

Title	2011 Country Reports on Human Rights Practices - Republic of the Congo
Publisher	United States Department of State
Country	Republic of the Congo
Publication Date	24 May 2012
Cite as	United States Department of State, <i>2011 Country Reports on Human Rights Practices - Republic of the Congo</i> , 24 May 2012, available at: http://www.unhcr.org/refworld/docid/4fc75a6dc.html [accessed 10 January 2013]
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2011 Country Reports on Human Rights Practices - Republic of the Congo

EXECUTIVE SUMMARY

The Republic of the Congo is a parliamentary republic in which most of the decision-making authority and political power is vested in the president and his administration, although the method by which internal decision-making occurs is unclear. Denis Sassou-Nguesso was reelected president in 2009 with 78 percent of the vote, but the validity of these figures is questioned. The 2009 election was peaceful, and the African Union declared the elections to have been free and fair; however, opposition candidates and nongovernmental organizations (NGOs) cited irregularities. While the country has a multiparty political system, members of the president's Congolese Labor Party (PCT) occupy most senior government positions. Security forces reported to civilian authorities.

Major human rights problems included suspected beatings and torturing of detainees by security forces; poor prison conditions; and societal discrimination against women.

Other human rights abuses included arbitrary arrest; lengthy pretrial detention; an ineffective and under-resourced judiciary; infringement of citizens' privacy rights; some restrictions on freedom of speech, press, and assembly, official corruption and lack of transparency; domestic violence, including rape; trafficking in persons; discrimination on the basis of ethnicity, particularly against indigenous persons; 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 no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of disappearances or politically motivated abductions or kidnappings.

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

The law prohibits such practices; however, NGOs reported cases of government-led torture and other cruel, inhuman, and degrading treatment.

For example, in early 2011 inmates and pretrial detainees in Brazzaville's prison were reportedly tortured two to three times per month by gendarmes during the night, after the regular prison staff departed the premises at 5 p.m.

In April a gendarme attempted to rape a female inmate in the Brazzaville prison. Following this incident, the government no longer deployed gendarmes inside the prison, but they continued to be stationed outside to prevent prison escapes.

Bradi Oboromalekou was arrested in June 2010 for selling cannabis and possessing a weapon. While incarcerated, his hands were reportedly handcuffed behind his back and he was repeatedly tortured for two weeks in the Brazzaville-Central police station jail before being transferred to the Jean Francois Ndengue police station jail. Oboromalekou continued to be tortured over another six weeks in this second facility before finally being released; the perpetrators enjoyed complete impunity.

In September 2010 Army Lieutenant Ferdinand Bourangon died of torture-induced injuries allegedly perpetrated in Brazzaville's prison. Other unnamed prisoners were also allegedly tortured. To date, no disciplinary action has been taken against prison personnel. Bourangon's family filed a lawsuit against the alleged perpetrators, although the courts have not reviewed the case.

Prison and Detention Center Conditions

Prison and detention center conditions were harsh and life-threatening. 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, had poorly maintained lighting, had wiring protruding from the walls, and had regular occurrences of water backing up into prisoners' cells. Basic and emergency medical care was limited, and meaningful access to social services personnel was severely limited due to insufficient personnel and overcrowding.

Detainees and prisoners are provided potable water in Brazzaville and Pointe Noire prisons; however, the two facilities do not have running water due to the deterioration of the water-pipes. There is no potable water in the country's 10 other departmental prisons.

Record keeping in the penitentiary system did not improve during the past year. Prison officials continue to use a noncomputerized record keeping system.

Prison conditions for women were better than those for men in each of the country's 12 prisons. There was a lower population density in the female cells than in the male cells.

The government took some steps to improve the conditions of its prisons during the year. A new prison was opened in Impfondo, capital of Likouala Department. The prison in Ouesso, capital of Sangha Department, was refurbished. The government was negotiating a contract to build a new prison that would serve Brazzaville and be located 25 miles north of the capital.

Of 12 prisons, two – one in Brazzaville and one in Pointe Noire – were fully operational during the past three years. Other facilities stopped operating at full capacity in 2008 due to infrastructure deterioration. By year's end, the prison population was approximately 1,400, the majority of whom were awaiting trial for assault and robbery. As of October 28, the Brazzaville prison, which was built in 1943 to hold up to 150 prisoners, held approximately 645, including 11 minors. The Pointe Noire prison, built in 1940, held 240 prisoners, including four minors. There were approximately 50-60 detainees and prisoners in each of the country's remaining 10 departmental prisons. Due to the facilities' infrastructure constraints and lack of education services, these facilities do not hold minors. Convicted minors in these districts are therefore given punishments that do not include prison sentences. Additionally, police stations frequently house prisoners in their limited incarceration facilities beyond the maximum statutory holding period of 48-72 hours.

