

ELECTIONS AND DEMOCRATISATION IN THE DEMOCRATIC REPUBLIC OF CONGO¹

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ABSTRACT

In 2006 the Democratic Republic of Congo (DRC) held its first multiparty legislative and presidential elections in more than 40 years. Although not without flaws these elections were seen by international observers as acceptably fair. They were also designed as a major milestone on the road to peace in a country that has been torn apart by civil war. The United Nations peacekeeping mission in the Congo and the multi-donor election support that brought about these elections were both the largest and most expensive ever undertaken by the UN. The article poses two questions. One is, is democracy at hand in the DRC? The other is, have elections helped to bring peace? The answer to the first is 'Yes', but only if the term is defined narrowly to mean that multiple parties compete for power and that there is some marginal chance that the prime ministership might move to the opposition in 2011. If the question is rooted in a deeper understanding of democracy as based on the rule of law, protection for the political rights of minorities, a vigorous press, and, above all else, responsiveness of political leadership to the wishes of the citizenry, much is still lacking in the Congo. In most respects Congolese political life seems to be remarkably lacking in accountability. The answer to the second is cautiously positive. The number of warring groups in the DRC has been reduced and the elections gave President Kabila and his international interlocutors the legitimacy they needed to negotiate with Rwanda for the removal of the threat posed to the eastern DRC by General Nkunda.

¹ The primary fieldwork for this article was done in the Democratic Republic of Congo in August 2008.

INTRODUCTION

In 2006 the DRC held national and provincial elections, the first multiparty elections held in the country since 1965. The elections were a condition of the 2002 agreement that followed and largely brought to an end the wars that had engulfed the country after the collapse of the Mobutu regime in 1997, though the peace agreement did not envisage such a lengthy delay. Both domestic and international political actors saw these first democratic elections in 41 years as critical to the peace-building process and so significant that the contribution of the United Nations peacekeeping mission in the Congo (MONUC) and the multi-donor election support were the largest and most expensive ever undertaken by the UN.

Although the elections are generally held to have met their major objectives of re-establishing legitimate government in the DRC and contributing to durable peace, they were not without flaws and there are still major issues to be resolved in relation both to the next round of elections in the DRC and about the country's democratisation more generally.

Can one conclude from the elections that democracy has taken root in the DRC? Have the elections at least helped to bring peace to the Congo? And how are they likely to affect the welfare of the citizenry?

This article analyses the elections with a view both to learning from them and considering the steps that need to be taken in the future to consolidate democracy in the country. We start with an overview of the political history and socio-economic context of Congo/Zaire and then turn to an analysis of the 2006 elections themselves. We conclude by reflecting on the success of the elections, the future of democracy in the DRC, and the prospects for the country's peace. As public order is most perilous in the eastern part of the country we will pay particular attention to electoral observations from South Kivu.

COUNTRY CONTEXT

Political history

The Belgian Congo (the present-day Democratic Republic of Congo-DRC) gained its political independence on 30 June 1960. Pre-independence elections, held on 22 May 1960, ushered in a new government in the form of a coalition of the Mouvement National Congolais (MNC), the Parti Solidaire Africain (PSA) and the Centre de Regroupement Africain (CEREA), which, together, had managed to win the majority of parliamentary seats.

The leader of the MNC, Patrice Lumumba, became prime minister and the leader of the Alliance des Bakongo (ABAKO), Joseph Kasa-Vubu, became head

of state. Despite this promising transition from colonial rule to self-rule through multiparty democratic elections, democracy was short lived in the country: the only other multiparty elections in Congo were held in 1965. Instead, the embryonic democratic order was nipped in the bud following the military coup d'état of 24 November 1965, led by Lieutenant-General Joseph-Désiré Mobutu.

Supported by the Western powers and within the context of the Cold War, Mobutu established a one-party government under the *Mouvement Populaire de la Révolution* (MPR), characterised by a monolithic political system and heavy repression of dissidence. Numerous presidential and parliamentary elections took place during the MPR regime, but political competition was limited. While Mobutu stood unopposed in every presidential election from 1967 to the end of his regime in 1997, parliamentary elections allowed some competition between candidates within the state party. In the 1982 National Assembly elections, in particular, some independent personalities were elected. They included Etienne Tshisekedi, probably the best-known civilian opposition politician in the country. Eventually this group challenged the Mobutu regime by launching a new political party, the *Union pour la Démocratie et le Progrès Social* (UDPS), and began their public and organised opposition to Mobutu's dictatorship, in spite of the latter's formidable repressive machinery.

