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U.S. Department of State

Republic of Congo Country Report on Human Rights Practices for 1998

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REPUBLIC OF CONGO ¹

The Republic of Congo continued to be ruled by a transitional government that came to power by force of arms in October 1997. President Denis Sassou-Nguesso wields executive power without meaningful legislative or judicial constraints. Forces supporting Sassou-Nguesso, a northerner, defeated those of former president Pascal Lissouba, a southerner, with the help of Angolan troops in the 1997 civil war. Lissouba had been elected democratically in 1992 after 28 years of one-party rule, including a lengthy period (1979-91) during which Sassou-Nguesso served as President. Lissouba's administration was characterized by severe mismanagement and by recurring clashes among militia forces loyal to Congo's major political leaders. The civil war began when Lissouba's forces surrounded Sassou-Nguesso's home in June 1997, in an apparent attempt to eliminate his political-military faction. Sassou-Nguesso's principal base of support lay in the sparsely populated northern region of the country; northerners and in particular members of his minority Mbochi ethnic group dominated the Government. After August 1998 there was again civil unrest and armed resistance to the Government in the populous southern part of the country and in neighborhoods of Brazzaville, the capital, which were inhabited chiefly by members of southern ethnic groups. By year's end, the Government reportedly had lost effective control of some areas in the southern part of the country. Soon after taking power, President Sassou-Nguesso's Government replaced Congo's 1992 constitution with a new Fundamental Act. This act is to remain in effect until a new constitution is drafted and adopted by referendum. The Fundamental Act establishes a strong and highly centralized presidential system of government. The President appoints all members of the Government and military and all subnational government officials, serves as commander-in-chief of the armed forces, and is mandated specifically to direct the general policy of the Government and exercise regulatory powers. Legislative authority is vested in the 120-member National Transition

Council. This body was elected at the National Reconciliation Forum convoked by the Government in January. Although the forum included some representatives of opposition political parties and nongovernmental actors, the event was orchestrated by the executive and did not constitute a sufficiently broad-based forum from which to elect a genuinely representative legislature. During the forum, the Government announced its intention to create a new Constitution and hold elections within a flexible 3-year timetable. The judiciary is overburdened and subject to political interference and corruption.

The security forces include the police, the gendarmerie and the armed forces; the functional distinction between these forces is not clear. In theory the police should be the first to respond to security incidents, with gendarmes and army units intervening later if necessary; in practice joint operations are common. Many new recruits who have joined the security forces since the war are former members of nongovernmental militias. Units of the Angolan armed forces and, reportedly, some members of the Chadian armed forces, and possibly other national armies, operated inside the country in support of the Government. Rwandan Hutu militiamen, formerly in refugee camps in the country, also participated in government military operations. Members of the security forces committed numerous, serious human rights abuses.

The economy suffered serious losses during the 1997 civil war, particularly in Brazzaville, in which more than one-third of the country's population of roughly 2.5 million normally resides. However, the war did not significantly affect the oil industry, which operates offshore; oil exports and external assistance remained the country's main sources of foreign exchange. Although per capita Gross Domestic Product for 1997 was estimated at more than \$600 per year, this figure includes substantial oil exports, the benefits of which are not widely distributed throughout the population. Lack of transparency in government and high levels of defense and security spending continued to impede growth. Widespread civil conflict, including the destruction of the Bacongo and Makalekele neighborhoods of Brazzaville and of much of the town of Nkayi in Bouenza during December fighting that displaced more than 200,000 civilians further dimmed prospects for economic recovery. Clashes in southwest Pool also disrupted the railway that serves as the vital economic link between Brazzaville and Pointe Noire, the main port.

The Government's human rights record was characterized by numerous serious abuses. Security forces, which included many undisciplined and poorly trained former members of nongovernmental militias, were responsible for extrajudicial killings including summary executions, disappearances, rapes, beatings and physical abuse of detainees and the civilian population, arbitrary arrests and detentions, and arbitrary searches and widespread looting of private homes. Such incidents were particularly numerous after August, in connection with military operations to quell unrest in the Pool and Bouenza regions and in December fighting in Brazzaville. Prison conditions remained life threatening. The judiciary was overburdened, underfinanced, and subject to corruption and political influence. It was unable to ensure fair and expeditious trials. The Government infringed on citizens' privacy rights. The Government continued to monopolize domestic broadcast media, although private newspapers circulated freely and were sometimes critical of the authorities. Security forces restricted freedom of movement within the country. Citizens did not have the right to change their government peacefully. However, the Government permitted opposition political parties and nongovernmental organizations (NGO's), including human rights organizations, to function, and there was a relatively open dialog on public policy issues. Nevertheless, in a move that could exclude some groups from participation in the political process, the Government stated its intention to try former president Lissouba and members of his government on charges of war crimes, including genocide. In August the National Transition Council adopted a law on genocide and war crimes to permit such cases to be brought before the courts. Societal discrimination and violence against women are serious problems. Minority indigenous Pygmies face severe exploitation and are inherited by Bantu patrons. Societal discrimination on the basis of ethnicity remained widespread; the Government was dominated by members of the Mbochi ethnic minority and

