ekafera camp is in an isolated area, and detainees usually arrive on foot. New prisoners are generally held in the *Quartier cellulaire*, which is known as *Le Carré* (see plan on page 16). This block is about 80 metres square and is surrounded by a 6-metre high wall. The cells are reported to be infested with insects, rats and parasites, and prisoners sleep on the ground. Most of the cells are ventilated by a gap between the walls and roof; however, there is also a punishment cell which has no windows or means of ventilation, in which prisoners have sometimes been left to die.

The *Quartier communautaire* in Ekafera consists of a series of huts that are not surrounded by walls of any sort. The camp's isolation is considered sufficient to deter prisoners from trying to escape. Several years ago two prisoners who tried to escape were recaptured and killed. Living conditions both in cells and outside are reported to be extremely harsh, and many detainees suffer from malnutrition, vitamin defi-

ciencies and such diseases as malaria and dysentery. No medical treatment is provided. None of the prisoners know how long they will be held there, let alone when they will be finally released, and most of them suffer from severe depression. The mortality rate is consequently believed to be higher at Ekafera than in any other prison in Zaïre: hundreds of prisoners are known to have died there over the past few years.

v) *Interrogation centres in Gombe and Cité de l'OUA districts of Kinshasa*

People suspected of political opposition are frequently held in extremely harsh conditions while they are being interrogated. In Kinshasa interrogations usually take place either at the CND headquarters in Gombe district or at the Cité de l'OUA in an interrogation centre near the President's offices. At both these centres detainees are usually held incommunicado and have no opportunity to challenge the authorities about their indefinite detention. Prisoners are known to have been tortured and killed in both places. There are several other interrogation centres in Kinshasa where suspects have been detained by the CND.

The CND headquarters in Gombe-Kinshasa contains a number of large cells measuring about 6 by 2 metres and some smaller cells in which individual prisoners are held. Ten to 20 prisoners are generally kept together in one of the larger cells, and they are unable to take any exercise. A barrel in the corner of the cell serves as the toilet. They are fed once a day, at midday, the meals usually consisting of rice and beans. 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. In early 1978 a lawyer who

was detained in one of the cells on the grounds that he had distributed leaflets became almost deaf after being tortured. When another detainee, a Jehovah's Witness from Bandundu region, died from starvation in his cell, the CND authorities are reported to have said he died in hospital.

Larger groups of political suspects arrested after demonstrations or for suspected complicity in an anti-government plot are usually taken to a CND interrogation centre in the President's guards' barracks in the Cité de l'OUA, near the Presidency on Mount Ngaliema in Tshatshi military camp. Soldiers arrested in June 1975 and accused of complicity in a plot against President Mobutu are believed to have been held in the Cité de l'OUA; so were more than 40 students arrested in June 1971. The interrogation centre consists, it seems, of several approximately 2 by 3 metre underground cells and five ground floor cells. On one occasion each of these small cells is known to have held three detainees, who had to take it in turns to lie down. Torture is apparently inflicted regularly in this interrogation centre, and some of the prisoners have died after their bodies had been mutilated. High ranking government officials, including the President of the Council of Justice, Kengo-wa-Dondo, are reported to have interrogated prisoners at the Cité de l'OUA centre.

Life in other interrogation centres too is said to be extremely harsh, detainees regularly being held in cramped, insanitary conditions for long periods. On one occasion in early 1979, more than 60 prisoners, most former exiles who had returned to Zaïre under President Mobutu's June 1978 amnesty, were held in a 9-metre square cell at the military headquarters of the Eighth Military District in Lubumbashi. Such detention centres are not inspected by any government officials and prisoners have frequently stated that conditions were deliberately harsh in order to punish and kill them.

7. Torture, Deaths in Detention and the Death Penalty

i) *Torture and deaths in detention*

Amnesty International has received reports of torture from various parts of Zaïre. Torture and ill-treatment are used both during interrogations by the CND to extract confessions and in military and detention camps as a form of punishment. The most frequently reported forms of ill-treatment are the most crude: beatings and starvation. Another common technique is *la balançoire*—hanging prisoners upside down and beating them, sometimes as they are swinging by their feet. Prisoners are said also to have had their arms and legs tightly bound together behind their backs with wet ropes in such a way that when the cords dried they shrank and the victims' backs were stretched. Amnesty International has also occasionally heard of cases of disfigurement and amputation. Deaths are reported to have occurred as a result of all these forms of torture.

