

# REPUBLIC OF THE CONGO 2015 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

The Republic of the Congo is a parliamentary republic in which the newly adopted constitution vests most decision-making authority and political power in the president and prime minister. On October 25, citizens adopted a new constitution by a 94 percent vote and a 71 percent voter participation rate, according to the government. The opposition charged the true voter turnout was less than 10 percent. The opposition and international community questioned the credibility of the referendum process and the results. President Sassou officially promulgated the new constitution on November 6. The new constitution removed the upper presidential age limit and changed previous term limits from two terms of seven years to three terms of five years, abolished the death penalty, decentralized some power from the presidency by adding the position of prime minister, and provided immunities to former presidents.

Under the 2002 constitution, Denis Sassou N'Guesso won re-election as president in 2009 with 78 percent of the vote with 66 percent voter turnout, according to the government, and 10 percent turnout according to the opposition. Domestic nongovernmental organizations (NGOs) and opposition candidates questioned the validity of the claimed vote figure and cited electoral irregularities. The government held the most recent legislative elections in July and August 2012 for 137 of the national assembly's 139 seats. The African Union (AU) declared the elections free, fair, and credible, while citing numerous irregularities. While the country has a multiparty political system, members of the president's Congolese Labor Party (PCT) and its allies held almost 90 percent of legislative seats, and PCT members occupied almost all senior government positions. The government delayed local elections originally scheduled for 2013 until September 2014. The PCT dominated the local elections, which determined the members of the electoral college that selects senators, winning almost 80 percent of the vote. Civilian authorities generally maintained effective control over the security forces.

The most significant human rights problems included arbitrary or unlawful killings by security forces; arbitrary arrests, beatings, and torture of detainees by police; and refugee abuse.

Other major human rights abuses included harsh detention conditions; lack of due judicial process; infringement of citizens' privacy rights; restrictions on freedoms of speech, press, assembly, and association; harsh treatment of undocumented

immigrants; restrictions on the ability of citizens to change their government peacefully; restrictions on the activities of opposition political groups; corruption on the part of officials and lack of transparency; discrimination against women; sexual and gender-based violence, including domestic violence, child abuse, and early marriage; trafficking in persons; lack of access for persons with disabilities; societal discrimination on the basis of ethnicity, particularly toward indigenous persons (Baka); discrimination based on nationality, particularly toward individuals from the Democratic Republic of the Congo (DRC), Central African Republic (CAR), and Rwanda; discrimination based on sexual orientation and HIV/AIDS status; and child labor.

The government seldom took steps to prosecute or punish officials who committed abuses, whether in the security services or elsewhere in the government, and official impunity was a problem.

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

### **a. Arbitrary or Unlawful Deprivation of Life**

There were numerous reports the government or its agents committed arbitrary or unlawful killings.

On multiple occasions police opened fire on crowds. Additionally, there were reports at least two infants died due to complications from tear gas inhalation, as security forces discharged thousands of canisters of tear gas on the ground and from helicopters.

On January 31, police arrested Noe Harelima, a 27-year-old Rwandan refugee, at his home for an alleged traffic violation. He died during the night of February 1, while in custody at the Kibeliba police station in Brazzaville, where fellow prisoners reported his face was marked with injuries and he complained of pain in his spine. On February 5, Harelima's parents recovered his body from the municipal morgue where police had brought it three days earlier.

Human rights NGOs reported deaths resulting from abuse in prisons and pretrial detention centers.

Between October 17 and 21, police and other security forces in Pointe-Noire and Brazzaville killed at least 35 persons who allegedly participated in or were in close proximity to protests against the October 25 referendum on a new constitution.

On June 10, a contingent from the Republic of the Congo participating in MINUSCA (the UN Multidimensional Integrated Stabilization Mission in the Central African Republic) allegedly beat four Central African Republic civilians accused of criminal activity, resulting in two deaths and severe injuries to a third individual. The UN sent 20 Congolese peacekeepers home, but the Congolese government had not released the results of its investigation by year's end.

### **b. Disappearance**

There were numerous credible reports of politically motivated disappearances. For example, in October independent media and local human rights NGOs reported six politically active persons missing from a southern district of Brazzaville. Additionally, there were several reports of night raids and daytime state-sponsored kidnappings of opposition supporters, after which family members were unable to find any information about the victims' welfare and whereabouts.

On June 2, Human Rights Watch released the report *Central African Republic: Peacekeepers Tied to Abuse*, detailing eyewitness accounts that personnel from the Republic of the Congo participating in the African-led International Support Mission to the Central African Republic (MISCA) had forcibly disappeared at least 11 persons in March 2014 from a private home in Boali following their reported arrest. According to the Central African Human Rights League, MISCA troops killed two anti-Balaka chiefs and arrested 11 other persons after attackers killed a MISCA peacekeeper in an ambush. MISCA continued to investigate the disappearances at year's end. Pending the outcome of the investigation, in July 2014 MISCA announced the suspension of the commander of the Congolese contingent in Boali and redeployment of all soldiers of the unit who had been in the town at the time of the incident. According to the Congolese army, the government recalled all troops involved to the Congo and were no longer operating in the CAR. On June 5, the office of the UN High Commissioner for Human Rights released an update stating the missing persons' whereabouts were still unknown, and responsible authorities had not conducted a full and transparent investigation inside or outside the country. On July 24, the Ministries of Foreign Affairs and Justice issued a preliminary report stating the investigative report produced by the National Police was inconclusive, and recommended further investigation to determine the responsibilities of the actors involved. As of December, and despite repeated requests from the UN and other concerned international actors, there was no new information on the status of a joint MISCA/AU investigation or whether an investigation was ongoing.

A French court continued to investigate the fate of all alleged victims of the 1999 Beach disappearances, in which dozens of refugees returning to Brazzaville from Kinshasa disappeared (claims ranged from 70 to 353 missing persons).

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

The constitution bans torture and the law contains a general prohibition against assault and battery, but there is no legal framework specifically banning torture under the criminal code. There were widespread reports of cases of government-led torture and other cruel, inhuman, and degrading treatment.

Torture occurred. A human rights NGO reported that in December 2014 a police lieutenant arrested Prince Tharcisse Cyimana, a 15-year-old Rwandan refugee, on Rue Franceville in Brazzaville, after he fled the scene of a crime in which he claimed he had no part. According to the NGO's report and the official testimony of Cyimana, the police lieutenant and a few of his companions severely beat Cyimana and held him in water demanding that he swim. Allegedly he was brought without charge to the house of a judicial police colonel, stripped naked, chained to a metal water tank, burned with the drippings from a plastic bottle, and forced to clean out the septic tank on the premises by the colonel before being transferred to the Mfoa police station. Authorities released him the following day with the help of a local human rights NGO.

Other cruel, inhuman, or degrading treatment or punishment regularly took place. Human rights NGOs reported authorities regularly beat numerous detainees while in custody. Police inflicted the interrogation tactic of suspending a detainee by the arms bound behind the back, resulting in deep cuts. Police frequently required detainees to pay for protection or risk beatings. The NGOs also reported authorities generally ignored allegations of prisoner mistreatment. The Directorate General of Human Rights at the Ministry of Justice is responsible for overseeing prison conditions and acknowledged authorities had mistreated prisoners, blaming the mistreatment on lack of proper training for prison personnel.

Rape and sexual abuse by government agents frequently occurred. Human Rights NGOs reported multiple instances of rape and sexual abuse by police, particularly of prostitutes and gay men.

Although prostitution is legal, there were numerous reports of police arresting prostitutes, including gay men, for alleged illegal activity, then threatened or committed rape if the detainees did not pay a bribe for release.

Conflict abuses during international peacekeeping missions took place. On June 10, a small group of soldiers among Congolese peacekeeping troops deployed to MINUSCA reportedly arrested and detained four CAR citizens in Mambere under orders of local authorities. During their transfer two detainees died and two were hospitalized. On June 24, the Congolese Ministry of Defense (MOD) released an official statement acknowledging “grave mistakes” and appointed an investigator to examine the human rights abuses allegedly perpetrated by Congolese peacekeeping troops. At year’s end, the investigation was still pending.

### **Prison and Detention Center Conditions**

Prison and detention center conditions were harsh and life threatening due to inadequate sanitary conditions, gross overcrowding, and a severe deficit in medical and psychological care.

