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U.S. Department of State

Democratic Republic of the Congo Country Report on Human Rights Practices for 1997

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DEMOCRATIC REPUBLIC OF THE CONGO

President Laurent Desire Kabila seized control of the government of the former Zaire on May 17 following a 7-month military campaign. Prior to Kabila's takeover, the late former president Mobutu Sese Seko had headed an authoritarian regime for 32 years. President Kabila's Alliance of Democratic Forces for the Liberation of Congo-Zaire (ADFL) then established the Democratic Republic of the Congo. A sovereign national conference in 1992 had formulated a new constitution and enacted legislation establishing a transitional government in the years prior to the ADFL takeover; however, there was no progress in the transition to democratic government. On May 29, Kabila announced a schedule for democratization, with elections scheduled for May 1999. Kabila rules by decree. Decree Law No. 3, promulgated on May 27, established a structure consisting of a president, a government, and the courts and tribunals. Prior constitutional provisions, laws and regulations, and the Transitional Act remain in effect unless contrary to Decree Law No. 3, or repealed. The judiciary continues to be subject to executive influence and corruption.

The security forces consist of a new national police force under the Ministry of Interior, a National Security Council, and the Congolese Armed Forces (FAC). The reorganized police force, in place in all regions by year's end, handles basic criminal cases. The National Security Council is responsible for internal and external security, including border security matters. The FAC retains some residual police functions. Military police have jurisdiction over armed forces personnel. The security forces under both the Mobutu and Kabila regimes committed numerous, serious human rights abuses.

Most sectors of the economy have been contracting since the late 1970's; in the 1990's, the decline accelerated. Production and incomes have fallen steadily, as the modern sector has virtually disappeared. Physical infrastructure has suffered serious damage, financial institutions have collapsed, and human capital has significantly eroded. Annual per capita national income is estimated at \$115. Subsistence activities, a large informal sector, and widespread barter characterize much of the economy. The insolvent public sector cannot provide even basic public services, and foreign economic assistance was limited.

The Kabila Government's human rights record was mixed and serious problems remain in many areas. Until its overthrow, the Mobutu regime tolerated and committed numerous, serious human rights abuses.

Security forces of both governments were responsible for extrajudicial killings, disappearances, torture, rape, and other abuses; security forces arbitrarily arrested and detained citizens. In general the authorities did not punish the perpetrators, although the Kabila Government is attempting to establish controls over security forces; few allegations of abuses were made against the new police force. The judiciary is subject to executive influence, and the judicial system remains plagued by lack of resources, inefficiency, and corruption. It remains largely ineffective as a deterrent to human rights abuses or as a corrective force. Security forces violated citizens' rights to privacy. The Kabila Government suspended political party activities, and arbitrary arrest and detention were increasingly evident by year's end. Citizens were not able to vote to change their government in multiparty elections. Prolonged pretrial and extrajudicial detention is a problem.

Although a large number of independent newspapers publish freely, the governments sought to limit freedom of speech and the press by harassing and arresting newspaper editors and journalists. The Government restricted freedom of assembly and association. It suspended political party activity and used security services to stop political demonstrations, sometimes resulting in deaths and arrests. Freedom of religion is recognized. Although a law restricts the process for official recognition of religious groups. The Mobutu government had limited freedom of movement. The Government resisted efforts by the United Nations to investigate reports of massacres. Discrimination against women, ethnic minorities, and pygmies is a problem. Violence against women is a problem and is seldom punished. Female genital mutilation persists among isolated populations in the north. Child labor is a common problem in the informal sector.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

There were many credible reports that the security forces of the Mobutu regime committed numerous killings of civilians during the year. Although precise estimates are unavailable, these included the random killing of civilians by soldiers engaged in criminal acts and the harassment of political opponents. These abuses subsided after the change in government as the ADFL strengthened its control over Kinshasa, and as many former army of Zaire (FAZ) soldiers surrendered their weapons to comply with the ADFL's orders. However, credible reports of killings by ill-disciplined troops continued in other areas of the country, particularly in the Kivus.

The national Red Cross claimed to have collected 318 bodies in the 4 days following the ADFL takeover of Kinshasa. Some local human rights organizations reported a much higher number of deaths; these figures were never verified. Most were persons killed while trying to loot or were former members of

the FAZ carrying arms. There were also several reports of summary executions, some of which may have been committed by civilians.

Harsh prison conditions and abuse led to an undetermined number of deaths in prisons. Prisoners under the Mobutu regime and the Government died of illness or starvation (see Section 1.c.).

On June 12, a soldier shot a student to death who was traveling to a state funeral for a Mobutu government general. Accounts differ concerning the incident. In one version, the student threw a stone at the soldier; in another, several soldiers forcibly ordered the student from a vehicle hijacked by the student to attend the funeral.

