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## U.S. Department of State

### Congo Country Report on Human Rights Practices for 1996

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1997.

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#### CONGO

The Republic of the Congo continues its transition to democratic government. In 1992 Pascal Lissouba became its first democratically elected president after 24 years of one-party rule. Elections for the multiparty legislature followed in 1993. The Government continued to build upon the stable foundation provided by the Libreville Peace Accords, which ended a period of violent civil unrest in late 1992, 1993, and early 1994. The Government made some progress in establishing constitutionally mandated institutions, such as the Supreme Court; however it is still lagging in others. The Government continued to devolve power to regions and municipalities. The judiciary is independent although in some instances subject to government influence.

The national police and gendarmerie maintain internal security. The army and the border guard are responsible for external security but also have domestic responsibilities. While the civilian authorities generally maintain effective control of the security forces, some members of the security forces committed human rights abuses.

The economy depends heavily upon petroleum revenues and external capital. The Government made significant progress in economic liberalization and privatization. Per capita gross national product is \$600.

The Government's human rights record was mixed, with improvements in some aspects but deterioration in other areas. Security forces continued to use severe beatings and abuse to extract confessions and as

punishment, and to arbitrarily arrest and beat refugees in Brazzaville. Prison conditions remained life threatening. The Government arrested and beat four unionists who were sentenced to 4 months' imprisonment for "impeachment of the freedom to work" in a strike judged illegal. The Government passed a press law that intimidated many journalists and increased the frequency of self-censorship. The Government arrested two men for "attack against the state in peacetime"; the men were sentenced to 1 year in prison and exile from the capital. The judiciary is subject to political influence, and lengthy pretrial detention remains a problem. Societal discrimination and violence against women remained problems. Bantus continued to discriminate against and exploit Pygmies. Citizens sometimes resorted to vigilante justice, killing presumed thieves and "sorcerers." The partial disbandment and integration into the government security forces of private political militias early in the year reduced the incidence of citizen harassment, extortion, theft, and beatings carried out by these forces.

## **RESPECT FOR HUMAN RIGHTS**

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

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

There were no reports of political or other extrajudicial killings committed by the Government.

Civilians, however, continued to employ vigilante justice against presumed thieves and "sorcerers," sometimes beating them to death. Congo's leading human rights watch group, the Organization Congolaise des Droits de l'Homme (OCDH), reported 11 such killings. No judicial actions followed.

#### **b. Disappearance**

There were no reports of politically motivated disappearances.

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

The Constitution prohibits the use of torture and cruel, inhuman, or degrading treatment. In practice, however, some security force members routinely severely beat detainees both to extract "confessions" and as punishment. Security force members generally act with impunity.

Security forces beat four trade unionists prior to their trial (see Section 6.a.).

Prison conditions are dire and life-threatening. The death rate and the incidence of disease and malnutrition are considerably higher than among the general population. Buildings are dilapidated, security is lax, and food and medical care are inadequate. Most prisons, built during French colonial rule, were designed for short-term incarceration and low-inmate population. Although the maximum capacity of the Brazzaville prison is ostensibly 100, over 400 inmates were being held there in February. Prisoners often have to depend on their families to bring them food, as the Government does not provide meals. In the interior of the country, nonviolent inmates leave their cells during the day to forage for food in the surrounding towns. They return of their own accord in the evenings. With financial backing from the French Government, the Government's High Commissioner for Human Rights launched an initiative to improve prison conditions. The program managed to provide some mattresses, clothing, and limited medication. Much, however, remains to be done to bring the prisons up to international standards. Rape and sexual abuse of women and children by prison guards was not commonplace.

Political/security prisoners are held separately from the general prison population; however, their

conditions do not differ significantly. Human rights groups reported difficulties in gaining access to prisons in the major urban centers of Brazzaville and Pointe-Noire. Access is facilitated, however, if an organization provides funds to ameliorate prison conditions.

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

The Constitution prohibits arbitrary arrest, detention, or exile. The Code of Penal Procedure requires that an individual be apprehended openly and have a lawyer 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 violated these legal procedures and did not respect the constitutional mandates.

Detainees were promptly informed of the charges levied against them. However, many waited in prison for several months without being brought before a judge. Some detainees languish in jail for years because of lost files, oversights, and bureaucratic inertia. Except in a few cases with political overtones, lawyers and families had free access to detainees. Although the law provides for a system of bail, the average detainee lacks the financial means to meet bail. Over half of all persons in custody are pretrial detainees--70 percent at the central prison in Brazzaville. The Government often does not honor laws that provide for legal counsel for the indigent.

In May authorities arrested Colonel Bouissa Matoko at the airport after a search of his briefcase revealed "seditious" documents addressed to the former president, Denis Sassou Nguessou. Security forces conducted a raid on Matoko's home and found three guns and a small cache of grenades and ammunition. Colonel Matoko and the author of the "seditious" documents, Professor Gabriel Longombe, were convicted in September of "attack on the security of the state in peacetime." They were sentenced to 1 year in prison, followed by 1 year of probation and each was fined \$2,000. The sentence further stipulates that while on probation, the two are exiled from Brazzaville.

In September the Government arrested Otto Mbongo for debts owed to the now bankrupt International Bank of Congo (BIDC). Mbongo was a key aide to former president Sassou Nguessou, and some allege that his arrest was politically motivated. The private media reported that Mbongo was arrested without a warrant, denied access to legal counsel, and refused family visitation. Mbongo is being held in an undisclosed location, separate from the general prison population. A trial date had not been set by year's end.

Three political detainees were being held as of year's end.

The Government does not use foreign exile.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary. Certain rulings, however, suggested that in some instances the courts were subject to political influence.

The judicial system consists of local courts, courts of appeal, and the Supreme Court.

In general, defendants are tried in a public court of law presided over by a state-appointed magistrate. The defense has access to, and the right to counter prosecution evidence and testimony. In formal courts, defendants are presumed innocent and have the right of appeal. The judiciary is overburdened with a caseload that far exceeds its capacity to ensure fair and timely public trials. Some cases never reach the

court system, however. For example, it is common practice for citizens to beat thieves caught in the act, sometimes to death (see Section I.a.). In rural areas, traditional courts continue to handle many local disputes, especially property and probate cases. Many domestic disputes are adjudicated under traditional law and within the extended family.

Colonel Bouissa and Professor Longombe (see Section I.d.) were considered political prisoners by human rights observers.

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

The Constitution provides for the privacy of homes as well as correspondence and telecommunications. Official searches of private properties and communications require a warrant, but in practice, warrants are not used in all instances. There is government surveillance of some telephone lines.

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

#### a. Freedom of Speech and Press

The Constitution provides for freedom of expression and calls for the establishment of an independent council to oversee private and electronic media and to safeguard speech and press freedoms. This council has not yet been established. In practice, individual freedom of expression is enjoyed, but press freedoms have been restricted. The Government retains monopoly power over radio and television.

In July Parliament passed a new press law that has been roundly criticized by local journalists and some international media experts as repressive and limiting press freedom. The law mandates that newspapers be deposited at several government offices before sale. The law also requires journalists, publishers, printers, and even vendors to register their place of residence with a court. Police authorities went to the homes of various journalists ostensibly to confirm their place of residence; however, some journalists reported feeling intimidated by these visits. Under the new law, journalists, publishers, printers, or vendors may be imprisoned for up to 5 years or fined up to \$10,000 for a number of infractions including slander, inciting ethnic violence, and libel. The law allows the court to order the physical destruction of printing presses, if the court finds that the machinery was used to print an "inflammatory" article.

Workers employed by the Government in the state-owned radio and television enterprises often practice self-censorship. Although the new law has intimidated some of the private media, those with the political patronage of influential opposition members still criticize and disparage the Government.

In July journalists met with the Minister of Communication in an effort to moderate the new law. The Minister agreed to take their concerns under consideration, but no changes were made. In August the Government confiscated all journals not in compliance with the law. Journals reappeared for sale the following week, after having complied with the new regulations.

There were no known abridgements of academic freedom.

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

The Constitution provides for freedom of assembly and association. In practice, any group wishing to hold a public assembly must inform the Minister of Interior, who reserves the right to forbid assemblies that threaten public order. The Minister of Interior, invoking this privilege, denied a request by a refugee

organization to hold a meeting concerning problems being experienced with the government ministry charged with their protection (see Section 2.d.).

There are no restrictions on trade associations or professional bodies, and affiliation with international bodies is permitted.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice.

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

The Constitution provides for the right of all citizens to travel freely within Congo, and it specifically prohibits roadblocks and barriers. Nonetheless, military forces, political militias, and opportunists sometimes hindered free movement with barricades--generally demanding money. On occasion, motorists refusing to give money were detained for several hours. The National Conference Charter of Rights gives all citizens the right to travel abroad and return.

The approximately 3,000 refugees in Brazzaville continued to encounter serious human rights abuses. Security forces sometimes subjected Brazzaville-based refugees to arbitrary arrests, intimidation, and beatings, and the refugees also experienced bureaucratic ineptitude. Midyear the Government instituted a mandatory "sponsorship" policy, which requires refugee/asylum seekers to secure a pledge of financial support before it will process their claims. At year's end, the Brazzaville office of the United Nations High Commissioner for Refugees was working with the Government to reverse this requirement. There was one report of a forced expulsion, but this claim proved untrue.

In the Pointe-Noire area, the Congo hosts over 10,000 refugees, most of whom are from the Angolan enclave of Cabinda. There were no reports of human rights violations against this group. The Government provided first asylum to approximately 1,000 persons in 1996.

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

The Constitution provides for popular election of the President and National Assembly. In a transition from one-party rule to democracy, the current President was elected in 1992. Legislative elections followed in 1993. A dispute over two legislative contests has not yet been resolved. The next presidential election is scheduled for 1997. In October successful, violence-free, indirect elections for one-third of the Senate's seats were carried out.

The Constitution divides power between the presidency and a government headed by a prime minister and formed with the approval of the National Assembly. The Constitution provides for 5-year terms of office for the President and National Assembly Deputies, all elected by universal suffrage, and 6-year terms for Senators, who are chosen by local councils. International monitors observed the last several rounds of legislative elections and found them to be free and fair.

The President sought to create a representative government by appointing members of each geographical region to the Cabinet.

There are no legal restrictions on representation by women or minority populations. However, women are underrepresented in government and politics. Women hold 4 of the 185 seats in the Senate and the National Assembly. Women occupy 3 of the 39 cabinet posts. Indigenous Pygmies are excluded from

the political process (see Section 5).

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

A wide variety of human rights groups operated with minimal government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views, although prison visits by NGO's were sometimes restricted (see Section 1.c.). There were no visits by international human rights organizations.

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

The Constitution specifically forbids such discrimination, but it persists in fact, particularly against women and Pygmies.

##### **Women**

Domestic violence, including rape and beatings, is widespread but rarely reported. The problem is handled within the extended family and only in the most extreme instances is the matter brought to the police. Spousal abuse resulted in the death of eight women, according to a leading women's rights group. All of these cases are under judicial investigation.

There are no specific provisions under the law for spousal battery. Crises centers and hot lines are nonexistent. The problem of violence against women is largely ignored by the general population and the media.

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

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

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

##### **Children**

The Constitution states that the Government must protect children in accordance with international

conventions. Child labor is illegal, and education is mandatory until age 16. In practice, limited state resources prevent public action toward achievement of these objectives, particularly in rural areas.

### People with Disabilities

The Constitution provides for "specific measures of protection in relation to their needs." In practice this means very little as the ministry charged with the welfare of the disabled has severe financial constraints. There is no overt discrimination against the disabled in employment and education. The Government has not implemented laws mandating access for people with disabilities.

### Indigenous People

The Constitution provides the same rights for Pygmies, an ethnic minority numbering in the tens of thousands, and living primarily in the northern forest regions, as it does for other citizens. In practice--in a society where Bantu Congolese predominate in every respect--Pygmies do not enjoy equal treatment. Pygmies are severely marginalized in the areas of employment, health, and education. They are often considered social inferiors, have no political voice, and are completely outside the political process. Many have never heard of the concept of voting and have no ability to influence government decisions affecting their interests.

Many Pygmies have a Bantu patron to whom they are obligated for perpetuity. Pygmies are inherited by their patron's eldest son upon his death. This arrangement has its roots in the ancestral tradition of pygmy slavery. In the informal sector, pygmy workers are generally underpaid for their labor relative to others, with compensation often being made in kind rather than wages, and they must gain permission from "their Bantu" before they can contract out their labor. Most Pygmies in the formal sector work for logging companies, and there are unconfirmed reports that Pygmies do not receive equal pay for equal work and are underrepresented in skilled labor and management positions.

There are credible reports that unless accompanied by a non-Pygmy, Pygmies are routinely denied medical treatment in the formal health sector; they are most often simply ignored or are asked to present documents that most Pygmies lack, such as national identification cards or national health cards. Credible sources also allege that Bantus are given first priority in national vaccination programs and that Pygmies are not vaccinated if there are not enough vaccination materials. In September a measles outbreak in Mbanza took the lives of 125 Pygmy children and 20 Bantu children, these figures are cited by one Western expert as proof that vaccination programs have historically prioritized Bantus over Pygmies. Investigation efforts by health officials reportedly focused exclusively on Bantu children.

Pygmy children who attend school are not always accorded equal treatment by their teachers and other educational authorities. Pygmy children are also routinely taunted by Bantu children, resulting in a difficult learning environment.

## Section 6 Worker Rights

### a. The Right of Association

Both the Constitution and the Labor Code affirm the right to associate freely and allow no restriction on the formation of trade unions. Most workers in the formal (wage) sector are union members, and unions have made efforts to organize informal sectors such as agriculture and retail. The Constitution prohibits members of the security forces from forming unions or striking. There are six independent trade union organizations recognized by the State although not all are active.

Unions are free to strike but must file a letter of intent with the Ministry of Labor beforehand, thereby starting a process of arbitration. In theory, a strike may not take place until a process of nonbinding arbitration under the auspices of a regional labor inspector from the Labor Ministry has begun. The letter of intent must include the strike date, at which time the strike may legally begin even if arbitration is not complete. Employers have the right to fire workers if they give no advance notice of a strike.

In January negotiations broke down between the Government and the unions in four state-owned companies scheduled for privatization, and a strike was called. The Government ruled the strike to be illegal because the 3-day advance notice requirement was not observed. Workers not associated with the trade unions were requested to report to work. Armed members of the security forces reportedly went to the homes of known technicians (retired employees, etc.) and "encouraged" them to come to the assistance of the public service. The Government arrested four of the principal trade unionists and dismissed all workers who went on strike. Before going to trial, the four arrestees were beaten by security forces. Despite weak evidence, the four were convicted for "impeaching the freedom to work" and sentenced to 4 months in prison and fined. An international labor organization intervened on their behalf, raised bail money, and financed legal counsel. In March the four were granted a presidential pardon. The 120 dismissed striking workers were reinstated.

Unions are free to affiliate with international trade unions, and they maintain cooperative accords with other African, European, and American trade union organizations.

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

The Labor Code allows for collective bargaining and this provision is freely practiced. The Government sets industry-specific minimum wage scales, but unions are usually able to negotiate much higher wages for their members. Employers are prohibited from discriminating against employees who exercise their constitutional right to join a union. There were no reported firings for union activities.

There are no export processing zones.

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

The law prohibits forced or compulsory labor. There was, however, one instance when technicians were "encouraged" to come to the assistance of the public service (see Section 6.a.). There were also allegations that Pygmies experienced exploitation (see Section 5).

#### d. Minimum Age for Employment of Children

The Constitution prohibits children under the age of 16 from working. The Ministry of Labor is responsible for enforcing child labor laws but concentrates its efforts only on the formal wage sector. Young children continued to work in the informal sector in cities, without government intervention.

#### e. Acceptable Conditions of Work

The Government raised the minimum wage to \$80 (CFAF 40,000) per month effective in March. This wage was not sufficient to provide a decent living for a worker and family. High urban prices and dependent extended families still obliged many workers to seek opportunities beyond their main employment or to practice subsistence agriculture.

The Constitution provides for reasonable pay, paid holidays, periodic paid vacation, and legal limits on

allowable hours of work. The Labor Code stipulates that overtime must be paid for all work in excess of 40 hours per week and that regular days of leisure must be granted by employers. Although health and safety regulations require twice yearly visits by enforcement officers from the Ministry of Labor, in practice such inspections occur on a much less regular basis. There is no specific regulation granting workers the right to remove themselves from hazardous situations without jeopardy to continued employment, but unions are generally vigilant in calling attention to such situations.

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