



## 2008 Human Rights Report: Republic of the Congo

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

**2008 Country Reports on Human Rights Practices**

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The Republic of the Congo, with a population estimated at 3.8 million, is a parliamentary republic in which most of the decision-making authority and political power is vested in the president, Denis Sassou-Nguesso, and his administration. Parliamentary elections for the Senate and National Assembly in 2007 were marred by irregularities and widely viewed as poorly run and highly disorganized, with four district results later overturned by the courts. Independent monitors determined that the 2002 presidential elections did not "contradict the will of the people" despite significant irregularities and manipulation in the administration of the elections; presidential elections are next scheduled for 2009. While civilian authorities generally maintained effective control of security forces, there were instances in which members of the security forces acted independently of government authority.

The government's human rights record remained poor. Although there were fewer documented abuses during the year, serious problems remained. Citizens' right to peacefully change their government was limited. In addition, the following serious human rights problems were reported: killings of suspects by security forces; mob violence; security force beatings and other physical abuse of detainees, rapes, looting, solicitation of bribes, and theft; harassment and extortion of civilians by unidentified armed elements; poor prison conditions; official impunity; arbitrary arrest; lengthy pretrial detention; an ineffective and largely nonfunctioning judiciary; infringement of citizens' privacy rights; limits on freedom of the press; restrictions on freedom of movement; official corruption and lack of transparency; domestic violence and societal discrimination against women; trafficking in persons; discrimination on the basis of ethnicity, particularly against Pygmies; and child labor.

### RESPECT FOR HUMAN RIGHTS

#### Section 1 Respect for the Integrity of the Person, Including Freedom From:

##### a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed any politically motivated killings; however, security forces killed persons.

According to local human rights and civil society groups, police caused the death of Guy Poaty. He was beaten and reportedly tortured after being among nearly 30 persons arrested in July during riots in Pointe Noire, during which President Sassou-Nguesso's vehicle was stoned. Poaty died while in custody at the Directorate for Territorial Surveillance (DST); authorities refused to release information on the cause of death. There was no information of any investigation by authorities into the circumstances of Poaty's death by year's end.

During the year there were no known investigations or charges in the 2007 death of Guy Yombo, a prisoner at the Ouenze jail. Local human rights groups claimed Yombo died of wounds suffered during beatings by police at the jail, where he was held with no clear charges filed against him.

There were no reports during the year of any charges being filed against authorities who killed a Brazzaville prisoner trying to escape from jail in 2007.

During the year no charges were filed in a 2007 case in which police officers in Brazzaville shot and killed three armed suspects who were resisting arrest.

Unlike in previous years, there were no reports of killings of civilians in the Pool region by armed elements believed to be Ninja rebels. The "Ninjas" were formed from a militia group in the late 1990s in the southeastern Pool region. There continued to be occasional deaths due to mob violence, as civilians took vigilante action against presumed criminals or settled private disputes. Police at times intervened to stop mob violence.

Three villagers arrested in 2005 for killing an Italian missionary, who was killed after his convoy had struck and killed a child, remained in prison awaiting trial. No trial had been scheduled by year's end.

Local inhabitants frequently took the law into their own hands to punish persons presumed or known to be police or military personnel who looted civilian residences, resulting in death or serious injury. Such incidents were most common in remote areas.

#### Disappearance

There were no reports of politically motivated disappearances during the year.

Families of 353 persons who disappeared in the 1999 "Beach" incident failed during the year in their attempts to use French courts to bring claims of criminal wrongdoing against individuals and the Congolese government. In April French courts ruled against allowing the cases to proceed in the French system, apparently ending the families' legal avenues. In 2005 a Brazzaville court acquitted 15 high-ranking military and police officials accused of involvement in the disappearance and presumed deaths of the 353 persons separated from their families by security forces in 1999 upon their return to Brazzaville from the Democratic Republic of Congo (DRC). In 2006 the Congolese Supreme Court refused to consider an appeal.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the constitution and law prohibit such actions, security forces frequently used beatings to coerce confessions or to punish detainees. During the year there were reports that abuses continued in the jail and prison systems.

As in previous years, there were reports by nongovernmental organizations (NGOs) and other reputable sources that security force members raped female detainees and beat citizens.

Early in the year police detained a DRC citizen in the Talangai District of Brazzaville because her husband allegedly was dealing illegal drugs. While she was detained without charge, the woman was raped by three men she claimed were police officers. Two officers were jailed and were awaiting trial at year's end; authorities had not located the third man.

