

REPUBLIC OF CONGO (BRAZZAVILLE)

1. PRESENTATION¹

Basic Facts ²	
Name of Country	Republic of Congo/ Congo (Brazzaville) ³
Capital	Brazzaville
Population	3,702,314 (July 2006)
Area	342,000 sq km
Average Life Expectancy	52.8 years
Ethnic Groups	Kongo 48%, Sangha 20%, M'Bochi 12%, Teke 17%, Europeans and other 3%
GDP per capita, PPP	\$1,300

Community of Democracies	
Previous participation	None

Timeline of Recent Major Events in Congo-Brazzaville:

- **1992** August – Multiparty elections under a new constitution bring Pascal Lissouba to the Presidency after years of military rule.
- **1993** – Fighting between government and opposition over election results.
- **1994-1995** – Ceasefire and power-sharing between government and opposition.
- **1997** June – Fighting erupts between partisans of former dictator Denis Sassou-Nguesso and President Lissouba.
- **1997** October – Intervention by Angola in Congolese civil war on the side of Sassou-Nguesso. Sassou-Nguesso declares himself President.
- **1999** December – Peace agreement signed between government and rebels, providing for disarmament, dialogue, and security services reform.
- **2001** April – National Dialogue ends with the signature of the Convention for Peace and Reconstruction.
- **2002** January – New constitution approved in referendum.
- **2002** March – Presidential elections see Denis Sassou-Nguesso elected President with 89% of the vote.
- **2002** March – Rebellion of the National Resistance Council (the “Ninjas”) begins in Pool and Brazzaville.
- **2003** March – Government and “Ninjas” sign peace deal.
- **2005** May – National Resistance Council starts “Operation restore order and security” in Pool to establish security in areas under its control.

¹ Principal author: Democracy Coalition Project

² Source: CIA World Factbook at <http://www.cia.gov/cia/publications/factbook/index.html>, accessed on July 18, 2006.

³ For the sake of simplicity, we will refer to the country as “Congo” throughout this report. Any mention of Congo *does not* refer to the Democratic Republic of Congo.

REPUBLIC OF CONGO (BRAZZAVILLE)

- **2005** November – Congolese Parliament grants amnesty to former Prime Minister Kolelas so as to allow him to bury his late wife in Brazzaville.

2. BACKGROUND

With important reserves of oil and other natural resources, Congo's recent history has been marked by violent political struggle and national disunity. Congo's ruling Marxist-inspired Congolese Labor Party (PCT) under General Denis Sassou-Nguesso gave way to free elections in 1992, leading to the election of Pascal Lissouba as President. However, the Lissouba government was faced with a series of rebellions and challenges. In 1997, after a civil war, General Sassou-Nguesso regained the upper hand with Angolan military assistance, declared himself President and suspended the 1992 constitution. Fighting flared up again in late 1998 as forces close to former President Lissouba and former Prime Minister Bernard Kolelas challenged Sassou-Nguesso's rule. A ceasefire mediated by Gabonese President Omar Bongo brought the conflict to a close in December 1999, and in April 2001 President Sassou-Nguesso convened a National Dialogue (*Dialogue Sans Exclusif*) with the goal of drafting a new constitution. However, leading opposition figures such as Lissouba and Kolelas were unable to attend the Dialogue after having been sentenced to death *in absentia* by Congolese courts. The new constitution which emerged from this dialogue was approved in a national referendum in January 2002.

A round of presidential and legislative elections followed the 2002 referendum. President Sassou-Nguesso dominated the election campaign after one of the leading contenders joined other candidates in boycotting the election, alleging fraud. Neither Lissouba nor Kolelas were able to participate, due to their *in absentia* death sentences. The election saw President Sassou-Nguesso returned to office with 89% of the votes.