After close to a decade of internal struggle for democracy, combined with the upheavals in Eastern Europe and the end of the Cold War in the late 1980s, the Mobutu regime succumbed to domestic and international pressures and reluctantly allowed the liberalisation of political space in April 1990. However, the democratisation process stalled, as Mobutu interfered systematically with its progress, undermining the national conference (a gathering of all recognised organisations with a political agenda) by flooding it with parties that fronted for him and by repressing his opponents.

At the same time, Mobutu was accused of destabilising neighbouring countries like Rwanda, Uganda, Burundi and Angola by hosting and supporting their rebels. Ongoing internal discontent, political changes at the international level and the growing impatience of regional neighbours made it possible for Laurent Désiré Kabila's *Alliance des Forces Démocratiques pour la Libération du Congo* (AFDL), which was supported principally by Rwanda and Uganda, but also by Burundi, Zimbabwe, and Angola, to stage a successful war against Mobutu. The AFDL and its allies defeated Mobutu's undisciplined and poorly paid troops and entered Kinshasa in May 1997.

Soon after taking over from Mobutu, Laurent Kabila banned political parties, thereby ending the democratic transition. In the process he unleashed repression against opponents and critics of his regime. After falling out with his Rwandan backers Kabila demanded that Rwandan troops leave the country.

Rwanda reacted violently by invading the eastern DRC and later covered up the invasion by supporting the formation of the *Rassemblement Congolais pour la Démocratie* (RCD) in order to present the conflict as a civil war rather than a foreign invasion.

In addition, Uganda opened another front against the Laurent Kabila regime in the north and north-eastern parts of the country by supporting the formation of the *Mouvement de Libération du Congo* (MLC), led by Jean Pierre Bemba. Several of the armed groups that operated in the DRC were later accused of crimes against humanity, but so far Bemba alone is being tried in The Hague for atrocities committed in the DRC and the Central African Republic (CAR). In addition to various militia groups seven foreign armies fought in support of the Kabila government – Angola, Zimbabwe and Namibia, Chad and Burundi (both of which were involved briefly), and rebel movements backed by Rwanda and Uganda.

The assassination of Laurent Kabila in January 2001 and his replacement by his son, Joseph Kabila, who chose to adopt a more conciliatory approach towards his opponents, allowed for the implementation of the Lusaka Peace Accord of 2000, which provided for inter-Congolese dialogue at Sun City, South Africa, in 2002 and resulted in the signing of the Pretoria Accord. Transitional institutions (government, National Assembly and Senate) were installed.

In the newly devised 1+4 power-sharing system Kabila retained the presidency, assisted by four vice-presidents, namely, Jean-Pierre Bemba (MLC), Azarias Ruberwa (RCD) and Yerodia Ndombasi (Kabila government). Against all odds the little known Arthur Zahidi secured the fourth vice-presidential post, which was reserved for the civilian political opposition, ousting well-known opposition political figures like Etienne Tshisekedi of the UDPS and Antoine Gizenga of the *Parti Lumumbiste Unifié* (PALU). They reacted by refusing to join the transitional government and the other transitional institutions.

Gizenga re-entered electoral politics with the 2006 elections and was rewarded with the post of prime minister for ultimately supporting President Kabila. In contrast, the management of the 2006 electoral process and his own manoeuvring ultimately led to the marginalisation of Tshisekedi and the UDPS. This effectively concluded the neutralisation of what remained the single non-armed political force in the country, which commanded the widest degree of political support and legitimacy. Even though undoubtedly the UDPS has, in large part, itself to blame, the consequences are a setback for the establishment of civilian democracy in the DRC.