Despite the frequent allegations of torture, no steps appear to have been taken to investigate and eradicate it. Several senior officials have been prosecuted for ordering the use of torture (see Section 8.), but CND officials cannot be prosecuted without the prior authorization of the CND Administrator General, and none are known to have been prosecuted for inflicting torture. Amnesty International believes the government must take steps to end the use of torture if it is to avoid being accused of officially condoning it.

Amnesty International has received reports of electric shock torture being inflicted, and of beatings and starvation at the CND headquarters in Kinshasa in late 1977 and early 1978. Prisoners are said also to have been deliberately crammed into tiny cells at the other CND centres so that they could not lie down. People are reported to have been beaten at the CND centre in Lubumbashi, and in detention camps in northern Zaïre. In 1978 at a military camp near Kolwezi prisoners were apparently hung upside down from a tree and beaten. Some died as a result.

Allegations of torture have concerned non-political prisoners as well. In December 1978 12 people accused of theft in Isiro, Haut-Zaïre region, were taken to the railway station by members of the Gendarmerie and chains were welded around their wrists and ankles. They were badly burned and 10 of them are reported to have later died from gangrene and tetanus. No evidence was found to incriminate the surviving prisoners and they were eventually released.

Disfigurement has been reported on a number of occasions. A prisoner suspected of belonging to the PRP guerrilla movement in eastern Zaïre had his hands cut off, and prisoners who tried to escape from a detention camp in Equateur region in 1977 were punished by having their fingers and toes smashed with a hammer. They were subsequently left to die of starvation.

Large numbers of prisoners have died while in prison, usually as a result of starvation, malnutrition or disease. Mortality rates are reported to be highest in isolated detention camps. Both the food and medical attention provided in most prisons are inadequate and in one detention camp the mortality rate is reported to have exceeded 10 per cent a year. In this camp, which holds about 500 prisoners, between 50 and 100 have died each year between 1977 and 1979. The mortality rate at Lokandu camp too was evidently extremely high during 1978, when many of the 1,300 prisoners deported to the camp from Shaba region died as a result of disease and malnutrition.

Although most deaths in detention are due to the poor conditions in the prison and in the country generally, some deaths seem to have been caused by torture and deliberate starvation.

ii) *Legal use of the death penalty*

A wide range of offences can be punished in Zaïre by the death penalty. These offences generally involve killing people or endangering the security of the state. They include premeditated murder (Articles 44 and 45 of the penal code), poisoning (Article 49), armed robbery (Article 81), treason (Article 181), espionage (Article 185), attempts on the Head of State's life (Article 193), and sedition organized by an armed band (Article 204). The Code of Military Justice provides for even wider use of the death penalty, and for several years in the early 1970s embezzlement of sums exceeding 100,000 *zaïres* was also punishable by death.

The usual form of execution is hanging, but those sentenced to death under military law are killed by firing squad. People sentenced to death by ordinary courts have the right of appeal and may ask the Head of State to commute their sentences; those sentenced by the Court of State Security or by military courts have no right of appeal and their sentences may be carried out immediately. However, the Head of State does have the power to commute all death sentences.

The death penalty is frequently imposed for criminal offences, and in 1978 was imposed also on a considerable number of political prisoners. Seven soldiers and five civilians were executed by firing squad in March 1978 the day after they were sentenced to death for conspiring against President Mobutu.

It is hard to estimate how many executions take place in Zaïre as it is not always clear whether people who have been put to death have actually been sentenced to death by a court. During the first half of 1978, when a particularly large number of people were under sentence of death, President Mobutu commuted five such sentences and rejected 74 appeals. More than 50 of these prisoners are believed to have been executed.

In July 1979 the execution of two criminals was publicized by the Zaïrean authorities in order to deter other potential criminals. More than 40 were believed to be in prison under sentence of death in mid-1979. They included an Angolan refugee convicted by the Court of State Security in November 1978 of espionage who had not understood a word at his trial, four men accused of murdering a woman who were convicted by the Court of the First Instance in Kinshasa in July 1979 on the basis of tape-recorded confessions whose validity they denied in court and a woman who was condemned to death in January 1979 for killing her day-old baby.