Soon after the presidential election, fighting erupted in Pool between the government and a group of former Kolelas supporters, the Council for National Resistance (CNR), known as the "Ninjas". The fighting saw a number of attacks by both the Ninjas and the government upon civilians until the government and the CNR signed a peace agreement in 2003, including pledges for disarmament and an amnesty. However, continued disagreement between the government and the *ninjas* over the implementation of the agreement's disarmament clauses has kept the conflict alive. Armed fighters and checkpoints remain at large throughout the Pool region, and the government has not been able to commence reconstruction work in the area.

President Sassou-Nguesso's government came under international criticism when the "Kimberly Process" of diamond certification decided to suspend Congo's membership in 2004 after doubts arose about Congo's commitment to a transparent management of its diamond resources. However, the main natural resource that dominates Congo's economy is petroleum; the country is the fifth largest producer in sub-Saharan Africa.⁴ The IMF recently recommended suspension of Congo-Brazzaville from its Poverty Reduction Growth Facility, basing its decision on a number of violations of the conditions that "trigger" the Heavily Indebted Poor Countries (HIPC) program.

⁴ Freedom House (2005).

REPUBLIC OF CONGO (BRAZZAVILLE)

President Sassou-Nguesso's international profile rose in early 2006 when member states of the African Union decided to pass over Sudan for chairmanship of the organization, granting the one-year term to Congo instead.

3. ANALYSIS

Democratic Institutions and Processes

Though the constitution adopted by Congo in 2001 proclaims it a democratic state, in which "government of the people, by the people and for the people" is the guiding value, there are a number of serious questions surrounding President Denis Sassou-Nguesso's full commitment to these principles.⁵

The transition and constitution-drafting process

The process through which the constitution was drafted, approved and ratified, as well as the actual content of the constitution, has been questioned. The National Dialogue which President Sassou-Nguesso convened in 2001 excluded a number of substantial political actors despite the fact that it billed itself as a dialogue *Sans Exclusif* (without excluding anyone). In fact, former President Lissouba and former Prime Minister Kolelas were unable to return from exile due to the fact that they had been tried and sentenced *in absentia* for treason

The constitution and its institutions

The 2001 constitution sets out the broad guidelines of a multi-party democratic presidential system of government, and introduces a series of institutional innovations to Congo's government. These include a National Council for the Freedom of Communication, a National Council for Human Rights, and an Ombudsman of the Republic.⁶

The President, under the 2001 constitution, serves a seven-year term, and can be re-elected once. While the President thus faces term limits, some members of the opposition and of the transitional government have suggested that the draft constitution concentrates too much power in the hands of the President.⁷ For instance, in contrast to the earlier 1992 constitution, the 2001 constitution does not have a procedure for the impeachment of the President by Parliament. The *Federation Internationale des Droits de L'Homme* (FIDH), together with the Congolese NGO *Observatoire Congolais des Droits de*

⁵ *Projet de Constitution pour la Republique du Congo* (29 November 2001) available at <http://www.congo-site.net/v4x/instit/home.php> (accessed on 21 July 2006).

⁶ See Arts.161-169 of the *Projet de Constitution* (29 November 2001) available at <http://www.congo-site.net/v4x/instit/home.php> (accessed on 21 July 2006).

⁷ 'Dissident Brazzaville Minister Resigns' (8 May 2001) *BBC News* at <http://news.bbc.co.uk/2/hi/africa/1318135.stm>, (accessed on 21 July 2006); 'Congo approves new constitution' (24 January 2002) *BBC News* at <http://news.bbc.co.uk/2/hi/africa/1779007.stm>, (accessed on 21 July 2006).

REPUBLIC OF CONGO (BRAZZAVILLE)

l'Homme (OCDH), points to the constitution's provisions on emergency rule, which allow the President to rule by decree even if his request to rule by decree has been denied by Parliament, as evidence of a troubling imbalance in Congo's new constitution.⁸ The European Union's (EU) Election Observation Mission's report points out that these emergency powers "undermine to a certain extent the separation of powers, a cardinal principle of any democratic regime ... [and that] they weaken the role of Parliament".⁹

Furthermore, there seems to be a strong feeling among human rights advocates that the Human Rights Commission is too weak to be effective in fighting human rights abuses. The Commission has no subpoena authority, and its independence has been questioned, since Commission members are appointed by presidential decree.¹⁰ In July 2005, the OCDH withdrew from the Commission, arguing that it was weak and beholden to government interests.

