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Country:

Congo, Democratic Republic of (Kinshasa)

Year:

2015

FIW Status:

NF

PR Rating:

6

CL Rating:

6

Aggregate Score:

25

Combined Freedom Score:

6.0

Overview:

Political corruption, weak rule of law, and violence remained prevalent in the Democratic Republic of Congo (DRC) in 2014. With President Joseph Kabila's second presidential term set to expire in 2016, factions of Kabila's coalition, the Alliance of the Presidential Majority (AMP), sought to amend the constitution to allow him to seek a third term. The national army, the Armed Forces of the Democratic Republic of Congo (FARDC), remained implicated in human rights violations, with little effective civilian control over its activities. Journalists and human rights advocates continued to face threats, unlawful detention, and beatings by state security forces and rebel groups around the country. In some cases, opposition lawmakers were arrested and imprisoned for speaking out against the government.

Despite progress implementing 2013 accords that formally ended hostilities between the national army and the M23, numerous rebel groups remain active in the provinces of North Kivu, South Kivu, Orientale, and Katanga, contributing to mass internal displacement. The DRC launched a new disarmament, demobilization, and reintegration (DDR) program in 2014 as part of its approach to armed groups in the country's east. Some critics decried a lack of progress toward implementing the UN-drafted Addis Ababa Accord, signed in 2013 by the DRC and ten neighboring countries, which aims at a region-wide effort to reduce support for armed groups in the DRC.

Regulations by western nations on trade in "conflict minerals" played a significant role in

driving reforms in the extraction of natural resources in the DRC. In March, the European Commission proposed legislation on due diligence for some conflict minerals, though the proposal would not make reporting mandatory. Following advocacy from civil society groups and international advocates, the British oil firm SOCO International agreed in June to stop oil exploration in Virunga National Park.

Political Rights and Civil Liberties:

Political Rights: 9 / 40 [Key]

A. Electoral Process: 3 / 12

Article 70 of the DRC's 2006 constitution stipulates that the president is elected for up to two five-year terms, and Article 220 prohibits amendments to key elements of the state's political framework, including the number and length of presidential terms.

Kabila was declared the winner of the November 2011 presidential election amid widespread criticism of the election by international observers; he defeated longtime opposition figure Étienne Tshisekedi, 49 percent to 32 percent, according to the Independent National Electoral Commission (CENI). The National Assembly elections, held concurrently, were also criticized as deeply flawed. Kabila's People's Party for Reconstruction and Democracy (PPRD) won 61 seats, down from the 111 seats it held prior to November 2011, while Tshisekedi's Union for Democracy and Social Progress (UDPS) took 41. Kabila's AMP coalition won 260 of the 500 seats. Tshisekedi supporters protested the results, and numerous civil society groups called for new elections.

The president nominates a prime minister from the leading party or coalition in the 500-seat National Assembly, whose members are popularly elected to serve five-year terms. Provincial assemblies elect the 108-seat Senate, as well as provincial governors, for five-year terms. Presidential and national legislative elections are scheduled for 2016.

With Kabila's second term as president set to end in 2016, members of the AMP coalition explored possibilities for legally circumventing constitutional restrictions and allowing him to seek a third term. Throughout 2014, media reported of the possibility of a referendum to change the constitution—in particular, its provisions for presidential term limits. Critics characterized his announcement, made amid growing public discontent with his rule, as consistent with efforts to create conditions for a lifetime presidency.

In May, CENI released an electoral calendar for the country's first-ever municipal, urban, and local elections, scheduled for 2015. However, the calendar is incomplete and does not include a plan for provincial and national elections. Uncertainty about district boundaries and procedures for voter registration, as well as a lack of capacity to handle disputed results, indicate the weakness of regulatory processes necessary for transparent elections. CENI, which does not include members of civil society, is led by a political ally of Kabila's.

B. Political Pluralism and Participation: 4 / 16

People have the right to organize political parties. According to CENI, there are about 445 political parties in the DRC. Political parties are often divided along ethnic, communal, or

regional lines, and usually lack national reach. The AMP requires members to have national representation, ensuring that the PPRD remains in the majority within the coalition. Other key parties include the UDPS, the Union for the Congolese Nation (UNC), and the Movement for the Liberation of Congo (MLC). Nearly 100 different parties and many independents are represented in the parliament.