In January 1980 the trial of 39 people accused of murder and armed robbery was broadcast on radio and television. At the end of the 24-day trial in Kinshasa 28 of the defendants were sentenced to death.

During the 1960s executions were frequently public. But even in May 1974, 48 prisoners under sentence of death were paraded before a large crowd in the presence of President Mobutu at a stadium in Kinshasa shortly before they were due to be executed. Most executions in recent years have not been public, although (as previously stated), the 14 alleged

instigators of the January 1978 disturbances in Kwilu sub-region were publicly hanged in Idiofa on 25 January.

iii) *Extrajudicial executions*

Hundreds of people have been summarily executed in the past few years without receiving any form of trial. Such executions were carried out after the rebellions of the 1960s and more recently after the January 1978 uprising in Kwilu sub-region and the Shaba rebellion of May 1978. During 1979 Amnesty International learned of the summary executions of a number of people accused of ordinary crimes, particularly in Bas-Zaïre region near the port of Matadi.

In January 1978 about 500 people were executed in Kwilu sub-region, most of them near the town of Idiofa—although according to some estimates, there were many more victims. The executions took place after suspected rebels had been handed over by the local authorities to the army in Idiofa. The prisoners were given no form of trial and were either taken out of Idiofa in groups and shot or, in some cases, were bayoneted to death and their bodies subsequently dumped in the Punkulu (Piopio) river. Idiofa residents were obliged to watch the public hanging of the alleged ringleaders. When one of the victims fell to the ground because the rope broke, soldiers bayoneted and mutilated his body. Any sort of mourning was forbidden following these executions.

After the FLNC rebellion in Shaba region in May 1978 and President Mobutu's June 1978 amnesty for all Zaïreans living abroad, Amnesty International received further reports of extrajudicial executions. Some were carried out in camps where suspected FLNC sympathizers were in detention, such as Lokandu camp in Kivu region, and Kasaji camp in south-west Shaba region. Other summary executions of Zaïreans

returning under the amnesty took place near the Zaïre-Angola border; for example, that of a medical doctor, KALONDA Saburi, who was killed without having a trial.

In mid-1979 people accused of theft were summarily executed in Bas-Zaïre region. They had no trial. In August 1979 a soldier at Mbanza Ngunga military camp was caught stealing a goat, and was summarily executed. Elsewhere in the region, in Matadi and other towns, civilians accused of serious crimes were also summarily executed without trial.

Politically motivated killings are reported to have occurred on several occasions. In the early 1970s the leader of an assassination squad in Kinshasa, MANZIKALA Madrakini (Jean-Foster), was actually prosecuted for murder, torture and illegal arrests. He was a former governor of Kinshasa who in September 1971 was given a special assignment to maintain security in Kinshasa. He and four accomplices were later prosecuted for killing two people, but were alleged to have assassinated many more. They claimed that the killings were officially approved. Manzikala was condemned to death in 1972 but his sentence was commuted to life imprisonment and he was subsequently released.

In 1979 several people engaged in work which embarrassed the authorities—INGENDE, for instance, who was collecting information on mortality rates in hospitals and prisons—disappeared in Kinshasa and were believed to have been either arrested by the CND or assassinated. Amnesty International was unable to obtain further information about these missing people. Other prisoners have also disappeared after their arrest, and inquiries to Zaïrean officials about, for example, two former members of the PRP arrested in November 1978—KIBWE Tshiamalenge and SALUME Mongolo—remained unanswered.

8. The Zaïrean Government and Human Rights

i) *Government attitudes to human rights*

The Zaïrean Government has usually reacted sharply to criticism from abroad about human rights violations in the country. They have on a number of occasions insisted, in President Mobutu's own words, that "Zaïre is not the jungle, but a state ruled by law", and have denied reports of massacres and unfair trials. President Mobutu has himself claimed that he defends human rights in Zaïre and imprisons those who infringe them. In a speech in Washington D.C., USA, in September 1979 he referred to the imprisonment of a former Minister of Justice and claimed that since he became President no new prisons had been built.

President Mobutu has also expressed his respect for human rights by ordering a series of amnesties for political prisoners and Zaïreans living in exile. However, on other occasions he has criticized appeals about human rights. In March 1978, for example, he refused to commute the death sentences passed on 12 alleged conspirators, stating: "I will no longer tolerate actions to stop Zaïre punishing criminals in the way they deserve under the pretext of safeguarding human rights".