Referendum and transitional elections

The referendum on the constitution displayed worrying irregularities from the point of view of the democratic process, which foreshadowed problems with the presidential election. International observers were not allowed to monitor the vote, many opposition parties called for a boycott of the vote, and local human rights NGOs rejected its result, alleging flaws and irregularities.¹¹

The subsequent presidential election held on 10 March 2002, which saw Denis Sassou-Nguesso win with 89% of the vote, presented a number of problems as well. Reports published by the EU Election Observation Mission (MOEC), and FIDH with the assistance of OCDH, outlined a number of problems with the presidential election process.

Observers pointed to flaws in the distribution of registration cards and other electoral materials, delays and irregularities on election day, and the lack of access to the vote count by foreign and national observers. Reports also underlined the strongly restrictive candidacy criteria for the presidential election, apparently tailored to exclude certain candidates, as well as the disproportionate attention paid by the media to Sassou-Nguesso as well as Sassou-Nguesso's use of state infrastructure for his own election campaign. The National Electoral Commission was faulted for its lack of transparency and inefficiency; some local and regional electoral commissions, of which the opposition was nominally a member, apparently never even met. Opposition candidates were intimidated and harassed by police house searches, and prevented from holding press conferences.¹²

Nevertheless, the final report of MOEC concludes that while fraud probably took place, the result was not sufficient so as to change the overall result of the election, noting

⁸ FIDH (March 2002) p2; See Art. 132 of the *Projet de Constitution* (29 November 2001) available at <http://www.congo-site.net/v4x/instit/home.php> (accessed on 21 July 2006).

⁹ Mission D'Observation Electorale de L'Union Europeenne au Congo (2002) p8.

¹⁰ Freedom House (2005).

¹¹ 'Congo approves new constitution' (24 January 2002) *BBC News* at <http://news.bbc.co.uk/2/hi/africa/1779007.stm>, (accessed on 21 July 2006); 'Civil Societies [*sic*] reject results of Congolese Referendum' (31 January 2002) *Afrol.com* at http://www.afrol.com/News2002/cob001_ref_protests.htm, (accessed on 21 July 2006).

¹² MOEC (2002) ; FIDH (2002).

REPUBLIC OF CONGO (BRAZZAVILLE)

the general weakness of the opposition parties.¹³ The FIDH report is more forthright in its condemnation of the presidential election, arguing that the Congolese government failed to live up to its obligation under article 25 (b) of the International Covenant on Civil and Political Rights to organize free and fair elections.¹⁴

In addition to the technical problems surrounding the election, we must consider the political process during the election campaign as well. It can be argued, firstly, that the conviction *in absentia* of former President Lissouba and former Prime Minister Kolelas meant that two of the most important potential candidates for the presidency were unable to compete. Secondly, the withdrawal from the election, in early March 2002, of three candidates, including the most important remaining challenger to the President, Andre Milongo meant that by the time of the election the incumbent faced no significant challenges to his candidacy.¹⁵

Subsequent legislative and local elections were less controversial. Opposition parties decided not to boycott the parliamentary elections, despite earlier calls to delay them because of a new burst of fighting in the Pool region of Southern Congo.¹⁶ Nevertheless, members of the opposition still alleged that the National Electoral Commission (CONEL) was biased towards the President's party.¹⁷ The first round of the parliamentary elections, on 26 May 2002, was marked by violence in the Pool region, but the second round a few weeks later was more peaceful.¹⁸