During the year harassment and mayhem in the Pool region by armed elements believed to be Ninja rebels greatly decreased, following peace accords and disarmament agreements completed in June. Rebel leader Pasteur Ntumi ordered his Ninja troops to disarm and cooperated in an agreement with government soldiers and gendarmes to secure the Brazzaville to Pointe Noire railroad. While the region was not completely safe, there were many fewer reports of harassment or violence during the year.

In August, according to privately owned television stations, police raided restaurants, snack bars, and kiosks without warrants, ostensibly to remove vendors operating illegally alongside the roadways. Police beat civilians and destroyed private property during the raids. There was no report of any official action being taken against the police.

#### Prison and Detention Center Conditions

Prison and detention center conditions were harsh and life threatening. Prisons were overcrowded, with more than 400 prisoners housed in the Brazzaville Maison d'Arret, known as the central prison, which was built in 1944 for fewer than 100. In Brazzaville's central prison, most cellmates slept on the floor on cardboard or thin mattresses in small cells, exposing the prisoners to disease. Food provision was poor and health care virtually nonexistent, provided primarily, if at all, by outside charities. Prisoners and detainees in the Brazzaville central prison, the only prison in the capital, usually received one meal per day. The Ministry of Justice continued to repair some prisons; however, lack of funds hindered efforts to improve facilities and to provide food and medicine.

Detainees held at police stations often were subjected to beatings, rapes, overcrowding, and extortion.

Women were incarcerated with men, except in the city of Brazzaville, where separate facilities were maintained. Juveniles were held with adults, and pretrial detainees were held with convicted prisoners.

There were six prisons but only three were in operation: The Maison d'Arret in Brazzaville, one in Pointe Noire, and one in Ouessou. Other facilities stopped functioning during the year due to the dire conditions, and many prisoners were simply allowed to walk away, reducing the current prison population to approximately 865, 70 percent of whom were awaiting trial; most were jailed for assault and robbery. Many were transferred to Brazzaville's central prison. In addition to the 865 prisoners, there were an estimated 300 detainees throughout the country in local jails waiting to be charged or released. In the great majority of cases, detainees were released.

The government continued to grant access to prisons and detention centers to domestic and international human rights groups. During the year local human rights groups and NGOs visited prisons and detention centers. The International Committee of the Red Cross (ICRC) continued regular visits to prisons and detention centers in Brazzaville and Pointe Noire and reported that it had received appropriate cooperation from the government on its visits during the year.

#### d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention. However, members of the security forces unreasonably and arbitrarily detained persons for minor offenses, mostly traffic-related, and required them to pay bribes on the spot as a condition for release. Nevertheless, reports of arbitrary arrests and detentions continued to decrease.

#### Role of the Police and Security Apparatus

The security forces include the police, gendarmerie, and military. The police and the gendarmerie are responsible for maintaining internal order, with police primarily in cities and the gendarmerie mainly in other areas. Military forces are responsible for external security, but also have domestic security responsibilities, such as protecting the president. The minister of defense oversees the military forces and gendarmerie, and the minister of security oversees the police.

A joint police unit known as COMUS, under the Ministry of Security and Public Order, is responsible for patrolling the frontiers. Another unit, the military police, is composed of military and police officers and is primarily

responsible for investigating professional misconduct by members of any of the security forces. Overall, professionalism of the security forces continued to improve, in large part due to training by the international law enforcement community. The government generally maintained effective control over the security forces; however, some members of the security forces who acted independently of government authority committed abuses.

Corruption remained a significant problem in the security forces. During the year there were frequent reports of arrested individuals whose families bribed police to secure their release. Traffic police extorted bribes from taxi drivers and others under threat of impoundment of their vehicles. Although the Human Rights Commission (HRC) was established for the public to report security force abuses, impunity for members of the security forces was a widespread problem.

#### Arrest and Detention

The constitution and law require that warrants be issued by a duly authorized official before arrests are made, that a person be apprehended openly, that a lawyer be present during initial questioning, and that detainees be brought before a judge within three days and either charged or released within four months. However, the government habitually violated these provisions. There is a system of bail, but more than 70 percent of the population had an income below the poverty level--defined as less than 500 CFAF a day (approximately \$110)--and could not afford to post bail. Detainees generally were informed of the charges against them at the time of arrest, but formal charges often took at least one week to be filed. Police at times held persons for six months or longer due to administrative errors or delays in processing detainees. Most delays were attributed to lack of staff in the Ministry of Justice and court system. Lawyers and family members usually were given prompt access to detainees, and indigent detainees were provided lawyers at government expense. If indigent detainees were detained outside a major city, they were often transferred to the closest town or city where an attorney was available.