other members of the northern regional minority, and ethnic and regional tensions continued to contribute to large-scale organized civil violence. Child labor, reportedly including forced labor, persists. Beginning in August, bands of opposition militiamen carried out attacks on government installations, killing government officials. Citizens sometimes resorted to vigilante justice, killing those presumed to be criminals.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

Security forces committed many extrajudicial killings. During the first half of the year, security forces frequently resorted to summary executions in order to stop heavily armed former militiamen who committed banditry following the war.

In responding to antigovernment violence in the Pool and Bouenza regions and in Brazzaville during the last 4 months of the year, the Government often deployed undisciplined troops, including some recently recruited from President Sassou-Nguesso's former Cobra militia. These government forces were responsible for summary executions as well as rape, looting, and other violent acts. There were numerous reports that Cobras or other government forces summarily executed young male civilians during and after the December 16-20 fighting in the Bacongo and Makelekele neighborhoods of Brazzaville, inhabited chiefly by southerners, and that government forces singled out for such killings young men from the Lari ethnic group of former prime minister Bernard Kolelas. Members of this group formed the militia forces that conducted antigovernment attacks in the southern Pool region during the final 4 months of the year. Press reports indicated that the survivors of the fighting in Bacongo and Makelekele who fled to other parts of the capital were disproportionately women, children, and old men, with few young men among them. However, those who fled across the border to the Democratic Republic of Congo included a disproportionate number of young men. Government security forces reportedly used artillery in and around the southern neighborhoods of Brazzaville and the town of Nkayi during fighting against rebel forces in December.

The origin and nature of the December 16-20 fighting in the Bacongo and Makelekele neighborhoods of Brazzaville remains uncertain. There were reports of infiltration by members of antigovernment Ninja militiamen, of fighting between former Cobras and other government security forces, and of summary executions of civilians by government forces, and of extensive use of mortars and artillery by government or Angolan forces; the sequence in which these events may have occurred remains uncertain. However, several facts seemed fairly well-established: no more than 300 Ninjas were involved in the fighting; at least 1,000 persons died, perhaps many more; the Bacongo and Makelekele neighborhoods were damaged severely and abandoned by their roughly 200,000 inhabitants, most of them southerners; and government forces, chiefly Sassou's former militiamen, extensively looted these neighborhoods with impunity for days after they were abandoned (see Section 1.f.). Bacongo and Makelekele were among the neighborhoods least damaged during the 1997 civil war, and hence may have been relatively rich targets for looting.

The Government repeatedly has announced its intention to bring to trial members of the former government on charges of war crimes, genocide, or other criminal acts (see Section 3).

There continued to be deaths due to mob violence, as civilians took vigilante action against presumed criminals, although police sometimes intervened to stop such action. Attacks against presumed

"sorcerers," which had been reported during previous years, were not reported during the year.

In April armed bands reportedly linked to former president Lissouba's Cocoye militiamen killed several government workers, seized the Moukoulou hydroelectric dam in Bouenza, region and cut off electricity to the population of Point-Noire for several weeks until their surrender could be negotiated. During December 18-21, while in control of the town of Nkayi in Bouenza, Cocoyes reportedly targeted government officials and others from northern ethnic groups for summary execution.

In the Pool region from late August through year's end, armed bands whose members were drawn principally from former Ninja militiamen once loyal to Bernard Kolelas, who served as prime minister during the final months of Lissouba's government, targeted government officials in numerous acts of violence. On August 29, these groups killed the police commissioner in Mindouli. They also killed the deputy prefect of Goma Tse Tse on September 26, and burned the police station and prefecture offices in Kinkala on October 9. They also reportedly killed 6 members of a church-led mediation committee and as many as 35 other civilians on November 14 in an attack in Mindouli, despite a heavy government security contingent to protect committee members.

b. Disappearance

According to credible reports, on December 23 in northern Brazzaville members of government security forces entered centers for persons displaced by the fighting in the Bacongo and Makelekele neighborhoods of southern Brazzaville, singled out young male displaced persons, and took them away. They removed 20 young men from the Evangelical Church in the neighborhood of Plateau 15 Ans and 4 young men from the Church of Jesus Resurrected. At year's end, the whereabouts of these young men remained unknown. According to some human rights groups, some of these young men were used by authorities to clean up bodies in Bacongo and Makelekele.