Rule of Law

Human rights reports on Congo underline continuing concerns with impunity in the government's administration of the rule of law, especially after a verdict was handed down in the "Beach" trial on 16 August 2005. The verdict acquitted high-level government and armed forces officers of complicity in the massacre of 353 Congolese refugees returning to Brazzaville from the Democratic Republic of Congo in 1999. While the trial did find the state responsible for the killings and disappearances, no individual was held responsible for the massacre. The trial was organized in 2003 after the French government arrested a Congolese Chief of Police in connection with the "Beach" affair; the Congolese government contended that France had no jurisdiction over the case. Some human rights organizations and victims' families argued that the trial was only organized to deflect attention from the trial in France; FIDH described it as a "parody".¹⁹

The judiciary and corrections system remains over-burdened, worsening the problem of detentions without trial and of prisoner conditions in Congo.²⁰ A number of cases of

¹³ Op. cit. pp27-28.

¹⁴ FIDH (2002 p11).

¹⁵ 'One Man Race in Congo Poll' (10 March 2002) *BBC News* at <http://news.bbc.co.uk/2/hi/africa/1865069.stm> (accessed on 24 July 2006).

¹⁶ 'Disaster Threatens Congo' (16 May 2002) *BBC News* <http://news.bbc.co.uk/2/hi/africa/1991788.stm> (accessed on 24 July 2006).

¹⁷ 'Thierry Mongalla: 'La CONEL reste un commission monocole' *Congopage.com*, http://www.congopage.com/article.php3?id_article=369 (accessed on 24 July 2006).

¹⁸ 'Violence, Fraud Mars Congo Poll' (27 May 2002) *BBC News* <http://news.bbc.co.uk/2/hi/africa/2010758.stm> (accessed on 24 July 2006); 'Low Turnout for Peaceful Congo Vote' (23 June 2002) <http://news.bbc.co.uk/2/hi/africa/2061767.stm> (accessed on 24 July 2006).

¹⁹ Amnesty International (2005); FIDH (2003).

²⁰ State Department (2006); Freedom House (2005).

REPUBLIC OF CONGO (BRAZZAVILLE)

disappearances are still outstanding and not accounted for, according to the UN's Working Group on Enforced or Involuntary Disappearances.²¹

The OCDH and FIDH have also drawn attention to the continued detention without trial of twelve officers accused of planning a coup against the President. They have now been detained beyond the limit imposed by Congolese law. OCDH and FIDH have also highlighted the poor conditions in which these twelve officers have been kept. The twelve detainees have reportedly suffered abuse, and have not been allowed to see their lawyers.²²

Freedom of thought, expression, the press and civil society

Freedom of the press is guaranteed by Congo's new constitution, and according to Freedom House, the "government generally respects this right in practice."²³ However, print media, though critical of the government, do not have a wide distribution in areas outside the capital, where the state-owned radio and television dominate.²⁴ The government has harassed and punished foreign journalists who conducted critical investigative reporting inside the country on sensitive political issues.²⁵ Some harassment and intimidation of Congolese journalists occurs as well – on April 20, 2006, a journalist working for *Thalassa* magazine was arrested and charged with "propagating false news".²⁶

Members of non-governmental organizations have sometimes been harassed; a recent case involved a trial on embezzlement charges against Congolese anti-corruption activists associated with the International Publish What You Pay campaign. These charges were thrown out by the judge trying the case, claiming that there was no evidence for them.²⁷ However, the charges were illegally reintroduced by the Prosecutor at the end of an appeal presented beyond the time limit imposed by Congolese law, according to sources in Publish What You Pay.²⁸ On November 13, one of the anti-corruption campaigners, Christian Mounzeo, was arrested upon his return from an official meeting of the Extractive Industries Transparency Initiative and accused of defaming the President. In December 2006, the campaigners were convicted of forgery, even though their international funders testified that there was no mismanagement, and given suspended prison sentences and fines.²⁹

²¹ Commission on Human Rights (2006) p43.

²² See 'Mauvaises conditions de détention et mauvais traitements subis par 12 militaires en préventive depuis 18 mois' (October 19 2006) at http://www.fidh.org/article.php3?id_article=3735 (accessed on December 13, 2006).

²³ Freedom House (2005).