The national election commission, the *Commission Electorale Indépendante* (CEI), was created alongside five other institutions which were entrenched in the transitional constitution. The others were the *Haute Autorité des Médias*,

the Observatoire des Droits Humains, the Commission Vérité et Reconciliation, and the Commission de l'Éthique et la Lutte Contre la Corruption. While the CEI played a visible role and made a substantial contribution to the transition, the impact of the other institutions is unclear to us.

Below we examine both the national and provincial elections of July and October 2006 from a risk analysis perspective, and draw lessons for future elections. Most immediately these are the local government elections, tentatively planned for 2009, and the second national and provincial elections, which are to take place in 2011.

Voting behaviour

The introduction to this issue notes that political patronage drives voting behaviour throughout Africa (and much of the rest of the world). In the Congo, since the weak state is not reliable in the delivery of benefits, even patronage ones, voters expect politicians to amass wealth and dispense 'constituency service' personally. Thus money drives politics in the DRC even more than it does in most political systems. Votes and loyalties are for sale, with very little reference to political principles.

Nonetheless, in the DRC voters do not get high returns from their ascriptive voting behaviour (even if they are seen as better than the more strictly policy-based alternatives). The transportation infrastructure of the Congo is so poor that it is extremely difficult for most legislative representatives to reach their rural constituents, or vice versa. Thus the amount of 'constituency service' they actually deliver is very small; they accumulate without sharing very much. This is the one aspect of political behaviour for which their constituencies will hold them accountable and the result, judging from comparable political systems in Africa, is that most of them will not be returned at the next election unless they resort to massive fraud, bribery, intimidation, and other improper practices.

The system of government

The DRC has opted for the French model of a semi-presidential system in which the president of the republic is elected by universal suffrage and shares executive powers with a prime minister who is elected from the parliamentary majority. In practice, the system centres on a strong presidency, which holds the real power.

The prime minister, Antoine Gizenga, of the PALU, who finally resigned for health reasons on 25 September 2008, was old and ineffective, a fact that further strengthened the presidency.

There is broad consensus that the bicameral Parliament is doing a good job in terms of lawmaking, yet its processes tend to be too slow. Parliament has been

accused of taking party lines when it comes to its oversight role vis-à-vis the executive. Although partisanship is to be expected in a parliamentary democracy, in the DRC the degree of such partisanship has led to the automatic support of the majority for the government when the appropriateness of executive actions is challenged. The historical subservience of the courts to the executive undermines their independence and removes the necessary checks and balances. Civil society organisations (CSOs) have been urged by many to step in and require more accountability from the government and Parliament.

A full democracy requires not only the election of the chief executive but also the existence of independent bodies to check the powers of the executive and to ensure the protection of human rights. Independent, countervailing powers were not a part of the Zairian political system under Mobutu. During the transitional period leading up to the 2006 elections Parliament, the electoral management body, and the media (in the form of UN radio OKAPI) did show independence. It is too early to know whether these institutions and others that are important to full democracy will be independent in the long term, as the influence of the international community on the DRC's political system declines.

Where does power lie?

The Congo does not have a single locus of power and some of the most significant loci weaken the state. From the Portuguese establishment of the trans-Atlantic slave trade, through King Leopold's Free State and the era of Belgian colonialism, under Mobutu's Zaire, and on into the present, the Congo has been a site of exploitative resource extraction and the interests attracted by the country's changing resources have shaped its political landscape and driven the patterns of coercion deemed conducive to extraction.

Even at the high point of the development of the state in the 1950s, just before independence, the foreign-owned mining companies and agricultural estates were the most important administrative structures. The vastness of the country and the inaccessibility of much of its terrain have always presented a challenge to state penetration. This challenge was multiplied at independence by the attempt of certain interests to retain control of Katanga's mineral resources through secession, compounded by the absence of university-educated indigenous elites.

Mobutu Sese Seko successfully fended off secession and rebellion, first with help from the UN and then with support from America, France and Morocco. The people of Congo today have a strong sense of nationhood and are remarkably resistant to the temptations of secession. Unfortunately, this cultural identity has been developed in the face of economic and political failure.