The Zaïrean Government's ratification of both international human rights covenants indicates its acknowledgment of the importance of such rights. It is one of the few African governments to ratify the Optional Protocol to the International Covenant on Civil and Political Rights. In 1978 some elements of this Covenant were incorporated into the new constitution.

In late 1979 a symposium on human rights took place in Lubumbashi, and in early 1979 President Mobutu is reported to have taken steps to prevent the imprisonment of returning refugees following a report from the representative of the United Nations High Commissioner for Refugees. After the second FLNC rebellion in Shaba region, the International Committee of the Red Cross was permitted to visit prisons and cells in Shaba, and by September 1979 had seen 54 different places of detention in the country. Thus in a variety of ways, the Zaïrean authorities have indicated their concern for human rights, although adequate measures have not yet been taken to prevent infringements.

ii) *Government reactions to accusations from abroad*

On several occasions during 1978 and 1979 the Zaïrean authorities were accused by opposition parties or human rights organizations of condoning massacres or other violations of human rights. The government reacted in various ways. When events in Kwilu sub-region were publicized in February 1978, the government responded by claiming that the leader of the uprising, Kasongo, had participated in the FLNC rebellion in Shaba region in 1977. They also stated that Kasongo and the 13 others who were publicly executed in Idiofa on 25 January had been tried by a military court, sentenced to death and executed by firing squad. The authorities denied that other rebels had been executed but said that they had been killed while resisting the army.

In November 1979 the Zaïrean authorities reacted sharply to a report that 215 young people had been massacred in July 1979 on the Lubilashi river, near Mbuji-Mayi in Kasai Oriental region. They claimed that only three people had been shot, and that the deaths had occurred during a clash between

armed men who were illegally looking for diamonds and members of the security forces. On this occasion they also invited an international commission of inquiry to visit Kasai Oriental and investigate the incident. This was the first such commission to be invited to the country. The authorities also took steps to obtain redress from the International Federation of Human Rights, which publicized the killings in November 1979. President Mobutu criticized five elected members of the Legislative Council who, after the killings, sent a letter of protest to the President of the Legislative Council and asked for a parliamentary inquiry. He claimed that members of the Baluba ethnic group, who inhabit Kasai Oriental and northern Shaba regions, had betrayed him.

Earlier in 1979 President Mobutu strongly denied that Zaïrean soldiers were present in Bangui, the capital of the ex-Central African Empire, in January 1979 when more than 150 people were killed during anti-Bokassa demonstrations. Various reports had suggested that Zaïrean troops had helped suppress the demonstrations and that a Zaïrean air-force plane was at Bangui airport on 18 January 1979. Other sources suggested that the confusion resulted from some of the Emperor's soldiers wearing Zaïrean army uniforms which they had been given in May 1978 when they were scheduled to back up President Mobutu in Shaba region.

During 1979 the Zaïrean authorities reacted in various ways to Amnesty International's appeals. Appeals on behalf of a number of untried detainees received no replies, but members of Amnesty International met a number of Zaïrean officials and discussed matters of concern in Zaïre with them. In reply to letters about convicted prisoners, officials stated that the basic rights of military prisoners convicted in September 1975 and March 1978 were being respected and that the prisoners were getting letters and visitors. The authorities also maintained that the prisoners convicted in 1975 and 1978 had all had fair trials, and said this was evident inasmuch as both these major trials had been broadcast on television and radio.

iii) *Prosecution of officials alleged to have violated human rights*

Zaïrean officials have been prosecuted for offences involving human rights violations on several occasions. In the early 1970s two senior officials, Manzikala Madrakini and Colonel PWATI Sita, were imprisoned after being convicted of torture and other offences. They were both subsequently released under amnesties. In April 1978 the former State Commissioner for Justice, Mampuya Kanunka Tshiabo, was convicted of embezzling funds intended for prisoners' food.

In June 1979 a former local government official, NSUNGU Mputu (Commissioner for Selembao zone in Kinshasa), was sentenced to more than three years' imprisonment on charges which included the arbitrary arrest of six people (arbitrary arrest is punishable under Article 67 of the penal code). In April 1979 another local government officer, the Commissioner for Kinshasa zone (a district in the city of Kinshasa), was prosecuted not only for making an arbitrary arrest but also for wounding the person arrested, who was suspected of writing a newspaper article criticizing the local JMPR.