Arbitrary arrest continued to be a problem. The most common cases were threats of arrest to extort bribes. These were perpetrated most often against vehicle operators (mainly taxi drivers) by police, gendarmes, or soldiers. Immigration officials also routinely stopped persons and threatened them with arrest, claiming they lacked some required document, were committing espionage, or on some other pretext to extort funds. Most often these incidents resulted in the bribe being paid; if not, the person was detained at a police station (or the airport) until either a bribe was paid or pressure was placed on authorities to release the individual.

Lengthy pretrial detention due to judicial backlogs was a problem. Pretrial detainees continued to constitute the majority of the prison population, including 67 percent and 52 percent of Brazzaville and Pointe Noire prisoners, respectively. On average detainees waited six months or longer before going to trial. It was a general belief that bribes determine the length of detention.

Three villagers arrested in 2005 for allegedly killing an Italian missionary remained in prison awaiting trial. No trial had been scheduled by year's end.

#### e. Denial of Fair Public Trial

Although the constitution and law provide for an independent judiciary, the judiciary continued to be overburdened, underfunded, and subject to political influence and corruption.

The judicial system consists of traditional and local courts, courts of appeal, a Court of Accounts, the High Court of Justice, the Constitutional Court, and the Supreme Court. In rural areas, traditional courts continued to handle many local disputes, particularly property and inheritance cases, and domestic conflicts that could not be resolved within the family. The Court of Accounts' function is to hear cases related to mismanagement of government funds.

The Constitutional Court's responsibility is to adjudicate the constitutionality of laws and judicial decisions. The High Court of Justice's function is to review judicial decisions or crimes involving the president and other high-ranking authorities in the conduct of their official duties. Local courts dealt with criminal and civil complaints. The Supreme Court met regularly and primarily heard cases related to the legality of land seizures by the government during the civil war. It also reviewed administrative and penal cases from lower courts.

#### Trial Procedures

The constitution provides for the right to a fair trial presided over by an independent judiciary; however, the legal caseload far exceeded the capacity of the judiciary to ensure fair and timely trials, and most cases never reached the court system. The courts have not heard any civilian criminal trials since 2005, with the government citing a lack of funds to organize trials. Some prisoners were subsequently freed and considered to be in pending trial status, but most remained in pretrial detention. In general, when trials occurred prior to 2006, defendants were tried in a public court of law presided over by a state-appointed magistrate. Juries are used. Defendants have the right to be present at their trial and to consult with an attorney in a timely manner. An attorney is provided at public expense if an indigent defendant faces serious criminal charges. Defendants can confront or question accusers and witnesses against them and present witnesses and evidence on their own behalf. The defense has access to prosecution evidence. Defendants are presumed innocent and have the right of appeal. The law extends the above rights to all citizens.

The military has a tribunal system--the Martial Court--to try criminal cases involving military members, gendarmerie, or police. Civilians were not tried under this system. This body was believed to be subject to influence and corruption. However, in a continuation of a 2007 investigation into corrupt military payroll practices, during the year the Martial Court suspended the salaries of more than 500 current and former military personnel.

#### Political Prisoners and Detainees

There were some political prisoners and detainees, such as the arrests made in Pointe Noire, as discussed above. As in previous years, local and international NGOs, including the ICRC, reported monitoring the condition of several political prisoners.

Three exiled DRC military officers remained in pretrial detention in military headquarters, where they have been held since 2004 after being arrested for political reasons following disturbances in Kinshasa. The three were reportedly being held pending extradition, although an effective extradition policy between the two countries did not exist.

In June three former gendarme officers loyal to former president Pascal Lissouba were tried and convicted on robbery charges stemming from a 2005 raid on the Bifouity Gendarmarie Armory in Brazzaville. The officers had been imprisoned awaiting trial since the 2005 raid, which was deemed an attempted coup d'etat. The courts sentenced each man to three years in prison, but gave them credit for time spent in jail awaiting trial; all three were released in July.

#### Civil Judicial Procedures and Remedies

There is a civil court system; however it was widely believed to be subject to the same corrupt practices as are found in the criminal court system. Although persons can file a lawsuit in court on civil matters, including seeking damages or cessation of a human rights violation, no such cases were known to exist, and there remained general mistrust of the judicial system as a means to address human rights issues.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution and law prohibit such actions; however, security forces at times illegally entered, searched, and looted private homes.

