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## U.S. Department of State

### Republic of Congo Country Report on Human Rights Practices for 1997

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#### REPUBLIC OF CONGO

The Republic of Congo's transition to democratic government ended in October, when the country's first democratically elected president, Pascal Lissouba was ousted by the former (1979-91) military strongman and president Denis Sassou-Nguesso. Lissouba was elected in 1992 after 28 years of one-party rule, and elections for a multiparty legislature were held in 1993. However, on June 5 violent clashes broke out when government troops surrounded Sassou-Nguesso's Brazzaville home, in what appeared to be an attempt to eliminate his political faction. The Government claimed that the action was a police operation aimed at arresting criminal suspects. The violence evolved into a civil war in the capital. There were also clashes in the north, including the cities of Impfondo, Ouessou, Owando, and, briefly at the end of the war, in Pointe Noire. The fighting resulted in the postponement of the presidential elections scheduled for July and August. The newly established Constitutional Council decreed that President Lissouba should remain in office beyond the expiration of his term and until elections could be held, but Sassou-Nguesso rejected the extension of Lissouba's term. In October Sassou-Nguesso forces defeated government and militia troops loyal to President Lissouba, and established a new Government. Shortly thereafter, the Sassou Government suspended the constitution. Several hundred Angolan troops intervened to assist Sassou-Nguesso forces in Brazzaville; more Angolan troops entered the country from the south and occupied the port city of Pointe Noire. Angolan troops also participated in operations in the south, between Pointe Noire and Brazzaville. Sassou-Nguesso announced the formation of a Government with 33 members, with Sassou as President and Defense Minister. There is no Prime Minister. The judiciary is overburdened, underfinanced, and at times subject to corruption and government interference.

The distinction between the functions of the police and the military forces is not clearly drawn. The national police and gendarmerie have primary responsibility for internal security. The army and border guard are responsible for external security and some domestic security matters. In addition each of the major political leaders had a private militia. During the fighting in Brazzaville, there was no civilian control of these militias. Under other circumstances, civilian authorities generally maintained effective control of the security forces. However, some members of the security forces committed human rights abuses even before the outbreak of civil war. During and after the fighting, the regular military forces, and especially the militias, were responsible for many human rights abuses.

In the first half of the year, the Government continued to make modest progress in economic liberalization and privatization. The economy is heavily dependent on revenues from petroleum exports and on external assistance. Per capita Gross Domestic Product was estimated at \$600 per year for 1996. Economic activity in the capital, however, was severely disrupted by the fighting. The civil war did not significantly affect the oil industry, which operates offshore.

Prior to the outbreak of the civil war, the Government's human rights record was uneven, with improvements in some areas but deterioration in others. Security forces committed killings and continued to use severe beatings and abuse to extract confessions and as punishment. Security forces arbitrarily arrested and detained persons. During the fighting, government forces killed individuals because of their ethnicity and also beat and detained individuals for that reason. Government troops also persecuted foreigners. Prison conditions remain life threatening. Lengthy pretrial detention is a problem. The judiciary is overburdened, lacks resources, suffers from corruption, and is subject to political influence. Societal discrimination and violence against women are serious problems. Minority Pygmies face severe discrimination and exploitation. Citizens sometimes resort to vigilante justice, killing those presumed to be thieves and "sorcerers."

Once the civil war began, government soldiers and the militias that supported them, as well as the opposition militias against which they fought, engaged in widespread extortion and harassment of civilians. Opposition militias killed, beat, and detained persons because of their ethnicity. Both sides, particularly the Government, targeted densely populated areas with heavy shells and rockets. Soldiers and militias engaged in heavy looting throughout the capital, causing great property damage. As a result of the violence, thousands of persons, most of them civilians, were killed in Brazzaville, and hundreds thousands were displaced.