Prison inmates reportedly received, on average, only one meal a day, including inadequate portions of rice, bread, and fish or low-grade meat. Families were allowed to bring meals to inmates.

Separate facilities were maintained for minors, women, and men in Brazzaville and Pointe Noire. In the country's 10 other prisons, there were no reported juvenile detainees, and men are held separately from women. Security measures in Brazzaville's prison were insufficient to maintain minors' isolation from the general prison population. Pretrial detainees were held with convicted prisoners in each of the 12 prisons. In Brazzaville, prisoners with infectious diseases were kept in one cell but allowed to interact with other inmates. In Brazzaville and Pointe Noire, most of the cells had a functioning television with cable. There were no televisions and cable in the cells of the remaining 10 prisons.

Prisons do not have libraries or sports facilities, but the Brazzaville prison does have a school for juveniles that functions three times per week for two hours per day. The Pointe Noire prison also has a school for juveniles. Classes are taught by qualified inmates when available and by civil servants from the Ministry of Education when qualified inmates are not available. There are no schools in the country's other 10 prisons.

Access to prisoners was conditional on obtaining a communication permit from a judge. The permit allows visitors to spend five to 15 minutes with a prisoner. The visits took place in a small room that held one extended table at which approximately 10 detainees at a time might sit and converse with their visitors. A new permit is required for each subsequent visit with a prisoner. Visitors often have to bribe prison authorities to be allowed in. Many prisoners' families lived far away, and visits were often infrequent because of the financial hardship of travel to the prison.

As in the previous year, the government provided only limited access to prisons and detention centers to domestic and international human rights groups. From January through July, a domestic human rights NGO was informally granted daily access to the Brazzaville prison by one of the facility's administrators. This access was subsequently denied by the same administrator in late July. Diplomatic missions, however, were granted access to both the country's prisons and to police station jails.

Prisoners and detainees were permitted religious observance. Religiously-affiliated charitable organizations visited prisons and detention centers for charitable work and religious support. Prisoners and detainees are supposed to be allowed to submit complaints to judicial authorities, but in practice this right was not respected. There was no provision for an ombudsman. Defendants with sufficient means were able to hire private attorneys to serve on their behalf to propose alternatives to incarceration or to alleviate inhumane conditions.

Prior to a trial, the government is obligated by law to provide legal assistance to detainees who lack the financial resources to hire a private attorney, but this was not done in practice. The government neglected to pay its public defenders, and, consequently, legal representation for poor detainees was limited. The government investigated and monitored prison conditions at the request of local NGOs following complaints from prisoners' and detainees' families. However, little was done to address the penal system's failure to ensure due process for detainees.

For example, three minors in the Brazzaville prison were detained for eight months without access to a lawyer and without their cases being heard by a judge. The minors were subsequently released. Lengthy pretrial detentions are primarily due to the country's judicial system that lacks capacity and financing. Judges often have a large backlog of cases, and the Ministry of Justice typically must wait six months for funding to arrive from the national treasury before cases can go to trial. By law, criminal courts must review cases four times per year. In practice this is not possible since the Ministry of Justice receives funding for processing criminal cases one time per year based on the pending number of cases at the time of the request for funding.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention. However, police, gendarmes, and soldiers unreasonably and arbitrarily detained persons for minor and often imaginary offenses, mostly traffic related, and required them to pay bribes on the spot as a condition for release.

The Penal Code states that a detainee can be detained for a maximum of 72 hours in a police station jail before the case must be reviewed by an attorney general and a decision must be made to either release the individual or transfer the detainee to the prison for pretrial detention. However, the 72 hour maximum was not observed in practice. Some detainees were held for months and transferred among jails before finally being freed by the attorneys general.

The Penal Code also states that prison detainees can be held for a maximum of three months in pretrial detention – with an additional three months with judicial approval. The law dictates that detainees who have completed longer pretrial detentions must be released while awaiting their court hearing. However, this was not observed in practice. Three-quarters of detainees in Brazzaville's prison were pretrial detainees. Prison authorities stated that average provisional detention lasted six months; however, detainees said that the average was closer to 12 to 36 months.

Role of the Police and Security Apparatus

The security forces include the police, the gendarmerie, and the military. The police and the gendarmerie are responsible for maintaining internal order, with police primarily in cities and the gendarmerie mainly in other areas. Military forces are responsible for territorial security, but some units also have domestic security responsibilities, such as the specialized Republican Guard battalion charged with the protection of the president, government buildings, and diplomatic missions. The minister of defense oversees the military forces and the gendarmerie, and the minister of the interior and decentralization oversees the police.