No action was taken during the year on an official complaint filed by a civilian in 2007 against police in the Ouenze District of Brazzaville, after police entered the man's home without a warrant under the pretense of searching for narcotics. The accused was not charged and there was never any evidence provided by police to justify their search.

Citizens generally believed the government monitored telephone and mail communications of selected individuals.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and of the press, but also criminalize certain types of speech, such as incitement of ethnic hatred, violence, or civil war. The government at times limited freedom of speech and of the press. Broadcast journalists and government print media journalists practiced self-censorship. The nongovernment print media experienced fewer constraints as long as its reporting stayed only in print form and was not broadcast.

Individuals could criticize the government publicly or privately without reprisal on relatively minor issues. However, persons feared reprisal if they named high-level officials while criticizing government policies. The government generally did not proactively attempt to impede criticism by, for example, monitoring political meetings, but sometimes punished critics after the fact.

There was one state-owned newspaper, La Nouvelle Republique, and several publications which were closely allied with the government. There were 15 to 20 private weekly newspapers in Brazzaville that criticized the government. Newspapers occasionally published open letters written by government opponents. The print media did not circulate widely beyond Brazzaville and the commercial center of Pointe Noire; it reached approximately one-third of the population.

Most citizens obtained their news from radio or television, and in rural areas primarily from government-controlled radio. There were three privately owned radio stations, all progovernment, three government-owned radio stations, and one government-owned television station. There were four privately owned television stations; unlike in previous years, two of the four stations were increasingly critical of the government. Several satellite television services were available and permitted the few who could afford it to view a wide range of news programs.

Government journalists were not independent and were expected to report positively on government activities. There was evidence that when government journalists deviated from this guidance there were adverse consequences, especially if they were critical of the president.

Television journalist Christian Perrin was arrested in July after ignoring a government order to not report disturbances in Pointe Noire that were directed against President Sassou-Nguesso's motorcade. Perrin, news director of privately owned Tele Pour Tous (TPT), aired footage of the July rioting, which erupted over the funeral of a former president of the national assembly and included protestors hurling stones at the car carrying President Sassou-Nguesso to the burial. Officials in the Ministry of Communications, including the minister himself, ordered all news outlets not to report the incidents; all but TPT complied. Two weeks later, Perrin invited two opposition party

members onto his show to discuss politics. Authorities arrested him the next morning and later released him after more than 24 hours at the DST. Authorities did not officially charge or try him, but a state prosecutor declared him guilty and assessed a fine of 500,000 CFA (approximately \$1,120). By year's end authorities had not contacted Perrin to pay the fine. Perrin reported in late August that he felt he was under surveillance by unknown persons.

In September police severely beat Digital Radio Television (DRTV) news reporter Giscard Mayoungou as he was covering a disturbance at a Brazzaville university. Witnesses said Mayoungou clearly identified himself as a reporter but police continued to beat him while they beat students and others caught up in the disturbance. DRTV filed a complaint against the police but authorities did not take action by year's end.

In July a freelance journalist and documentary filmmaker reported receiving threats from government officials after airing a documentary she made about ongoing water shortages in Brazzaville. The documentary, which included criticism of the government's failure to fix the water problems, was shown once at a cultural center in the Centreville District of Brazzaville; it was not shown again after the journalist received the threats.

A number of Brazzaville-based journalists represented international media. Unlike in previous years, there were no confirmed reports of the government revoking journalists' accreditations if their reporting reflected adversely on the government's image. However, the government had not repealed the policy that allowed revocation; this policy affected journalists employed by both international and government-controlled media. Local private journalists were not affected.

The press law provides for monetary penalties for defamation and incitement to violence.

Unlike in previous years, the government forced a newspaper to suspend publication, shutting down the privately owned Talassa for three months, citing defamation. The newspaper, which is routinely very critical of the government, resumed publication in March.

#### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. A 2005 estimate indicated that only 1 percent of the population had access to the Internet, due to the lack of infrastructure, reliable power, and telephone or satellite services.

#### Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

#### b. Freedom of Peaceful Assembly and Association

##### Freedom of Assembly

The constitution and law provide for freedom of assembly, and the government generally respected this right in practice.

Groups that wished to hold public assemblies were required to inform the Ministry of Territorial Administration and appropriate local officials, who could withhold authorization for meetings that they claimed might threaten public order.

Unlike in previous years, there were no demonstrations by public workers protesting salary arrears at a downtown Brazzaville intersection; the government began paying arrears more frequently during the year, lessening the motivation for the rallies.