Physical Conditions: As of September 8, there were approximately 1,200 inmates. A government source estimated 60 percent of inmates awaited trial, but, according to an NGO, that total was closer to 75 percent. As of August 20, the most recent available figure, the Brazzaville prison, built in 1943 to accommodate 150 prisoners, held approximately 561 inmates, including 22 women and 24 minors. It had only 110 beds and 24 showers and toilets. The Pointe-Noire prison, built in 1934 to hold up to 75 inmates, held an estimated 400, including 60 foreign nationals, more than half of whom were from the DRC. There were 30 to 40 detainees and prisoners in each of the remaining 10 departmental prisons. Police stations regularly housed individuals in their limited incarceration facilities beyond the maximum statutory holding period of 72 hours. In addition to these official prisons, the government’s intelligence and security services operate several other secret detention centers and security prisons, which are inaccessible for inspection.

Authorities generally maintained separate areas within facilities for minors, women, and men in Brazzaville and Pointe-Noire. In Brazzaville, however, these areas, while separate, were sometimes easily accessible with no locked entryways. In the other 10 prisons, authorities sometimes held juvenile detainees sometimes with adult prisoners; authorities gave other convicted minors in these districts punishments that did not include prison sentences. Men were held separately from women, but in Pointe-Noire, authorities held 16- and 17-year-old males in the

same area as women. Physical prison conditions for women were better than those for men in all 12 prisons. There was less crowding in the women's cells than in those for men. Authorities held pretrial detainees with convicted prisoners in the 12 prisons. In Brazzaville authorities housed and treated prisoners with illnesses in one area but allowed them to interact with other inmates.

In Brazzaville prison conditions for wealthy or well-connected prisoners generally were better than conditions for others.

As of August 20, two inmates reportedly died in a Brazzaville prison from infectious disease. Human rights NGOs reported incidents of death resulting from abuse in prisons and pretrial detention centers.

In Brazzaville most inmates slept on the floor on cardboard or thin mattresses in small, overcrowded cells, exposing them to disease. The prisons lacked any significant ventilation and had poorly maintained lighting with wiring protruding from the walls. In Brazzaville stagnant water with trash lined the interior space of one holding area. In Pointe-Noire water regularly backed into prisoners' cells. Basic and emergency medical care was limited. Medical personnel at a Brazzaville prison cited tuberculosis, dysentery, malaria, and HIV as the most common maladies affecting prisoners. Authorities did not provide prisoners with HIV/AIDS with specialized medical care, nor were HIV tests available in prisons. Authorities took pregnant women to hospitals to give birth at the time of labor, and authorities sometimes allowed them to breastfeed their infants in prison. Access to social services personnel was severely limited due to insufficient staffing, overcrowding, and stigmatization of mental health issues.

Prison inmates reportedly received, on average, two meals a day, consisting of rice, bread, and fish or meat. Authorities permitted women to cook over small fires built on the ground in a shared recreational space. The Pointe-Noire prison occasionally had running water. All of the prisons supplied potable water to inmates in buckets.

Administration: Recordkeeping in the penitentiary system continued to be inadequate. Despite having the necessary computer equipment in Brazzaville and Pointe-Noire, prison officials continued to rely mostly on a noncomputerized system, citing a lack of internet access, resources, and training.

Authorities occasionally used alternatives to incarceration for nonviolent offenders; however, typically only defendants with the means to hire private

attorneys could access these alternatives. Access to prisoners generally required a communication permit from a judge. The permit allowed visitors to spend five to 15 minutes with a prisoner, although authorities usually did not strictly enforce this limit. In most cases visits took place either in a crowded open area or in a small room with one extended table where approximately 10 detainees sat at a time. A new permit is technically required for each visit, but families were often able to return for multiple visits on one permit. Since many prisoners' families lived far away, visits often were infrequent because of the financial hardship of travel.

Prison rules provide for prisoners and detainees to submit complaints to judicial authorities without censorship, but this right was not respected. Authorities did not investigate credible allegations of inhuman conditions brought to them by NGOs and detainees' families.

Independent Monitoring: The government provided domestic and international human rights groups with only limited access to prisons and detention centers. Observers generally considered the primary local NGO focused on prison conditions independent; authorities, however, denied it access to the interior of several different prisons on multiple occasions throughout the year. Representatives of religiously affiliated charitable organizations visited prisons and detention centers for charitable work and religious counseling. Authorities granted diplomatic missions access to both prisons and police jails to provide consular assistance to their citizens and for general inspection.

#### **d. Arbitrary Arrest or Detention**

The constitution and law prohibit arbitrary arrest and detention. Nevertheless, arbitrary arrest continued to be a problem.

#### **Role of the Police and Security Apparatus**

Security forces consist of the police, gendarmerie, and military. The police and the gendarmerie are responsible for maintaining internal order, with police primarily operating in cities and the gendarmerie mainly in other areas. Military forces are responsible for territorial security, but some units also have domestic security responsibilities. For example, the specialized Republican Guard battalion is charged with the protection of the president, government buildings, and diplomatic missions. The MOD oversees the military and gendarmerie, and the Ministry of the Interior and Decentralization oversees the police.

A civilian police unit under the Ministry of Interior and Decentralization is responsible for patrolling the borders. Separately, a military police unit reports to the MOD and is composed of military and police officers responsible for investigating professional misconduct by members of any of the security forces.

Civilian authorities generally maintained effective control over the security forces; however, there were members of the security forces who acted independently of civilian authority, committed abuses, and engaged in malfeasance. The law charges both the military police and the Office of the Inspector General of Police with investigating reports of misconduct by security forces.

Eyewitnesses and human rights NGOs reported that during the civil unrest in late October the government used irregular militias and security forces comprised of youths, former combatants, and foreign nationals.

In May police conducted the second phase of Mbata Ya Bakolo, an operation to expel irregular immigrants, in Pointe-Noire. In contrast to 2014, there were minimal reports of police abuse during the operation. On July 1, Amnesty International released its report *Operation Mbata Ya Bakolo: Mass Expulsions of Foreign Nationals in the Republic of Congo*, alleging possible crimes against humanity and documenting abuses by police targeting foreign nationals, mostly from the DRC, during phase one of the operation in Brazzaville between April and September 2014. Many citizens and local human rights groups also reported incidents of rape, sexual abuse, arbitrary arrest, extortion, and death resulting from police action during the operation. Beginning in April 2014, the Ministry of the Interior and Decentralization investigated 18 police officers and sentenced each to 35 days in jail, the maximum punishment that can be dispensed by the director general of police. Following their detention, authorities permanently dismissed four from the police force.

In August, 38 police officers participated in two human rights-based training courses in collaboration with international humanitarian agencies, aimed at reducing violent abuses and cultivating sensitivity toward victims of sexual violence.

The government-established Human Rights Commission (HRC) receives reports from the public of security force abuses, but it was ineffective and did not meet during the year.



Impunity for members of the security forces remained widespread. On September 27 and October 10, security forces were professional and restrained during large political rallies. Most security force members conducted themselves professionally during the late October civil unrest; however, their commanders and other government officials often ordered them to commit human rights abuses, such as preventing freedom of movement in large sections of major cities during the prereferendum campaign period.

### **Arrest Procedures and Treatment of Detainees**

The constitution and law require that a duly authorized official issue warrants before making arrests, a person be apprehended openly, a lawyer be present during initial questioning, and detainees be brought before a judge within three days and either charged or released within four months. The government habitually violated these provisions. There is a bail system, but with 70 percent of the population living in poverty, most detainees could not afford to post bail. Authorities generally informed detainees of charges against them at the time of arrest, but filing of formal charges often took at least one week. Police at times held persons for six months or longer before filing charges due to administrative errors or delays in processing. Observers attributed most delays to lack of staff in the Ministry of Justice and the court system. Family members usually received prompt access to detainees but often only after payment of bribes. The law requires authorities provide lawyers to indigent detainees facing criminal charges at government expense, but this usually did not occur.

The penal code states authorities may hold a detainee for a maximum of 48 to 72 hours in a police jail before an attorney general reviews the case. Thereafter a decision must be made either to release or to transfer the individual to a prison for pretrial detention. Authorities generally did not observe the 72-hour maximum. Authorities frequently held detainees for several weeks before an attorney general freed or transferred them to a prison to await trial.

Arbitrary Arrest: Arbitrary and false arrests continued to occur. During antireferendum protests and civil unrest in October, authorities arrested hundreds of persons suspected of being associated with the opposition. According to eyewitnesses and local human rights NGOs, police conducted mass arrests, often at night, in neighborhoods with a strong opposition base.

