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2010 Human Rights Report: Republic of the Congo

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2010 Country Reports on Human Rights Practices

Report

April 8, 2011

The Republic of the Congo, with a population of 3.7 million, is a parliamentary republic in which most of the decision-making authority and political power is vested in the president and his administration. Denis Sassou Nguesso was reelected president in a July 2009 election with 78 percent of the vote. The country has a multiparty political system although members of the president's Congolese Labor Party (PCT) occupy most senior government positions. The 2009 election was peaceful and the African Union declared the elections to have been free and fair; however, opposition candidates and nongovernmental organizations (NGOs) cited irregularities. There were instances in which elements of the security forces acted independently of civilian control.

Principal human rights problems included suspected killings of detainees by security forces; mob violence; beatings and other physical abuse of detainees; rapes; theft; solicitation of bribes; harassment and extortion of civilians by unidentified armed elements; poor prison conditions; official impunity; arbitrary arrest; lengthy pretrial detention; an ineffective and under-resourced judiciary; infringement of citizens' privacy rights; restrictions on freedom of speech, press, association, and movement; official corruption and lack of transparency; domestic violence, including rape; 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

The government or its agents did not commit any politically motivated killings. Prison security personnel allegedly tortured an inmate to death (see section 1.c).

There were no further developments in the January 2009 death in a suspicious house fire of journalist and activist Bruno Jacquet Ossebi, known for his outspoken coverage of government corruption. The death was officially declared an accident and there was no investigation.

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. The results were death or serious injury. Such incidents were most common in remote areas.

b. Disappearance

There were no reports of politically motivated disappearances.

By year's end no investigation had been conducted into the disappearance of two prisoners, Beni Alex Yandi and Bien Godja, who were assumed to have been victims of extrajudicial execution. The two were detained at the central police station in Brazzaville in October and December 2009 respectively.

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

The constitution and law prohibit such practices; however, on September 8, army Lieutenant Ferdinand Bourangon died of torture-induced injuries allegedly perpetrated in Brazzaville's prison. Other unnamed prisoners were also allegedly tortured. No disciplinary action was taken against prison personnel. On December 23, three Congolese human rights NGOs announced their intention to file a lawsuit against the prison's warden, a prison driver, and a police captain for crimes including torture, assault, and murder. The three NGOs were: Association pour les Droits de l'Homme et l'Univers Caceral, Forum pour le Gouvernance et les Droits de Homme, and Obsevatoire Congolaise des Droits de l'Homme.

Several additional cases of alleged torture were reported by local NGOs. Bradi Oboromalekou was arrested in June for selling cannabis and possessing a weapon. While incarcerated, he reportedly was handcuffed behind his back and was continually tortured for two weeks in the Jean Francois Ndengue Commissariat.

In December 2009 Jomael Batantou was arrested and accused of theft after refusing to continue paying a local sergeant a daily ransom. According to local NGOs, he was handcuffed behind his back for two weeks and tortured in the Ouenze Mampassi Commissariat. His release from detention was secured after paying 50,000 CFA (\$101) to the Commissariat in May.

Prison and Detention Center Conditions

Prison and detention center conditions were harsh and life-threatening. Most inmates slept on the floor on cardboard or thin mattresses in small overcrowded cells, exposing them to disease. The prisons lacked any significant ventilation, had poorly maintained lighting, had wiring protruding from the walls, and had regular occurrences of plumbing backing up into prisoners' cells. Basic and emergency medical care was limited, and meaningful access to social services personnel was severely limited due to understaffed personnel and the overcrowded prison population.

Out of six prisons, two, one in Brazzaville and one in Pointe Noire, were fully operational during the past two years. Other facilities stopped operating at full capacity in 2008 due to physical deterioration of their premises. By year's end the prison population was approximately 1,000, the majority of whom were awaiting trial for assault and robbery. At year's end the Brazzaville prison, which was built in 1943 to hold up to 150 prisoners, held approximately 600, including 14 women and 11 minors. The Pointe Noire prison, built in 1940, held 300 prisoners. In the Dolisie prison there were 40 to 50 prisoners. The prisons in Mouyondzi and Sibiti held approximately 30 prisoners each. There were approximately 30 more prisoners

being held temporarily in the police station in Owando in anticipation of the completion of renovations to the local prison. All of the prisons were remnants of the country's colonial era.