A police unit under the Ministry of Interior and Decentralization is responsible for patrolling frontiers. Another military unit, the military police, reports to the minister of defense and is composed of military and police officers responsible for investigating professional misconduct by members of any of the security forces. Overall, professionalism of the security forces continued to improve, in large part due to training by the international law enforcement community. The government generally maintained effective control over the security forces; however, there were members of the security forces who acted independently of government authority, committed abuses, and engaged in malfeasance.

Traffic police extorted bribes from drivers under threat of seizure of their identity cards or impoundment of their vehicles.

Although the Human Rights Commission (HRC) was established for the public to report security force abuses, impunity for members of the security forces remained widespread.

Arrest Procedures and Treatment While in Detention

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

Arbitrary Arrest: Arbitrary arrest continued to be a problem. This was perpetrated most often on vehicle operators (mainly taxi drivers) by police, gendarmes, or soldiers. Immigration officials also routinely stopped persons and threatened them with arrest, claiming they lacked some required document, were committing espionage, or on some other pretext to extort funds. The victims usually paid a bribe; if not, the person was detained at a police station (or the airport) until either a bribe was paid or someone with influence put pressure on authorities to release the individual.

Pretrial Detention: Lengthy pretrial detention due to judicial backlogs was a problem. Pretrial detainees continued to constitute the majority of prisoners. On average detainees waited 6 months, according to prison authorities, or 12 to 36 months, according to detainees, before going to trial.

e. Denial of Fair Public Trial

Although the constitution and law provide for an independent judiciary, the judiciary continued to be overburdened, underfunded, and subject to political influence and corruption.

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

The Martial Court, a military tribunal system established to try criminal cases involving military members, gendarmerie, or police, does not try civilians. The court was believed to be subject to influence and corruption. Subsequent to an investigation into corrupt military payroll practices, the Martial Court continued to garnish the salaries of more than 500 current and former military personnel to recover misappropriated funds.

Trial Procedures

The constitution provides for the right to a fair trial presided over by an independent judiciary, and the government generally respected judicial independence in practice. The constitution also provides for criminal trials to be conducted by the courts at least four times per year. For more than 20 years, however, criminal trials have only been held annually due to a lack of funding within the Ministry of Justice. The combination of a legal caseload that far exceeded the capacity of the judiciary and the lack of adequate funding to cover the expenses of criminal trials resulted in the government being unable to ensure fair and timely trials. The Court of Justice processed 84 criminal cases nationwide during 2010, including cases of misappropriation of public money, murder, rape, armed robbery, infanticide, indecent assault, and arson. In 2011 the Ministry of Justice was unable to provide the number of criminal cases nationwide, but it did confirm that 52 criminal trials were held in Brazzaville. In general, when trials occurred prior to 2008, and in 2010 when the Court resumed its normal caseload, defendants were tried in a public court of law presided over by a state-appointed magistrate. Juries were used. Defendants had the right to be present at their trial and to consult with an attorney in a timely manner, although this did not always occur in practice. Defendants were occasionally convicted in absentia after the courts had tried unsuccessfully for a period of six months to locate the accused to stand trial. An indigent defendant facing serious criminal charges was entitled to an attorney at public expense. Defendants could generally confront or question accusers and witnesses against them and present witnesses and evidence on their own behalf. The defense had access to prosecution evidence. Defendants were presumed innocent and had the right of appeal. In principle, the law extended the above rights to all citizens, and the government generally abided by these provisions.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

In contrast to the criminal courts, the civil courts review cases on a regular basis throughout the year. The civil courts experience long delays – although less than the

criminal courts – but are considered to be functional. Individuals can file a lawsuit in court on civil matters related to human rights, including seeking damages for or cessation of a human rights violation. However, the public generally lacked confidence in the judicial system's ability to address human rights issues.

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

The constitution and law prohibit such actions, and the government generally respected these prohibitions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

The constitution and law provide for freedom of speech and of the press, but also criminalize certain types of speech, such as incitement of ethnic hatred, violence, or civil war. As in the previous year, the government generally respected freedom of speech and press, according to international NGO Freedom House. Broadcast journalists and government print media journalists practiced self-censorship. The nongovernment print media experienced few constraints. Approximately 10 private weekly newspapers in Brazzaville often publish articles and editorials critical of the government. There are no government restrictions on Internet access.

Freedom of Speech: Individuals could criticize the government publicly or privately without reprisal on relatively minor issues. However, persons feared reprisal if they named high-level officials while criticizing government policies. The government generally did not proactively attempt to impede criticism by, for example, monitoring political meetings, but sometimes punished critics after the fact. Unlike in previous years, there were no reports of news agencies being ordered to close.