In May 2014 authorities arrested three asylum seekers from the DRC--former members of the erstwhile Zairian Armed Forces--without charge during Operation

Mbata Ya Bakolo and detained them for almost 13 months at central police headquarters in Brazzaville. Authorities released them on May 2, following legal advocacy by a local human rights NGO. Authorities never informed them of the reason for their arrest nor compensated them for time spent in detention.

Pretrial Detention: The penal code sets a maximum of four months in pretrial detention, which may be extended an additional two months with judicial approval; thereafter detainees must be released pending their court hearings. Authorities did not observe this requirement. Between 60 and 75 percent of detainees in the prisons were pretrial detainees. Prison authorities stated the average provisional detention for noncriminal cases lasted one to three months and for criminal cases at least 12 months. Human rights activists, however, stated the average was much longer, commonly exceeding a year, and sometimes exceeding the maximum sentence for the alleged crime.

In 2013 the president of the HRC, Jean Martin Mbemba, spent much of the year under de facto house arrest. The domestic intelligence service accused him of harboring a member of the security forces allegedly in criminal possession of weapons in his compound. Authorities reportedly permitted Mbemba to travel to France for medical care in 2014, and he has lived there since. On June 16, the Supreme Court decided to prolong the detention of the remaining codefendants arrested without charge with Mbemba--Loukossi Samba Mountou, a former bailiff; Ismael Christian Mabarry, a former gendarme; and Colonel Jean-Claude Mbango, the former chief of police of the Pool Region--postponing final adjudication of the case to an unspecified date. The defendants, whom authorities have held without charge since 2013, told their lawyers authorities tortured them.

Lengthy pretrial detentions were primarily due to the judicial system's lack of capacity and political will. The penal code defines three levels of crime: the misdemeanor (punishable by less than one year in jail), the delict (punishable by one to five years in jail), and the felony (punishable by more than five years in jail). Criminal courts try misdemeanor and delict cases regularly. The judicial system, however, suffered from a serious backlog of felony cases. By law criminal courts must hear felony cases four times per year. This was not possible because the ministry received funding irregularly for processing the more expensive and legally complex felony cases.

#### **e. Denial of Fair Public Trial**

Although the constitution and law provide for an independent judiciary, the judiciary continued to be overburdened, underfunded, poorly organized, and subject to political influence and corruption. Authorities generally abided by court orders; however, judges did not always issue direct court orders against accused authorities.

In rural areas traditional courts continued to handle many local disputes, particularly property, inheritance, and witchcraft cases, and domestic conflicts that could not be resolved within the family.

The Ministry of Justice can invoke the Martial Court, a temporary military tribunal for trying criminal cases involving military members, gendarmes, or police, by special mechanism. Since its establishment, it has never convened. The court is not allowed to try civilians.

### **Trial Procedures**

The constitution provides for the right to a fair trial presided over by an independent judiciary, but authorities did not always respect this right. In 2011 the Ministry of Justice began to decentralize the trial process. Appeals courts exist in five departments--Brazzaville, Pointe-Noire, Dolisie, Owando, and Ouesso--and since 2011 each has had authority to try felony cases brought within its jurisdiction.

Defendants have the right to be informed promptly and in detail of the charges (with free interpretation as necessary). Defendants have a right to a fair and public trial in all criminal cases and to a trial by jury in felony cases. Defendants in all criminal trials have the right to be present at their trial and to consult with an attorney in a timely manner, although this did not always occur. The law obligates the government to provide legal assistance to any indigent defendant facing serious criminal charges, but such legal assistance was not always available because the government did not generally pay for public defenders.

Defendants have the right to adequate time and facilities to prepare a defense. The defense has the right to access government-held evidence. Defendants also have the right to confront or question accusers and witnesses against them and present witnesses and evidence on their own behalf. Defendants have the right not to be compelled to testify or confess guilt and have the right to appeal. In principle, the law extends these rights to all citizens, and the government generally abided by these provisions.

## **Political Prisoners and Detainees**

During the year authorities held dozens of political prisoners who had publicly expressed their opposition to the government. For example, on October 9, police arrested six males ages 17 to 22 belonging to various political opposition groups for their nonviolent participation in a Brazzaville protest against the referendum. Police detained them under a charge of “a need for further investigation.” As of December 31, authorities had only released two.

Authorities continued to detain 13 members of the political group Circle of Democrats and Republicans of Congo, despite the recommendation for their immediate release by the UN Working Group on Arbitrary Detention in November 2014. Authorities first arrested the group’s members for having organized a protest march in Pointe-Noire in 2013. The marchers reportedly carried banners with antigovernment slogans and demanded the resignation of the government for alleged malfeasance and the establishment of a government of national unity under Modeste Boukadia, a 2009 presidential candidate who at that time was in self-imposed exile in Paris. Authorities arrested 27 members of the group for holding an unauthorized public march and threatening public order, and detained the protesters for seven months. In April 2014 the criminal court in Pointe-Noire acquitted 14 of the group’s members but convicted 13 of “an attempt on state security,” issuing sentences of two to seven years. The court sentenced Modeste Boukadia in his absence to 30 years of hard labor. It was not known if international human rights or humanitarian organizations had access to these prisoners.

## **Civil Judicial Procedures and Remedies**

In contrast to felony courts, civil courts reviewed cases on a regular basis throughout the year. Civil courts experienced long delays--although shorter than felony courts--but were considered functional. Individuals may file a lawsuit in court on civil matters related to human rights, including seeking damages for or cessation of a human rights violation. The public, however, generally lacked confidence in the judicial system’s ability to address human rights problems.

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

The constitution and law prohibit such actions; the government, however, did not always respect these prohibitions.

During the week of October 20, the government cut most internet links, fiber optic networks, SMS services, and some cellular voice service. Authorities intermittently restored voice service, but internet and SMS services remained almost completely unavailable until November 1.

In October there were dozens of reports police entered homes without judicial authorization, often in the middle of the night, to conduct searches and arrests.

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

### **a. Freedom of Speech and Press**

The constitution and law provide for freedom of speech and press, but authorities often restricted these rights for those holding opposing political views. The government increased its media restrictions and journalist intimidation by closing one newspaper and radio station, disrupting the local retransmission signals of international media, and arresting one journalist.

Freedom of Speech and Expression: Individuals could criticize the government publicly or privately on relatively minor issues but risked reprisal, including arrest and prolonged detention, if they named high-level officials while criticizing government policies. The constitution provides for freedom of expression in all forms of communication and prohibits censorship. The constitution, however, criminalizes speech that incites ethnic hatred, violence, or civil war and makes it punishable by no less than five years in jail. It also criminalizes any act or event that promotes racism or xenophobia. Authorities cited this law at least once during the year in the context of the public debate over whether to change the country's 2002 constitution (see section 3).

According to media reports, authorities in Pointe-Noire detained eight young men from April 14-27 for selling CD's with allegedly subversive content. Authorities reportedly released the young men without charge.

On December 8, several media and NGO sources reported a police officer shot and killed a male juvenile in Dolisie for burning school supplies that President Sassou's son had allegedly donated to his community.

Press and Media Freedoms: There was one official state-owned newspaper, *La Nouvelle Republique*, which published irregularly, and approximately 100 private

publications, most of which were closely aligned with the government; others occasionally criticized the government. One daily newspaper that received government funding and a twice-weekly newspaper founded by the Catholic Church were the only publications with circulation outside Brazzaville.

Most citizens obtained their news from local retransmission of international media and local radio or television stations. Approximately 95 radio stations, three of which were government-owned, and 26 television stations, two of which were government-owned, operated with limited coverage throughout the country. Tele-Congo and Radio Congo, both government owned, were the only stations with nationwide coverage. Tele-Congo did not cover many events that took a critical view of the government. The majority of radio and television stations not owned by the government had low bandwidth, did not reach large parts of the country, and was owned by politicians or members of the government. Satellite television services were available for the few who could afford them.

By law media outlets are required to register with the Superior Council for Liberty of Communication (CSLC), the independent media regulatory body whose director is selected by the president. According to its charter, the CSLC is authorized to impose financial sanctions on any media outlet that violates media regulations. The law requires journalists to have a press card issued by the CSLC. To get a press card, journalists must provide evidence of their training or degree in journalism, a criminal background check, a residency card, and have their names submitted by their former employer. Freelance journalists must apply through a CSLC-registered entity. Authorities subject journalists without press cards to arrest and imprisonment, although according to freelance journalists, authorities generally did not enforce the law, and many journalists operated freely without a press card. On January 25, the CSLC announced 90 percent of the 92 privately owned radio stations, 24 privately owned television stations, and approximately 100 private newspapers were “irregular” or unregistered, but authorities took no known action to fine or close unregistered media outlets. Such unregistered media had no official, declared office or staff.