²⁴ Ibid.

²⁵ State Department (2006).

²⁶ Committee to Protect Journalists (2006) at http://www.cpj.org/cases06/africa_cases_06/rep_congo01may06ca.html (accessed on 24 July 2006).

²⁷ Publish What You Pay e-mail newsletter (15 July 2006).

²⁸ Email correspondence with Publish What You Pay source (December 12, 2006).

²⁹ 'Congo activists fined for forgery' *BBC News* (December 27, 2006) <http://news.bbc.co.uk/2/hi/africa/6212659.stm>, accessed on January 22, 2007.

REPUBLIC OF CONGO (BRAZZAVILLE)

4. SUGGESTIONS FOR IMPROVEMENT

Congo has taken some important steps towards stabilization and pacification, after years of chaos and conflict. The constitutional process of 2001-2002, and the elections of 2002 indicate that there is a will for the country to move forward and out of the legacy of civil war and power struggles. The amnesty for former Prime Minister Kolelas in 2005 to allow him to bury his late wife in Brazzaville is a positive step towards the return of other former opposition leaders, such as former President Lissouba.³⁰ A number of developments suggest that the security situation might improve. These include the incompletely implemented 2003 accord between the government and the CNR, as well as the CNR's own efforts to establish security and order in areas under its control.

However, the obvious imbalances in favor of President Sassou-Nguessa's election campaign during the presidential elections of 2002 raise severe doubts about Congo's democratic trajectory. The 2002 elections and the 2001 National Dialogue, even if well-intentioned, do not indicate a willingness to involve all political actors in building a truly plural and democratic Congo, in which alternation in government is possible. Furthermore, the concerns about impunity and the maladministration of the justice system suggest that the rule of law is unfortunately still an aspiration and not a reality in Congo.

From the analysis above, it is quite clear that there are a number of areas that require improvement before the Community of Democracies can consider Congo to be truly on the path toward democratic rule. The Community of Democracies and the wider international community should insist on fundamental reforms in election organization and the rule of law if they want to help Congo become a democracy.

Firstly, the electoral process needs to be improved so as to prevent the flaws and irregularities that occurred in 2002. A number of specific improvements could be made, such as the reform of the National Electoral Commission in order to make it truly independent from government interference, with the inclusion of opposition politicians. A thorough review of the electoral register and national census, as suggested by the EU's MOEC, might help to strengthen technical standards for the next election cycle.³¹ Technical assistance with the planning and execution of national elections might help to address some of the irregularities observed, such as the lack of paper ballots, which was in many cases a problem of bottlenecks at the printing presses. In other aspects, technical assistance might not be enough if the will to distort the electoral process is there. To address this, the Community of Democracies and the international community should aim to strengthen Congolese civil society, in particular through the training of independent national electoral observers.³²

The Community of Democracies should also remind Congo that the effective provision of the rule of law is a crucial component of democracy. Impunity, especially for high-profile human rights abuses, should not be tolerated. However, many problems in the judicial and corrections sector also seem to be the product of obstacles in the administration of justice and the lack of resources. In such cases, international assistance should focus on capacity-building and the improvement of conditions in prisons and

³⁰ 'Amnesty passed for Congo's ex-PM' (24 November 2005) *BBC News* <http://news.bbc.co.uk/2/hi/africa/4467118.stm> (accessed on 24 July 2006)

³¹ MOEC (2002) p29

³² MOEC (2002) p29

REPUBLIC OF CONGO (BRAZZAVILLE)

detention centers, so that delays in processing cases need not cause unnecessary suffering in crowded and unsanitary conditions. Judicial harassment of anti-corruption activists must also cease.

5. STATISTICS AND INDICATORS

8

World Bank Institute Governance Indicators 2005	Congo-Brazzaville Score	Key
Voice and Accountability	29.0	Range 0-100 (Lower value indicates weak voice and accountability; higher value indicates strong voice and account)
Political Stability and Absence of Violence	11.3	Range 0-100 (Lower value indicates weak political stability and high violence; higher value indicates opposite)
Government Effectiveness	7.7	Range 0-100 (Lower value indicates weak government effectiveness; higher value indicates strong govt. effectiveness)
Regulatory Quality	11.4	Range 0-100 (Lower value indicates weak regulatory quality; higher value indicates strong regulatory quality)
Rule of Law	4.8	Range 0-100 (Lower value indicates weak rule of law; higher value indicates strong rule of law)
Control of Corruption	14.3	Range 0-100 (Lower value indicates weak control of corruption; higher value indicates strong control of corruption)

Freedom House: Freedom in the World 2007	Congo-Brazzaville Score	Key
Political Rights	6	Range 1-7 (Lower value indicates good system of political rights; higher value indicates bad system political rights)
Civil Liberties	5	Range 1-7 (Lower value indicates good system of civil liberties; higher value indicates bad system civil liberties)
Status	NF	3 Categories: F (Free); PF (Partly Free); NF (Not Free) / (*) Indicates electoral system

Freedom House: Freedom of the Press 2006	Congo-Brazzaville Score	Key
Total Score	51PF	Range 0-100 (Lower value indicates total free press; higher value indicates less freedom) / 3 Categories: F (Free); PF (Partly Free); NF (Not Free)

Corruption Perceptions Index 2006	Congo-Brazzaville Score	Key
Total Score	2.3	Range 0-10 (lower value indicates high corruption; higher value indicates lower values of corruption)

REPUBLIC OF CONGO (BRAZZAVILLE)

6. SOURCES

Reports

- Amnesty International (2006) *Amnesty International Annual Report 2006*, at <http://web.amnesty.org/report2006/cog-summary-eng>, (accessed on 21 June 2006)
- Central Intelligence Agency (2006) *CIA World Factbook* at <http://www.cia.gov/cia/publications/factbook/index.html>, accessed July 5, 2006
- Fédération International des Ligues de Droits de l'Homme (FIDH) (March 2002) *Rapport Hors Série : Elections en trompe l'œil au Congo-Brazzaville* at www.fidh.org/afriq/rapport/2002/cg326f.pdf (accessed on 18 July 2006)
- Fédération International des Ligues de Droits de l'Homme (FIDH) (17 March 2003) *Written Submission to the UN Commission on Human Rights* (E/CN.4/2003/NGO/241)
- Freedom House (2006) *Freedom in the World – Congo, Republic of (Brazzaville) (2005)* online at <http://www.freedomhouse.org/template.cfm?page=22&year=2005&country=686> (accessed on 21 June 2006)
- Freedom House (2006) *Freedom of the Press – Congo, Republic of (Brazzaville) (2005)* online at <http://www.freedomhouse.org/template.cfm?page=16&year=2005&country=6868>, accessed on 21 June 2006
- Mission d'Observation Electorale (MOEC) de l'Union Européenne (2002) *Congo – Election Présidentielle 10 Mars 2002 : Rapport Final*, available at http://ec.europa.eu/comm/external_relations/human_rights/eu_election_ass_observ/congobraz/rapp02.pdf, (accessed 18 July 2002)
- United Nations Commission on Human Rights (27 December 2005) *Civil and Political Rights, Including the Questions of: Disappearances and Summary Executions – Report of the Working Group on Enforced or Involuntary Disappearances* (E/CN.4/2006/56)
- United States Department of State (2006) *Country Reports on Human Rights Practices – 2005: Republic of Congo* at <http://www.state.gov/g/drl/rls/hrrpt/2005/61564.htm>, (accessed on July 18, 2006)

Journals, Magazines, Online News Sources:

- Afrol.com – www.afrol.com
- AllAfrica.com – www.allafrica.com
- BBC News– <http://news.bbc.co.uk>
- Congopage.com – www.congopage.com
- Les Dépêches de Brazzaville - <http://www.brazzaville-adiac.com/>
- ReliefWeb – www.reliefweb.int
- Reuters AlertNet – www.alertnet.org