Freedom of Press: There was one state-owned newspaper, *La Nouvelle Republique*, and 54 private publications, some of which were closely allied with the government and others which were at times critical of the government. On December 14, the High Council on the Liberty of Communication (CSLC) prohibited newspapers *Amical* and *La Voix du Peuple* from publishing for periods of six and three months, respectively. The CSLC ruled that both newspapers had broken national laws by inciting hatred and ethnic division. Newspapers occasionally published open letters written by government opponents. The print media did not circulate widely beyond Brazzaville and Pointe Noire.

Most citizens obtained their news from local radio or television stations. There are no nationwide radio or television stations. Collectively, there are 39 radio stations, four of which are government-owned, and 23 television stations, of which at least 15 are privately owned. Several satellite television services were available for the few who could afford them.

Government journalists were not independent and were expected to report positively on government activities. However, there was no evidence that there were adverse consequences when government journalists deviated from this guidance.

A number of journalists based in Brazzaville represented international media. There were no confirmed reports of the government revoking journalists' accreditations if their reporting reflected adversely on the government's image; however, the government did not repeal the policy that allowed for such revocation. This policy potentially affected journalists employed by both international and government-controlled media. Local private journalists were not affected.

Libel Laws/National Security: The press law provides for monetary penalties for defamation and incitement to violence.

Internet Freedom

There were no government restrictions on access to the Internet, or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could

engage in the peaceful expression of views via the Internet, including by e-mail. A greater proportion of the public, especially youth, accessed the Internet more frequently and utilized online social media. However, only the most affluent could afford to access the Internet in their own homes; others who accessed it used cyber cafes. There were no known attempts by the government to collect personally identifiable information via the Internet.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution and law provide for freedom of assembly; however, the government generally did not respect this right in practice.

Groups that wished to hold public assemblies were required to seek authorization from the Ministry of Interior and Decentralization and appropriate local officials, who could withhold authorization for meetings that they claimed might threaten public order.

Unlike the previous year, the government did not always respect the right of peaceful assembly in practice. For example, local NGOs reported that on January 22, the government prevented opposition group Party for a Democratic Alliance (P.A.D.) from holding a public meeting that was scheduled to take place in the auditorium of the national television building. On July 31, police refused opposition party Rally of Young Patriots (R.J.P.) access to the Massamba-Debat stadium in Brazzaville, where a public rally had been preauthorized. The police again prevented opposition parties from gathering outside of the Massamba-Debat stadium on December 13.

Freedom of Association

The constitution and law provide for freedom of association, and the government generally respected the right of most groups to associate. Groups or associations – political, social, or economic – were generally required to register with the Ministry of Interior and Decentralization. Registration was sometimes subject to political influence. There were no reports of discriminatory practices that targeted any particular group.

c. Freedom of Religion

For a description of religious freedom, please see the [2010 International Religious Freedom Report](#).

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

The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation; unlike during the previous year the government generally respected these rights in practice.

The government 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.

In-country Movement: The 2003 disarmament agreement effectively ended the organized rebellion in the Pool region. Unlike in the previous year, unidentified armed elements believed to be ex-Ninja rebels largely ceased to harass and intimidate citizens. The country's major road and railway connecting the capital, Brazzaville, to the port of Point Noire traverse the Pool region. The increased presence of law enforcement officers throughout the Pool region, including on rail cars, in 2010 and 2011, significantly reduced banditry and increased freedom of movement of persons and goods through much of the country.

As in the previous year, the government's two operations to improve security in the Pool region, "Kimia" and "Kidzounou," continued to achieve results.

Foreign Travel: Unlike in the previous year, the government did not impose an international travel ban on opposition leaders. Opposition leaders traveled to Europe and back without any government interference.

Emigration and Repatriation: The government generally did not prevent the return of citizens, including political opponents of the president. The last returnee was former first lady Jocelyne Lissouba, who returned to the country in May 2010; she had fled with her husband, former president Pascal Lissouba, in 1997. Jocelyne Lissouba enjoyed a warm reception from President Sassou-Nguesso. Former president Lissouba received a pardon in 2009 but remained in France for health reasons.

Protection of Refugees

The country's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The country, especially in areas that border the Democratic Republic of the Congo (DRC), received numerous waves of displaced persons in recent years. Between October 2009 and May 2010, nearly 115,000 refugees fled ethnic violence and rebellion in Equateur Province of the DRC and sought shelter in the country's Likouala Department. As of October, the country hosted 131,446 DRC refugees and 4,761 DRC asylum seekers.

In June 2010, the government signed a tripartite agreement with the government of the DRC and UNHCR that outlined the conditions and means for an eventual voluntary repatriation of the Likouala refugees to the DRC's Equateur Province. The parties met again in November 2010 and agreed on a plan that would begin to repatriate the first group of refugees in April 2011. As of August, UNHCR reported 17 repatriations to the DRC. The delay in repatriations was primarily due to the refugees' desire to wait for the DRC presidential elections in November 2011 to take place, for post-conflict peace and reconciliation between the Lobala and Boba tribes to be reinforced, and for repatriation aid assistance from the international community to be made available.

The country hosts 828 Angolan refugees, of which 773 are from the Angolan enclave of Cabinda. Between October 18 and 20, the government convened a second tripartite meeting with the government of Angola and UNHCR; agreement was reached to launch a voluntary repatriation effort on November 3 that would fall within the framework of the 2002 tripartite agreement. The first tripartite meeting was held in Cabinda in 2009.

The country also hosted 7,846 Rwandan refugees who fled the genocide in 1994. A tripartite meeting was held by the government, the government of Rwanda, and UNHCR in January, at which time a decision was made to invoke a cessation clause that will revoke the refugee status of Rwandans in the Congo beginning in December 2011. At that time, current Rwandan refugees will need to either repatriate to Rwanda, or change their status in the Congo to permanent resident.

Applications for refugee status are handled by the National Refugee Assistance Center (CNAR). The CNAR received 80-90 percent of its operating budget from UNHCR.

Access to Asylum: In 2007 and 2008, the CNAR and UNHCR processed a case backlog of approximately 4,800 asylum seekers who had entered the country beginning in 2003. In 2008 there were 993 asylum applications, in 2009 there were 397, in 2010 there were 128, and as of August, there were 24 applications in 2011. According to UNHCR, as of October, the country hosted 140,338 refugees and 5,746 asylum seekers. Refugees and asylum seekers came largely from the DRC, Rwanda, Angola.

Refugee Abuse: Gender-based violence was frequent in refugee sites, with 43 cases of rape reported in the first half of 2011, 28 of which involved minors. UNHCR provided care to 38 of the victims. The current number of pending cases before the courts concerning

gender-based violence is 37. According to UNHCR, the vast majority of such cases go unreported. One reason for this is that complaints can take a year or more before they are examined by the courts, and families of victims often prefer to negotiate settlements directly with the perpetrators. UNHCR protection officers and medical personnel provided medical, psychosocial, and legal assistance to victims of gender-based violence, including rape. Refugees had equal access to community health centers and hospitals and legal recourse for criminal complaints, e.g., rape, and civil disputes.

Primary school was funded by UNHCR and made accessible to all refugees during the past year. During this academic year, 26,558 refugee children, including 13,004 girls, in Likouala Department were enrolled in primary school. Access to secondary education for refugees was severely limited. Most secondary education teachers are refugees themselves who either volunteer or are paid by the parents of refugee children. There were 7,200 refugee children enrolled in secondary school in Likouala Department, including 2,755 girls.

Employment: Employment opportunities for refugees are not enumerated in law. Anecdotal evidence suggests that quotas and excessive work permit fees limit refugee employment opportunities. A healthcare organization stated the law requires it to hire the country's nationals for at least 90 percent of its positions. The same organization stated that two-year work permits that cost approximately 150,000 CFA (\$303), roughly equivalent to three months salary, are required.

Many refugees work informally in the agriculture sector to obtain food. Some refugees farm land that belongs to local nationals in exchange for a percentage of the harvest, or for a cash payment. Other refugees rent land from local nationals in order to conduct subsistence farming.

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

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right during the 2009 presidential election.

Elections and Political Participation

Recent Elections: Denis Sassou-Nguesso was reelected 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 African Union declared the elections free and fair.

On October 9, the country held a midterm senatorial election for one half of the senate's 72 seats. The president's ruling party – Parti Congolais du Travail (PCT) – and its allies won 28 seats, the opposition won three seats, and five independents were elected. Unlike the National Assembly and presidential elections, the senatorial elections are conducted through indirect suffrage.

Political Parties: Major political parties included the ruling PCT, the Pan-African Union for Social Development, the Congolese Movement for Democracy and Integrated Development, the Union for Democracy and the Republic, the Rally for Democracy and Social Progress, and the Union for Progress. Opposition parties encountered government restrictions, particularly with regard to the right to organize. Opposition parties were restricted from organizing before, during, and after the 2009 presidential election.

Following that election and the August 17, 2011 selection of three new ministers, the government included high-ranking politicians from northern ethnic tribes as well as representatives from other regions and ethnicities.

Participation of Women and Minorities: After the October Senate elections, there were nine women in the 72-seat Senate and nine women in the 137-seat National Assembly. There were five women in the 37-member cabinet.

Many indigenous persons – largely Pygmies – were excluded from the political process due to their isolation in remote areas, lack of registration, cultural barriers, and stigmatization by the majority Bantu population (see section 6). However, indigenous rights were strengthened by the parliament's passage of an indigenous persons rights protection bill in December 2010, which became law on February 25 upon President Sassou-Nguesso's signature of the legislation.

Section 4. Official Corruption and Government Transparency

The law provides for criminal penalties for official corruption; 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 (IMF) noted the government undertook significant reform measures to combat corruption. For example, in February 2010 the government undertook to identify and remove nonexistent civil servants known as ghost workers from the payroll. The effort was ongoing and by year's end an estimated 2,700 ghost workers had been identified. Many of the beneficiaries of this corruption scheme received one or more fraudulent salaries in addition to the salary they earned from their legitimate position.

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 industries into private overseas accounts before the remaining revenues were declared officially. Some funds have been properly repatriated, but most remain unlocated. A number of ministries were also identified as having diverted funds to secret accounts, including the ministries of education, health, and foreign affairs, the latter of which is being internally investigated for receiving funds to operate several nonexistent embassies abroad.

Pervasive lower-level corruption included security personnel and customs and immigration officials demanding bribes. During the year there were reports of arrested individuals whose families bribed police to secure their release.

Senior officials were subject to financial disclosure laws. It was unclear if they complied in practice.

The law provides for public access to government information for citizens, noncitizens, and the foreign media; however, in practice there were lengthy delays before the government released information, if it did so at all. For example, the IMF completed consultations on an Extended Credit Facility in mid-year, but the government refused to provide certain financial information from the Ministry of Finance and the Treasury concerning the state-owned oil company.

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, with some exceptions, 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 specific incidents for fear the government would impose obstacles to their work.

Government Human Rights Bodies: The government-sponsored Human Rights Commission (HRC) is charged with acting as a government watchdog and addressing public concerns on human rights issues. Some civil society members claimed that the commission was completely ineffective, lacked independence, was primarily represented by persons who have no expertise in human rights, and was created to appease the international community. President Sassou-Nguesso appointed most, if not all, of its members.

In 2011 the Human Rights Commission did not undertake activities to directly respond to human rights problems in the country. Instead the organization focused on reforming its

institutional structure, and on increasing its subject matter expertise through attendance at international conferences on human rights.

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

The law and constitution prohibit discrimination on the basis of race, gender, language, religion, social status, or handicap; however, the government did not effectively enforce these prohibitions. There were documented instances of societal discrimination and violence against women. In addition, regional ethnic discrimination and discrimination against indigenous persons occurred.

Women

Rape, including spousal rape, is illegal; however, the government did not effectively enforce the law. The law prescribes five to 10 years in prison for violators. However, according to a local women's group, the penalties for rape could be as little as several months' and rarely more than three years' imprisonment, despite what the law says. The government established two centers in Brazzaville to provide care to rape victims. The government could not provide national figures for cases of rape in 2011.

Rape was common, although the extent of the problem was unknown because the crime was seldom reported. Fewer than 25 percent of reported rape cases were prosecuted, according to local and international NGO estimates. In August 2010 a suspected serial killer who allegedly raped and killed nine women was arrested and detained in the Brazzaville prison, and was awaiting trial for rape and murder.

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. Domestic violence traditionally was handled within the extended family or village, and only more extreme incidents were reported to the police, a result of victims' fear of social stigma and/or retaliation, as well as a lack of confidence in the courts to address human rights abuses. Local NGOs sponsored domestic violence awareness campaigns and workshops.

Female genital mutilation (FGM) was not practiced indigenously and is against the law. It may have occurred in some immigrant communities from West African countries where it is common. There were no known governmental or other efforts to investigate or combat FGM.

Sexual harassment is illegal. Generally the penalty if convicted is two to five years in prison. In particularly egregious cases the penalty can equal the maximum for rape, i.e., five to 10 years' imprisonment. However, the government did not effectively enforce the law. According to local NGOs, sexual harassment was very common but rarely reported. As in previous years there were no available official statistics on its incidence.

Reproductive Rights: There are no laws restricting reproductive rights, childbirth, or timing of pregnancies. There were no restrictions on the right to access contraceptives; however, they were not widely used by the population due to cost. According to the UN Population Fund (UNFPA) in 2008, only an estimated 13 percent of married women ages 15-49 used some form of modern contraceptive method. Health clinics and public hospitals were generally in poor condition and lacked experienced health staff. The UNFPA estimated the maternal mortality ratio (the ratio of maternal deaths per 100,000 live births) to be 781 and a woman's lifetime risk of maternal death to be one in 39. According to the Population Reference Bureau, approximately 83 percent of births were attended by skilled personnel.

Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV. However, HIV-positive persons continued to experience social stigmatization and discrimination that limited their access to these services. The National Committee to Fight AIDS coordinated national policy to counter the spread of the HIV/AIDS virus.

Discrimination: Customary marriage and family laws discriminate against women. Adultery is illegal for both women and men. Polygyny is legal while polyandry is not. The

law provides that a legal wife shall inherit 30 percent of her husband's estate. The law limits dowries to symbolic amounts; however, this often was not respected. Men were obliged to pay excessive bride prices to the woman's family. The Ministry of Promotion of Women's Rights was in charge of protecting and promoting the rights of women.

The law prohibits discrimination based on gender and stipulates that women have the right to equal pay for equal work. However, women were underrepresented in the formal sector of the economy. Women experienced economic discrimination with respect to employment, credit, equal pay, and owning or managing businesses. 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 were confined largely to family farming, small-scale commerce, and child-rearing responsibilities. Many local and international NGOs have developed microcredit programs to address these problems, and government ministries, including those of social affairs and agriculture, were also active in helping women set up small income-producing businesses.

Children

Citizenship is acquired by birth in the country as well as from one's parents.

Birth Registration: The government does not provide automatic recording of births; it is up to parents to record the birth of a child. Recording is not required, but it must be done to obtain a birth certificate, which is necessary for school enrollment and other services. Pygmies, in particular, were denied social services as a result of not being registered. Those living in remote villages have a difficult time registering, as offices for registration are located only in provincial capitals. The government continued a system of providing free birth registration in Brazzaville, but, as in previous years, the program did not cover other areas.

Education: Education is compulsory, tuition-free, and universal until the age of 16, but families are required to pay for books, uniforms, and school fees. School enrollment was generally higher in urban areas. Although there was no specific data available, Pygmy children were at a disadvantage in school attendance because their parents usually failed to register births and obtain the necessary birth certificate. Schools were overcrowded and facilities extremely poor. Girls and boys attended primary school in roughly equal numbers; however, boys were five times more likely than girls to go on to high school and four times more likely to go on to a university. In addition there were reports that teenage girls were pressured to exchange sex for better grades, which contributed to both the spread of HIV/AIDS and unwanted and unplanned pregnancies.

Child Abuse: Child abuse was not commonly reported, but was thought to be prevalent. Most reports in previous years involved the West African immigrant communities in the country.

Child Marriage: The law prohibits child marriage, and the legal age for marriage is 18 years for women and 21 for men. However, marriage at an earlier age is permissible if both sets of parents give their permission; the law does not specify the minimum age in this special circumstance. The penalty for forced marriage between an adult and a child is a prison sentence of three months to two years and a fine of 150,000 CFA (\$300) to 1,500,000 CFA (\$3,000).

Sexual Exploitation of Children: There were cases of children, particularly those who lived on the streets, engaging in prostitution with third-party involvement. The prevalence of the problem remained unclear, although the UN Children's Fund (UNICEF) estimated in a 2007 report that 25 percent of the approximately 1,800 internationally trafficked children were sexually exploited.

The minimum age for consensual sex is 18. The maximum penalty for sex with a minor is a prison sentence of five years and a fine of 10,000,000 CFA (\$20,000).

A Child Protection Code promulgated in April 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 10,000,000 CFA (\$20,000), to prison sentences

of several years. The penalty for child pornography includes a prison sentence up to one year and a fine up to 500,000 CFA (\$1,000).

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, according to UNICEF. Children who lived on the streets were vulnerable to sexual exploitation and often fell prey to criminal elements such as drug smugglers. Many begged, while others sold cheap or stolen goods to support themselves.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international child abduction, please see the Department of State's annual report on compliance at http://www.travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

There was no substantial Jewish community in the country. There were no reports of anti-Semitic acts.

Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *2011 Trafficking in Persons Report*.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities in employment, education, access to health care, or in the provision of other state services, although the government generally did not enforce the law.

There were no laws mandating access for persons with disabilities. The Ministry of Social Affairs is the lead ministry responsible for these issues.

National/Racial/Ethnic Minorities

The law prohibits discrimination based on ethnicity; however, the government did not effectively enforce this prohibition.

Regional ethnic discrimination existed among all ethnic groups and was evident in government and private sector hiring and buying patterns. The relationships among ethnic, regional, and political equities can be difficult to discern. A majority of the president's cabinet members and generals originate from the country's northern Departments.

Indigenous People

According to local NGOs, Pygmies were severely marginalized in regard to employment, health services, and education, in part due to their isolation in remote areas and their different cultural norms. Pygmies were often considered socially inferior and had little political voice; however, in recent years several Pygmy rights groups have developed programs to overcome this. Many Pygmies were not aware of the concept of voting and had minimal ability to influence government decisions affecting their interests.