Government journalists generally were not independent, and the majority of journalists and editors practiced self-censorship and promoted the editorial views of media owners, most of whom were current or former government officials. Newspapers occasionally published open letters written by government opponents.

Violence and Harassment: There were multiple reports of direct and indirect intimidation by the government.

On October 25 and 31, police raided the home and broadcasting headquarters of Maurice Massengo Tiasse, director of Radio Forum, an independent station, who also served as second vice president of the National Human Rights Commission under the Ministry of Justice and Human Rights. Police destroyed equipment and cut transmission. Tiasse had recently broadcast parental appeals for information about the welfare and whereabouts of several youths reported missing from the southern part of Brazzaville. Tiasse went into hiding and emerged briefly November 21. Authorities prevented him from boarding a flight to Paris to seek medical treatment on December 5, and subsequently he returned to hiding.

In April, Guy Milex Mbondzi, journalist and editor of *La Voix du Peuple*, an independent media organization, was called before the CLSC after criticizing the restricted press freedoms in the country in a public broadcast.

Additional reports of alleged intimidation included the following: police use of force against journalists attempting to report on sensitive events; attempts to prevent journalists sympathetic to the opposition from traveling internationally; telephone calls from official and anonymous persons warning journalists not to use footage of politically sensitive events; administrative closures and withdrawal of operating licenses of private news organizations; and pressure on news outlets not to run certain stories or footage.

Censorship or Content Restrictions: On October 20, the government cut the local retransmission signal for Radio France Internationale, (RFI) which, as of December, remained cut. The minister of communications claimed a storm had damaged the RFI transmitter.

On June 30, the CSLC indefinitely suspended newspaper *La Voix du Peuple* for allegedly having published false news. Several newspaper suspensions imposed in 2013 continued, including those of *La Griffes*, *Le Nouveau Regard*, and *La Verite*. Private newspapers affiliated with government officials received no sanctions for publishing false news.

Many independent and government-employed journalists continued to practice self-censorship. There were no reports the government revoked journalists' accreditations if their reporting reflected adversely on the government's image.

Libel/Slander Laws: The press law provides for monetary penalties and suspension of a publication's permission to print for defamation and incitement to violence.

### **Internet Freedom**

There were several occasions when the government disrupted internet access during the year. For example, from October 20 to November 1, the government shut down most of the internet throughout the country. Previously, the government disrupted local internet service on July 7 from 9 a.m. to 5 p.m. and on July 8 from 9 a.m. to 2 p.m., during rescheduled end-of-year baccalaureate exams to prevent high school students from cheating. There were credible reports the government both monitored private online communications without appropriate legal authority and censored online content by cutting internet access. According to the most recent statistics from the International Telecommunication Union, 7.11 percent of individuals used the internet in 2014.

### **Academic Freedom and Cultural Events**

There were no reported government restrictions on academic freedom or cultural events. The atmosphere of public discourse in the country, however, was such that some degree of self-censorship was common in academia and at cultural events. This was especially true in universities, where there was little room for public discourse on politically sensitive topics. University-level professors were not always intellectually independent, since many held second jobs as close advisors to government officials. Additionally, the traditional classroom format was a teacher-led lecture, and open dialogue was generally not part of the academic environment.

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

### **Freedom of Assembly**

The constitution and law provide for freedom of assembly; however, the government did not respect this right during the campaign period prior to the October 25 referendum.

The government required groups that wished to hold public assemblies to seek authorization from the Ministry of Interior and Decentralization and appropriate local officials. Both the ministry and local officials sometimes withheld authorization for meetings they claimed might threaten public order. They also



created unnecessary obstacles to gaining authorization and called police to disperse meetings they claimed had not received proper authorization.

On August 29, police forcibly blocked opposition member Paulin Makaya, head of the United for Congo (UPC) party, from holding a UPC rally in the southern province of Bouenza. Video of the encounter on social media showed police officers and vehicles blocking the road and gesturing with their weapons at Makaya and his entourage.

For example, on October 20, police, military, and irregular security forces used checkpoints, machetes, canes, tear gas, and guns to prevent forcibly a day of planned civil disobedience against the referendum scheduled for October 25. Authorities quarantined entire neighborhoods in the southwestern portion of Brazzaville for several days, prohibiting access to most vehicular and pedestrian traffic. Public transportation, private taxis, and public schools halted operations for several days, preventing thousands of persons from working and going to school.

Political opposition groups alleged the newly appointed prefect of Brazzaville began rejecting several of their permit applications for events while allowing political events supporting the ruling party to take place.

### **Freedom of Association**

The constitution and law provide for freedom of association, and the government sometimes respected this right. Political, social, or economic groups or associations were required to register with the Ministry of Interior and Decentralization. Authorities sometimes subjected registration to political influence. According to a local NGO, groups that spoke openly against the government encountered overt or implied intimidation and found the registration process more time-consuming.

On October 21, police raided the headquarters of the Pan-African Union for Social Democracy political party in a neighborhood of Brazzaville and arrested six leaders and dozens of supporters from various opposition groups during a meeting. Authorities accused them of having manufactured Molotov cocktails; they denied the charges, and authorities released them later the same day, after police questioned them.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

#### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation. The government generally respected these rights for refugees and asylum seekers, but not for undocumented immigrants from the DRC in the country's larger cities.

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

On July 20, the government revoked the prima facie refugee status of individuals from the CAR, an action UNHCR believed was premature due to ongoing instability and potential violence in CAR.

Foreign Travel: The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, but the government repeatedly violated these rights, especially for opposition politicians.

For example, on July 6, airport security officials at Brazzaville's Maya-Maya airport prevented Pascal Tasty Mabilia, a leader of the Pan-African Union for Social Democracy party, one of the main opposition parties, along with a few others, from leaving the country. Officials informed Mabilia they had received orders not to allow him or two other politicians to travel abroad. Authorities allowed the two other politicians, a member of the ruling party and an opposition member of parliament, to board the plane after initially stopping them. On July 27, security officials again prevented Mabilia from leaving the country.

By law all citizens are eligible for a national passport. The government, however, lacked the capacity to produce passports in sufficient numbers to meet demand and prioritized providing passports to those individuals who could demonstrate imminent need to travel or who had strong government connections. Obtaining a passport was a time-consuming and difficult process for most persons.

Exile: After spending most of 2013 under the equivalent of house arrest, authorities allowed the government's Human Rights Commission president and former minister of justice, Jean Martin Mbemba, to travel to France for medical treatment in 2014; authorities accused Mbemba of illegally harboring a security force member who was in criminal possession of weapons. During the year Mbemba announced he would remain in France for an undisclosed period of time.

### **Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has a system for providing protection to refugees, but not asylum seekers.

According to UNHCR only 4 percent of asylum seekers had been determined to be refugees, and it took an average of six years for them to complete the filing process and obtain refugee status. There are no laws recognizing asylum seekers nor any laws implementing the protections afforded in the 1951 Refugee Convention, to which the government is a signatory.

As of September 8, the country hosted 61,492 refugees, 6,869 of whom arrived during the year. There were 3,248 asylum seekers, 111 of whom arrived during the year. Fifteen refugees requested repatriation, and UNHCR organized their return to their country of origin.

As of October 6, 119,031 DRC nationals had repatriated since 2012, including seven during the year. An additional 156 new DRC refugees registered with UNHCR during the year, bringing the total to 23,449 registered DRC refugees. There were 225 new requests for asylum from DRC nationals, making the total 2,237 asylum seekers from the DRC.

As of October 2, the country hosted 9,122 Rwandan refugees, most of whom fled the genocide in 1994. At a tripartite meeting in 2012, the governments of the Republic of the Congo and Rwanda, with UNHCR, agreed to invoke a cessation clause that would revoke the refugee status of Rwandans in the Congo beginning on June 30, 2013. As of that date, the agreement required Rwandan refugees to return to Rwanda, formalize their legal status in the Congo, or apply for refugee status based on individual claims due to particular circumstances. UNHCR reported nearly all Rwandans subject to the cessation clause chose to file for an individualized determination of refugee status. The Congolese government had not begun the interviews to determine individualized status and said those who had

filed would be viewed as refugees until it makes a final decision on their applications. Between January 1 and October 2, 11 Rwandans repatriated from the Congo without seeking Congolese citizenship. As of October 2, there were 361 asylum seekers from Rwanda in the Congo.