On August 26, the FAC killed a student during a confrontation between students at the University of Kinshasa and the FAC. More than 10 other students were reportedly wounded in the incident.

On July 25, FAC soldiers fired on a peaceful demonstration by the Unified Lumumbist Party (PALU), killing one demonstrator and wounding six others. Soldiers unfamiliar with riot control procedures reportedly overreacted when the demonstrators refused to disperse. At least one demonstrator was killed and six others seriously injured.

In February Ela Meji Manyanga Alphonsine died in the custody of the Special Research Brigade (BSRS) after having reportedly been tortured in its facility. Ela Meji was reportedly detained in place of one of her children, who was sought by the BSRS for having listened to news of the war in a public place and consequently labeled a rebel sympathizer.

There were several reports in Autumn of killings of suspected witches in Orientale province, allegedly on the orders of local ADFL officials, after accusation by local residents.

b. Disappearance

There were several reported cases of disappearance, most occurring during the national conflict early in the year. Security forces of the Mobutu regime regularly held alleged suspects in secret detention for varying periods of time before acknowledging that they were actually in custody. Typical accounts described unidentified assailants who abducted, threatened, and often beat their victims before releasing them. Journalists and opposition members claimed that they were targets for such actions.

Two opposition figures, Ismail Tutu'emoto and Bunia Luminangulu, disappeared on July 1. They had been in exile during the Mobutu period, but returned to the country to support the ADFL. They were reportedly arrested for having criticized President Kabila.

A Ministry of Information employee and former leader of the ADFL reeducation campaign in Goma disappeared in late November after having been asked to report to the National Security Council. He may have been taken into custody on suspicion of collaborating with persons accused of attempting to destabilize the Government, or he may have gone into hiding.

The authorities arrested Freddy Libeba, an early ADFL supporter on December 21 on order of the National Security Council. His whereabouts were unknown as of year's end.

There were multiple reports that ethnic Hutus were responsible for disappearances in the Boma area during the civil conflict.

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

Although the law forbids torture, security forces and prison officials under both the Mobutu and the Kabila administrations have disregarded this prohibition, often beating prisoners in the process of arresting or interrogating them. A nongovernmental organization (NGO) worker in Maniema region was arrested and severely beaten in August by armed forces of the ADFL. In February security forces reportedly tortured a woman to death (see Section 1.a.).

Several prisoners released during the Mobutu period claim to have been struck, kicked, whipped and suspended upside down for long periods of time. The authorities, including the judiciary, rarely investigated claims of torture despite their frequency. Authorities of the Kabila administration have not responded to charges of inmate abuse and torture using electric shock and repeated beatings by its security and prison officials.

Unionist Gaby Kyamusoke suffered harassment and threats to his personal security for continuing to denounce corrupt practices within the Directorate General of Taxation under the Mobutu regime. Kyamusoke encountered difficulties with Mobutu's National Intelligence Service (SNIP) during the conflict when Kabila allegedly threatened reprisal if Kyamusoke was subjected to any further harassment. Kabila's statements, broadcast on international radio, prompted the then-authorities to call Kyamusoke a rebel sympathizer and detain him. Kyamusoke was subsequently required to report to SNIP every work day and to the public prosecutor's office every Monday and Friday.

Soon after the ADFL took power, a number of cases arose in which women wearing short skirts or jeans were publicly stripped of their clothing and, in some cases, raped by ADFL troops. The authorities ended this practice within a few months, but there is no indication that the perpetrators were ever punished. Persons wearing uniforms raped women in many neighborhoods of Kinshasa and Lubumbashi (see Section 2.d.).

Members of the security forces under the Mobutu regime robbed and extorted civilians, generally without official rebuke. During the early months of the year, they continued to commit many criminal infractions, including robbery, extortion, and looting, leading many citizens to welcome the ADFL, with its promises to respect individuals and to end such corrupt practices. While there are frequent examples of abuses by the Kabila government's military forces, the Government often attributes these to former Zairian soldiers integrated into its military forces. The newly revised military justice system prosecuted several FAC members on charges ranging from theft to rape to murder.

Eugene Diomi Ngongala, leader of the Front for the Survival of Democracy, was arrested without charge on December 11. During his arrest, soldiers reportedly burglarized his house and raped two female relatives there. Diomi claimed to have been beaten regularly since his arrest. He remained uncharged and in custody at year's end.

Military authorities took several relatives and friends of Freddy Libeba into custody on December 20 and 21 (see Section 1.b.). They were interrogated concerning the whereabouts of weapons supposedly hidden by Libeba. They reported frequent beatings, and remained detained without charge at year's end.