#### Freedom of Association

The constitution and law provide for freedom of association, and the government generally respected this right in practice. Groups or associations--political, social, or economic--were generally required to register with the Ministry of Territorial Administration. Registration could sometimes be subject to political influence. During the year the government refused to process the application for Marien Ngouabi and Ethics, a political opposition group that sought to organize. The group completed all required steps for registration but reported that officials refused without explanation to provide the final approval stamp that would complete recognition. In May government officials and security forces prevented Marien Ngouabi and Ethics from holding its planned national meeting at the Parliament Palace in Brazzaville, citing the group's lack of approved registration.

#### c. Freedom of Religion

The constitution and law provide for freedom of religion, and the government generally respected this right in practice.

#### Societal Abuses and Discrimination

There were no reports of discrimination against members of religious groups. There was no substantial Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2008 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

#### d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation; however, in practice the government at times imposed limitations. Immigration officials routinely stopped travelers on various pretexts to extort funds.

In the Pool region, unidentified armed elements believed to be Ninja rebels continued to harass and intimidate citizens, thus limiting freedom of movement. A final disarmament agreement signed in June between the government and the remaining rebel leader, Pasteur Ntumi, resulted in improved security conditions and fewer reported incidents of harassment.

The law prohibits forced exile, and the government did not use it. The government did not prevent the return of citizens, including political opponents of the president. By year's end, former president Pascal Lissouba, who was sentenced in absentia in 2001 to 30 years in prison for "economic crimes," had not returned to the country, despite a 2007 announcement that President Sassou-Nguesso had agreed to allow his return and would pardon him. Other officials, including the former minister of transport and former secretary general for the largest opposition party, returned from exile during the year.

#### Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing

protection to refugees. In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened, and granted refugee status or asylum.

The government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. During the year the government cooperated with the UNHCR in the voluntary return of refugees, including ex-combatants from the DRC, to their home countries.

According to the NGO Congolese Observatory for Human Rights (OCDH), Albert Muya Ilunga, a DRC refugee living in Brazzaville, was involuntarily repatriated to Kinshasa in March, detained for two weeks, and questioned by DRC security forces. Following diplomatic negotiations between both Congolese governments and the UN, Muya Ilunga was brought back to Brazzaville by the UN and released.

The government also provides temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol; however, the government was not generally effective in dealing with such cases. The National Refugees Committee's offices, closed in 2007 due to a lack of funds, reopened in March, but did not process any refugee requests during the year. According to the World Refugee Survey, the country hosted an estimated 44,000 refugees and asylum seekers at the end of 2007, including approximately 33,800 from the DRC who had fled civil war in the 1990s and in 2004. Some 6,500 Rwandan refugees who fled their country in the 1990s remained in Congo at year's end.

#### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution and law provide citizens with the right to peacefully change their government. However, during the 2002 presidential elections, significant irregularities occurred, and the entire Pool region was unable to vote. Legislative elections in 2007 were characterized as chaotic.

#### Elections and Political Participation

During the year local elections for senatorial and mayoral positions were marred by disorganization, extreme voter apathy, and low turnout. Opposition party leaders complained that representatives from different political parties were not allowed to examine ballot results before they were publicly announced, as the country's electoral law requires.

Legislative elections in 2007 were marred by poor organization and low voter turnout, although there were no confirmed incidents of violence. The ruling Congolese Labor Party, and independent candidates aligned with it, won 125 seats; candidates from two opposition parties won the remaining 12 seats.

Independent observers determined that the 2002 presidential elections did "not contradict the will of the people" despite serious flaws and the almost complete absence of any opposition candidates. The next presidential elections are scheduled for 2009.

Major political parties included the ruling Congolese Labor Party, the Pan-African Union for Social Development, the Congolese Movement for Democracy and Integrated Development, the Union for Democracy and the Republic, the Rally for Democracy and Social Progress, and the Union for Progress. Some opposition party leaders returned from exile during the year. Northern ethnic groups, such as the president's Mbochi group and related clans, dominated the political system.

There were eight women in the 72-seat Senate and 10 women in the 137-seat National Assembly. There were five women in the 38-member cabinet.

There were 14 members of tribes other than the dominant northern tribes in the 72-seat senate, 47 in the 137-seat National Assembly, and 15 in the 38-member cabinet. Despite a 2006 parliamentary reaffirmation of their right to

vote, Pygmies were excluded from the political process due to their isolation in remote areas, their culture, and stigmatization by the majority Bantu population.

#### Government Corruption and Transparency

The law provides for criminal penalties for official corruption.