Inmates in Brazzaville's prison were supposed to receive two meals per day. Due to lack of funds, however, inmates in other prisons received one meal per day.

Separate facilities were maintained for women and men. Juveniles were held in a separate wing in Brazzaville's prison, but security measures were insufficient to maintain their isolation from the general prison population. Pretrial detainees were held with convicted prisoners. Prisoners with infectious diseases were kept in one cell, but allowed to interact with other inmates. Most of the cells had a functioning television with cable.

Access to prisoners was conditional on obtaining a communication permit from a judge. The permit allows visitors to spend 10-15 minutes with a prisoner. The visits took place in a small room that held one extended table at which approximately 10 detainees at a time might sit and converse with their visitors. A new permit is required for each subsequent visit with a prisoner. The families of many prisoners were located outside of the cities in which the prisons were located and visits were often infrequent because of the financial hardship involved in traveling to the prison.

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 regularly visited prisons and detention centers.

Prisoners and detainees were permitted religious observance. Religious-based charitable organizations visited prisons and detention centers for charitable actions and religious support. Prisoners and detainees are supposed to be allowed to submit complaints to judicial authorities, but in practice this right was not respected. There was no provision for an ombudsman, but defendants with sufficient personal wealth were able to hire private attorneys to serve on their behalf to consider alternatives to incarceration or to alleviate inhumane conditions.

Prior to a trial the government is obligated to provide legal assistance to detainees who lack the financial resources to hire a private attorney, but this was not done in practice. The government neglected to pay its public defenders, and consequently there was a dearth of legal representation for detainees with limited means. The government investigated and monitored prison conditions at the request of local NGOs following complaints from prisoners' and detainees' families. However, little was done to address the penal system's failure to ensure due process for its detainees.

Three minors in the Brazzaville prison were detained for eight months without access to a lawyer and without their cases being heard by a judge. Another detainee was reportedly held for 24 months without being called before a judge.

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 and often imaginary offenses, mostly traffic related, and required them to pay bribes on the spot as a condition for release.

In 2009 a number of politically motivated arrests occurred in Brazzaville related to the July 2009 presidential elections (see section 1.e.).

In December 2009 Bienvenu Woko was arrested and kept in prison for six months without access to a lawyer or to a member of his family despite the Penal Code's stipulation that detainees cannot be detained for more than 72 hours without being granted access to a lawyer or to a family member.

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The representative of a local NGO, the Association Nationale des Gardiens de la Paix, was unlawfully arrested on October 26 by the Chief of the Central Police Station Colonel Jacques Antoine Bouity, after questioning the prison situation and the application of the Penal Code within the various detention centers and prisons.

Role of the Police and Security Apparatus

The security forces include the police, a paramilitary unit known as the gendarmerie, and the 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 territorial security, but some units also have domestic security responsibilities, such as the specialized Republican Guard battalion charged with the protection of the president, government buildings and diplomatic missions. The minister of defense oversees the military forces and the gendarmerie, and the minister of the interior and decentralization oversees the police.

A police unit under the Ministry of Interior and Decentralization is responsible for patrolling frontiers. Another military unit, the military police, is under the minister of defense and composed of military and police officers 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, there were members of the security forces who acted independently of government authority, committed abuses, and engaged in malfeasance.

Traffic police extorted bribes from drivers 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 remained widespread.

Arrest Procedures and Treatment While in 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, with 70 percent of the population earning an income below the poverty level, most detainees could not afford to post bail. Detainees generally were informed of 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 prior to the filing of charges 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. Family members usually were given prompt access to detainees, and indigent detainees were provided lawyers at government expense.

Arbitrary arrest continued to be a problem. 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.

In late 2009 a high-profile arrest of international employees of the petroleum company Chevron highlighted the danger of politically motivated arrests. Members of an auditing team were arrested and detained for several months without being formally charged. High level negotiations between Chevron and the government eventually led to the release of the employees, but the problem of intimidation existed at all levels.