The Kabila Government operates 220 known prisons and other places of detention, all assumed from the Mobutu regime. In all such facilities, conditions remain life threatening, although at the end of the year the Government undertook work at Kinshasa's main prison, Makala, to improve conditions. The Mobutu government did not acknowledge its responsibility to provide prisoners with food or medical supplies. The Kabila administration provided food at some prisons, but not in sufficient quantities to ensure

adequate nutrition for all inmates. Prison conditions remain a threat to prisoners' lives. Living conditions are harsh and unsanitary, and prisoners are poorly treated. The system has severe shortages of funds, medical facilities, food, and trained personnel.

Overcrowding and corruption in the prisons were widespread abuses under Mobutu. Reports of being tortured, beaten to death, deprived of food and water, or dying of starvation were common during the Mobutu period, and continued under Kabila. Prisoners are wholly dependent on personal resources of family or friends for their survival. Inmates at Makala central prison in Kinshasa sleep on the floor without bedding and have no access to sanitation, potable water, or adequate health care. Tuberculosis, red diarrhea, and other infectious diseases are rampant. Although authorities do not target women for abuse, prison guards rape female inmates. In some cases, such as in Goma, official prisons were destroyed during the fighting, and prisoners are held in military and security holding cells, where their rights often receive even less protection.

The ICRC, religious organizations, and local human rights organizations usually had access to prisons nationwide under Mobutu. For several months after the ADFL takeover, neither these organizations nor family members were allowed access to several prisons throughout the country. The Kabila Government began to grant access to prisons in September. Under the Mobutu regime, the use of unpublicized and unofficial detention sites by the civil and military authorities circumvented humanitarian groups' access to many prisoners and detainees. The practice of using unofficial detention sites, such as private homes, occurs under the Kabila Government.

d. Arbitrary Arrest, Detention, or Exile

Despite legal provisions governing arrest and detention procedures, the security forces under both Mobutu and Kabila were responsible for numerous cases of arbitrary arrest and detention. Under the Mobutu regime, police functions were carried out under the Ministry of Defense gendarmerie. The new Government created a National Police Force under the Ministry of Interior. At year's end, the new police force had established a presence in all regions.

Under the law, serious offenses (those punishable by more than 6 months' imprisonment) do not require a warrant for a suspect's arrest. Only a law enforcement officer with "judicial police officer" status is empowered to authorize arrest. This status is also vested in senior officers of the security services. The law instructs security forces to bring detainees to the police within 24 hours. The law also provides that detainees must be charged within 24 hours and be brought within 48 hours before a magistrate, who may authorize provisional detention for varying renewable periods.

In practice these provisions were rarely followed under the Mobutu regime and have been violated by the Kabila regime. During the Mobutu period, gendarmes and civil guards commonly detained civilians without any legal authority. The security forces, especially those carrying out the orders of any official who could claim authority, used arbitrary arrest to intimidate outspoken opponents and journalists. Charges were rarely filed, and the political motivation for such detentions was often obscure. When the authorities did press charges, the claims they filed were sometimes contrived or recitations of archaic colonial regulations.

Detention without charge has been a frequent problem under the Kabila administration. Two NGO workers in Maniema were arrested by the military forces in August and held at a military camp. Soldiers in the camp allegedly accused them of spying for the United Nations Commission of Inquiry that is examining allegations of massacres in the eastern part of the country.

Several high officials of the Mobutu regime were arrested by the Government in June for corruption. The authorities failed to prosecute their cases according to legal norms, detaining them for extended periods without moving their cases through the legal system.

Police reportedly arrested up to 100 demonstrators following the July 25 FAC incident. Some were released after a few hours; others were held several days. Some reported beatings during their detentions. All demonstrators who were arrested were released without being charged. In addition to these arrests, soldiers reportedly entered the home of PALU leader Antoine Gizenga and whipped a number of PALU supporters.

Government security forces arrested 15 members of the Democratic Union for Social Progress (UDPS) during a peaceful gathering at the UDPS youth headquarters on August 15 and held them without charge, releasing them without explanation on October 15.

Approximately 10 students at the University of Lubumbashi were taken into custody by government forces on August 12 following confrontations on the campus between students and soldiers. The students were protesting the death of a girl killed during a dispute between elements of the military and the police. The students had seized the dead student's body, refusing to release it to either government officials or the student's family. The detainees remained in custody without charge until their release in mid-October.

On October 28, the authorities detained Professor Kalele Ka Bila and Jean-Francois Kabanda, both UDPS supporters, for allegedly distributing a document calling on citizens to overthrow the "Tutsi invaders." Later in the year, additional charges of inciting citizens were added.

Roger Sala Nzo Badila, leader of a local human rights NGO, was detained on November 23 for having published an unflattering report of the Kabila Government's human rights record to that date. He remained uncharged and in detention at year's end.

On November 24, Arthur Z'ahidi Ngoma and three colleagues at the political think tank Forces du Futur were arrested having violated the ban on public political activities.

On November 26, police arrested Professor Nyabirungu, a legal advisor to UDPS leader Tshisekedi and a law professor. He remained in custody without charge at year's end.