There was a widespread perception of corruption throughout government, including misuse of revenues from the oil and forestry sectors. According to the World Bank's 2008 Worldwide Governance Indicators, government corruption was a severe problem. Also, according to the International Monetary Fund (IMF) and local and international NGOs, official corruption was widespread, particularly in the mismanagement of natural resources. The IMF and World Bank expressed concern about governance and lack of financial transparency, inadequate internal controls and accounting systems, and conflicts of interest in the marketing of oil by the state-owned oil company. Government officials, through bribes or other fraud, regularly siphoned off the bulk of revenues from these industries into private overseas accounts. Pervasive lower-level corruption included security personnel and customs and immigrations officials demanding bribes.

Two prominent anticorruption and human rights activists, Christian Mounzeo and Brice Mackosso, reported an end to the harassment they had been subjected to since their 2006 arrests and convictions on politically motivated charges of embezzlement. By year's end neither man had been approached by government authorities to pay the 300,000 CFA (approximately \$670) fines imposed in their 2006 sentencing. During the year both men reported being able to travel freely.

The law provides for public access to government information for citizens, noncitizens, and the foreign media; however, in practice there were lengthy delays before the government released information, if it did so at all.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated, with some exceptions, without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were more cooperative and responsive to international groups than to domestic human rights groups. However, domestic human rights groups tended not to report specific incidents for fear the government would impose obstacles to their work.

The government-sponsored HRC is charged with acting as a government watchdog and addressing public concerns on human rights issues. Observers claimed that the commission was completely ineffective and lacked independence. The president appointed most, if not all, of its members. During the year the commission met for the first time since its creation in 2003, but failed to take any significant actions other than sending its members on all-expense-paid trips to international conferences and other venues.

The ICRC maintained an office in Brazzaville. During the year access to government officials and to detainees remained good for international humanitarian officials. Local NGOs, in contrast, had poor access.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law and constitution prohibit discrimination on the basis of race, gender, language, social status, or handicap; however, the government did not effectively enforce these prohibitions. Societal discrimination and violence against women, trafficking in persons, regional ethnic discrimination, and discrimination against indigenous persons were

problems.

#### Women

Rape, including spousal rape, is illegal; however, the government did not effectively enforce the law. The law prescribes five to 10 years in prison for violators. However, depending on the severity of the circumstances, the penalties for rape, despite what the law requires, in practice could be as few as several months but rarely more than three years' imprisonment. Rape was common, although the extent of the problem was unknown because the crime was seldom reported. Fewer than 25 percent of reported rape cases were prosecuted, according to local and international NGO estimates.

Domestic violence against women, including rape and beatings, was widespread but rarely reported. There were no specific provisions under the law outlawing spousal battery, other than general statutes prohibiting assault. Domestic violence traditionally was handled within the extended family or village, and only more extreme incidents were reported to the police, primarily due to the social stigma for the victim. No official statistics concerning domestic violence against women were available. Local NGOs continued awareness campaigns and workshops.

Female genital mutilation (FGM) was not practiced indigenously and is against the law. It may have occurred, however, in some immigrant communities from West African countries where it was common. There were no known government or other efforts to investigate or combat FGM.

Prostitution is illegal, but the government did not effectively enforce this prohibition. Prostitution was common, and police often accepted services in lieu of arresting prostitutes.

Sexual harassment is illegal. Generally the penalty is two to five years in prison. In particularly egregious cases, the penalty can equal the maximum for rape, five to 10 years in prison. However, the government did not effectively enforce the law. Sexual harassment was very common but rarely reported. As in previous years, there were no available statistics on its incidence.

Marriage and family laws overtly discriminate against women. Adultery is illegal for women but not for men. Polygyny (having multiple wives) is legal; polyandry (having multiple husbands) is not. The law provides that a wife shall inherit 30 percent of her husband's estate. In practice, however, the wife often lost all inheritance upon the death of her spouse, particularly under traditional or common-law marriage. The symbolic nature of the dowry is set in the law; however, this often was not respected, and men were obliged to pay excessive bride prices to the woman's family. As a result, the right to divorce was circumscribed for some women because they lacked the means to reimburse the bride price to the husband and his family. This problem was more prevalent in rural areas than in urban centers. The Ministry of Social Affairs was in charge of protecting and promoting the rights of women, but it did not effectively perform its function.