Mobutu's attempts to transfer the productive wealth of the country to its

indigenous elites were premature and precipitous and resulted in the death of the goose that was laying the 'golden eggs'. Instead of fostering a new entrepreneurial class Mobutu created a set of 'rent-seeking' elites who were highly dependent on him. The relatively educated elites, called '*assimilés*' in the 1950s and '*intellectuels*' at independence, became popularly known in the 1970s as the '*acquéreurs*' [those who have acquired], thereby becoming distinguished not by their accomplishments but by their greed.

The decline of the Zairian/Congolese state was similar and deliberately contrived. With a weak revenue base, founded primarily on the extraction of 'economic rents' from the country's considerable natural resources, Mobutu could not afford a strong state which might have attracted or coerced the loyalty of its citizenry. Instead he allowed it to weaken further so that there would be no alternative bases of power to his own. The country's transportation infrastructure was allowed to fall apart because it might facilitate rebels reaching the capital. Most of the army was populated with patronage appointments – underpaid, poorly trained, undisciplined, and utterly incompetent, so it posed no threat. Only Mobutu's Republican Guard was kept strong enough to fend off any attempts by the army to gain power (Young & Turner 1985).

Of course this weakened state was unable to defend the country against invasion by the small but disciplined and skilled Rwandan army, nor was it able later to prevent its mineral resources being ransacked by foreign and rebel groups. The heritage of Mobutu's weak state was evident in the DRC's inability to create an army capable of standing alone against the renegade Tutsi (Rwanda-backed) rebellion in Nord Kivu of General Laurent Nkundabatware (better known as Nkunda). It is also evident in its dependence on the intervention at key moments of Angolan forces, supported by Zimbabweans and Namibians, and its continued need to maintain the presence of the UN's 17 000-strong MONUC forces. It is also evident in the fact that most of the 'rents' from the country's mineral resources are generated by foreign interests and paid privately to key Congolese political elites, without passing through the state.

Where, then, does 'power' lie in this weakened DRC? The primary answer is that it rests beyond the country's borders – most powerfully in Rwanda and a bit less so in Uganda in the east and Angola in the west; less visibly, but no less meaningfully, in the US and Belgium, and more visibly but less effectively in the MONUC. If we consider only issues of democratisation traditional donors weigh heavily, and if only the economy is considered, new donors matter increasingly. However, these 'powers' have diverse interests which often put them in competition with each other. No coalition is dominant across all issues.

Certainly, these countries significantly constrain the choices open to the government of the DRC on many questions, but only occasionally can they dictate

what is to happen and on some matters the government can choose for itself the international powers with which it wishes to work (as it has with China on certain economic issues). Despite these qualifications, Congo has only *de jure*, not *de facto* sovereignty and the most important powers at work in and on the DRC are international (Jackson & Rosberg 1982).² Most of the time, it is better to think of sovereignty as a rhetorical tool of the government, not as an empirical reality.

The foregoing 'big' answer leaves unaddressed, however, the 'small' question of where power lies within the Congolese system itself. Mobutu was deposed and the government of Laurent Kabila put in place by the Rwandan army. When Laurent broke with the Rwandans and they attempted to depose him, he was protected by the Angolans. When Laurent was assassinated a small group around him decided that his son, Joseph, would succeed him. As we discuss below it does not appear that this group has an irrevocable commitment to Joseph Kabila but it also is unclear whether it has very deep roots to its power either – its personal popularity is not strong and the army has been shown to be weak. Power instead seems to come from the fact that most of the international community is committed to peace in the country and that gives the group control over a certain amount of resources that can be used to purchase the support of others.

The group's regional base is among Swahili speakers in the east of the country, although it is weakened by delays in the return to peace in the area. It is the strongest political group operating at the national level in Congo today, but that strength is only relative to the weakness of the group's competitors and it is not clear where its social base lies.

As will emerge below in our discussion of election results, the most important national competitor of Joseph Kabila's Alliance de la Majorité Présidentielle (AMP) has been Jean-Pierre Bemba's Union pour la Nation (UN) alliance, which was built out of his Uganda-backed rebel movement in the north-east but has now also laid claim to the old Mobutu Lingala-speaking base in the country's west.