UNHCR recommended cessation of refugee status for Angolan refugees, effective June 2012, and the government began implementing cessation for Angolans in September 2012. As of October 2, the Congo hosted 469 refugees from Angola who had filed for individualized determinations of refugee status. The government had not begun interviews to determine individualized status and stated those who had filed would be viewed as refugees until it made a final decision on their applications. Between January 1 and October 2, 248 Angolans repatriated from the Congo. The country hosted 89 Angolan asylum seekers; there were 29 new asylum applications from Angolans during the year.

The country saw an influx of persons fleeing violence in the CAR beginning in December 2012. According to UNHCR, as of October 2, the country hosted 28,247 refugees from the CAR; 6,579 arrived during the year. There were 113 registered asylum seekers from the CAR, of whom 17 registered during the year.

The National Refugee Assistance Committee (CNAR) handled applications for refugee status. The CNAR received all its operating budget from UNHCR.

Local integration for refugees in the country was particularly difficult due to the cost of acquiring a residence permit, 350,000 CFA francs (\$607). According to UNHCR no refugees obtained a residency card or alternative status as of November 23.

Refoulement: The government reportedly did not always provide protection against the expulsion or involuntary return of refugees to countries where their lives or freedom might be threatened because of race, religion, nationality, membership in a particular social group, or political opinion. In contrast to 2014, when, according to UNHCR, authorities expelled 86 refugees from the DRC, there were no reports of refugees expelled during the year.

Refugee Abuse: According to UNHCR police authorities harassed and arbitrarily arrested refugees on a regular basis. From January to September of this year, UNHCR received more than a dozen complaints from refugees of physical violence from police during their detention. Police detaining refugees allegedly

did not accept the valid identity cards presented to them and forced refugees to pay a small bribe to avoid arrest or obtain release.

In October 2014 local NGOs reported police destroyed the homes and belongings of 73 refugee families from the CAR during an effort to arrest criminal gang members thought to be living in Zone 753 of the Ouenze neighborhood in Brazzaville.

According to UNHCR gender-based violence was frequent at refugee sites, with 27 cases of rape reported from January through July; 16 involved minors. Refugees lodged 11 of these complaints with authorities as official complaints. There were 64 cases concerning gender-based violence pending before the courts, none of which was resolved during the year. The vast majority of such incidents went unreported because complaints could take three or more years before courts examined them. Families of victims often preferred settlements through traditional justice mechanisms of negotiating directly with the perpetrators. UNHCR's protection officers and medical partners provided medical, psychosocial, and legal assistance to victims of gender-based violence, including rape. Refugees had equal access to community health centers and hospitals, but reported discriminatory treatment at some hospitals, including insults by medical personnel and not being treated in priority order relative to their medical condition. Refugees had equal legal recourse for criminal complaints (for example, rape) and civil disputes.

Employment: The law does not address employment for refugees, but government decrees issued in 2005, 2008, and 2011 prohibit foreigners, including refugees, from practicing small trade activities and working in the public transportation sector. Following the operation to expel undocumented migrants in 2014, police aggressively implemented these laws, resulting in sudden and mass unemployment of refugees. According to UNHCR, due to strict enforcement of the law, 295 refugees registered as taxi drivers and 550 refugee families involved in small trade activities became unemployed during the year.

Several rural localities banned foreigners from continuing their farming activities. According to UNHCR early in the year in the rural village of Inoni in the north of the Pool region, Congolese property owners unexpectedly evicted approximately 300 Rwandan refugee families who had been leasing land for agricultural purposes for upwards of seven years. According to customary laws, property owners may require foreigners to pay an extra licensing fee to lease property or land.

In recent years anecdotal evidence suggested quotas and excessive work permit fees limited refugee employment opportunities in the formal sector. A health-care organization stated the law required it to hire the country's nationals for at least 90 percent of its positions, and authorities required refugees to obtain two-year work permits that cost approximately 150,000 CFA francs (\$260), approximately equivalent to three months' salary.

Many refugees worked informally in the agriculture sector to obtain food. Some refugees farmed land that belonged to local nationals in exchange for a percentage of the harvest or a cash payment.

Access to Basic Services: UNHCR-funded primary schooling was accessible to most refugees. Due to budget restraints during the year, however, UNHCR reduced support, and school attendance rates dropped by 21 percent. During the academic year, primary schools enrolled 5,273 refugee children, including 2,157 girls. Authorities severely limited access to secondary and vocational education for refugees. Most secondary education teachers at such schools were refugees who either volunteered to teach or were paid by the parents of refugee children. There were 1,346 refugee children enrolled in secondary school, of whom 680 were girls.

Durable Solutions: In 2010 the government signed a tripartite agreement with the government of the DRC and UNHCR that outlined the conditions and means for voluntary repatriation of the Likouala refugees to the DRC's Equateur Province. Authorities delayed large-scale repatriation due to the refugees' desire to wait for both international repatriation assistance and the consolidation of post-conflict peace and reconciliation between the Lobala and Boba tribes. Since the beginning of the UNHCR repatriation campaign in 2012, the agency repatriated more than 119,000 DRC nationals to Equateur Province.

### **Section 3. Freedom to Participate in the Political Process**

The constitution and law provide citizens the ability to change their government through free and fair elections; however, this ability was restricted by irregularities during the 2009 presidential, 2012 legislative, and 2014 local elections, and during the October referendum.

#### **Elections and Political Participation**

Recent Elections: On October 25, the ruling Congolese Labor Party (PCT) and its allies won a landslide victory in a referendum to replace the previous constitution, with 94 percent of the vote and a 71 percent participation rate, according to the government. The opposition and international community questioned the credibility of the process and the results. In four northern provinces, Cuvette, Cuvette-Ouest, Sangha, and Likouala, observers stated voters cast more than 370,000 votes, but registered only 448 “No” votes against constitution change. In two of these provinces, Cuvette-Ouest and Likouala, voters reportedly cast more than 167,000 ballots, of which none were reported as “No” votes. In Likouala 99 percent of the province’s 132,245 registered voters reportedly participated. No internationally recognized organizations formally observed the referendum.

The new constitution removed the upper presidential age limit, changed the previous term limit from two terms of seven years to three terms of five years, abolished the death penalty, granted parity for women in political office, decentralized some power from the presidency by adding the position of a prime minister, and provided immunities to former presidents. On September 22, the president announced the referendum date would be October 25. Opposition political parties called for a cancellation or, failing that, a national boycott of the referendum and planned civil disobedience.

On October 17, in Pointe-Noire, police reportedly clashed with opposition supporters who had gathered at an approved rally site, leading to at least one death and 13 confirmed injuries requiring hospitalization, four of which were bullet wounds from shots fired by police. On October 20, in Brazzaville opposition supporters erected hundreds of barricades over extensive areas. Police also set up numerous checkpoints to quarantine and effectively block access to previously announced rally sites and egress from quarantined neighborhoods. There were reports of both the civilians and security forces in Pointe-Noire, Brazzaville, and other cities looting shops. Protesters burned public buildings, police stations, and the houses of public officials, including several ministers. In Brazzaville the government reported four dead, while the opposition initially reported at least 16. Morgue records, NGOs, open source accounts, and social media, however, estimated the civilian death toll to be 35.

Local NGOs and political opposition supporters cited irregularities and fraud throughout the accelerated electoral season. These included a shortage of voting stations, lack of voter registration cards, and police seeking to intimidate citizens to vote “Yes” to constitutional change or stay home. There were also reports of opposition supporters intimidating voters. Thousands of persons were paid and

transported to pro-presidential rallies and voting stations using government resources, while opposition supporters faced intimidation and security restrictions on attending their rallies or in trying to vote, according to numerous eyewitness and media accounts.

In September 2014 the president's PCT party and its allies swept local elections originally scheduled for July 2013, gaining almost half of the seats. Authorities delayed the elections due to the protracted special administrative census agreed to at a national political dialogue in March 2013. The government began the census in August 2013. Several opposition parties denounced the census as designed to inflate counts where the PCT was strongest. The primary opposition party, the Pan-African Union for Social Democracy (UPADS), withdrew from the process after the first round of data analysis showed a nearly 50 percent increase in the population of the northern departments (where the PCT was strongest) and an approximately 25 percent reduction in some areas of the south (where the PCT was weakest) since the 2007 general census. Opposition parties alleged inflated population numbers in the north would help the PCT perpetuate its near total dominance of the senate.

The local elections determined the composition of an electoral college to select half of the members of the senate, the upper house of the bicameral legislative branch, giving the PCT almost 80 percent of senate seats. The PCT and allied parties also held 85 percent of national assembly seats won by direct suffrage in 2012. Voters elected seven opposition national assembly candidates, all of whom belonged to UPADS. Civil society election observers estimated the voter participation rate at 10 to 15 percent.

Denis Sassou N'Guesso won re-election as president in the 2009 election with a claimed 78 percent of the vote. Officially, 66 percent of eligible voters participated in the election, although the opposition estimated the turnout to be much lower. While the election was peaceful, opposition candidates and NGOs criticized the election for irregularities such as gross manipulation of voter lists and discrepancies between the officially reported rates of voter participation and those observed by independent election observers. The AU declared the elections free and fair.

**Political Parties and Political Participation:** Many of the opposition parties formed two major coalitions during the year, the Republican Front for the Respect of Constitutional Order and Democratic Change (FROCAD) and the Initiative for Democracy in Congo (IDC).



There were attempts to impede criticism of the government through arrests and disruption of political meetings. For example, on October 18, regional authorities blocked a convoy of political opposition leaders for five hours at a tollgate as they attempted to travel from Pointe-Noire to Dolisie to attend a planned opposition rally against the constitutional referendum. The chief prosecutor reportedly intervened to permit them to travel back to Brazzaville later that day.

On October 20, security forces surrounded the private houses of political opposition leaders Andre Okombi Salissa and Guy Brice Parfait Kolelas, effectively placing them under house arrest for 10 days and prohibiting access to any visitors except representatives from the French embassy, in the case of Kolelas, who is a dual French national. The house arrests ended on October 30.

Opposition parties often encountered government restrictions. For example, on October 28, intelligence police delivered a summons to Paulin Makaya of the United for Congo Party. Police reportedly ransacked his house, and Makaya went into hiding for several days. On November 23, authorities arrested Makaya inside a prosecutor's office, where he was filing a complaint against police for the aforementioned ransacking of his property. Authorities charged him with keeping weapons of war at his personal residence. As of December 31, he remained in detention with no date set for his trial. During the week of July 20, authorities arrested at least four members of a supporter organization for Andre Okombi-Salissa, leader of the Convention for Action, Democracy, and Development (CADD) political group, in the middle of the night at their homes in Brazzaville, ostensibly for fraudulently applying for an event permit.

According to social media accounts, authorities arrested additional opposition supporters the same week in Pointe-Noire. Authorities reportedly beat, tortured, threatened, and offered cash to some of the men in exchange for their future silence. On July 23, a group of CADD supporters estimated to number 50 to 150 congregated outside the security police facility in downtown Brazzaville where police held the prisoners, and demanded the release of their colleagues or to be arrested themselves. The police released the men without further action.

In mid-July the prefect of Brazzaville reportedly rescinded a political opposition group's permit to assemble for a rally at the national parliament and a Catholic church.

On September 27, a coalition of opposition parties hosted a rally in Brazzaville to protest President Sassou's announcement of intent to hold a constitutional referendum expected to remove the presidential term limit. While the rally was constitutionally permitted and drew at least 25,000 attendees, police attempted to prevent individuals' attendance by blocking some roads. Additionally, unmarked vehicles equipped with megaphones drove through neighborhoods in advance of the rally warning that security officials would shoot attendees with live ammunition or the latter would risk beatings.

Participation of Women and Minorities: There were 10 women in the 72-seat senate and 13 women in the 139-seat national assembly. There were three women in the 35-member cabinet after the August 10 cabinet reshuffle. No laws limited women's political participation as voters or candidates. Observers suggested cultural constraints may limit the number of women in government. Sexual harassment discouraged women's participation in political activities.

In August 2014 the president signed a law requiring that women make up 30 percent of each party's slate of candidates for local or legislative elections. The new constitution granted parity for women in political positions, and mandated the creation of a national advisory council for women, but did not specify whether the promotion of parity related to pay, benefits, appointment to political positions, or other issues.

Many indigenous persons--mostly Baka--were excluded from the political process. Reasons included their isolation in remote areas, lack of registration, cultural barriers, and stigmatization by the majority Bantu population (see section 6).

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides for criminal penalties for corruption by officials; however, the government did not implement the law effectively, and officials engaged in corrupt practices with impunity.

According to the World Bank's most recent Worldwide Governance Indicators, government corruption was a severe problem, although the bank and the International Monetary Fund noted the government continued anticorruption reforms.

There was a widespread perception of corruption throughout government, including misuse of revenues from the oil and forestry sectors. Some local and

international organizations claimed government officials, through bribes or other fraud, regularly diverted revenues from these sectors into private overseas accounts before officially declaring the remaining revenues.

Corruption: The National Commission to Fight Corruption and Fraud (CNLCCF) and the Anti-Corruption Observatory (OAC) are responsible for combating corruption and fraud. The CNLCCF is tasked with maintaining a record of reported cases of fraud in the public and private sectors, instituting a government anticorruption plan, and providing technical support for any public or private institution seeking to establish its own antifraud or anticorruption plan. The OAC is an independent government body created under the auspices of the CNLCCF. The OAC is tasked with auditing the government, implementing the anticorruption plan as it applies to central government agencies, and developing governance reforms.

Financial Disclosure: The constitution mandates that senior elected or appointed officials disclose their financial interests and holdings both before taking office and upon leaving office. Failure to do so is legal grounds for dismissal from a senior position. The Constitutional Court is tasked with enforcement of this constitutional provision; however, authorities did not enforce this provision, and no financial disclosure statements were made public during the year. The autonomous agency National Agency for Financial Investigation (ANIF) is tasked with investigating suspicious financial transactions and, if necessary, forwarding the information to the competent judicial authorities. Its mandate is primarily related to the fight against money laundering and transnational criminal groups; however, ANIF's mandate extends to transactions by government officials as well.

Public Access to Information: The constitution and law provide for public access to government information for citizens, noncitizens, and the foreign media; however, authorities did not effectively implement the law. There were no unreasonable processing fees associated with requests for information, although there were generally lengthy delays before the government released information, if at all. Individuals may appeal denials of access to information to the Constitutional Court, but the court did not hear denial appeals.

During and following the period of civil unrest related to the constitutional referendum, authorities refused human rights NGOs and journalists entry to morgues and other government facilities normally open to the public.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A number of domestic and international human rights groups generally operated without government restriction during their investigations and when publishing their findings on human rights cases. Government officials generally were more cooperative with and responsive to international groups than to domestic human rights groups. Some domestic human rights groups tended not to report on specific incidents due to fear the government would impose obstacles to their work.

Throughout the year human rights NGOs that monitored detention conditions requested letters of permission from the Ministry of Justice to visit prisons. Their repeated requests went unanswered and, consequently, prisons in Djambala and Brazzaville, and police detention stations in Sembe and Sangha continued to refuse the NGOs access.

Government Human Rights Bodies: The government-sponsored HRC is charged with acting as a government watchdog and addressing public concerns on human rights problems. Some civil society members claimed the commission was completely ineffective, lacked independence, was primarily composed of persons who had no expertise in human rights, and was created to appease the international community. The president appointed most, if not all, of its members. The president of the commission, Jean Martin Mbemba, was the subject of a long-running political crime trial, but authorities permitted him to leave the country in 2014 to undergo medical treatment in France. The second vice president of the commission, Maurice Massengo Tiasse, fled into hiding for several days in October after police raided his independent radio station.

The HRC did not undertake any activities directly responding to human rights problems in the country during the year.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The constitution and law prohibit discrimination based on family background, ethnicity, social condition, political, philosophical or other beliefs, gender, religion, region of origin within the country, place of residence in the country, language, HIV-positive status, or disability. The constitution and law do not specifically prohibit discrimination of persons based on national origin or citizenship, sexual orientation or gender identity, or having other communicable diseases.

Throughout the year the government did not effectively enforce these prohibitions.

The Ministry of Social Affairs and the Ministry for Promotion of Women's Rights are the lead government bodies charged with protecting and promoting the rights of vulnerable groups, including women, children, the elderly, the handicapped, and indigenous people (Baka). The Ministry of Social Affairs was particularly active, but its effectiveness was impeded by limited funding and lack of coordination with other ministries.

## **Women**

Rape and Domestic Violence: Rape is illegal. The government did not effectively enforce the law. The law prescribes five to 10 years in prison for violators. According to a local women's group, however, penalties actually imposed for rape ranged from as few as several months' imprisonment to rarely more than three years. NGOs and women's advocacy groups reported rape, especially spousal rape, was common. A local NGO noted 260 rapes were reported in 2013 but added that only a fraction of rapes were reported. The cost to obtain a police report verifying rape was 30,000 CFA francs (\$52). Authorities prosecuted fewer than 25 percent of reported rapes, according to local and international NGOs. According to the Association for Progressive Communications (APC), a regional NGO, medical rape kits were available only in Brazzaville. In Pointe-Noire, only HIV tests were free for rape victims; all other laboratory tests were at the expense of the patient. In three major urban centers, there were no psychologists to treat rape victims.

Domestic violence against women, including rape and beatings, was widespread but rarely reported. There were no specific provisions in the law outlawing spousal battery other than general statutes prohibiting assault. The extended family or village traditionally dealt with domestic violence matters, and victims reported only more extreme incidents to police because of victims' fears of social stigma and retaliation and a lack of confidence in the courts. Local NGOs sponsored domestic violence awareness campaigns and workshops and launched a user-based website, which maps incidents of domestic violence by exact location.

Sexual Harassment: Sexual harassment is illegal. Generally, the penalty is two to five years in prison. In particularly egregious cases, the penalty may equal the 10-year prison sentence maximum for rape. The government did not effectively enforce these laws. No official statistics were available, but according to local NGOs, sexual harassment was very common but rarely reported. Sexual harassment discouraged women's participation in political, economic, and social activities.

For example, according to news reports and a human rights NGO, at Marien Ngouabi University, professors systematically sexually harassed female students, demanding sexual favors in return for good grades and recommendations.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing and timing of their children, manage their reproductive health, and have access to the information and means to do so, free from coercion, discrimination and violence. Emergency health care normally is not provided for abortion since most of the population believes it to be illegal, and abortion is not allowed in public hospitals (there are no private hospitals). There are no restrictions on the right to access contraceptives. The government worked with multilateral organizations and international NGOs to make male and female contraceptives widely available and free of charge as part of anti-HIV efforts. A 2012 foreign donor's Demographic and Health survey estimated 20 percent of married women used a modern method of family planning. In 2013 the World Health Organization (WHO) estimated there were 410 maternal deaths per 100,000 live births, and a woman's lifetime risk of maternal death was one in 48. Despite the high rate of maternal mortality, WHO reported skilled health-care personnel attended approximately 94 percent of births in 2012. During the year, however, NGOs reported local health clinics and public hospitals were generally in poor condition and lacked experienced health-care staff. Despite the law mandating free emergency obstetric care and Caesarian sections, in practice, women had to provide their own medical equipment for doctors to use during the operations, which cost 100,000 CFA francs (\$173).

Discrimination: Both customary marriage and family laws and civil laws enacted by the government govern the rights of women, children, and extended families. Adultery is illegal for both women and men, although the penalty differs. Under the law men can receive only a fine for adultery, while women can receive a prison sentence. Polygyny is legal, while polyandry is not. Customary law divides a husband's estate among a surviving spouse, children, and extended family. The minimum legal age for marriage for men is 21 and for women 18. The law limits bride wealth to a symbolic amount of 50,000 CFA francs (\$87), although in practice families negotiate the amount.

By law men are considered the head of the household, unless the father becomes incapacitated or abandons the family. The law dictates that in the absence of an agreement between spouses, men shall choose the residence of the family.

Women experienced economic discrimination with respect to employment, credit, equal pay, and owning or managing businesses (see section 7.d.). Access to education and wage employment continued to improve slowly for women, particularly outside of rural areas. A few local and international NGOs had microcredit programs for women, and government ministries, including those of social affairs and agriculture, helped women create small income-producing businesses.

## **Children**

Birth Registration: Children acquire citizenship from their parents. Birth within the territory of the country does not automatically confer citizenship, although exceptions exist for children born of missing or stateless parents, or children born of foreign parents, at least one of whom was also born in the Congo. The government does not require registration of births; it is up to parents to request birth registration for a child. A birth certificate is necessary, however, for school enrollment and other services. Indigenous people (Baka), particularly those living in remote villages, had difficulty registering since registration offices were located only in district and provincial capitals.

Education: Education is compulsory, tuition-free, and universal until the age of 16, but families are required to pay for books, uniforms, and health insurance fees. School enrollment was generally higher in urban areas. Specific data were lacking, but most indigenous children could not attend school because they did not have birth certificates. School facilities were overcrowded and poorly maintained. Girls and boys attended primary school in approximately equal numbers; however, boys were five times more likely than girls to go to high school and four times more likely than girls in high school to go to university. Police operations launched in April 2014 to expel irregular immigrants (see section 2.d.) also prevented children from the DRC who were living in Brazzaville from attending school for fear of deportation.

Child Abuse: Child abuse was not commonly reported to authorities, but NGOs reported it was prevalent.

Early and Forced Marriage: The law prohibits child marriage, and the legal age for marriage is 18 years for women and 21 for men. Underage marriage is possible with a judge's permission and with the permission of both sets of parents; the law does not specify a minimum age in such a case. In practice many couples engaged in an informal common-law marriage not legally recognized, while grooms saved

for a legally recognized traditional, court, or church wedding. According to the UN Population Fund, 33 percent of women 20 to 24 years old were married by the age of 18 in 2009, although the government expressed skepticism the percentage was so high.

There is no government program focused on preventing early or forced marriage. The penalty for forced marriage between an adult and child is a prison sentence of three months to two years and a fine of 150,000 to 1.5 million CFA francs (\$260 to \$2,600).

Sexual Exploitation of Children: A child protection code provides penalties for crimes against children such as trafficking, pornography, neglect, and abuse. Penalties for these crimes range from forced labor to fines of up to 10 million CFA francs (\$17,331) and prison sentences of several years. The penalty for child pornography includes a prison sentence of up to one year and a fine up to 500,000 CFA francs (\$867). The minimum age for consensual sex is 18. The maximum penalty for sex with a minor is five years' imprisonment and a fine of 10 million CFA francs (\$17,331). The government appointed special judges to hear cases pertaining to children at the Court of Appeals, but the court heard no cases during the year. A prosecutor cited a lack of specificity in the child protection code as an obstacle to successful prosecution.

There were cases of children, particularly those who lived on the streets in the larger cities, subjected to sexual exploitation. Authorities increasingly enforced laws that prohibit the exploitation of children, including sexual exploitation. The prevalence of the problem remained unclear, although the UN Children's Fund estimated in 2007 that 25 percent of the approximately 1,800 children trafficked to the Congo were sexually exploited. A 2013 study by the International Organization for Migration indicated the majority of children subjected to commercial sexual exploitation originated in the DRC. The extent of sex trafficking and exploitation of children in rural areas remained unclear.

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

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.



## **Anti-Semitism**

There was a very small Jewish community. There were no known reports of anti-Semitic acts.

## **Trafficking in Persons**

See the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

## **Persons with Disabilities**

The law specifically prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or in the provision of other state services. The Ministry of Social Affairs is the lead ministry responsible for protecting the rights of persons with disabilities. In 2009 the ministry introduced a national plan to provide access for persons with disabilities, and the ministry's 2013-16 Social Plan of Action includes an eight-point plan for improving the lives of such persons. There are no laws, however, mandating access for persons with disabilities. The government did not take action during the year to provide equal access for persons with disabilities to public spaces or transportation. The government provides special schools for students with hearing disabilities in Brazzaville and Pointe-Noire. The government mainstreamed children with visual disabilities and children with other physical disabilities into regular public schools. In December 2014 the government started a school to train social workers, teachers for children with disabilities, and sign language instructors.

## **National/Racial/Ethnic Minorities**

The law prohibits discrimination based on ethnicity. Regional ethnic discrimination existed, but it was not as prevalent as in the years following the civil war that ended in 2003, which divided the country largely along regional and tribal lines. Discrimination was not evident in private sector hiring and buying patterns or in the provision of government services such as education, health, or housing. There were no episodes of regional or ethnic violence reported during the year. The perception of regional and ethnic bias was most acute in the upper echelons of government. Although the relationships among ethnic, regional, and political equities could be difficult to discern due to substantial intermarriage and increased geographic mobility over recent generations, observers widely perceived the

president to have filled many cabinet posts and a large portion of the general officer corps with individuals from the northern departments.