On November 26, police took into custody Commandant Masasu, a founder of the ADFL. Authorities did not place formal charges against him, although President Kabila accused him in a speech of a series of crimes, including drug trafficking and maintaining private prisons. Following Masasu's arrest, there were additional detentions of military and civilian personnel accused of plotting to overthrow the Government.

Several journalists and editors were arbitrarily arrested (see Section 2.a.).

Two of 13 "Katangan gendarmes" detained by ADFL authorities in Lubumbashi on May 19 were released.

At year's end, there were 11 political detainees.

The Transitional Act specifically forbade exile, and neither government used it.

e. Denial of Fair Public Trial

Despite provisions for independence provided in the Transitional Act, the judiciary under the Mobutu regime was not independent of the executive branch, which could and did manipulate it. The Supreme Court was cited specifically as an independent institution in Kabila's inaugural decree, Decree Law No. 3. However, the Kabila administration had not established mechanisms to ensure the independence of the judiciary by year's end. A judicial reform decree reportedly is awaiting presidential approval. The judiciary also is ineffective and suffers from corruption.

The judiciary includes lower courts, appellate courts, the Supreme Court, and the Court of State Security. The Kabila Government announced the creation of a new military tribunal in August. The tribunal began functioning in October, taking up the case of a soldier who shot a student.

Civil and criminal codes are based on Belgian and customary law. The Legal Code provides for the right to a speedy public trial, the presumption of innocence, and legal counsel at all stages of proceedings. Defendants have the right to appeal in all cases except those involving national security, armed robbery, and smuggling, all of which are adjudicated by the Court of State Security. During the Mobutu period, the law provided for court-appointed counsel at state expense in capital cases, in all proceedings before the Supreme Court, and in other cases when requested by the court. Authorities of the Mobutu regime ignored these protections. The Kabila administration has not stated a position on providing counsel, but has done so at its discretion.

In an effort to assert judicial independence, the Ministers of Justice and Interior in July issued a notice to political, administrative, and military authorities, as well as officials of the National Intelligence Agency expressing their concern over reports of arrests of magistrates and the closing of certain jurisdictions by political/administrative authorities or elements of the ADFL. They reminded authorities that magistrates are allowed to conduct their activities without hindrance, and that if any were deemed to be abusing their authority, there were appropriate legal channels for disciplining them. It further promised severe punishment to anyone interfering in the administration of justice.

Adherence to established legal procedures varied considerably under the Mobutu regime, and fair public trials were rare. Corruption was pervasive, particularly among magistrates, who were very poorly and intermittently paid and poorly trained. The system remains hobbled by major shortages of personnel, supplies, and infrastructure. The Kabila Government acknowledged that the judiciary is dysfunctional, but had not taken steps to improve it by year's end.

There were no reports of political prisoners.

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

Mobutu's security forces routinely ignored legal provisions for the inviolability of the home and of private correspondence. They ignored the requirement for a search warrant, entering and searching homes at will. Government troops under the Kabila regime conducted weapons searches in at least five residential districts of Kinshasa, entering homes without warrants. In July soldiers reportedly entered the home of Palu leader Antoine Gizenga and whipped a number of Palu supporters (see Section 1.c.).

In February security forces reportedly tortured to death a woman who was detained in place of one of her children (see Section 1.a.).

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

In October 1996 a rebellion against the former government nominally led by the ethnic Tutsis (Banyamulenge) in South Kivu resulted in open warfare and the expulsion of Hutu refugees from the immediate area of the refugee camps in North and South Kivu, and loss of life on all sides. The rebellion expanded in November and December 1996; many observers concluded that the rebellion, led by the ADFL, was supported by Rwanda and Uganda, and later by Angola. Numerous serious violations were committed by both sides during the rebellion which ultimately led to the ADFL takeover. Mobutu's government and the former Zairian armed forces (FAZ) reportedly executed from several dozen to 100 persons in Bukavu in the early days of the rebellion, on suspicion of being Tutsis. In many cases, the victims were stopped at impromptu checkpoints and killed on the spot if soldiers believed that they were Tutsis. The former Zairian authorities also organized gangs of young men to terrorize Tutsis who remained in their villages. Rape and theft by these soldiers or gangs also took place, according to reports. Mobutu soldiers and civilians had perpetrated a similar ethnic cleansing in Kinshasa in late 1996, when they intimidated several hundred Tutsis into fleeing, often after losing their homes and all their possessions. The persecution was often aimed at anyone whom they said "looked" Tutsi.

During the course of the military campaign, there were reports of civilian deaths caused by members of the FAZ, who pillaged towns, then fled the ADFL. Following the ADFL takeover of Kinshasa, there were reports of killings attributed to FAZ elements, again in the context of attempted thefts or looting.

In addition a pattern emerged in Bukavu that was then repeated in many towns in the east during the ADFL military campaign. With the news that the ADFL rebels were approaching, the FAZ increased its customary abuses of local residents, stealing cars and demanding larger sums of money, ending with a looting spree and flight in advance of the rebels. During these final lootings, the FAZ often severely beat civilians to force them to reveal where they had hidden anything of value. Some of the worst abuses took place in Beni, north of Goma, where a large group of school girls was raped by the retreating FAZ. Throughout the FAZ retreat across the north, there were reports that they had kidnaped and raped girls, as well as committed killings, theft, and wanton destruction of civilians' property.

According to many reports, members of the Former Armed Forces of Rwanda (Ex-FAR) and Interahamwe or Hutu militia among the Rwandan refugee population also killed local residents and stole from them as they went. There were also credible reports that a local militia in the Kivus, the Mai Mai, killed Hutu and Tutsi refugees and local citizens.

Rebels were accused of massacring segments of the refugee population, and of summarily executing business people who did not comply with ADFL directives. Attacks on the refugee camps in 1996, and during the year on groups of refugees, fleeing to the West as ADFL troops advanced, were not only attacks on armed extremist Hutu militia and military groups (Former FAR and Interahamwe) but also on women, children, and other noncombatants.

There were armed Former FAR and Interahamwe elements among most groups of refugees throughout the conflict. In many cases, the Hutu refugees were hostages of armed Hutu elements, who were using them both as human shields and to extract food and other aid from international agencies and NGO's. Hutu men found dead in the forest may in some cases have been fighting against ADFL troops. Other battles took place in which Hutu refugees died because they were on the scene rather than because they were targeted. Nonetheless, there are many persistent and credible reports of simple, straightforward killings of unarmed persons by the ADFL forces or Rwandan troops. There are reports of massacres of Hutu refugees by the rebels, often specifically identified as Tutsis, or by Rwandan government forces throughout the campaign from the east to Kinshasa, with particularly numerous and detailed reports from the area of the Kivus, the Kisangani area, and Mbandaka.

Serbian mercenaries employed by the Mobutu regime reportedly executed residents of the Kisangani

area at random for not possessing correct identification documents.

The U.N. Special Rapporteur on Human Rights for the Congo in a July report on allegations of massacres since September 1996, acknowledged information on 134 alleged massacres, most of them attributable to the ADFL and the Banyamulenge. Reportedly several thousand persons were killed in the massacres, including large numbers of women and children. Thousands of others probably died of disease or malnutrition.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Statutes that predate Decree-law No. 3 provide for these rights, and remain in effect. Freedom of expression generally has been acknowledged by governing authorities as a fundamental civil right since 1990, and the Kabila Government continued this recognition. Incidents of harassment, intimidation, and detention of journalists declined after the change in government. On occasion authorities harassed and arrested journalists, but most continued to operate under the Kabila Government. At year's end, incidents of press harassment began to increase. Most publications rely on external financing in order to operate. This external financing most often comes from political parties and individual politicians. Thus publications tend to represent editorial points of view rather than present facts; many are highly critical of the Government. Most publications have been able to operate without hindrance, although Polydor Muboyayi, editor of the newspaper *Le Phare*, was arrested in September for publishing an article that claimed that Kabila was creating his own elite, ethnically based presidential guard, in the manner of Mobutu. He was released on November 18. Modeste Mutinga, editor of *Le Potential*, was detained for several hours by the authorities for attempting to arrange protest activities to demand Muboyayi's release. Michel Ladi Luya of *Le Palmars* was detained for 5 days at the end of September on unknown charges. Publishers must continue to deposit copies with the Information Ministry.

The principal means of communication with the public are radio and, in major urban areas, television. Although radio and television remain under government control, private stations are able to operate. Opposition parties were unable to gain access to official electronic media under both Mobutu and Kabila.

Government radio or television do not exercise editorial independence. Under the Kabila Government, there have been expulsions of independent journalists from public media on grounds of being Mobutuist, regional radio stations being required to broadcast government news, and takeover of private radio stations in Kivu and Maniema.

Academic freedom was restricted under Mobutu; under Kabila academic freedom is apparently respected.

b. Freedom of Peaceful Assembly and Association

There is no legal protection for freedom of assembly. The right to assemble and associate was recognized by the Mobutu government, and to a lesser degree by the Kabila Government, as the full exercise of the right of assembly is subordinate to the maintenance of "public order." Both the Mobutu and Kabila Governments required all organizers to apply for permits, which are granted or rejected at the Government's discretion. Large scale activities are generally dispersed by government security services. Government attempts to disperse party meetings have resulted in deaths and detentions (see Sections 1.a. and 1.d.). These violent reactions to demonstrations by the Kabila Government were in part

due to overreactions by FAC troops inexperienced in crowd control rather than specific intent by the Government to inflict harm. No action was taken to punish those soldiers who overreacted.

The law provides no protection for freedom of association. Effective from 1990, citizens were free to join or refrain from participating in any political party. Political parties were required to register with the Minister of Interior under the Mobutu government. Upon assuming power, Kabila suspended political party activities, but not the parties themselves. Kabila included individuals from parties outside the ADFL in his Government, who serve in their individual capacities (see Section 3). Political party offices remain open and parties continue to function. Public political gatherings are effectively prevented by the Government, although opposition party leaders remain able to conduct small, private meetings. The effect of the party suspensions varies widely throughout the country, but is not strictly enforced in some provinces.

In theory anyone wishing to form a new political party would be able to do so by registering with the Minister of Interior. No one has yet tried to do so. The Government requires that NGO's register with the Minister of Justice. Those already in existence before the ADFL took power were not required to reregister with the new government.

c. Freedom of Religion

Freedom of religion is recognized, although the process for official recognition of religious groups is restricted by law. Both the Mobutu and Kabila Governments respected freedom of religion in practice, with the reservation that the expression of this right neither disturb public order nor contradict commonly held morals. There is no legally established or favored church or religion. Security forces detained Pastor Ngoy Ilunga for 4 days for criticizing President Kabila and his Government during a sermon in his church. Ngoy was again taken into detention on December 16; at year's end, he remained in detention without charge.

A 1971 law regulating religious organizations grants civil servants the power to establish and dissolve religious groups. Although this law restricts the process for official recognition, officially recognized religions are free to establish places of worship and to train clergy.

Many recognized churches have external ties, and foreigners are allowed to proselytize. Both the Mobutu and Kabila governments generally did not interfere with foreign missionaries. There has been no known persecution of Jehovah's Witnesses or any other groups for practicing their faith in recent years.

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

Under the Mobutu government, the Transitional Act allowed for freedom of movement; however, the Mobutu government, and in particular the security forces acting independently, often restricted this freedom. A common extortion scheme involved stopping travelers and demanding to see identity cards, which have not been issued since 1987. Travel is generally easier under the Kabila administration due to government efforts to combat corrupt practices.

The threat of rape, sometimes perpetrated by uniformed persons, restricts freedom of movement at night for women in many neighborhoods. Groups of citizens implemented neighborhood watch programs, but women in many parts of Kinshasa and Lubumbashi do not leave their homes at night.

The new Government has continued to provide first asylum. Tens of thousands of refugees were

accepted into the country following the outbreak of civil war in the neighboring Republic of Congo during June. Refugees from Uganda and Angola continue to live peacefully as well, and the Government cooperates with the U.N. High Commissioner for Refugees (UNHCR) and other international agencies. The Government stated that in view of the situation in Burundi at year's end, Burundian Hutu refugees would be allowed to remain in the country.

The new Government's record on refugees since taking power was greatly marred by the forced return over 800 Rwandan and Burundian refugees from the refugee center in Kisangani to Rwanda in September. Although the Burundians apparently were not targeted for forcible return to a country where they feared persecution, they apparently were mixed with refugees from Rwanda in the camp and were gathered with them. The UNHCR believed that it was likely that the camp contained Rwandans not entitled to refugee status, as well as some who were but had not yet been screened. The UNHCR had not initiated discussions with the Government over screening of the refugees. Government spokesmen claimed that the repatriation was, in most cases, voluntary. It also claimed that some persons in the center had intimidated center residents and prevented voluntary repatriation by those who were genuine refugees.

On October 3, the Government closed the border with Rwanda, preventing the arrival of an influx of Rwandan Hutus fleeing antiinsurgency operations in western Rwanda. It also claimed that it had expelled 4,000 newly arrived Rwandan Hutus.

The country is a signatory to the 1951 U.N. Convention, its 1967 Protocol related to the Treatment of Refugees, and the 1969 Organization of African Unity refugee convention.

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

Citizens do not have the right or the ability to change their government peacefully. Citizens have not been able to change their government through free elections since independence in 1960. After 7 years of unsuccessful "transition," from authoritarian rule by former president Mobutu to democratic governance, the ADFL takeover was welcomed by many citizens.

In his inaugural address, President Kabila promised a constitution and elections by 1999. After several months of delay, in October the Government completed the first series of steps in the Government's announced election calendar, including the creation of a Constitutional Commission. The Commission is scheduled to produce a draft constitution by March 1998.

In forming its government, the ADFL chose a relatively diverse group of ministers and other functionaries, drawn from different ethnic groups, geographic regions, and political parties. Those drawn from outside the ADFL are required by opposition parties to serve as individuals and not as party representatives. During the military campaign through the Congolese countryside, the ADFL held quasi-electoral selections--by acclamation--of provincial leadership (governor, vice-governor, mayor) in most provinces, where candidates, some drawn from outside the ADFL, were approved in public meetings of the local population.