These prosecutions and convictions were part of an official campaign against corruption among government officials. It is focused more on ending embezzlement than on stopping

arbitrary arrests and detention. Although people who have been arbitrarily arrested by order of their local zone commissioner can bring a case against the latter, those who have been detained for no apparent reason by the CND cannot bring a case against it without official permission, and no such cases are known to have been brought. Some former detainees have appealed to President Mobutu for redress, but apparently without success.

iv) *Amnesty International action*

Amnesty International has sent appeals to the country on a variety of occasions since President Mobutu came to power, particularly when political prisoners have been sentenced to death. It attempted to intercede in June 1966 on behalf of

Evariste Kimba and three others sentenced to death, in October 1968 when Pierre Mulele was executed, and more recently in March 1978 when 13 executions took place. On other occasions Amnesty International has appealed on behalf of prisoners whose death sentences have subsequently been commuted, and for prisoners believed to be the victims of torture or particularly cruel conditions.

The organization has adopted as prisoners of conscience a number of long-term detainees and some prisoners convicted of conspiracy against the state and has investigated the cases of many other political prisoners. Some of them have been released, but in early 1980 Amnesty International adoption groups were working for more than 30 prisoners known to be still in prison.

Glossary

terms and abbreviations used in the text

CND	<i>Centre national de documentation</i> —National Documentation Centre		fragmented into a number of different groups in Zaïre, some of which are autonomous and wholly independent from the Watchtower Society in the USA
Council of War	<i>Conseil de guerre</i> —military court or court martial		
Congo	Zaïre was known as the Congo until 1972. The country was called successively the Congo Free State, the Belgian Congo and the Democratic Republic of Congo. It should not be confused with the neighbouring People's Republic of the Congo, a former French colony	Legislative council	<i>Conseil Législatif</i> —the National Assembly, which consists of 274 representatives
		Léopoldville	The name of the capital, changed to Kinshasa in 1966
		LICOPA	<i>Ligue congolaise pour la paix et l'amitié avec les Peuples</i> —Congolese League for Peace and Friendship between Peoples. Members of this organization were involved in a major political trial in August 1971 which was known as the LICOPA trial
EEP	<i>Etablissement d'Exécution des Peines</i> —a prison where convicted prisoners serve their sentences. There is one EEP in each region		
Executive Council	<i>Conseil Exécutif</i> —the Government	MPR	<i>Mouvement Populaire de la Révolution</i> —The People's Movement for the Revolution. The only legal political party in Zaïre, founded by President Mobutu in 1967
FAZ	<i>Forces Armées Zaïroises</i> —Zaïrean armed forces		
FLNC	<i>Front de Libération nationale du Congo</i> —Congo National Liberation Front, responsible for rebellions in Shaba region in March 1977 and May 1978	OUA	<i>Organisation de l'Unité Africaine</i> —Organization of African Unity. The Cité de l'OUA (OAU City) is a district near the Presidency on Mount Ngaliema
GECAMINES	<i>Générale des Carrières et Mines du Zaïre</i> —the mining company which operates in Shaba region and produces mainly copper and cobalt. Until 1966 GECAMINES was the <i>Union minière du Haut Katanga</i>	<i>Quartier cellulaire</i>	Prison block composed of cells
Kimbanguiste church	The abbreviated name of the <i>Eglise du Jesus Christ sur la Terre par le prophète Simon Kimbangu</i> (the Church of Jesus Christ on Earth through the Prophet Simon Kimbangu). Zaïre's largest single indigenous Christian Church, which is based in Bas-Zaïre region	<i>Quartier communautaire</i>	Prison block where prisoners live in large dormitories and are relatively free to move around
Kitawalistes	Jehovah's Witnesses. The Watchtower Society, whose members are generally known as Jehovah's Witnesses, has	Region	<i>Région</i> —province. There are nine regions in Zaïre, including the capital, Kinshasa. They are: Bas-Zaïre, Bandundu, Equateur, Haut-Zaïre, Kasai Occidental, Kasai Oriental, Kivu and Shaba
		Sub-region	<i>sous-région</i> —sub-division of a province
		State	<i>Commissaire d'Etat</i> —government minister
		Commissioner	

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