The 2007 national census estimated the indigenous population to be 2 percent of the general population, equivalent to an estimated 74,000 persons.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The constitution prohibits discrimination based on political, sexual, or religious orientation. There was not a large openly gay or lesbian community due to the social stigma associated with homosexuality. A law promulgated during the country's colonial era and still in force prohibits homosexual conduct and makes it punishable by up to two

years' imprisonment; however, the law was rarely enforced. The most recent arrest under this law was in 1996, when several individuals were arrested in Pointe Noire and briefly detained for homosexual behavior.

There were no known cases of violence against gays, lesbians, or transgendered individuals during the year.

Other Societal Violence or Discrimination

Public opinion polls show that societal discrimination against individuals with HIV/AIDS is significant. Unlawful divulgence of medical records by practitioners, negligence in treatment by health professionals, family abandonment, and unwarranted termination of employment are all offenses subject to sanctions. Civil society, including organizations advocating 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 issues, including raising public awareness of the fact that those living with HIV/AIDS were still able to contribute to society.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law allows workers to form and join unions of their choice without previous authorization or excessive requirements. Workers exercised this right in practice. However, members of the security forces and other essential services do not have this right. The law allows unions to conduct their activities without interference, and the government protected this right in practice.

Workers have the right to strike, provided all conciliation and nonbinding arbitration procedures have been exhausted, and due notice has been given. The law also provides that for strikes in services that are "essential for protecting the general interest," employers establish a "minimum service," in which the refusal to take part is considered gross misconduct.

The law also provides for the right to bargain collectively, and workers generally exercised this right freely, although collective bargaining was not widespread due to the severe economic conditions. In one case where collective bargaining was not allowed, Congolese employees of a Chinese construction company who were building a highway from Pointe Noire to Brazzaville were denied employment contracts, paid under the country's minimum wage, and were subject to dismissal for absences of three consecutive days, irrespective of the reason for the absences,

The law prohibits antiunion discrimination, and there were no reports that antiunion discrimination occurred. Most trade unions were reportedly weak and subject to government influence; as a result, workers' demonstrations were frequently prohibited, often by the unions themselves. There were no reports during the year of employers firing workers for union activity.

b. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children. There were unconfirmed reports that such practices occurred. Such cases involved child trafficking victims who were forced to fish, work in markets, or participate in domestic servitude for little or no compensation.

Children – mostly from Benin, and also Togo, Mali, Guinea, Cameroon, Senegal, and the DRC – are subjected to forced domestic labor, market vending, and fishing. Child victims experience harsh treatment, long work hours, and have almost no access to education or health services; they receive little or no remuneration for their work.

The government has not repealed a 1960 law which allows persons to be requisitioned for work of public interest and provides for their possible imprisonment if they refuse. However, there were no reports of the law ever being applied or enforced.

Also see the Department of State's annual [2011 Trafficking in Persons Report](#).

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. The minimum age for employment or internships was 16 years; however, this law generally was not enforced, particularly in rural areas and in the informal sector.

The most common forms of child labor were in markets, commercial fishing, or in domestic servitude, where children were subject to harsh conditions, long hours, and little or no pay. Children worked with their families on farms or in small businesses in the informal sector without government monitoring. Children are engaged in the worst forms of child labor in agriculture and domestic service. There were no official government statistics on general child labor. However, a 2005 International Labor Organization survey showed that 85 percent of the sample of 47,000 working children resided in rural areas, and just over half (53 percent) were girls who performed household chores or worked in exchange for pay.

The Ministry of Labor, which is responsible for enforcing child labor laws, concentrated its limited resources on the formal wage sector, where its efforts generally were ineffective. As in the previous year, limited resources prevented the ministry from carrying out a review of the formal sector, which would include child labor inspection trips. Labor inspections occurred during the year, but there were no official data available at year's end. International aid groups reported little change during the year in child labor conditions.

Also see the Department of Labor's *2010 Findings on the Worst Forms of Child Labor*.

d. Acceptable Conditions of Work

The national minimum wage was 54,000 CFA (\$109) 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 workers, to seek secondary employment, mainly in the informal sector.

The law provides for a standard workweek of seven hours per day, five days a week, with a one-hour lunch break. There was no legal limit on the number of hours worked per week. The law stipulates that overtime must be paid for all work in excess of 42 hours per week; however, there is no legal prohibition against excessive compulsory overtime. Overtime was subject to agreement between employer and employee. These standards were generally observed, and workers were usually paid in cash for overtime work beyond 42 hours per week.

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. Unions generally were vigilant in calling attention to dangerous working conditions; however, the observance of safety standards often was lax. Workers have no specific right to remove themselves from situations that endanger their health or safety without jeopardizing their continued employment. There were no exceptions for foreign or migrant workers.