Following the July 2009 elections, the arrests of opposition members Malgala Sabin, Douniama-Etou Jean Ferenzi, and Ernest Ngalou were widely perceived to be politically motivated. Their cases were not brought to court and all three individuals were released. However, the opposition believes that legal procedure was inappropriately implemented and these individuals could be arrested at a future date for the same crimes.

General Ferdinand Mbaou, a loyalist of self-exiled former opposition leader Pascal Lissouba, was released from custody in January after being arrested in July 2009 upon his return to Brazzaville from exile in France.

Lengthy pretrial detention due to judicial backlogs was a problem. Pretrial detainees continued to constitute the majority of the prison population. On average detainees waited six months or longer before going to trial.

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.

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 Martial Court, a military tribunal system, established to try criminal cases involving military members, gendarmerie, or police, does not try civilians. The court was believed to be subject to influence and corruption. As part of an investigation into corrupt military payroll practices, the Martial Court continued to garnish the salaries of more than 500 current and former military personnel to recover misappropriated funds.

Trial Procedures

The constitution provides for the right to a fair trial presided over by an independent judiciary, and the government generally respected judicial independence in practice. The legal caseload, however, far exceeded the capacity of the judiciary to ensure fair and timely trials, and most complaints never reached the court system. The Court of Justice has held 111 criminal trials since 2008, when the court ceased to function at normal capacity due to funding and resource constraints. The court resumed its former caseload and processed 84 criminal cases during the year, including cases of misappropriation of public money, murder, rape, armed robbery, infanticide, indecent assault, and arson. In general when trials occurred prior to 2008, and in 2010 when the Court resumed its normal functional state, defendants were tried in a public court of law presided over by a state-appointed magistrate. Juries were used. Defendants had the right to be present at their trial and to consult with an attorney in a timely manner. An indigent defendant facing serious criminal charges was entitled to an attorney at public expense, although this did not always occur in practice. Defendants could confront or question accusers and witnesses against them and present witnesses and evidence on their own behalf. The defense had access to prosecution evidence. Defendants were presumed innocent and had the right of appeal. In principle the law extended the above rights to all citizens and the government generally abided by these provisions.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees. Political prisoners may be detained for up to two months, and this period may be extended to three months by a judge. In practice these laws were not always observed, and the few known political prisoners were sometimes detained for up to six months or longer.

Civil Judicial Procedures and Remedies

In contrast to the criminal courts, the civil court system operates more effectively. Individuals can file a lawsuit in court on civil matters related to human rights, including seeking damages or cessation of a human rights violation; however, no such cases were known to exist. The public generally lacked confidence in 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 and the government generally respected these prohibitions.

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 press. These freedoms continued to decline during the year, according to international NGO Freedom House. Broadcast journalists and government print media journalists practiced self-censorship. The nongovernment print media experienced few constraints, as long as their 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. Two private newspapers, *Le Choc* and *Le Trottoir*, were both ordered to close in May for publishing "illicit" photographs of French President Nicolas Sarkozy and reporting without checking facts. Both newspapers were allowed to resume circulation after two and three month suspensions, respectively.

There was one state-owned newspaper, *La Nouvelle Republique*, and several publications which were closely allied with the government. There were 40 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 Pointe Noire.

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; two of the four stations were sometimes critical of the government. Several satellite television services were available for the few who could afford to watch them.

Government journalists were not independent and were expected to report positively on government activities. However, unlike the previous year, there was no evidence that there were adverse consequences when government journalists deviated from this guidance.

A number of journalists based in Brazzaville represented international media. There were no confirmed reports of the government revoking journalists' accreditations if their reporting reflected adversely on the government's image; however, the government did not repeal the policy that allowed for such 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.

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. According to International Telecommunication Union statistics for 2008, approximately 4 percent of the country's inhabitants used the Internet. A greater proportion of the public, especially youth, was accessing the Internet more frequently. However, only the most affluent could afford to access the Internet in their own homes, and the rest of the population used cyber cafes. There were no known documented attempts by the government to collect personally identifiable information via the Internet.

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 seek authorization from the Ministry of Interior and Decentralization and appropriate local officials, who could withhold authorization for meetings that they claimed might threaten public order. Unlike the previous year, the government respected this right in practice.

Freedom of Association

The constitution and law provide for freedom of association, and the government generally respected the right of most groups to associate. 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. There were no reports of discriminatory practices that targeted any particular group.

c. Freedom of Religion

For a description of religious freedom, please see the *2010 International Religious Freedom Report* at www.state.gov/g/drl/irf/

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.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Although the 2003 disarmament agreement effectively ended the organized rebellion in the Pool region, unidentified armed elements believed to be ex-Ninja rebels continued to harass and intimidate citizens. The country's major road and railway connecting the capital Brazzaville to the port of Point Noire traverse the Pool region. As such, banditry in the Pool necessarily limited freedom of movement of persons and goods through much of the country. However, unlike in the previous years, there were no reports of deaths attributed to banditry in the Pool region during the year, and reports of banditry declined.

The Armed Forces and the National Police partnered with the newly created government entity named "Delegation Generale Chargee de la Promotion des Valeurs de Paix et de la Reparation des Sequelles de Guerre" and led by former rebel leader and current high commissioner Frederic Ntumi Bintsamou, to promote peace and repair war aftermath effects. The two operations, namely "Kimia" and "Kidzounou," meaning peace in local languages and launched in September and October, were being reported as successful by various international organizations and NGOs. By year's end the situation in the Pool region had greatly improved. The National Police deployed several units to further secure the area, restore peace, and protect the population and their belongings.

The government imposed an international travel ban on several opposition leaders following a July 2009 protest to contest the announced results of the presidential election. Ange Eduard Pongui, vice president of the Panafrican Union for Social Democracy, opposition leader Matias Dzon, and Emmanuel Ngouelondele, president of the Party for Democratic Alliance, were not able to travel outside the country for more than one year. In July the minister of justice announced that the travel ban was no longer in effect. However, the opposition continued to claim that the travel ban was de facto in effect and that the government would file charges against them on undisclosed grounds if they attempt to leave the country.

The law prohibits forced exile, and the government did not practice it.

The government did not generally prevent the return of citizens, including political opponents of the president. In May former first lady Jocelyne Lissouba returned to the country for the first time since she fled with her husband, former president Pascal Lissouba, in 1997. Jocelyn Lissouba enjoyed a warm reception from President Sassou-Nguesso. Former president Lissouba received a pardon in December 2009, but remained in France for health reasons.

Protection of Refugees

The country's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The country, especially in areas that border the Democratic Republic of Congo (DRC), received numerous waves of displaced persons in recent years. Between October 2009 and May 2010, nearly 124,000 refugees fled ethnic violence and rebellion in Equateur Province of the DRC to seek shelter in the country's Likouala region.

In June the government signed a tripartite agreement with the government of the DRC and UNHCR that outlined the conditions and means for an eventual voluntary repatriation. The tripartite agreement parties met again in November and agreed on a repatriation roadmap that would begin to repatriate the first group of refugees in April 2011.

Applications for refugee status are handled by the National Refugee Assistance Center (CNAR). The CNAR received 80-90 percent of its operating budget from UNHCR. In 2007 and 2008 the CNAR and UNHCR processed a backlog of around 4,800 asylum seekers that covered the period beginning in 2003. In 2008 there were 993 asylum applications, in 2009 there were 397 applications, and an additional 128 asylum applications were received during the year. At year's end 5,754 individuals were seeking asylum. According to UNHCR, as of December, the country hosted 137,789 refugees and asylum seekers. Refugees and asylum seekers came from the DRC (128,334); Rwanda (7,586); Angola (863); and others (1,006).

Employment opportunities and rights for refugees are not enumerated in law. Anecdotal evidence suggests that quotas and excessive work permit fees limit refugee employment opportunities. A healthcare organization stated that the law requires it to hire the country's nationals for at least 90 percent of its positions. The same organization stated that two-year work permits that cost around 150,000 CFA (\$303), roughly equivalent to three months salary, are required.

Gender-based violence was frequent in refugee camps, although a vast majority of the cases went unreported. UNHCR protection officers and medical personnel provided medical, psychosocial, and legal assistance to victims of gender-based violence, including rape. Refugees had equal access to community health centers and hospitals and legal recourse.

Access to secondary education for refugees was severely limited, resulting in many children not attending school. Primary school was funded by UNHCR and made accessible to all refugees during the past year.

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

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right during the July 2009 presidential election.

Elections and Political Participation

Denis Sassou Nguesso was reelected president in the July 2009 election with 78 percent of the vote. Officially, 66 percent of eligible voters participated in the election, although the opposition estimated the turnout to be much lower. While the election was peaceful, opposition candidates and NGOs criticized the election for irregularities, such as discrepancies between the officially reported rates of voter participation and those observed by independent election observers. The African Union declared the elections to have been free and fair. Prior to the election the EU representative questioned the method of updating the voter registry.

On October 16, a well known opposition group held a meeting to denounce the voter registration process. According to the group's leader, the voter registration list then being drafted was severely blemished by "monstrous manipulations" that included fictitious voters from villages that no longer existed.

Major political parties included the ruling PCT, 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. Opposition parties encountered government restrictions, particularly with regard to the right to organize. Opposition parties were restricted from organizing before, during, and after the July 2009 presidential elections.

Following the July 2009 election, the newly appointed government included high-ranking politicians from northern ethnic tribes as well as representatives from other regions and ethnicities.

There were nine women in the 72-seat Senate and nine women in the 137-seat National Assembly. There were five women in the 37-member cabinet.

Some Pygmies were excluded from the political process due to their isolation in remote areas, lack of registration, culture, and stigmatization by the majority Bantu population (see section 6). However, Pygmy rights were strengthened following the parliament's passage of a Pygmy rights protection law on December 27.

Section 4 Official Corruption and Government Transparency

The law provides for criminal penalties for official corruption; however, the government did not implement the law effectively, and officials engaged in corrupt practices with impunity. According to the World Bank's Worldwide Governance Indicators, government corruption was a severe problem, although the Bank and the International Monetary Fund noted that the government undertook significant reform measures to combat corruption. For example, in February the government undertook an effort to identify and remove payroll salaries of nonexistent civil servants known as ghost

workers. It identified 2,700 ghost workers, many of whom were receiving one or more fraudulent salaries in addition to their legitimate one.

There was a widespread perception of corruption throughout government, including misuse of revenues from the oil and forestry sectors. Some local and international organizations claimed that government officials, through bribes or other fraud, regularly diverted revenues from these industries into private overseas accounts before the revenues were declared officially. Pervasive lower-level corruption included security personnel, and customs and immigration officials demanding bribes. During the year there were reports of arrested individuals whose families bribed police to secure their release.

Senior officials were subject to financial disclosure laws. It was unclear if they complied in practice.

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 5 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 during their investigations and publishing their findings on human rights cases. Government officials generally were more cooperative with and responsive to international groups than domestic human rights groups. Some 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. Some observers claimed that the commission was completely ineffective, lacked independence, and was primarily represented by persons who have no expertise in human rights. The president appointed most, if not all, of its members.

On April 30, the designated officers of the HRC met to examine and adopt a 2010-2012 action plan, a detailed program for the commission's activities, and a review of the various representative structures in the country side (other departments, cities and villages); and to create the HRC's documentation center.

On November 18, the HRC visited Brazzaville's prison, but the results of its visit were not published by year's end.

Representatives from the International Court of Justice visited Brazzaville in November 2009 but did not issue any report. Local NGOs had poor access to government officials and detainees.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law and constitution prohibit discrimination on the basis of race, gender, language, religion, social status, or handicap; however, the government did not effectively enforce these prohibitions. There were documented instances of societal discrimination and violence against women. In addition, regional ethnic discrimination and discrimination against indigenous persons occurred.