Opposition members face intimidation and restrictions on their movement and mobilization. In February 2014, authorities in Kinshasa twice prevented Vital Kamerhe, president of the UNC, from travelling to Goma. Also in February, police used force to break up a UNC rally in Bukavu. In September, the general secretary of the UNC, Jean-Bertrand Ewanga, was sentenced to a year in prison following his participation in an August rally against term-limit revisions.

The majority of the DRC's indigenous population does not take part in the political process because of ethnic discrimination and lack of access to institutions in rural areas. The government does not effectively protect their political rights.

C. Functioning of Government: 2 / 12

Corruption is endemic, and impunity is a serious problem. Clandestine trade in minerals and other natural resources by rebels and elements of the FARDC helps finance violence and depletes government revenues. Massive corruption in the government, security forces, and mineral extraction industries paralyzes the proper functioning of the government and sustainable development efforts intended to raise the standard of living for its citizens.

Recruitment for government posts is often determined by nepotism, and political interference is rampant. The complicated system of taxation and regulation has made bribery a regular aspect of business dealings, and embezzlement is a pervasive occurrence.

The government has made some efforts to implement laws to reduce bureaucratic regulations and opportunities for graft. Beginning in 2012, civil servants and members of the military were paid electronically, with the aim of curbing corruption and ensuring regular, accurate payments. A new system of customs declaration, implemented in 2014 at the Kasumbalesa post on the Zambian border, streamlines declarations into a single window that automatically transmits forms electronically to Kinshasa. However, the application of the system has faced technological challenges, and enforcement remains dependent on the discretion of local officials. In July, the DRC was recognized as a compliant member of the Extractive Industries Transparency Initiative (EITI) following a one-year suspension. Despite incremental improvements in revenue reporting, there is little transparency in the state's financial affairs.

The law does not provide for public access to government information, and citizens often lack the practical ability to obtain information about government operations. The DRC was ranked 154 out of 175 countries and territories surveyed in Transparency International's 2014 Corruption Perceptions Index.

Civil Liberties: 16 / 60 (+5)

D. Freedom of Expression and Belief: 8 / 16 (+1)

Although constitutionally guaranteed, freedoms of speech and the press are limited. Radio is the dominant medium in the country, and newspapers are found mainly in large cities. The content of private television and radio stations is occasionally restricted, but lively political debate is growing in urban areas. The government does not monitor online communications or restrict access to the internet, but penetration is limited by lack of infrastructure.

While Kabila and his government are often criticized in the media, political harassment of the media is common. In August 2014, the Information Ministry banned 61 newspapers for failure to legally register in the DRC. It declared an additional 75 newspapers defunct, alleging that they had not published for three years.

Freedom of the press is significantly restricted through criminal defamation and libel laws as well as threats, detentions, arbitrary arrests, and attacks against journalists. In August, Mike Mukeyayi, the publisher of Kinshasa-based *Congo News*, was arrested after publishing an article critiquing ties between the government and the Catholic Church. He remained imprisoned at year's end. In July, police physically attacked three journalists who at the time were writing about government harassment of Kinshasa motorcycle taxi drivers; police arrested a cameraman covering protests about the same harassment issue.

Journalists based in the east face difficulties in covering the ongoing conflict. Officials attempted to restrict and intimidate media organizations reporting on Colonel Mamadou Ndala's assassination in Beni, North Kivu, in January. In February, Kennedy Germain Mumbere Muliwavyo, a reporter for Radio Télévision Muungano, was killed in an ambush in North Kivu while traveling to cover fighting in the province; the fatal attack has been linked to the Uganda-based Islamist Allied Democratic Forces (ADF).

Freedom of religion is guaranteed by the constitution and generally respected in practice. Although religious groups must register with the government in order to be recognized, unregistered groups operate unhindered. There are no formal restrictions on academic freedom; primary and secondary school curriculums are regulated but not strongly politicized. Private discussion of politically sensitive topics is relatively open among close friends or relations, yet sometimes limited by fear of potential reprisal.

E. Associational and Organizational Rights: 3 / 12

The constitution guarantees freedoms of assembly and association, though these are limited in practice. Groups holding public events must register with local authorities in advance, and security forces occasionally act against unregistered demonstrations and marches. Authorities often target human rights activists and opposition political party members who are critical of the government. In September 2014, an opposition march in Kinshasa was canceled because it lacked the authorization of the provincial minister of the interior.

There are about 5,000 registered nongovernmental organizations (NGOs) in the DRC, though they often have narrow scopes devoted to ethnic and local concerns. NGOs are generally able to operate, though domestic human rights advocates are subject to harassment, arbitrary arrest, and detention. Professional organizations are permitted to organize and operate freely. In 2014, numerous civil society organizations and opposition figures protested against possible revisions to presidential term limits. In September, civil society organizations in

Kinshasa voiced their objections to a term-limit extension and demanded public inclusion in debate regarding constitutional change.

Congolese who fulfill a residency requirement of 20 years can form and join trade unions, though government employees and members of state security forces are not permitted to unionize. It is against the law for employers to retaliate against strikers. Unions organize strikes regularly. Some labor leaders and activists face harassment.

F. Rule of Law: 0 / 16

Kabila appoints members of the judiciary, which remains subject to corruption and political manipulation. Courts are concentrated in urban areas, and the majority of the country relies on customary courts. Military courts are used often, even in civilian cases, and are subject to interference from high-ranking military personnel. The judiciary is susceptible to bias against opposition party members and civil society. In March 2014, former national deputy Eugène Diomi Ndongala, the president of the opposition Christian Democrats party and a Tshisekedi supporter, was charged with rape of minors and sentenced to ten years in prison. He had been arrested in 2012 and detained in prison while awaiting trial, in violation of several Supreme Court orders for placement under house arrest, as prescribed by law. The case has been widely criticized as politically motivated by both domestic and international observers. Prison conditions are life-threatening, and long periods of pretrial detention are common.

Civilian authorities do not maintain effective control of the security forces. The FARDC are largely undisciplined, and soldiers and police regularly commit serious human rights abuses, including rape and torture. Low pay and inadequate provisions commonly lead soldiers to seize goods from civilians. In November, four FARDC officers were convicted on charges connected with the January murder of Colonel Mamadou Ndala of the FARDC, a leader in the campaign against the M23 rebel movement who was planning an operation against the ADF when he was killed. Details regarding the murder suggest that the army may be host to internal criminal networks and external political influence.

Government and government-allied forces often enjoy impunity for even the most heinous crimes. In May, a military court tried 39 soldiers for participating in an attack that involved mass rape in 2012. Two soldiers were convicted and sentenced to life in prison, while 13 senior officers were among those acquitted. Over 20 soldiers, most of them low-ranking, were found guilty of minor crimes committed during the attack. According to an October 2014 report by the United Nations Joint Human Rights Office, the National Congolese Police carried out forced disappearances and extrajudicial killings of civilians as part of a November 2013–February 2014 offensive against criminal delinquency in Kinshasa.

A few cases did reflect the potential of existing judicial processes to deal with human rights violations. In December, a military court convicted Lieutenant Colonel Bedi Mobuli Engangela of the FARDC of crimes against humanity—including rape, murder, and sexual slavery—and sentenced him to life in prison, representing progress in the use of judicial procedures to seek justice against human rights abuses and rape in particular. Similarly, a military court in November convicted General Jérôme Kakwavu of the FARDC for war crimes committed while he was the leader of a rebel group.

In March, the International Criminal Court (ICC) found former rebel leader Germain Katanga guilty of crimes against humanity and war crimes but acquitted him of rape and the use of

child soldiers. Two other former warlords were on trial at the ICC at year's end for war crimes and crimes against humanity.

The National Assembly passed a controversial law in February granting amnesty for acts of war, acts of insurgency, and political crimes committed between February 2006 and December 2013. As of September, the number of former combatants receiving amnesty had reached approximately 900. UN officials described the law as a necessary move toward sustainable peace, while some local human rights groups criticized it for deepening an environment of impunity.

Restructuring within the FARDC in 2014 aimed to break collaboration between FARDC commanders and armed groups in North Kivu and South Kivu, but increased bureaucracy resulting from the restructuring may deepen internal competition. Positions of significant military power continue to be given to former rebels and figures with controversial pasts. Critics view the restructuring as an effort by Kabila to ensure military support before running for a third term, as a number of high-level appointments were awarded to his supporters.

Peace and the rule of law remain obstructed by the presence of several active rebel groups, primarily concentrated in North Kivu, South Kivu, Orientale, and Katanga. The population of those regions is subject to displacement and violence due to continued rebel activity and indiscipline among the armed forces. The United Nations estimated that 2.7 million people were internally displaced in Congo in 2014, most of them in eastern provinces. Continuing fragmentation and changing coalitions among armed groups and between armed groups and FARDC obstruct the de-escalation of conflict.

The impact of years of fighting on civilians has been catastrophic, with over five million conflict-related deaths since 1998. A new wave of alarmingly brutal massacres that began in October in the Beni territory of North Kivu and spread to Ituri in December is reported to have killed over 250 civilians. The massacres have been attributed to ADF rebels as a response to a joint operation against the group by the FARDC and the UN Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO). However, it was reportedly difficult to distinguish violence perpetrated by the ADF from violence perpetrated by local militias.

Ethnic discrimination, including against indigenous populations, remains a major problem. There are reports of indigenous people being kidnapped and forced into slavery. Rwandophone minorities in the Kivu provinces have been the victims of violence and hate speech for decades. The constitution prohibits discrimination against people with disabilities, but they often find it difficult to find employment, attend school, or access government services. No law specifically prohibits same-sex sexual relations, but legislators have made efforts to criminalize same-sex sexual activity, and individuals can still be prosecuted for such activity under public decency laws.

G. Personal Autonomy and Individual Rights: 5 / 16 (+4)

The freedom of movement is protected by law. Despite obstacles posed by security forces seeking bribes or travel permits, both domestic and international travel continue.

The country's economy, reliant on the extraction of natural resources, has grown an average of 6 percent over the past decade, though the vast majority of Congolese are not employed in

the formal economy. Some progress has been made in the internal management of natural resources, including in implementing tracking and validation mechanisms for “conflict-free” minerals. In May, the first container of tantalum from North Kivu meeting “conflict-free” verification procedures was prepared for export. However, such measures do not extend to many minerals extracted from some eastern regions.

Individuals have the right to own property and establish private businesses, and legal avenues for commercial activity exist. In conflict zones, various armed groups and soldiers have seized private property and destroyed homes. The majority of land in the DRC is held through customary tenure, and this lack of legal title to the land leads to regular confiscation of property.

Despite constitutional guarantees of women’s rights, women face discrimination in nearly every aspect of their lives, especially in rural areas. Equality for women is rarely realized in practice. Violence against women and girls, including sexual and gender-based violence, has soared since fighting began in 1994, though sex crimes often affect men and boys as well. Rebels and FARDC soldiers have been implicated in kidnappings, killings, and rape. Convictions for offenses such as mass rape remain rare. Abortion is prohibited, and women’s access to contraception is extremely low. Women are also greatly underrepresented in government, making up only 9 percent of the National Assembly and 6 percent of the Senate. Although Article 14 of the Constitution prohibits discrimination against women in any domain, the Family Code prescribes more restrictive roles.

Women must have their husband’s permission to seek employment, engage in legal transactions, and often for access to family-planning services. Wives are legally required to obey their husbands. Nevertheless, it has been increasingly common in recent years for young women to seek professional work outside the home or engage in commercial activities, particularly in towns and urban centers—a trend that extends to the conflict zones in the eastern part of the country.

The law prohibits all forced or compulsory labor, though this still occurs commonly around the country, including forced child labor in mining, street vending, and agriculture. Various rebel groups have reportedly forced civilians to work for them, at times imposing tolls on vehicles passing through territory held by the groups. The recruitment and use of child soldiers by rebel groups is also widespread. In February 2014, the government joined MONUSCO in launching a new campaign aimed at raising awareness of the recruitment of child soldiers.

The DRC is both a source and destination country for the trafficking of men, women, and children for the purposes of labor and sexual exploitation.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

Full Methodology

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