The law prohibits discrimination based on gender and stipulates that women have the right to equal pay for equal work. However, women were underrepresented in the formal sector. Women experienced economic discrimination in access to employment, credit, pay, and owning or managing businesses. Most women worked in the informal sector and thus had little or no access to employment benefits. Women in rural areas were especially disadvantaged in terms of education and wage employment and were confined largely to family farming, small-scale commerce, and child-rearing responsibilities. Many local and international NGOs have developed microcredit programs to address this problem, and government ministries such as those of social affairs and agriculture were also active in helping women set up small income-producing businesses.

#### Children

The government was committed to protecting the rights and welfare of children. The government does not provide automatic recording of births; it is up to parents to record the birth of a child. Recording is not required, but must be done to obtain a birth certificate necessary for school enrollment, etc. Those living in remote villages have a difficult time doing so, as this was done only in the major city of each department. The government continued a system to provide free birth registration in Brazzaville, but, as in previous years, the program did not cover other areas of the country.

Education was compulsory, tuition-free, and universal until the age of 16, but families were required to pay for books, uniforms, and school fees. In the cities approximately 95 percent of primary school-age children attended school, and in rural areas an estimated 90 percent attended. Schools were overcrowded and facilities extremely poor. Girls and boys attended primary school in equal numbers; however, the proportion of girls who continued on to the high school and university levels was significantly lower. Girls generally quit school by age 15 or 16. In addition teenage girls often were pressured to exchange sex for better grades, which resulted in both the spread of HIV/AIDS and unwanted and unplanned pregnancies.

Reported child abuse was not common. Most reports in previous years involved the West African immigrant communities in the country.

There were isolated cases of child prostitution among children who lived on the streets. The prevalence of the problem remained unclear. According to reports from international and local NGOs and other observers, these cases were not linked to trafficking but were efforts by some of these children to survive.

With support from international organizations, the government provided economic and counseling support to former child soldiers.

During the year the number of children who lived on the streets remained approximately the same. International organizations assisted with programs to feed and shelter these children. The majority of homeless children in Brazzaville and Pointe Noire were believed to be from the DRC, according to the UN Children's Fund (UNICEF). Children who lived on the streets were vulnerable to sexual exploitation and often fell prey to criminal elements such as drug smugglers. Many begged or sold cheap or stolen goods to support themselves.

#### Trafficking in Persons

The law does not specifically prohibit trafficking in persons, and there were reports that persons were trafficked to and within the country.

There continued to be reports of trafficking of children by West African immigrants living in the country, as well as trafficking of children from the DRC. Trafficking could be prosecuted under existing laws against slavery, prostitution, rape, illegal immigration, forced labor, and regulations regarding employer-employee relations. However, there were no known cases of the government prosecuting any trafficker under these laws. The ministries of security, labor, and social affairs, as well as the gendarmerie, have responsibility for trafficking issues. There were no government programs to prevent trafficking or to provide protection or assistance to victims of trafficking.

A 2007 UNICEF report indicated the country was a destination for trafficked persons, with an estimated 1,800 children reportedly trafficked in Brazzaville and Pointe Noire. There were reports that underage relatives of immigrants from West Africa could be victims of trafficking. There was no evidence of trafficking in adults. Children from West Africa worked as fishermen, shop workers, street sellers, or domestic servants. There were reports that some were physically abused.

Suspected traffickers, who were believed to be either distant relatives or fellow countrymen of the victims, recruited parents to sell their children with false promises of providing the children care or training, visas to Europe, or South Africa.

There were no known cases of the government assisting with international investigations or extraditing citizens who were accused of trafficking in other countries. During the year a joint program by UNICEF, local NGOs, most notably Action Against Trafficking of West African Children (ALTO), and government officials in Pointe Noire continued successfully repatriating some West African children who claimed to have been trafficked, particularly from Benin.

There was no evidence of involvement of government officials in trafficking, although bribery and corruption were problems. In March the wife of a former presidential cabinet official was arrested in Canada on human trafficking suspicions.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### Persons with Disabilities

The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, although the government generally did not enforce the law. There were no laws mandating access for persons with disabilities. The Ministry of Social Affairs is the lead ministry responsible for these issues.

#### National/Racial/Ethnic Minorities

The law prohibits discrimination based on ethnicity; however, the government did not effectively enforce this prohibition.

Regional ethnic discrimination was prevalent among all ethnic groups, was evident in government and private sector hiring and buying patterns, and apparent in the effective "north-south" regional segregation of many urban neighborhoods. The relationship between ethnic, regional, and political cleavages was inexact. Supporters of the government included persons mostly from northern ethnic groups, such as the president's Mbochi group and related clans.

