

FREEDOM IN THE WORLD

Congo, Democratic Republic of (Kinshasa)

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OVERVIEW:

In January 2011, the government amended the electoral law to eliminate the requirement for presidential runoff elections, giving undue advantage to incumbent Joseph Kabila. Despite logistical problems, presidential and parliamentary elections went ahead as scheduled on November 28. The polls were deeply flawed, with reports of serious and widespread fraud, as well as a number of violent incidents. Kabila was declared the winner of the presidential race with 49 percent of the vote, while parliamentary results had yet to be announced by year's end. Throughout 2011, all parties in the country's ongoing conflicts continued to carry out killings, rapes, and abductions of civilians.

In the late 19th century, the king of Belgium claimed a vast area of Central Africa as his private property, and the territory was exploited with extreme brutality. After achieving independence from Belgium in 1960, the then Republic of Congo became an arena for Cold War rivalries, and Colonel Joseph Mobutu seized power with CIA backing in 1965. Mobutu changed the country's name to Zaire in 1971, renamed himself Mobutu Sese Seko, and assumed dictatorial powers.

Following the end of the Cold War, domestic agitation and international pressure for democratization led to a national conference in 1992. President Mobutu was stripped of most of his powers, and a transitional government was formed with a new prime minister, longtime Mobutu opponent Étienne Tshisekedi. However, Mobutu created a rival government, leading to a political standoff. In a compromise that marginalized Tshisekedi, the two governments merged in 1994, with Mobutu remaining head of state and Kengo Wa Dondo becoming prime minister. Presidential and legislative elections were scheduled repeatedly but never took place.

After the 1994 genocide in neighboring Rwanda, the Rwandan and Ugandan governments turned their cross-border pursuit of Rwandan Hutu militia members into an advance on Kinshasa. Rwandan troops, accompanied by representatives of the Alliance of Democratic Forces for the Liberation of Congo-Zaire—a coalition led by former Zairian rebel leader Laurent-Désiré Kabila—reached Kinshasa in May 1997. Mobutu fled to Morocco, where he died months later of cancer. Kabila declared himself president and changed the country's name to the Democratic Republic of Congo (DRC).

Relations between Kabila and his Rwandan and Ugandan backers deteriorated after he ordered all foreign forces to leave the DRC in 1998. Rwanda intervened in support of a newly formed rebel group, the Rally for Congolese Democracy (RCD), but the DRC government was defended by Angolan,

2012 SCORES

STATUS

**Not
Free**

FREEDOM RATING

6.0

CIVIL LIBERTIES

6

POLITICAL RIGHTS

6

Namibian, and Zimbabwean troops. Uganda later backed a rival rebel group, the Movement for the Liberation of the Congo (MLC), establishing control over the northern third of the DRC, while the RCD held much of the eastern Kivu region. The country's vast mineral wealth spurred the involvement of multinational companies, criminal networks, and other foreign governments.

Military stalemate led to the signing of the Lusaka Peace Agreement in 1999. The accord called for a cease-fire, the deployment of UN peacekeepers, the withdrawal of foreign troops, and a transitional government. Kabila drew international criticism for blocking the deployment of UN troops and suppressing internal political activity. He was assassinated in 2001 and succeeded by his son Joseph, who revived the peace process. The 2002 Sun City Agreement led to the creation of a transitional government in 2003 and a formal end to the war.

A new constitution was officially promulgated in 2006. Presidential and legislative elections—the first multiparty polls since independence—followed later that year. Despite daunting logistical challenges, the elections were largely peaceful and drew a turnout of over 70 percent. Kabila's People's Party for Reconstruction and Democracy (PPRD) gained a plurality of seats in the National Assembly, the lower house. In a field of 33 presidential candidates, Kabila won approximately 45 percent of the first-round vote, and went on to defeat MLC leader and transitional vice president Jean-Pierre Bemba in the runoff.

Following the elections, two broad alliances emerged in the 500-seat National Assembly: the Alliance of the Presidential Majority (AMP), comprising 332 seats, and the opposition Union for the Nation (UpN), comprising 116 seats. Eleven provincial assemblies voted in the January 2007 Senate elections, granting the AMP 58 seats and the UpN 21. In March 2007, fighting broke out in Kinshasa between the authorities and Bemba loyalists.

In January 2008, a peace agreement was signed between the government and 22 armed groups operating in the east. Notably, the agreement did not include the Rwandan government or the Democratic Forces for the Liberation of Rwanda (FDLR), an ethnic Hutu-dominated militia led by perpetrators of the 1994 Rwandan genocide who had fled to the DRC. Fighting broke out in August 2008 between government troops and the ethnic Tutsi rebel leader Laurent Nkunda's National Congress for the Defense of the People (CNDP), which allegedly received backing from Rwanda. The clashes resulted in further civilian displacement and an increase in human rights abuses.

In late 2008, the DRC and Rwanda signed an agreement to begin a joint military operation against the FDLR and negotiations with the CNDP. The early 2009 operation coincided with the surprise arrest of Nkunda in Rwanda in January and a settlement with the CNDP in March. The settlement transformed the CNDP into a political party and integrated the leadership into the Armed Forces of the DRC (FARDC). It also included an amnesty for acts of war committed by members of the CNDP. Parliament ultimately expanded the amnesty to cover acts of war and insurrection committed by all armed groups operating in North Kivu and South Kivu between June 2003 and May 2009. In March 2009, Congolese and UN forces began a new military operation against the FDLR. Separately, the FARDC embarked on a joint military operation with Uganda from December 2008 to March 2009 to pursue the Lord's Resistance Army (LRA), a Ugandan rebel group operating in northeastern Congo.

In 2011, FDLR attacks on civilians reportedly increased in some areas, particularly in parts of the Kivus from which the FARDC had withdrawn. LRA incursions into the DRC continued throughout 2010 and 2011, and the DRC joined forces with the Central African Republic, Sudan, and Uganda to pursue the militants. In March 2011, the United Nations reported an increase in LRA violence against civilians in northeastern Congo. In addition, mass rapes continued to be carried out by all parties involved in the conflicts in eastern Congo in 2011. Although impunity for perpetrators of rape remains a major challenge, in February a military court sentenced Lieutenant Colonel Kibibi Mutware of the FARDC to 20 years in jail, and 8 men under his command to between 10 and 20 years, for mass rape and crimes against humanity in connection with an attack on the village of Fizi on New Year's Day.

The impact of years of fighting on civilians has been catastrophic. A mortality survey released by the International Rescue Committee in 2008 reported that 5.4 million people had died since 1998 as a result of conflict and humanitarian crises. In 2010, the Office of the UN High Commissioner for Human Rights issued a report that detailed over 600 of the most serious violations of human rights and humanitarian law that occurred between 1993 and 2003 in the DRC by armed forces and nonstate groups, both foreign and Congolese. In response, the DRC government initiated draft legislation in November 2010 to create a special court to prosecute serious crimes, but the court had yet to be established as of the end of 2011.

In advance of the November 2011 presidential and National Assembly elections, a number of changes to the electoral law were enacted. Most prominently, in January the government amended the law to eliminate the requirement for second-round presidential elections when no candidate wins more than 50 percent of the vote in the first round, despite protests from the opposition. The amendment was seen by opposition parties as an intentional manipulation meant to secure Kabila's reelection.

Opposition politicians and their supporters faced violence and harassment by police in the run-up to the November elections. Police used tear gas, beat protesters with clubs, and fired live rounds into the air to break up a series of demonstrations in September and October by supporters of opposition Union for Democracy and Social Progress (UDPS) leader Tshisekedi, who had emerged as Kabila's main presidential challenger. Twelve people were killed and 41 others were injured on November 26 when security forces fired into the air and into crowds that had gathered to welcome the two presidential candidates at Kinshasa's N'djili Airport. While the November 28 elections were conducted peacefully in most of the country, a number of violent incidents occurred, such as the burning down of at least 12 polling stations by angry protesters, and the reported killing of eight people by masked gunmen who fired on polling stations in Katanga and Lubumbashi.

On December 9, the Independent National Electoral Commission (CENI) announced that Kabila had won with 49 percent of the vote, and Tshisekedi placed second with 32 percent. The U.S.-based Carter Center monitoring group reported that due to insufficient preparation and widespread irregularities throughout the process—including incomplete voter lists, lack of voting materials, missing results from some 3,500 polling stations, and impossibly large voter turnouts in some districts—the presidential election results were not credible. The vote was also criticized by the European Union, the Catholic Church, and the UN peacekeeping mission in the DRC. Nevertheless, the Supreme Court confirmed the results on December 16, and Kabila was sworn in four days later.

Elections for the National Assembly were also held on November 28 and suffered from the same problems. Due to complaints of irregularities, CENI temporarily suspended tabulation of the results on December 21. It began to incrementally publish partial results on December 28, but did not release final results by year's end.

The DRC was ranked lowest in the world on the UN Development Programme's 2011 Human Development Index, as it continued to suffer from instability and the effects of war, economic crisis, and the challenge of strengthening political and social institutions and ensuring their accountability.

POLITICAL RIGHTS AND CIVIL LIBERTIES:

The DRC is not an electoral democracy. International observers noted that both the 2006 and 2011 elections lacked credibility and transparency, and were marred by fraud, voting irregularities, voter intimidation, and violence. The legitimacy of CENI, established in 2010 to replace a transitional body, has been called into question. Four of its seven members are appointed by the presidential coalition, and it does not include members of civil society, as its predecessor did. The 2011 elections were seen as even less credible than those in 2006 due to a lack of preparation, changes in the structure and function of the electoral commission, absence of a comparable level of

international logistical support, and lack of adequate accountability and follow through on reported irregularities. In July 2011, CENI completed a program, begun in 2010, of reregistering all voters. However, the process was criticized as flawed by observers. On October 22, the UDPS, which had been staging weekly demonstrations in front of CENI headquarters to demand transparency of the electoral process, met with CENI and agreed on terms for an audit of the electoral register.

Under the 2006 constitution, the president is elected for up to two five-year terms. The president nominates a prime minister from the leading party or coalition in the 500-seat National Assembly, the lower house of the bicameral legislature, whose members are popularly elected to serve five-year terms. The provincial assemblies elect the upper house, the 108-seat Senate, as well as the provincial governors, for five-year terms. There were 428 political parties registered to participate in the 2011 elections. In March, Kabila's coalition, the AMP, restructured itself into the Presidential Majority (PM), which requires coalition members to have national representation, ensuring that the PPRD will remain in the majority within the coalition. Other major parties include the opposition UDPS and MLC.

The fight against corruption continues to be a challenge for the DRC. A presidential ban on artisanal mining that had been declared in September 2010 to stem the flow of mining revenues to armed groups was lifted in March 2011 when it became clear that it was not helping to curb violence in the east and was in fact making life harder for miners. In an effort to increase transparency, the government announced in May that it would make all contracts involving mineral, oil, timber, and gas concessions public within 60 days of signing them. In September, the International Monetary Fund (IMF) demanded that two state-owned mining companies explain unannounced asset sales at prices below their market value, as required under the country's IMF loan terms. The country was ranked 178 out of 183 countries in the World Bank's 2011 Doing Business survey, and 168 out of 183 countries surveyed in Transparency International's 2011 Corruption Perceptions Index.

Although guaranteed by the constitution, freedoms of speech and expression are limited. Members of the state security apparatus threaten, detain, and attack journalists whose reporting was critical of government officials. In April 2011, radio host Samy Mbeto was detained on charges of "insulting the authorities" and "defaming politicians." He was released on bail three days later, but ordered not to leave Kasai-Occidental province and to report to prosecutors twice a week. Nonstate armed groups have also targeted journalists. In June, a radio host was shot dead near his home in North Kivu. According to UNESCO, he had recently reported on the activities of armed gangs in Kirumba. As elections drew closer, there was an increase in violence against journalists. Radio is the dominant medium in the country due to low literacy rates and limited access to other media. The nongovernmental Centre Résolution Conflits, which works to assist ex-combatants with disarmament and resettlement, runs more than 70 community radio stations that reach even isolated areas. The government does not monitor online communications or restrict access to the internet, but internet use is limited by lack of infrastructure.

Freedom of religion is guaranteed by the constitution and generally respected in practice. Although religious groups must register with the government in order to be recognized, unregistered groups operate unhindered. Unlike in 2010, there were no reported incidents of religious discrimination in 2011. Academic freedom is restricted by fears of government harassment, which often lead university professors to engage in self-censorship.

The rights to freedom of assembly and association are sometimes limited in practice, and often dangerous to exercise if they involve a political agenda, but the country nevertheless has a vibrant civil society. Groups holding public events must register with local authorities in advance. Nongovernmental organizations are able to operate, but they face pressure from the government and nonstate actors if they offend powerful interests. In June 2011, four national police officers were sentenced to death and one to life in prison for the June 2010 murder of prominent human rights activist Floribert Chebeya Bahizire. However, the head of the national police, John Numbi—who was

suspended in June 2010 and was widely suspected of involvement in the murder—had not been charged at year's end.

Under the constitution, Congolese who fulfill a residency requirement of 20 years can form and join trade unions. It is against the law for employers to retaliate against strikers. However, a trend has continued in 2011 in which state authorities and employers encourage the excess proliferation of trade unions, including sham unions, in order to weaken the trade union movement as a whole. Some labor leaders and activists face harassment. In April 2011, the Teachers' Association of the University of Kinshasa ended a 12-day strike after the government agreed to its demands, including academic bonus arrears. In response to a student protest that same month, in which two people were killed, the Teachers' Association sided with the students and deplored the lack of transparency in the determination of academic fees.

Despite constitutional guarantees of independence, the judiciary remains subject to corruption and manipulation, and the court system lacks both trained personnel and resources. Prison conditions are abysmal and life-threatening, and long periods of pretrial detention are common. While there are notable exceptions, most government and government-allied forces still enjoy apparent impunity for even the most heinous crimes, and there is little justice for civilian victims of violence and sexual violence.

The International Criminal Court (ICC) continues to pursue cases in the DRC, including those against rebel leaders Mathieu Ngudjolo Chui, Thomas Lubanga, and Germain Katanga, all of whom were on trial at year's end, as well as MLC leader Jean-Pierre Bemba, who was transferred to the ICC in 2008 and remains behind bars. The ICC issued a warrant in 2008 for the arrest of Bosco Ntaganda, but he continued to live openly in Goma as a general in the FARDC in 2011.

Civilian authorities do not maintain effective control of the security forces. Soldiers and police regularly commit serious human rights abuses, including rape. Low pay and inadequate provisions commonly lead soldiers to seize goods from civilians, and demobilized combatants have not been successfully integrated into the civilian economy. Since 2009, Kabila has been overseeing the tenuous process of integrating half of the 330,000 fighters of various militias into the FARDC. However, this process has been problematic, as some former rebels who are now officials in the FARDC are also wanted for serious crimes committed during the war.

Ethnic discrimination continues to be a major problem, particularly against the Mbuti of Ituri and the Congolese Banyamulenge Tutsi of South Kivu. In October 2011, five Banyamulenge aid workers and two other Banyamulenge civilians were killed in an ambush in Fizi, South Kivu, by Mai Mai Yakutumba and allied rebels of Burundi's National Liberation Front. It is widely believed that the seven were targeted based on their ethnicity, as other members of the group in the vehicle who were not Tutsi were released.

Although the law provides for freedom of movement, security forces seeking bribes or travel permits restrict this right in practice, and foreigners must regularly submit to immigration controls when traveling internally. In conflict zones, various armed groups and soldiers have seized private property and destroyed homes, as well as stolen crops and livestock, devastating people's livelihoods. The United Nations reported in June that 1.7 million people remain internally displaced.

Despite constitutional guarantees, women face discrimination in nearly every aspect of their lives, especially in rural areas. Violence against women and girls, including sexual and gender-based violence, has soared since fighting began in 1994, though sex crimes often affect men and boys as well. Mass rapes continued in 2011, and convictions remain rare. Abortion is prohibited, women's access to contraception is extremely low, and maternal mortality is a serious problem. Women are also greatly underrepresented in government, comprising only 10 percent of the National Assembly.

According to the U.S. State Department's 2011 Trafficking in Persons Report, the DRC is both a source and destination country for the trafficking of men, women, and children for the purposes of labor and sexual exploitation. In

September, the DRC government signed an accord with Benin to combat child trafficking between the two countries.

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