The UN alliance has now been weakened by Bemba's arrest to stand trial in The Hague for war crimes, although the MLC (at its centre) remains significant as a party. The other major national player is Etienne Tshisekedi's Union Pour la Démocratie et le Progrès Social (UDPS), the most important opposition under Mobutu and the most significant political movement with a wholly civilian base (mostly in the Kasai provinces). But Tshisekedi was sidelined in the run-up to the elections, which he then boycotted, and now he is old. The other purely civilian political force is Antoine Gizenga's Parti Lumumbiste Unifié (PALU), which is in a governmental coalition with Kabila's AMP, and thus holds the prime ministership.

2 This observation was first made about Zaire in the early 1980s.

Bemba's UN alliance is the only rebel movement to have held sway in the north-west³ which has successfully transformed itself into a viable civilian force and today it and the other major national parties have clear regional bases. With one exception the other rebel movements, including Bemba's, have effectively been disarmed – a significant achievement. But the Tutsi forces General Nkunda assembled remain militarily potent (even though he has been removed). Nkunda appeared to have national ambitions, but even in the Kivu provinces most citizens oppose him and his forces. It is also extremely unlikely that Angola and the other international forces would allow Nkunda's forces to capture Kinshasa.

In a dramatic turn of events the Congolese and Rwandan governments agreed in early 2009 to work together against their former protégés – respectively, the Hutu militias and the rebel forces of Nkunda's National Congress for People's Defence (CNDP). Nkunda was arrested on Rwandan territory on 22 January 2009 while fleeing the DRC. The Rwandan and Congolese armies subsequently conducted a joint operation in eastern Congo against the Hutu forces from which Nkunda was ostensibly protecting the Congolese Tutsi.

We noted above that votes and political loyalties in the DRC are freely bought and sold by all parties, with the notable exception of Nkunda's CNDP. In this sense, then, the 'small' answer to where power lies in the Congo is 'where the money is'. But the ability to extract and protect revenue streams comes from the international forces of our 'big' answer. Some external forces provide aid, some provide armed support to protect resource extraction for the government. Others (again, notably, those of General Nkunda) use coercion simply to appropriate resources for the rebel groups they support.

THE ELECTIONS

Results

The CEI, headed by Apollinaire Malumalu, a Roman Catholic priest, successfully managed most of the logistical, political and security challenges of the December 2005 constitutional referendum and the July and October 2006 national and provincial elections, despite the fact that the country was emerging from decades of authoritarian rule and a protracted violent conflict.

Joseph Kabila was announced as the winner of the run-off presidential elections with 9 436 779 votes (58,05%) against 6 819 822 votes (41,95%) for

³ After the unpopular war waged in northern Congo with the support of Uganda had ended Bemba and his MLC party lost influence in the north-east, which, like the rest of eastern Congo, is a largely Swahili-speaking area and now supports Kabila, as demonstrated by the 2006 election results. The north-east has also suffered heavily from the military actions of the Rwandan and Ugandan armies and, since 2008, from the brutality of the Ugandan Lord's Resistance Army (LRA) militia.

Jean-Pierre Bemba (Kabila won 44,8% and Bemba 20% in the first round). Kabila's AMP also defeated Bemba's UN alliance in the National Assembly elections. The AMP won majorities in seven of the eleven provincial assemblies as well, with the remaining assemblies going to the UN alliance. Regionally speaking, the outcome of the elections both underlined and reinforced (by giving it numerical/ electoral contours) the divide between the country's Lingala-speaking west and the Swahili-speaking east.

External assistance

The international community supported the electoral process in the DRC from the outset through bilateral and multilateral interventions. This assistance was coordinated by the MONUC, which established multilateral management committees that operated at the political, technical and financial levels.

At the political level the transitional constitution had established an International Committee for the Assistance to the Transition (CIAT) in which ambassadors, heads of diplomatic missions, and representatives of international organisations debated the political aspects of the electoral process and advised national authorities accordingly.

At the technical level national and international experts met weekly to discuss election-related issues and to coordinate donor interventions and the international community's support for the electoral process, through the Appui au Processus Electoral au Congo (Support to the Electoral Process in the Congo – APEC) steering and technical committee structure. APEC comprised representatives of donor countries, CEI delegates, electoral experts deployed by the international community, and representatives of international NGOs participating in the electoral process. It also included the Sécourisation du Processus Electoral au Congo (SPEC), which dealt with all issues pertaining to election security. The combination of committees worked well.