#### Indigenous People

The indigenous Pygmy ethnic group (also known as the Baka people), who lived primarily in forest regions, did not enjoy equal treatment in the predominantly Bantu society. Indigenous people are estimated to constitute 10 per cent of the population or an estimated 300,000 persons. The government did not effectively protect their civil and political rights. Pygmies were severely marginalized in regard to employment, health services, and education, in part due to their isolation in remote areas of the country and their different cultural norms. Pygmies usually were considered socially inferior and had little political voice; however, in recent years several Pygmy rights groups have developed programs and were actively focusing on these issues. Many Pygmies were not aware of the concept of voting and had minimal ability to influence government decisions affecting their interests.

In March the High Court in the Sabiti district indicted a prominent former government official for the disappearance of an indigenous girl in 1989. The former official, Omer Gapa, was arrested in March and was awaiting trial at year's end. The girl, who was six when she disappeared, has not been seen since, according to the local human rights NGO OCDH and APSPC, an NGO advocating for the country's indigenous populations.

During the year the National Network of Indigenous People of Congo continued its campaigns directed at the government, civil society, and international organizations to improve Pygmy living conditions.

Bantu ethnic groups have exploited Pygmies, possibly including children, as cheap labor; however, as in previous years, there was little information regarding the extent of the problem.

#### Other Societal Abuses and Discrimination

The constitution prohibits discrimination based on political, sexual, or religious orientation. However, the social stigma associated with homosexuality was significant. There was no open homosexuality in the country.

In contrast, persons with HIV/AIDS were fairly well organized and sought fair treatment, especially regarding employment. NGOs worked widely on HIV/AIDS issues, including raising public awareness that those living with HIV/AIDS were still able to contribute to society. The law provides avenues for wronged persons to file lawsuits if they were, for example, terminated from employment due to their HIV/AIDS status.

#### Section 6 Worker Rights

##### a. The Right of Association

The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised this right. Members of the security forces and other essential services do not have this right, however. Almost 100 percent of workers in the public sector and approximately 25 percent of workers in the formal private sector were union members.

##### b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law also provides for the right to bargain collectively, and workers exercised this right freely, although collective bargaining was not widespread due to severe economic conditions.

Unlike in previous years, there were no reports that antiunion discrimination occurred. Most trade unions were reportedly weak and subject to government influence; as a result, workers' demonstrations were frequently prohibited, often by the unions themselves. There were no reports during the year of employers firing workers for union activity.

There are no export processing zones.

##### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were unconfirmed reports that such practices occurred.

The government has not repealed a 1960 law which allows persons to be requisitioned for work of public interest and provides for their possible imprisonment if they refuse. However, there are no reports of the law ever being utilized or enforced.

##### d. Prohibition of Child Labor and Minimum Age for Employment

Although there are laws and policies designed to protect children from exploitation in the workplace, child labor was a problem. The minimum age for employment or internships was 16 years; however, this law generally was not enforced, particularly in rural areas and in the informal sector. Children worked with their families on farms or in small businesses in the informal sector without government monitoring.

The Ministry of Labor, which is responsible for enforcing child labor laws, concentrated its limited resources on the formal wage sector, where its efforts generally were effective. As in previous years, limited resources prevented the ministry from carrying out regular child labor inspection trips.

International aid groups reported little change during the year in child labor conditions: the problem existed, but had neither worsened nor improved.

#### e. Acceptable Conditions of Work

The national minimum wage, which was 54,000 CFAF (approximately \$110) per month in the formal sector, did not provide a decent standard of living for a worker and family. Wage floors established in the 1980s for various sectors have remained largely unchanged and are not considered relevant, as wages in the formal sector are paid above the minimum levels, although often not by much. There was no official minimum wage for the agricultural and other informal sectors. High urban prices and dependent extended families obliged many workers, including teachers and health workers, to seek secondary employment, mainly in the informal sector. The bulk of back salaries for government and parastatal workers dating to the late 1990s civil conflict period remained unpaid.

The law provides for a standard workweek of seven hours per day, six days a week with a one-hour lunch break. There was no legal limit on the number of hours worked per week. The law stipulates that overtime must be paid for all work in excess of 42 hours per week; however, there is no legal prohibition against excessive compulsory overtime. Overtime was subject to agreement between employer and employee.

Although health and safety regulations require biannual visits by inspectors from the Ministry of Labor, such visits occurred much less frequently. Unions generally were vigilant in calling attention to dangerous working conditions; however, the observance of safety standards often was lax. Workers have no specific right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment.