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Country:

Congo, Democratic Republic of (Kinshasa)

Year:

2018

Freedom Status:

Not Free

Political Rights:

7

Civil Liberties:

6

Aggregate Score:

17

Freedom Rating:

6.5

Overview:

Civilians and opposition politicians are unable to influence government policies through elections. Civil liberties—including freedom of expression and association—are repressed, and corruption is systemic throughout the government. Armed groups and insecurity are pervasive in many areas of the country, and state security forces have been implicated in human rights abuses.

Political Rights and Civil Liberties:

POLITICAL RIGHTS: 4 / 40

A. ELECTORAL PROCESS: 0 / 12

A1. Was the current head of government or other chief national authority elected through free and fair elections? 0 / 4

Article 70 of the DRC's 2006 constitution stipulates that the president is elected for up to two five-year terms, and Article 220 prohibits amendments to key elements of the state's political framework, including the number and length of presidential terms. Kabila was declared the winner of his second term in office in 2011 amid widespread criticism of the

election by international observers; he defeated longtime opposition leader Étienne Tshisekedi, 49 percent to 32 percent, according to the CENI.

Kabila's constitutional mandate expired in December 2016 amid significant pressure from the opposition for him to step down. Under the mediation of the Roman Catholic Church, representatives of the government agreed to a new round of negotiations with the Rassemblement des Forces Sociales et Politiques Acquises au Changement, a joint opposition bloc, and the two sides reached an agreement in December 2016 that moved the expected date for elections to December 2017. However, little progress was made to organize elections during 2017. In November 2017, the CENI announced that elections would take place in December 2018, following a statement from Kabila in June that he had not "promised anything" regarding elections. Kabila and his allies have cited funding concerns, the lack of a comprehensive voter registry, and insecurity as reasons for the delay, but critics view these as stalling tactics.

A2. Were the current national legislative representatives elected through free and fair elections? 0 / 4

The most recent elections for the 500-seat National Assembly were held concurrently with the 2011 presidential election; this poll was also criticized as deeply flawed. Kabila's People's Party for Reconstruction and Democracy (PPRD) won 62 seats, down from the 111 seats it had held previously, while Tshisekedi's Union for Democracy and Social Progress (UDPS) took 41. The AMP, Kabila's parliamentary coalition, took a total of 260 seats.

Legislative elections scheduled for November 2016 were not held, meaning the constitutional mandate of the National Assembly has expired as well. As a result, citizens are effectively unable to influence legislative outcomes through the electoral process.

Provincial assemblies elect the 108-seat Senate, as well as provincial governors, for five-year terms.

A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 0 / 4

The country's electoral framework does not ensure transparent conduct of elections, and opposition parties and civil society groups frequently criticize the CENI for lacking independence.

Progress toward elections will require the CENI to make amendments to the electoral framework, including laws regarding election financing and the distribution of seats. In February 2017, the CENI announced that it had started registering voters. However, the electoral commission faces numerous logistical challenges in this process. Opposition politicians claim the CENI is tampering with the voter registry.

In December 2017, the National Assembly approved a law that requires political parties to earn 1 percent of the national vote in order to win a seat in that body. The law would likely reduce the number of political parties in the National Assembly. Currently, there are 148 parties and 14 independent members; more than 50 parties hold just one seat. The law holds the potential to consolidate the strength of more established parties.

B. POLITICAL PLURALISM AND PARTICIPATION: 3 / 12

B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 1 / 4

People have the right to organize political parties. Hundreds of parties exist, with many organized along ethnic, communal, or regional lines; most lack national reach. Key parties include Kabila's PPRD and the largest opposition party, the UDPS. Many opposition parties are gathered under the Rassemblement platform, headed by UDPS leader Félix Tshisekedi, the son of Étienne Tshisekedi, who died in February 2017. In August 2017, a group of civil society actors and other leaders authored a joint "Manifesto of the Congolese Citizen," which includes calls for Kabila to step down.

B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 0 / 4

Despite the existence of numerous parties, political pluralism remains limited in practice, and opposition members do not have a realistic opportunity to increase support through elections. A new transitional government, headed by Prime Minister Samy Badibanga and intended to serve through the remainder of Kabila's presidency, was announced in late December 2016. Badibanga resigned in April 2017 and was replaced by Bruno Tshibala, a former member of the UDPS who had recently been expelled from the party; his appointment caused additional friction between Kabila and the largest opposition party. Opposition politicians have called for Kabila to step down, and in September 2017, Félix Tshisekedi rejected a third round of national dialogue.

Opposition party members and leaders are often intimidated and face restrictions on their movement and organizing. In August, the security forces removed Franck Diongo, a parliamentarian and president of the Movement of Progressive Lumumbists opposition party, from his hospital room and reimprisoned him; he had first been arrested in December 2016. The government arrested UDPS members prior to Félix Tshisekedi's arrival in Lubumbashi in October.

Another leading opposition figure—Moïse Katumbi, a businessman and former governor of Katanga Province who left Kabila's majority coalition in 2015—fled Congo in May 2016, and in June of that year was sentenced in absentia to 36 months in prison for selling property illegally. He remained in exile in Europe throughout 2017.

B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 1 / 4

The military, security services, and powerful armed groups hinder citizens' political choices. The security services interfered with the activities of opposition supporters and politicians throughout 2017. In August, the UN Group of Experts found that armed groups had impeded voter registration.

B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 1 / 4

Discrimination and lack of access to institutions in rural areas hinder political participation overall; certain segments of the population are particularly marginalized. Women are greatly underrepresented in government, making up only 9 percent of the National Assembly and 6 percent of the Senate.

C. FUNCTIONING OF GOVERNMENT: 1 / 12

C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 0 / 4

Due to the political crisis, there was no freely elected government to determine state policies in 2017.

C2. Are safeguards against official corruption strong and effective? 0 / 4

Massive corruption in the government, security forces, and mineral extraction industries continues to paralyze the functioning of the government and development efforts intended to raise living standards. Recruitment for government posts is often determined by nepotism. Accountability mechanisms are weak, and impunity remains a problem.

C3. Does the government operate with openness and transparency? 1 / 4

Despite previous incremental improvements in revenue reporting, there is little transparency in the state's financial affairs. The law does not provide for public access to government information, and citizens often lack the practical ability to obtain information about state operations.

CIVIL LIBERTIES: 13 / 60 (-2)

D. FREEDOM OF EXPRESSION AND BELIEF: 7 / 16 (-1)

D1. Are there free and independent media? 1 / 4

Although constitutionally guaranteed, freedoms of speech and the press are limited. Radio is the dominant medium in the country, and newspapers are found mainly in large cities. While the media frequently criticize Kabila and his government, political harassment of outlets and reporters is common, and outlets face pressure to carry progovernment content. Journalists risk criminal defamation suits as well as threats, detentions, arbitrary arrests, and attacks. Throughout 2017, several journalists covering demonstrations calling for national elections were detained, and some were beaten. The state intelligence agency (ANR) has continually repressed journalists, as have state security forces.

In recent years, the government has closed media outlets linked to the political opposition. In several incidents in 2017, members of the Armed Forces of the Democratic Republic of Congo (FARDC) attacked media outlets, including a June attack on a community radio

station in Shabunda, South Kivu province, and an October raid of a radio outlet near Butembo in North Kivu.

In July 2017, the government significantly restricted the movements of international journalists, prohibiting them from traveling outside Kinshasa without government approval and restricting them from covering “strategic areas” such as military outposts and telecommunications facilities without permission. The government shut down the signal of Radio France Internationale (RFI) in Kinshasa for 10 months, allowing it to reopen in August 2017.

D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 3 / 4

The constitution guarantees freedom of religion, and authorities generally respect this right in practice. Although religious groups must register with the government to be recognized, unregistered groups operate unhindered.

D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 2 / 4

There are no formal restrictions on academic freedom. Primary and secondary school curriculums are regulated but not strongly politicized. In July 2017, police arrested two students at the University of Kinshasa who were protesting a police search of the campus for opposition figures who allegedly had been responsible for a series of attacks in the capital. Students subsequently protested the arrest of their classmates, and soldiers and police responded by firing tear gas and live rounds. The students allegedly damaged campus property during the protests.

D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 1 / 4 (-1)

Private discussion of politically sensitive topics can be open, though civilians can sometimes face reprisal for voicing critical views in public. As the political crisis continues, citizens have grown less free to express their personal views on politically sensitive topics. In the past, the government did not frequently restrict internet access or monitor online communications, but in 2017, the government suspended internet access and text messaging temporarily during times of political unrest. It ordered the internet speed to be slowed surrounding protests in August 2017, to prevent images from being shared through social media.

Score Change: The score declined from 2 to 1 due to increased monitoring of social media during the year.

E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 2 / 12 (-1)

E1. Is there freedom of assembly? 0 / 4 (-1)

The constitution guarantees freedoms of assembly and association. Demonstrations are held regularly despite limits on these rights in practice. The government repeatedly banned opposition demonstrations throughout the year. In 2017, police and security forces

violently dispersed protests, used deadly force against civilians, and arbitrarily arrested participants. Starting at the end of 2016, security forces also recruited former members of the M23 rebel group to break up protests. Police arrested at least 100 demonstrators during protests in numerous Congolese cities on July 31, which marked the unmet deadline for voter registration. In August, members of the religious and political Bundu dia Kongo sect demonstrated against Kabila in Kinshasa and Kongo Central province. Security forces fired live ammunition at the protesters, and at least 27 people were killed. In September, 49 activists against the postponement of elections were arbitrarily arrested across eastern DRC.

Score Change: The score declined from 1 to 0 due to increased repression of protests during the year.

E2. Is there freedom for nongovernmental organizations, particularly those engaged in human rights– and governance-related work? 1 / 4

Nongovernmental organizations (NGOs) and professional organizations are generally able to operate, though domestic human rights advocates are subject to harassment, arbitrary arrest, and detention. There are approximately 5,000 registered NGOs in the DRC, though many have narrow scopes devoted to ethnic and local concerns. In October 2017, 15 members of citizen movements demonstrating in favor of elections were arrested. Twenty-three members of the youth group Lutte pour le Changement (LUCHA) were arrested in April 2017 while protesting against uncleanliness in Kinshasa.

E3. Is there freedom for trade unions and similar professional or labor organizations? 1 / 4

Congolese meeting a residency requirement of 20 years can form and join trade unions, though government employees and members of state security forces are not permitted to unionize. It is against the law for employers to retaliate against strikers. Some labor leaders and activists face harassment.

F. RULE OF LAW: 0 / 16

F1. Is there an independent judiciary? 0 / 4

Kabila appoints members of the judiciary, which remains corrupt and subject to political manipulation. The judiciary often exhibits bias against opposition and civil society members, while government and government-allied forces often enjoy impunity for even the most heinous crimes.

F2. Does due process prevail in civil and criminal matters? 0 / 4

Courts are concentrated in urban areas; the majority of the country relies on customary courts. Civilian cases are often tried in military courts, which are subject to interference from high-ranking military personnel. Arbitrary arrests and detentions are common.

F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 0 / 4

Prison conditions are life threatening, and long periods of pretrial detention are common. Security forces have tortured prisoners.

Civilian authorities do not maintain effective control of security forces. The FARDC are largely undisciplined. There have been reported incidents of soldiers exchanging intelligence and weapons with armed groups. Soldiers and police regularly commit serious human rights abuses, including rape and torture. In February 2017, FARDC soldiers recorded themselves killing civilians in Central Kasai province. Kabila relies on a military unit, the Republican Guard, which is known for abuses. In June, the United States imposed sanctions on Kabila's military chief of staff, General François Olenga. The European Union also sanctioned eight high-ranking government officials and an armed group commander in May for serious human rights violations.

Peace and the rule of law remain obstructed by active rebel groups, primarily concentrated in the country's eastern and southern provinces. The impact of years of fighting on civilians has been catastrophic, with over five million conflict-related deaths since 1998. The population of the affected regions is subject to displacement and violence due to rebel activity and poor discipline among members of the armed forces. The use of child soldiers is common. Continuing fragmentation and changing coalitions among armed groups, as well as between armed groups and the FARDC, obstruct the de-escalation of conflict. Multiple jailbreaks in May and June 2017 led to the escape of around 1,000 prisoners. As of September 2017, nearly 5,000 civilians in the greater Kasai region had been killed since August 2016 and over 1 million had been displaced. Scores of mass graves had also been discovered in the region. Since the killing of the head of a militia group known as Kamuina Nsapu in August 2016, the government has used disproportionate force in the subsequent crisis, including against minors and people armed with wooden toys.

Kabila's overstay of his presidential mandate provided a pretext for another armed group, the National People's Coalition for the Sovereignty of Congo (CNPSC), to organize and start fighting in June 2017 in South Kivu. Meanwhile, the government cites insecurity as one reason for the election delay.

The premeditated killings of two members of the UN Group of Experts in Central Kasai province in March 2017, and the deadliest attack against a UN peacekeeping mission since 1993 in North Kivu in December—resulting in the deaths of 15 peacekeepers from the UN Organization Stabilization Mission for the Democratic Republic of Congo (MONUSCO)—represent efforts to intimidate international inquiries into the causes of insecurity.

F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 0 / 4

Ethnic discrimination, including against Kinyarwanda-speaking minority populations, remains a significant problem in some areas of the country. The constitution prohibits discrimination against people with disabilities, but they often find it difficult to find employment, attend school, or access government services. Although discrimination based on HIV status is also prohibited, people with HIV face difficulty accessing health care and education. No law specifically prohibits same-sex sexual relations, but legislators

have made efforts to criminalize same-sex sexual activity, and individuals can still be prosecuted for such activity under public decency laws.

Although the constitution prohibits discrimination against women in any domain, the Family Code prescribes more restrictive roles, requiring that women obey their husbands and obtain their permission to seek employment. Nevertheless, young women are increasingly seeking professional work outside the home, particularly in towns and urban centers.

G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 4 / 16

G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 1 / 4

Freedom of movement is protected by law, but is frequently restricted in practice. Armed conflict in the greater Kasai region, North and South Kivu provinces, and Tanganyika province had internally displaced nearly 4 million civilians as of October 2017. In 2017, the government restricted the movements of international journalists and UN investigators looking into the violence.

G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 1 / 4

Individuals have the right to own property and establish private businesses. In conflict zones, armed groups and FARDC soldiers have seized private property and destroyed homes. The country's economy, reliant on the extraction of natural resources, has grown in recent years, though most Congolese are not employed in the formal economy. In its August 2017 report, the UN Group of Experts found that traceability standards led to lower gains by armed groups from different minerals in 2017, but illicit trafficking of gold that is mined artisanally continues. A complicated system of taxation and regulation has made bribery a regular aspect of business dealings, and embezzlement is pervasive.

Women face discrimination in nearly every aspect of their lives, especially in rural areas. Although the constitution prohibits discrimination against women in any domain, the Family Code prescribes more restrictive roles, requiring that women obey their husbands and obtain their permission to engage in legal transactions. Nevertheless, young women are increasingly engaging in commercial activities, particularly in towns and urban centers.

G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 1 / 4

Sexual and gender-based violence against women and girls is pervasive, especially in conflict zones; sex crimes often affect men and boys as well. Rebels and FARDC soldiers have been implicated in rape and sexual abuse. Convictions for these offenses remain rare. Abortion is prohibited, and access to contraception is extremely low.

G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 1 / 4

Although the law prohibits all forced or compulsory labor, the practice remains common and includes forced child labor in mining, street vending, and agriculture. Various rebel groups reportedly forced civilians to work for them and at times impose tolls on vehicles passing through territory held by the groups. The recruitment and use of child soldiers by armed groups is widespread.

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