### **Indigenous People**

According to local NGOs, indigenous people (Baka) in remote areas were severely marginalized regarding employment (see section 7.d.), health services, and education, in part due to their geographic isolation and different cultural norms. Many Baka in remote areas were not aware of the concept of voting and had minimal ability to influence government decisions affecting their interests. The Ministries of Social Affairs and Justice actively promoted integration of the indigenous population and published a 2014-17 National Plan of Action for Improving the Quality of Life for Indigenous Peoples. A community radio station, Radio Na Biso, worked to promote mutual understanding between the Bantu majority and the indigenous Baka minority.

According to human rights NGOs, in August, during the International Day for Indigenous People ceremony in Ouesso, authorities housed the indigenous population invited to be honored in partially finished, bare housing of the Provincial Directorate with no water or sewage system, while the majority Bantu participants received furnished and finished lodging. On a separate occasion, the Ministry of Social Affairs provided internally trafficked indigenous persons in Brazzaville with support and supplies to return home.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

There is no law that specifically prohibits consensual same-sex sexual conduct. The penal code prescribes imprisonment of three months to two years and a fine for those who commit a “public outrage against decency.” The law prescribes a punishment of six months to three years and a fine for anyone who “commits a shameless act or an act against nature with an individual of the same sex under the age of 21.” Authorities did not employ the law to arrest or prosecute lesbian, gay, bisexual, transgender, or intersex (LGBTI) persons. On occasion, however, police officers harassed gay men and claimed the law prohibited same-sex sexual activity in order to elicit a small bribe. There are no laws that limit freedom of speech or assembly specifically for LGBTI persons.

The Association in Support of Vulnerable Groups, a gay rights NGO, sits on the National HIV/AIDS Committee, whose meetings the president or the minister of

health chairs. A second organization represents the interests of gay men in Pointe-Noire. There was no known advocacy group to represent the interests of lesbian, bisexual, transgender, or intersex individuals in the country.

There were no known cases of violence against LGBTI individuals during the year. The gay men's group in Pointe-Noire, however, privately said police targeted openly gay young men for verbal, physical, or sexual abuse. Although at the official level authorities did not discriminate against LGBTI persons, gay men, particularly the young and the poor, reportedly were vulnerable.

### **HIV and AIDS Social Stigma**

Public opinion polls conducted by the World Bank in 2012 showed significant societal discrimination against individuals with HIV/AIDS. The law provides penalties for unlawful divulgence of medical records by practitioners, negligence in treatment by health-care professionals, family abandonment, and unwarranted termination of employment. Civil society, including organizations advocating for the rights of persons with HIV/AIDS, was fairly well organized and sought fair treatment, especially regarding employment. NGOs and the government worked widely on HIV/AIDS-related problems, including raising public awareness that those with HIV/AIDS could contribute to society.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law allows workers--except members of the security forces and other services "essential for protecting the general interest," including members of the armed forces, police, gendarmerie, and some personnel at ports and airports--to form and join unions of their choice without previous authorization or excessive requirements. The law allows unions to conduct their activities without interference.

Workers have the right to strike, provided they have exhausted all lengthy and complex conciliation and nonbinding arbitration procedures and given due notice. The law requires the continuation of a minimum service in all public services as essential to protect the general interest. A minimum service requirement binds workers in essential services to a limit on the length of time they may strike. The employer determines the extent of the minimum service without negotiating with the parties to the dispute. Refusal to take part in providing the minimum service

during strikes is considered gross misconduct. There were no known cases of workers in these essential services being terminated for violating the minimum service rule, likely due to the cumbersome termination process for civil servants. Instead, employers either transferred some workers who violated the rule to another service or denied them some job privileges.

The law provides for the right to bargain collectively. The law prohibits antiunion discrimination and requires the reinstatement of workers dismissed for union activity. The government generally did not effectively enforce applicable laws. Resources, inspections, and remediation were inadequate. There are no penalties for violations.

Freedom of association and the right to collective bargaining were respected. Most unions were reportedly weak and subject to government influence due to corruption. As a result, in cases where demonstrations would run counter to the government's interest, the government persuaded union leaders to prevent workers from demonstrating.

A dialogue continued between unions and the government on labor problems, such as basic salary scales and bonus structures. Salary increases for unionized state workers promised by the government as part of the dialogue in 2013 had yet to materialize for some categories of government employees.

There were reports employers used hiring practices such as subcontracting and short-term contracts to circumvent laws prohibiting antiunion discrimination. Public workers went on strike on several occasions during the year over unpaid wages.

#### **b. Prohibition of Forced or Compulsory Labor**

The constitution prohibits forced or compulsory labor unless imposed pursuant to a criminal penalty lawfully mandated by a court. The law, however, allows persons to be requisitioned for work of public interest and provides for their possible imprisonment if they refuse. The law prohibits the forcible or fraudulent abduction of persons including young persons under 18 and imposes penalties for these criminal offenses.

The government took steps to prevent and eliminate forced labor, but only as relating to trafficked persons. Beginning in 2012 the government worked with the UN Office on Drugs and Crime and a foreign partner to initiate a three-year

program to train personnel on and draft complete trafficking in-persons legislation that would include both adults and children.

The indigenous population was especially vulnerable to forced labor in the agricultural sector.

Also see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

Although there are laws and policies designed to protect children from exploitation in the workplace, child labor was a problem in the informal sector. By law children under the age of 16 may not be employed, even as apprentices, without a waiver from the minister of national education. This law generally was not enforced, particularly in rural areas and in the informal sector.

The Ministry of Labor, which is responsible for enforcing child labor laws, concentrated its limited resources on the formal wage sector. Some labor inspections occurred. The Ministry of Social Affairs was also involved in combating child labor as part of the government's antitrafficking efforts. Data on the number of children removed from child labor were not available, although the ministry reported authorities rescued five children from trafficking and repatriated them to their home country of Benin during the year. International aid groups reported little change in child labor conditions.

Children--mostly from Benin, Togo, Cameroon, Senegal, and the DRC--were subjected to domestic servitude, market vending, and forced agricultural and fishing work. Child victims experienced harsh treatment, long work hours, and almost no access to education or health services. Additionally, they received little or no remuneration for their work. There were no official government statistics on general child labor.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

### **d. Discrimination with Respect to Employment and Occupation**

The constitution and law prohibit discrimination based on family background, ethnicity, social condition, age, political or philosophical beliefs, gender, religion,

region of origin within the country, place of residence in the country, language, HIV-positive status, or disability. The constitution and law do not specifically prohibit discrimination against persons based on national origin or citizenship, sexual orientation or gender identity, or having communicable diseases other than HIV. The government did not effectively enforce these prohibitions. Labor law does not specifically reiterate these antidiscrimination provisions. Discrimination in employment and occupation sometimes occurred with respect to women, refugees, and indigenous people (Baka). While the law prohibits discrimination based on gender and stipulates women have the right to equal pay for equal work, women were underrepresented in the formal sector of the economy. Most women worked in the informal sector and thus had little or no access to employment benefits. Women in rural areas were especially disadvantaged in terms of education and wage employment, and they were confined largely to family farming, small-scale commerce, and child-rearing responsibilities.

#### **e. Acceptable Conditions of Work**

The national minimum wage was 90,000 CFA francs (\$156) per month in the formal sector. There was no official minimum wage for the agricultural and other informal sectors. High urban prices and dependent extended families obliged many workers, including teachers and health-care workers, to seek secondary employment, mainly in the informal sector.

The law provides for a standard workweek of seven hours per day with a one-hour lunch break, five days a week. There was no legal limit on the number of hours worked per week. The law stipulates overtime pay for all work in excess of regular working hours. For public sector workers, this is 35 hours per week. In private companies overtime is any work beyond the business' normal working hours (usually 40 to 42 hours per week). There is no legal prohibition of excessive compulsory overtime. Overtime is subject to agreement between employer and employee. Employers generally observed these standards, and employers usually paid workers in cash for overtime work.

Although health and safety regulations require biannual visits to businesses by inspectors from the Ministry of Labor, such visits occurred much less frequently, and enforcement of findings was uneven. The Ministry of Labor employed 12 full-time inspectors, which was insufficient to enforce compliance with labor laws. Unions generally were vigilant in calling attention to dangerous working conditions; however, the observance of safety standards often was lax in both the private and public sectors. Workers have no specific right to remove themselves

from situations that endanger their health or safety without jeopardizing their employment. There were no exceptions for foreign or migrant workers. Authorities did not effectively protect employees in these situations.