There are no official restrictions on the participation of women or minorities in politics. However, in practice there are few women or Muslims in senior positions in the Government or in political parties. There was one female ambassador with cabinet rank in Kabila's Government and two female vice ministers in the 23-person Cabinet at year's end.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of

Alleged Violations of Human Rights

A number of effective human rights organizations have been able to operate under both the Mobutu and Kabila governments. NGO activities were initially restricted in areas occupied by the ADFL, but these restrictions were gradually relaxed. Local human rights NGO's investigate and publish their findings on human rights cases. These activities have taken place largely without government restriction.

In April U.N. High Commissioner for Human Rights (UNHCHR) Special Rapporteur Roberto Garreton issued a report on the human rights situation in then-Zaire, including a finding that there were credible reports of atrocities committed by ADFL forces against Rwandan Hutu refugees. The ADFL denied Garreton's allegations and refused to allow a follow-up mission from the UNHCHR to visit areas under ADFL control. After taking power, Kabila ultimately accepted a second investigative team named by the U.N. Secretary General. After the team's arrival, the Government denied the team its first choice for deployment, and accused the team of violating the terms of its investigation. After recall of the team leaders by the Secretary General to New York in October, a new agreement for field investigation was reached and the leaders returned in November. The team deployed to Mbandaka in December, withdrawing to the capital for security reasons when faced with protests against the team. At year's end, the team was working toward redeployment. The Office of the U.N. High Commissioner for Human Rights conducted discussions with the Ministry of Justice on creating a formal liaison mechanism, particularly regarding administration of justice and human rights education.

The Government has responded to some human rights reports with stern editorials in newspapers and on radio and television, sometimes denying allegations of abuses, and labeling them "lies." Some human rights groups have complained of harassment after their issuance of unflattering reports. However, the majority of organizations continue their activities without interference, and several critical documents have circulated without government intervention.

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

Previous constitutions forbade discrimination based on ethnicity, sex, or religious affiliation, but the Government made little headway in advancing these provisions. Societal discrimination remains an obstacle to the advancement of certain groups, particularly women, Muslims, and the Pygmy (Batwa) ethnic group.

Women

Domestic violence against women, including rape, is believed to be common, but there are no known government or NGO statistics on the extent of this violence. Rape is a crime, but the press rarely reported incidents of violence against women or children. Press reports of rape generally appear only if rape is a consequence of some other crime, rarely because of the act of rape itself. The police rarely intervene in domestic disputes.

Women are relegated to a secondary role in society. They comprise the majority of primary agricultural laborers, and small-scale traders and are almost exclusively responsible for child rearing. In the nontraditional sector, women commonly receive less pay for comparable work. Only rarely do they occupy positions of authority or high responsibility. Women also tend to receive less education than men.

Women are required by law to obtain their spouse's permission before engaging in routine legal transactions, such as selling or renting real estate, opening a bank account, accepting employment, or

applying for a passport. A 1987 revision of the Family Code permits a widow to inherit her husband's property, to control her own property, and to receive a property settlement in the event of divorce. In practice, sometimes consistent with customary law, women are denied these rights. Widows are commonly stripped of all possessions--as well as their dependent children--by the deceased husband's family. Human rights groups and church organizations are working to combat this custom, but there is generally no government intervention or legal recourse. Women also are denied custody of their children in divorce cases, but they retain the right to visit them. Polygyny is practiced although it is illegal. Children of polygynous unions are legally recognized, but only the first wife is legally recognized as a spouse.

Children

Government spending on children's programs is nearly nonexistent. Primary school education is not compulsory, free, or universal. In public schools, parents are formally required to pay a small fee, but the education system deteriorated so badly under the Mobutu regime that parents are often informally expected to pay teachers' salaries. Dire economic circumstances often hamper parents' ability to cover these added expenses, meaning that children may not be able to attend school. Most schools function only in areas where parents have formed cooperatives.

There are no documented cases in which security forces or others targeted children for specific abuse, although children suffer from the same conditions of generalized social disorder and widespread disregard for human rights that affect society as a whole. These conditions sometimes render parents unable to meet their children's basic human needs.

Some children as young as 10 years of age were allowed to enlist as soldiers in the Kabila military forces. There have been no reports of forced conscription of children. The Government has not taken comprehensive measures to remove all child soldiers from its armed forces. Government demobilization of some child soldiers in Bukava took place in December with assistance from the U.N. Children's Fund (UNICEF). The number of very young soldiers appears to have declined as military training programs produced new adult recruits. However, child soldiers remain a very significant presence.

Female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health, is not widespread, but it is practiced on young girls among isolated groups in the north. Legislation prohibiting the practice was not enforced by the Mobutu government. The Kabila Government has not addressed the problem.

People With Disabilities

The law does not mandate accessibility to buildings or government services for the disabled. There are some special schools, many with missionary staff, that use private funds and limited public support to provide education and vocational training to blind and physically disabled students.