## **RESPECT FOR HUMAN RIGHTS**

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

#### **a. Political and Other Extrajudicial Killing**

There were many confirmed killings by police during the year. At one point, the Brazzaville morgue held 15 bodies of alleged criminals killed by police after the Minister of Security announced a crackdown on crime. Several of those killed had allegedly attempted to escape following their arrests. Police used excessive force and endangered the lives of bystanders in shooting a street merchant who sought to evade arrest or extortion by police in front of a diplomatic mission; the merchant later died. In February near the city of Ouessou, police used excessive force when they shot and killed a British citizen. There were reports of political and ethnic killings by government forces during the fighting in Brazzaville; exact figures are unavailable. Some prisoners probably died as result of harsh conditions in prison facilities (see Section 1.c.).

Both Lissouba and Sassou militias killed persons for political reasons during the fighting, as well as because of their ethnicity. After the war, the victorious Sassou Government's militias continued to apprehend and kill many of its political opponents. The militia also killed suspected criminals and persons attempting to prevent looting by militia members.

During the fighting, troops from both sides illegally entered, searched, and looted homes, in some cases killing the residents, in other cases causing them to flee (see Section 1.f.).

Civilians continued to take vigilante action against presumed thieves and "sorcerers," sometimes beating them to death. The perpetrators are generally not prosecuted.

#### b. Disappearance

There were no reports of politically motivated disappearances before the outbreak of fighting. After the fighting, there were reports that militias of both sides were responsible for politically and ethnically motivated disappearances.

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

The suspended constitution prohibited the use of torture and cruel, inhuman, or degrading treatment. In practice some security force members routinely beat detainees both to extract confessions and as punishment. Security force members generally acted with impunity. They intimidated and beat refugees in the Brazzaville area (see Section 2.d.). During the fighting in the capital, security forces beat citizens because of their ethnicity.

Opposition militia also beat persons because of their ethnicity.

Prison conditions are dire and life threatening. The death rate and the incidence of disease and malnutrition are considerably higher than among the general population, and are probably attributable to the poor prison conditions. Buildings are dilapidated and reportedly severely overcrowded. Medical care is poor to nonexistent. Prisoners depend upon family members to supplement inadequate prison meals, and are sometimes allowed to forage for food in areas near the prison. Rape and sexual abuse of women and children by prison guards are infrequent. Political or special security prisoners are held separately from the general prison population. However, their living conditions do not differ significantly.

Human rights groups sometimes encounter difficulty in gaining access to prisons.

There was no progress in the prison improvement program.

#### d. Arbitrary Arrest, Detention, or Exile

The suspended constitution prohibited arbitrary arrest and detention; however, security forces continued to arrest and detain persons arbitrarily. The Code of Penal Procedure requires that an individual be apprehended openly and that a lawyer be present during initial questioning. The Code further stipulates that warrants be issued before arrests are made and that detainees be brought before a judge within 3 days and either charged or released within 4 months. In practice the Government often violates these legal procedures.

Detainees are usually informed of the charges levied against them; however, many wait in prison for several months before being brought before a judge. There are examples of detainees languishing in jail

for years because of lost files and bureaucratic inertia. Lawyers and families generally have free access to detainees. Although the law provides a system of bail, the average detainee lacks the financial means to meet bail. Over half of all persons in custody are pretrial detainees. The Government often does not respect laws that provide for legal counsel for the indigent.

During the fighting in the capital, militias on both sides detained many persons because of their ethnicity, and held them in deplorable conditions.

The suspended constitution prohibited forced exile, and the Government does not use it.

#### e. Denial of Fair Public Trial

The suspended constitution provided for an independent judiciary. However, the judiciary, not operational at the end of the war, was overburdened, underfinanced, and at times subject to corruption and political influence.

The judicial system consists of local courts, courts of appeal, the Supreme Court, and traditional courts. After his military victory, Sassou replaced all the members of the Supreme Court with judges unilaterally appointed by him.

In general defendants are tried in a public court of law presided over by a state-appointed magistrate. The defense has access to and the right to counter prosecution evidence and testimony. In formal courts, defendants are presumed innocent and have the right of appeal. The judiciary is overburdened with a caseload that far exceeds its capacity to ensure fair and timely public trials. Some cases never reach the court system, however. Judges are often inadequately trained, and the judicial system suffers from inadequate budgets and corruption. It remains common practice for citizens to beat thieves caught in the act, sometimes to death (see Section 1.a.). In rural areas, traditional courts continue to handle many local disputes, especially property and probate cases. Many domestic disputes are adjudicated under traditional law and within the extended family.

The Supreme Court overturned the prison sentences of Colonel Bouissa Matoko and Professor Gabriel Longombe during the year and released them.

The Government released Otto Mbongo, who was arrested for debts in connection with a bankrupt bank and allowed him to travel abroad for medical care. He has not returned, although the charges remain in force.

There were no reports of political prisoners.

#### f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

The suspended constitution provided for the privacy of homes as well as correspondence and telecommunications. Official searches of private properties and communications require a warrant, although that requirement is sometimes breached. There is government surveillance of some telephone lines.

During the fighting, troops from both sides illegally entered, searched, and looted homes, in some cases killing the residents, in other cases causing them to flee (see Section 1.a.).

#### g. Use of Excessive Force and Violations of Humanitarian Law In Internal Conflicts

The fighting that broke out in June was fundamentally an ethnic conflict between northerners loyal to Sassou-Nguesso and southerners loyal to Lissouba. During the fighting in Brazzaville, Lissouba's government forces and Sassou-Nguesso's opposition militias engaged in indiscriminate shelling of populated sections, resulting in the deaths of thousands of persons. Both sides killed and beat members of different ethnic groups; captured combatants were frequently summarily executed. Following Sassou-Nguesso's seizure of power, his Cobra militia conducted house-to-house searches in the capital for members of the defeated government security forces, private militias, and Lissouba's political followers, killing dozens. The Cobras also engaged in large-scale looting after their victory.

During the war, Lissouba forces repeatedly used helicopters piloted by foreign mercenaries to bomb areas controlled by Cobras, resulting in the deaths of many civilians as well as combatants. Near the end of the war, an Angolan MiG aircraft bombed Brazzaville, resulting in the deaths of an unknown number of civilians.

## **Section 2 Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

The suspended constitution provided for freedom of expression and in practice individual freedom of expression is enjoyed. It also mandated an independent council to oversee private and electronic media and to safeguard speech and press freedoms. It was established during the year, but has not been very active.

The Government retained its monopoly power over radio and television until June. At that time, rebel forces launched their own radio and television stations. After Sassou's ouster of Lissouba, the rebel radio station continued to operate, ostensibly as a private station. The government radio station operated as the new government's official station. The Government's television stations had not resumed operations at year's end.

Journalists employed in the state-owned radio and television enterprises often practice self-censorship. Despite the potentially restrictive 1996 Press Law, journalists working for opposition newspapers sharply criticize the Government prior to Lissouba's ouster. After the war, some newspapers resumed publication.

There are no known abridgments of academic freedom.

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

The suspended constitution provides for freedom of assembly; however, groups that wished to hold a public assembly were required to inform the Minister of Interior, who could withhold authorization for meetings that threatened public order. There are no restrictions on trade associations or professional bodies, and affiliation with international bodies is permitted.

The suspended constitution provided for freedom of association, and the former Government respected this right in practice. At year's end, the rights of assembly and association remained restricted, with the Government still engaged in disarming local militias. Only late in the year did citizens circulate in the capital.

### **c. Freedom of Religion**

The suspended constitution provided for freedom of religion, and the Government respected this right in practice.

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The suspended constitution provided for the right of all citizens to travel freely within the country, and it specifically prohibited roadblocks and barriers. The National Conference Charter of Rights provides all citizens the right to travel abroad and return. Nonetheless, military forces, political militias, and opportunists sometimes hindered free movement with barricades, generally demanding money. Motorists refusing to give money were frequently detained for several hours or turned back.

Refugees in Brazzaville continue to encounter harassment. Security forces sometimes subject beat, intimidated, or arbitrarily arrested them. The Government has not formulated a policy regarding first asylum. It requires refugees and asylum seekers to secure a pledge of financial support before it will process their claims. By year's end, the Government had not made a decision regarding asylum for refugees fleeing the former Democratic Republic of the Congo; some refugees were repatriated within weeks of their arrival.

There have been no reports of human rights violations against Cabindan refugees in the port of Pointe Noire.

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

The constitution, which provided for popular election of the President and National Assembly, was suspended by the Sassou Government shortly after it took power. Citizens were not permitted to change their government peacefully as presidential elections were postponed after former President Sassou-Nguesso seized power by force.

President Lissouba was elected in 1992. Legislative elections followed in 1993, and the first round of presidential elections were scheduled for July 27, but were postponed indefinitely. By year's end, the Sassou Government had not announced a date for new elections. It stated that the timing of elections would be discussed in early 1998.

The suspended constitution divided power between the President and a government headed by a Prime Minister and formed with the approval of the National Assembly. The new Government does not have a Prime Minister. The suspended constitution provided for 5-year terms of office for the President and National Assembly deputies, all elected by universal suffrage, and 6-year terms for senators, who are chosen by local councils. The President could dissolve the National Assembly and call for new elections before the end of the 5-year term. International monitors observed the last several rounds of the 1993 legislative elections and found them to be free and fair.

At year's end, the Senate and National Assembly were not functioning. The Government stated that it will replace them by a National Council for the Transition, the members of which are to be "elected" during a National Forum in early 1998.

There are no legal restrictions on representation by women or minority populations. However, women are underrepresented in government and politics. In the former Lissouba government, women held 4 of the 185 seats in the Senate and the National Assembly. Women occupy 3 of 33 cabinet positions in the Lissouba Government. Indigenous Pygmies are excluded from the political process (see Section 5).

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

A wide variety of human rights groups operated with minimal government restriction, investigating and publishing their findings on human rights problems. Government officials are generally cooperative and responsive to their views, although nongovernmental organizations (NGO's) sometimes encounter difficulties in making prison visits.

There were no reported visits by international human rights organizations.

#### **Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status**

The suspended constitution specifically prohibited such discrimination, but it persists in fact, against women and Pygmies.

##### **Women**

Domestic violence, including rape and beatings, is widespread but rarely reported. The problem is handled within the extended family and only in the most extreme instances is the matter brought to the police. There are no provisions under the law for spousal battery. There are no crisis centers or hotlines. The problem of violence against women is largely ignored by the general population and the media. During the civil war and its aftermath, there were reports of numerous rapes carried out by both sides. There were also credible reports of rapes by Angolan troops.

The suspended constitution provided for the equality of all citizens, prohibited discrimination based on sex, and endorsed the right of women to earn equal pay for equal work. In practice, however, women in the formal sector are underrepresented and encounter discriminatory promotion patterns. Most women work in the informal sector and thus have little or no access to credit. Women in rural areas are especially disadvantaged in terms of education and wage employment, and are confined largely to family farm work, petty commerce, and childrearing responsibilities.

Marriage and family laws overtly discriminate against women. For example, adultery is illegal for women but not for men. Polygyny is legal; polyandry is not. While the Legal Code provides that 30 percent of the husband's estate goes to the wife, in practice the wife often loses all rights of inheritance. The symbolic nature of the brideprice set in the Family Code is often not respected, and men are forced to pay excessive amounts to the woman's family. As a result, the right to divorce is circumscribed for some women because they lack the financial means to reimburse the brideprice to the husband and his family. This problem is more prevalent in rural areas than in urban centers.

There are approximately 10 NGO's that work on women's issues. Their effectiveness varies widely, however, and none is physically located in rural areas. The Ministry for the Integration of Women into Development is actively working with a number of NGO's to reform certain legal codes and to educate women regarding their rights.

##### **Children**

The suspended constitution required the Government to protect children in accordance with international conventions. Child labor is illegal, and education is compulsory until the age of 16. In practice limited state resources hinder achievement of these objectives, particularly in rural areas.

## People with Disabilities

The suspended constitution provided for specific measures to protect the needs of the disabled. This provision meant very little in practice as the ministry charged with the welfare of the disabled faces severe financial constraints. There is no overt discrimination against the disabled in employment and education.