Given the incomplete figures on those killed in the 1997 war and the displacement of civilian populations as a result of the fighting, disappearances may have occurred during and after that war that have not been reported.

c. Torture and Other Cruel and Inhuman Treatment or Punishment

The Fundamental Act prohibits torture; however, in practice, security forces sometimes used beatings to extract confessions or merely to punish detainees.

Security forces generally operated with impunity in committing such acts. According to a report issued jointly by a local and an international human rights group in April, security forces sometimes suspended suspects from the ceiling by a wire during beatings to increase their suffering (see Section 4). Members of the security forces looted citizens' homes (see Section 1.f.), and security forces extorted money from travelers at checkpoints (see Section 2.d.). Members of the security forces operating in the south from August through December reportedly committed rape and other acts of violence against women. In the aftermath of the 1997 civil war, such acts were commonly committed by all militia groups.

Prison conditions remained life threatening, as they have been for years. Conditions deteriorated further following the civil war as a result of damage to already overcrowded facilities and scarcity of resources to provide food or health care to the inmates. The Brazzaville prison (Maison d'Arret) was vacated by all inmates (both pretrial detainees and those convicted) due to heavy fighting during the civil war. At year's end, the facility was not yet operational, although the Pointe Noire prison continued to function. Due to the shortage of prison facilities, many prisoners and detainees reportedly were held in police

stations. In a report issued in October, Amnesty International stated that conditions in these police stations often amount to cruel, inhuman, or degrading treatment.

Human right groups sometimes encountered difficulty in gaining access to prisons. However, a local human rights group made two visits to the Pointe Noire prison during the year.

d. Arbitrary Arrest, Detention, or Exile

The Fundamental Act prohibits arbitrary arrest and detention; however, in practice security forces frequently commit such acts. The Code of Penal Procedure, which remains in force, requires that a person 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 provisions. A report jointly prepared in April by a local human rights group and an international human rights group identified 16 cases of arbitrary arrest and detention since the start of the year (see Section 4).

Detainees usually were informed of the charges levied against them, and lawyers and family members usually had free access to them.

There were political detainees at year's end. Precise figures are unknown, but international human rights organizations operating in the country estimated the total to be fewer than 100. Approximately 20 senior military officers of the former government were held at the military academy in Brazzaville. Former armed forces chief of staff General Claude Emmanuel Eta Onka was released from this center in March, after approximately 5 months in detention. According to press reports, other reported political detainees included former presidency counselor Henri Marcellin Ozoumangelet and former Cuvette region prefect Jean-Michel Ebekaa, who have been held at the Direction de la Surveillance du Territoire in Pointe Noire since the end of the war. Both were political allies of former president Lissouba. Two other Lissouba supporters, Paul Omoye and Paul Sobis reportedly were held at a Pointe Noire military base. Ambroise Herve Malonga and Nestor Makounzi Wolo were detained on November 21 in connection with their previous service on former president Lissouba's Constitutional Court. All remained in detention at year's end.

The Fundamental Act does not address forced exile, and the Government does not practice it formally. However, many officials of the predecessor government including former president Lissouba and former Prime Minister Kolelas remained outside the country, and in practice the threat of trial for war crimes in Congo precluded their return.

e. Denial of Fair Public Trial

The Fundamental Act mandates the President to ensure the independence of the judiciary through the Higher Council of Magistrates; in practice, however, the judiciary continued to be overburdened, underfinanced, and subject to corruption and political influence. Resource problems increased as a result of destruction and looting sustained by judicial facilities during the 1997 civil war.

The judicial system consists of local courts, courts of appeal, the Supreme Court, and traditional courts. In rural areas, traditional courts continued to handle many local disputes, especially property and probate cases, and domestic conflicts that could not be resolved within the extended family.

In general defendants are tried in a public court of law presided over by a state-appointed magistrate.