Indigenous People

Societal discrimination continued against the Pygmy (Batwa) population of less than 10,000. Although citizens, Pygmies living in remote areas took no part in the political process.

National/Racial/Ethnic Minorities

The last official census was taken in 1984. It is estimated that the population is now 45 to 50 million,

and comprises more than 200 separate ethnic groups. Four indigenous languages have national status. French is the language of government, commerce, and education. Members of former president Mobutu's Ngbandi ethnic group were disproportionately represented at the highest levels of the military and intelligence services. In the final months of the Mobutu regime, ethnic Tutsis were subjected to harassment and abuse throughout the country by government security forces and by some citizens for perceived Tutsi disloyalty in the face of growing rebellion. There were accusations that President Kabila used disproportionate numbers of Tutsis and Katangans in his Government, but the distribution of ministerial and senior military positions did not appear to reflect such favoritism. The Government has representatives from all regions and major tribal groups.

Section 6 Worker Rights

a. The Right of Association

Legislation in effect from the Mobutu period permits all workers except magistrates and military personnel to form and join trade unions.

Before 1990 the law required all trade unions to affiliate with the National Union of Zairian Workers (UNTZA), the sole recognized labor confederation and which also formed part of Mobutu's Popular Movement of the Revolution (MPR) party. When political pluralism was permitted in April 1990, UNTZA disaffiliated itself from the MPR and reorganized under new leadership chosen through elections deemed fair by outside observers. After the ADFL takeover, the union renamed itself the National Union of Congolese (UNTC). Although the UNTC remains the largest labor federation, almost 100 other independent unions are now registered with the Labor Ministry and two other large federations are active. Some of these are affiliated with political parties or associated with a single industry or geographic area.

The law recognizes the right to strike. However, legal strikes rarely occur since the law requires prior resort to lengthy mandatory arbitration and appeal procedures. Labor unions have not been able to defend effectively the rights of workers in the deteriorating economic environment. Illegal general, sector, and other strikes, often called by political parties and not necessarily organized by unions, occurred under the Mobutu government. Such illegal strike tactics have not been used under the Kabila Government. The law prohibits employers or the Government from retaliating against strikers, but it is rarely enforced.

Unions may affiliate with international bodies. The UNTC participates in the Organization of African Trade Union Unity, and the Central Union of Congo is affiliated with the World Confederation of

b. The Right to Organize and Bargain Collectively

The Mobutu period law provides for the right to bargain collectively, and an agreement between the UNTC and the Employers' Association provided for wages and prices to be jointly negotiated each year under minimal government supervision. This system, which functioned until 1991, broke down as a result of the rapid depreciation of the currency. The professional unions and the Congolese Business Federation signed a cooperative agreement in September. While collective bargaining still exists in theory, continuing inflation encouraged a return to pay rates individually arranged between employers and employees.

The collapse of the formal economy has also resulted in a decline in the influence of unions, a tendency to ignore existing labor regulations, and a buyer's market for labor. The Labor Code prohibits antiunion

discrimination, although this regulation was not strongly enforced by the Ministry of Labor under Mobutu. The law also requires employers to reinstate workers fired for union activities. In the public sector, the Government sets wages by decree; public sector unions act only in an informal advisory capacity.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, and it is not known to occur. The law does not specifically prohibit forced and bonded labor by children, but such practices are not known to occur.

d. Status of Child Labor Practices and Minimum Age for Employment

The legal minimum age for employment is 18 years. Employers may legally hire minors between the ages of 14 and 18 with the consent of a parent or guardian, but those under age 16 may work a maximum of 4 hours per day; those between the ages of 16 and 18 may work up to 8 hours. The law prohibiting forced or compulsory labor does not specifically mention children, but forced and bonded labor by children are not known to occur (see Section 6.c.). Employment of children of all ages is common in the informal sector and in subsistence agriculture, which form the dominant portions of the economy. Such employment is often the only way a child or family can obtain money for food. Neither the Ministry of Labor, which is responsible for enforcement, nor the labor unions make an effort to enforce child labor laws. Larger enterprises do not commonly exploit child labor. The availability of education for children is extremely limited in practice (see Section 5).

e. Acceptable Conditions of Work

Most citizens are engaged in subsistence agriculture or commerce outside the formal wage sector. The minimum wage, last adjusted by government decree in 1990, was subsequently rendered irrelevant due to rapid inflation. Most workers rely on the extended family and informal economic activity to survive. The maximum legal workweek (excluding voluntary overtime) is 48 hours. One 24-hour rest period is required every 7 days.

The Labor Code specifies health and safety standards. The Ministry of Labor is officially charged with enforcing these standards, but its efforts to do so remain insufficient. There are no provisions in the Labor Code permitting workers to remove themselves from dangerous work situations without penalty.

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