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, according to local women's groups, the penalties for rape could be as little as several months and rarely more than three years' imprisonment, despite what the law says. Rape was common, although the extent of the problem was unknown because the crime was seldom reported. As of July 2009, the latest

period for which such data was available, a total of 182 cases of rape were reported to local police. Fewer than 25 percent of reported rape cases were prosecuted, according to local and international NGO estimates. In August a suspected serial killer who allegedly raped and killed nine women was arrested and detained in the Brazzaville prison, and was awaiting trial for rape and murder at year's end.

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, a result of victims' fear of social stigma. Local NGOs sponsored domestic violence awareness campaigns and workshops.

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

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, i.e., five to 10 years in prison. However, the government did not effectively enforce the law. According to local NGOs, sexual harassment was very common but rarely reported. As in previous years there were no available official statistics on its incidence.

There are no laws restricting reproductive rights, childbirth, or timing of pregnancies. There were no restrictions on the right to access contraceptives; however, they were not widely used by the population due to cost. According to the UN Population Fund (UNFPA) in 2008, only about 13 percent of married women ages 15-49 used some form of a modern contraceptive method. Health clinics and public hospitals were generally in poor condition and lacked experienced health staff. The UNFPA estimated the maternal mortality ratio (the ratio of the number of maternal deaths per 100,000 live births) to be 781 and a woman's lifetime risk of maternal death to be one in 39. According to the Population Reference Bureau, approximately 83 percent of births were attended by skilled personnel.

Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV. However, HIV-positive persons continued to experience social stigmatization and discrimination that limited their access to these services. The National Committee to Fight AIDS coordinated national policy to counter the spread of the HIV/AIDS virus.

Customary marriage and family laws discriminate against women. Adultery is illegal for both women and men. Polygyny is legal while polyandry is not. The law provides that a legal wife shall inherit 30 percent of her husband's estate. The law limits dowries to symbolic amounts; however, this often was not respected, and men were obliged to pay excessive bride prices to the woman's family. The Ministry of Promotion of Women's Rights was in charge of protecting and promoting the rights of women.

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 of the economy. Women experienced economic discrimination with respect to employment, credit, equal 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, including those of social affairs and agriculture, were also active in helping women set up small income-producing businesses.

Children

Citizenship is acquired by birth in the country as well as from one's parents.

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 it must be done to obtain a birth certificate, which is necessary for school enrollment and other services. Pygmies, in particular, were denied social services as a result of not being registered. Those living in remote villages have a difficult time registering, as offices for registration are located only in provincial capitals. The government continued a system of providing free birth registration in Brazzaville, but, as in previous years, the program did not cover other areas.

Education is compulsory, tuition-free, and universal until the age of 16, but families are required to pay for books, uniforms, and school fees. School enrollment was generally higher in urban areas. Although there was no specific data available, Pygmy children were at a disadvantage in school attendance because their parents usually failed to register births and obtain the necessary records. Schools were overcrowded and facilities extremely poor. Girls and boys attended primary school in roughly equal numbers; however, boys were five times more likely than girls to go on to high school and four times more likely to go on to a university. In addition there were reports that teenage girls were pressured to exchange sex for better grades, which contributed to both the spread of HIV/AIDS and unwanted and unplanned pregnancies.

Child abuse was not commonly reported, but was thought to be prevalent. Most reports in previous years involved the West African immigrant communities in the country.

There were cases of children, particularly those who lived on the streets, engaging in prostitution without third-party involvement. The prevalence of the problem remained unclear, although the UN Children's Fund (UNICEF) estimated in a 2007 report that approximately 25 percent of the 1,800 estimated trafficked children were sexually exploited.

A Child Protection Code promulgated in April provides penalties for crimes against children such as trafficking, pornography, neglect, and abuse. Penalties for these crimes range from forced labor, to fines of up to 10,000,000 CFA (\$20,200), to prison sentences of several years. The penalty for child pornography includes a prison sentence up to one year and a fine up to 500,000 CFA (\$1,010).

The law prohibits child marriage, and the legal age for marriage is 18 years for women and 21 for men. However, marriage at an earlier age is permissible if both sets of parents give their permission; the law does not specify the age in this special circumstance.