The defense has access to prosecution evidence and testimony and the right to counter it. In formal courts defendants are presumed innocent and have the right of appeal. However, the legal caseload far exceeded the capacity of the judiciary to ensure fair and timely trials. Some cases never reach the court system. No military courts exercise jurisdiction over civilians.

There were no reports of political prisoners.

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

The Fundamental Act provides for the inviolability of the home, and for privacy of letters, correspondence, telecommunications, and other forms of communication, except as may be provided by law; however, in practice government security forces often illegally entered, searched, and looted private homes. Such incidents were reported frequently in the Pool region after August, when deployment of government forces there increased.

In late December, members of Government security forces conspicuously looted the neighborhoods of Bacongo and Makelekele, the inhabitants of which had fled during the fighting there on December 16-20. Members of the security forces drove trucks and wheeled push-carts piled high with looted goods from these neighborhoods to markets in unharmed northern neighborhoods of the capital. Some members of the security forces burned cars found in the northern neighborhoods that they believed to have been acquired by looting, but otherwise the Government made no evident effort to stop the looting, which continued through the end of the year, while the security forces kept the abandoned neighborhoods off limits to all but themselves. During this period, members of the security forces targeted and burned the homes of prominent members of the largely southern ethnic communities of those neighborhoods.

The Government was widely believed to monitor private mail and telephone communications.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Fundamental Act provides for freedom of speech and of the press, and in practice the Government generally respected this right, although it continued to monopolize broadcast media. The 1996 Press Law, which sharply increased criminal penalties for libel, remained in effect.

There is no state-owned newspaper. Approximately 10 private newspapers appear weekly in Brazzaville. Some of these newspapers take editorial positions critical of the Government and print articles unflattering to the authorities. Newspapers on occasion published open letters written by opponents of the current Government who are in detention or living abroad. On September 5, unknown persons ransacked the offices of the newspaper La Rue Meurt, but the newspaper quickly resumed publication and continued to maintain an independent and often critical editorial position towards the Government. Print media do not circulate widely beyond a small elite in Brazzaville and Pointe Noire.

Most citizens obtained their news from the broadcast media. Domestic broadcast media remained a government monopoly. Radio Congo is on the air approximately 18 hours a day; Television Congo broadcasts for even fewer hours. However, Radio France Internationale is rebroadcast on a local FM station, and radio and television broadcasts from neighboring Kinshasa, in the Democratic Republic of Congo (DROC), can be received in Brazzaville. Radio Liberté, established by President

Sassou-Nguesso's forces during the civil war, continued to broadcast.

No Internet service providers operated in the country.

The news coverage and the editorial lines of the state-owned media reflected government priorities and views. Government broadcast media focused its attention on the activities of the ruling party and its allies; there was no meaningful airing of alternative political views.

There were no known abridgements of academic freedom. Access to the University was blocked in late December due to unrest in the Bacongo neighborhood of Brazzaville.

b. Freedom of Peaceful Assembly and Association

The Fundamental Act provides for freedom of assembly and protest, and the Government generally respected this right in practice. Political parties and civic associations held numerous meetings during the year. Public demonstrations were less common; there were no known public protests. Groups wishing to hold public assemblies were required to inform the Ministry of Interior, which could withhold authorization for meetings that threatened public order. However, there were no known instances in which the authorities withheld requests for authorizations to meet.

The Fundamental Act provides for freedom of association, and the Government largely respected this right in practice. The act permits associations, political parties and other groups to form freely, provided that they respect principles of Congolese sovereignty, territorial integrity, national unity, and democracy. No political parties were banned or suspended. The parties of some prominent leaders of the former government continued to operate, but under the leadership of political figures willing to cooperate with the Government.

c. Freedom of Religion

The Fundamental Act provides for freedom of religion and the Government respected this right in practice. There is no official state religion. About half the population is Christian; most of the rest practices either traditional indigenous religions or no religion.

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

The Fundamental Act provides for freedom of movement; however, the Government restricted this right in practice. Military checkpoints sometimes interfered with the movement of civilians. Members of the security forces manning these checkpoints commonly extorted bribes from travelers. The number of checkpoints increased late at night and in areas of insecurity such as in Pool region after August and the Bouenza region and Brazzaville in December. During late December security forces continued to restrict movement into the Bacongo and Makelekele neighborhoods of the capital long after fighting there had ceased (see Section 1.f.). From late August through December, unrest in Pool disrupted vital rail transportation between Brazzaville and Pointe Noire.