With regard to financial support for the electoral process the international community established a 'basket fund', managed by the United Nations Development Programme (UNDP), which served as a joint structure for the mobilisation, coordination and management of the financial resources and the provision of technical expertise to the CEI for programming activities. The electoral budget was initially estimated at US\$432-million.⁴ A further amount of US\$46-million had to be mobilised for the provincial and second round of

4 The various expenditure estimates are not precise. They were generally recorded in the national currency of the donor and therefore the equivalent dollar value would depend on the conversion rate at any particular time. Also, not all the coordinated activities funded directly by donors were necessarily reported to UNDP. It is therefore best to treat these expenditure estimates as minima.

the presidential elections. The DRC government promised to contribute US\$40-million – roughly one-tenth of the total cost. MONUC provided US\$103-million in logistical support, while other donors furnished the remainder of the budgetary allocation. It is worth emphasising that MONUC has been the UN's biggest and costliest mission ever, with more than 17 000 peacekeepers and an annual budget of approximately US\$1-billion for 15 558 troops, 520 military observers, 324 civilian police and 2 493 civilian staff.

Clearly the DRC government's contribution was very small and it is encouraging that the government is reportedly ready to contribute 30 per cent of the overall cost of updating the voters' roll ahead of the 2009 local government elections.⁵ Such incremental progress is likely to ensure that, in the long run, the country is able to fund its own elections and ensure their sustainability.

Governance in the DRC can be characterised as multi-levelled, networked, fluid and complex. This means that lines of hierarchical authority on an organogram provide little information about the actual policy processes. Those with the largest influence on the lives of rural Congolese are their chiefs, the local warlords/militia leaders, a national army (Forces Armées de la République Démocratique du Congo - FARDC) living off the land, UN forces (MONUC) and various relief agencies. These participants connect and negotiate with each other to develop local accommodations, which are only marginally bound by national directives. The effective presence of the Congolese government is very limited outside Kinshasa and the economic centres of Bas-Kongo and Katanga. Again, negotiation dominates, for national revenues do not go to most of the provinces and the provinces with most of the income restrict their revenue transmissions to the centre.

The central government is heavily dependent for security and funds on the UN and donors. Of course the different donors do not generally form a unified body and they negotiate with the government both individually and collectively. Yet informally the donors network intensively and the shared understanding they develop in the process may be the biggest influence on the policy discourses that shape what the government does in most technical domains.

The 2006 (and the anticipated 2009) elections are an interesting illustration of the donor networking process. As has become customary in elections the donors created a funding basket and designated UNDP to manage it. Fifteen donors contributed a total of \$267 338 764 to the basket. The European Community provided two-thirds of the sum and the UK was the next largest donor, with

5 At the time of writing no date had been set for the local government elections. The government claims the reason is a lack of funding while the opposition accuses the government of not being committed to the elections because it wishes to retain the status quo whereby local government authorities are appointed by the government (see p 38).

7,5 per cent. The size of the EC contribution was partly a result of pressure from EU member states, which were also supporting the elections bilaterally. Although the USA as a matter of policy does not participate formally in basket funds, it coordinates with the other donors in choosing the activities it funds directly. The UK's Department for International Development (DFID) and the Republic of South Africa provided extra-basket support. Also outside the basket was the MONUC's very substantial contribution in terms of logistical support.

All those involved in supporting the elections – including the DRC government, donors who did not contribute to the basket, and NGOs such as EISA, which provided support services – met weekly for three years in APEC and other forums to plan the elections and coordinate their activities.

Of course UNDP (with MONUC), as manager of the project, took the lead in the planning process and, as head of the CEI Apollinaire Malumalu was central to implementation. Although it was not a contributor to the basket, the United States Agency for International Development (USAID) is reported to have played a prominent role in the group discussions. DFID, the largest bilateral donor, with its experienced staff, also frequently played a leadership role, an interesting situation since the United Kingdom has never had strong interests or an historical role in the DRC.