International organizations assisted with programs to feed and shelter street children, the majority of whom lived in Brazzaville and Pointe Noire and were believed to be from the DRC, according to 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, while others sold cheap or stolen goods to support themselves.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international child abduction, please see the Department of State's annual report on compliance at http://www.travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

There was no substantial Jewish community in the country. There were no reports of anti-Semitic acts.

Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, or mental 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 existed among all ethnic groups and was evident in government and private sector hiring and buying patterns. The relationships among ethnic, regional, and political cleavages can be difficult to discern. Many of the supporters of the government included persons from northern ethnic groups, such as the president's Mbochi group and related clans.

Indigenous People

According to local NGOs, 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 were often considered socially inferior and had little political voice; however, in recent years several Pygmy rights groups have developed programs to overcome this. Many Pygmies were not aware of the concept of voting and had minimal ability to influence government decisions affecting their interests.

Some NGOs asserted that many Pygmy groups, who lived primarily in forest regions, did not enjoy equal treatment in the predominantly Bantu society. Indigenous persons were estimated to constitute 10 percent of the population, or an estimated 370,000 persons.

The government disbanded several business operations in northern Congo in which Bantu groups were misusing and abusing the labor of the Pygmy persons. Pygmies were notably more prevalent in the hunting and natural healing professions.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The constitution prohibits discrimination based on political, sexual, or religious orientation. There was not a large openly gay or lesbian community due to the social stigma associated with homosexuality. A law that was promulgated during the country's colonial era and still in force prohibits homosexual conduct as punishable by up to two years' imprisonment; however, the law was rarely enforced. The most recent arrest under this law was in 1996, when several individuals were arrested in Pointe Noire and briefly detained for homosexual behavior.

There were no known cases of violence or discrimination against gays, lesbians, or transgendered individuals during the year. While discrimination may exist due to the social stigma surrounding homosexuality, no such cases were reported to the NGOs or covered by the media.

Other Societal Violence or Discrimination

Public opinion polls show that societal discrimination against individuals with HIV/AIDS is significant. Unlawful divulgence of medical records by practitioners, negligence in treatment by health professionals, family abandonment, and unwarranted termination of employment are all offenses subject to sanctions. Civil society, including persons living with HIV/AIDS, was fairly well organized and sought fair treatment, especially regarding employment. NGOs and the government worked widely on HIV/AIDS issues, including raising public awareness of the fact that those living with HIV/AIDS were still able to contribute to society.

Section 7 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. Workers exercised this right in practice. However, members of the security forces and other essential services do not have this right. Nearly all the workers in the public sector and approximately 25 percent of workers in the formal private sector were union members. The law allows unions to conduct their activities without interference, and the government protected this right in practice.

Workers have the right to strike, provided all conciliation and nonbinding arbitration procedures have been exhausted, and due notice has been given.

b. The Right to Organize and Bargain Collectively

The law also provides for the right to bargain collectively, and workers exercised this right freely, although collective bargaining was not widespread due to the severe economic conditions.

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. There were unconfirmed reports that such practices occurred, but, unlike in previous years, no such cases were documented either by the NGOs or the government.

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 were no reports of the law ever being applied or enforced.

Also see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip

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 most common forms of child labor were in markets or in the fishing industry, where children were subject to harsh conditions, long hours, and little or no pay. There were no official government statistics on general child labor. However, a 2005 International Labor Organization survey showed that 85 percent of the 47,000 working children resided in rural areas, and just over half (53 percent) were girls who performed household chores or worked in exchange for pay.

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. Labor inspections occurred during the year, but there were no official data available at year's end. International aid groups reported little change during the year in child labor conditions.

For information on child trafficking see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip

e. Acceptable Conditions of Work

The national minimum wage, which was 54,000 CFA (\$109) per month in the formal sector, did not provide a decent standard of living for a worker and family. 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 law provides for a standard workweek of seven hours per day, five 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. These standards were generally observed, and workers were usually paid in cash for overtime work beyond 42 hours per week.

Although health and safety regulations require biannual visits to businesses by inspectors from the Ministry of Labor, such visits occurred much less frequently, and enforcement of findings was uneven. 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 jeopardizing their continued employment. There were no exceptions for foreign or migrant workers.

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