The Fundamental Act provides for the right of asylum. The Government reiterated its commitment to respect applicable international refugee law, but it permitted Hutu militiamen from refugee camps to join in military operations with government forces. The country was host to approximately 12,000 Rwandans, largely members of the Hutu ethnic group, who fled camps in eastern Zaire (now the DROC) in 1996 and arrived in Congo in May and June 1997. The Government also sought to work with the office of the United Nations High Commissioner for Refugees (UNHCR) and other interested agencies

to find a durable solution for those Rwandans in Congo. However, in early November, as many as 5,000 of the inhabitants of the camps were believed to have crossed to the DROC to fight on the side of the DROC Government in the civil war in that country.

There are also approximately 6,000 Angolan refugees who fled the Angolan province of Cabinda in 1992 and continue to receive UNHCR assistance in camps near Pointe Noire.

The Government granted first asylum to refugees from other countries. Approximately 150 combatants in the DROC civil war fled to Congo during fighting in the DROC province of Bas-Congo in August. These combatants included both rebels and supporters of the DROC government. The Government accepted them temporarily, pending conclusion of arrangements for their safe return to the DROC. These negotiations continued, and they remained in the country at year's end.

At least 8,500 Congolese, chiefly of southern ethnic groups, reportedly fled the country to the DROC between October and December, during the fighting in Brazzaville, Pool, and Bouenza. On December 31, the Governments of Congo and the DROC signed a non-aggression pact obligating each government to prevent nongovernmental armed groups from using its territory to launch operations against the other government. There were no reports of forced return of persons to countries where they feared persecution.

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

Citizens do not have the right to change their government peacefully. The current Government came to power by force of arms in 1997 with the help of units of the armed forces of Angola. During the National Reconciliation Forum that it convened in January and February, the Government announced its intention to create a new constitution and hold elections within 3 years. In October President Sassou-Nguesso announced publicly that a new constitution would be enacted during 1999. According to the scenario agreed upon at the National Reconciliation Forum in February, the constitution first must be passed by the National Transition Council, then adopted by popular referendum. The Government also announced plans for an administrative census as a precursor to voter registration; however, as of year's end little progress had been made in beginning the census.

The executive branch dominates the current system of government. Under the Fundamental Act, the President is mandated to direct the general policy of the Government and to exercise regulatory powers. He appoints all significant military, executive, and judicial officials. The President convenes the interim national legislature, called the National Transition Council (CNT). The CNT was elected at the National Reconciliation Forum called by the Government in January. Although the forum included some representatives of opposition political parties and nongovernmental actors, the event was orchestrated by the executive and did not constitute a sufficiently broad-based forum from which to elect a genuinely representative legislature. Although the CNT debates issues freely and has summoned cabinet ministers to answer questions about their portfolios, this body was dominated by supporters of the President and did not serve as a meaningful check on executive authority.

Major political parties included the ruling Congolese Workers's Party, former president Lissouba's Panafrican Union for Social Democracy, former prime minister Bernard Kolelas' Congolese Movement for Democracy and Integrated Development, former prime minister Andre Milongo's Union for Democracy and the Republic (UDR), and former Pointe Noire mayor Jean-Pierre Thystere-Tchicaya's Rally for Democracy and Social Progress. There was also a host of smaller parties. In some cases, party leaders remained in exile while other party officials willing to cooperate with the Government remained in the country. In the absence of electoral politics or a constitutional framework for such politics, party

leaders held meetings and party congresses, commented to the media on the current political environment, and raised questions in the National Transition Council. The National Transition Council included representatives of a range of political parties but was dominated by allies of the Government.

The State is highly centralized. Since the 1997 civil war, key regional and local leaders have been appointed by the central Government. Subnational government entities lack an independent revenue base and do not represent a significant check on central authority.

The Government has announced repeatedly its intention to bring to trial members of the former government on charges of war crimes, genocide, or other criminal acts. In August the CNT passed a law on genocide, war crimes, and crimes against humanity that permits the exclusion of those found guilty such crimes from holding public office. This law could be used to exclude opponents from the political process, and the mere threat of charges under this law may dissuade political figures who are in exile from returning to the country, including former president Lissouba and former prime minister Kolelas.

There are no legal restrictions on representation by women or minority populations. However, women were underrepresented in government and politics. Three of 33 cabinet ministers were female, and women held 2 of 7 leadership positions in the CNT. Pygmies continued to be effectively excluded from the political process. The cabinet included members of many ethnic groups throughout the country. Although many key posts were held by northerners, including members of the President's Mbochi ethnic group, there was no consistent pattern of clear overr