The European commissioner in charge of development and humanitarian affairs, Louis Michel, a Belgian citizen, made some notable public pronouncements about the elections, which were not always welcomed by the other donors or the Congolese opposition. Despite tensions between donor interests and their different approaches, it is evident that those involved developed a fluid but relatively coherent approach to the elections and significantly influenced the policies that guided them.

There was strong consensus that the elections were too important to be allowed to fail and that any threats to their success had to be overcome. As a result, donors, particularly UNDP, found themselves making contributions that exceeded their original pledges. The European Union's rapid response forces, EUFOR, were placed in Kinshasa at a critical phase and stationed reinforcements in Gabon, to be called upon if necessary. When there were political challenges to the process the network of those involved broadened even further, including, for example, Zambia and Angola. The boundaries of authority were fluid and none of the participants was ascertainably 'in charge'.

In sum, the process was deeply networked, the boundaries of authority were fluid, and it would be difficult to say who was 'in charge', a situation that reflects the reality of governance in much of the contemporary global world – actions are shaped by the simultaneous understandings and activities of the players, from chiefs to national executives to donors to international organisations, with NGO

impacts on the side. All are implicated in the results, sometimes without decisions ever having been explicitly made.

A similarly fluid, networked process is underway in relation to the local government elections to be held in 2009, though late into 2008 there was still no unity among donors as to what should be done. While the European Commission (EC) preferred to postpone the local elections to coincide with the general election in 2011 others disagreed. One might have thought that the EC position would be definitive, as it has been the largest donor to elections in the DRC. But that would defy the donors' expectation of networking and informal consensus, and would ignore the ability of European Union (EU) member states to lobby in Brussels for a change in the commission's position.

THE ELECTORAL CYCLE: PROBLEMS, PROGRESS AND PROSPECTS

The 2006 elections in the DRC were considered to be acceptably fair, in that the electoral process was generally transparent and, despite numerous irregularities, the outcome was felt to reflect, by and large, the wish of the Congolese people (see the reports of the European Union, EISA, Francophonie, the Southern African Development Community – SADC, the African Union – AU, and the SADC Parliamentary Forum). Arguably the conduct of the elections was absolutely critical to the legitimacy of the government, both internationally and domestically. But with the passing of time the flaws in the process are receiving increasingly critical attention from Congolese CSOs and opposition parties and, as a result, the quality of the next elections will be extremely important.

This section analyses the key problems that arose during the process that led to the 2005 referendum and the 2006 general elections and assesses the extent to which these problems have been addressed during the current electoral cycle. The analysis, based on the relevant components of the electoral cycle, considers the potential challenges to be faced during both the 2009 local government elections and the 2011 national and provincial elections should the problems that have been identified fail to be addressed.

The legal framework

The electoral system

The rules governing the presidential election require that there should be a run-off if no candidate wins an absolute majority of votes (ie, at least 50% +1 of total valid votes cast). For the parliamentary and provincial elections an open-list proportional representation (PR) system is used for district-wide constituencies, making it one of the most complex legislative electoral systems in Africa.

The open-list PR system was designed to prevent manipulation by minorities, for it is the voters, not the parties, who decide the order of candidates on each party's list. Since census data were unavailable the number of seats allocated to a district was based on its voter registration, a system which led to over-representation in provinces where there was massive turnout for registration. The system combines PR (for two-thirds of the lower chamber) and for one-third, first-past-the post (FPTP). Few people properly understand the application of the electoral formula and leaders of many of the major political parties as well as independent candidates often fail to grasp the subtlety of the system, a factor that affects their electoral strategy and limits their ability to lodge complaints successfully.

While the system is seen as inclusive because it allows for the maximum number of party candidates and independents, it necessitates the use of bulky ballot papers comprising up to six large sheets, a situation which complicates the casting of ballots in secrecy (especially for illiterate voters), their folding, counting, transportation, and storage.

A mixed electoral system combining elements of FPTP and party-controlled PR with more transparent rules might better suit the situation in the DRC. In such a system a carefully designed PR component would not only allow for strengthening of the country's weak and unstable party system, it would also provide for the inclusion of ethnic minorities and women in representative institutions.

Given the extraordinarily large number of independents and of parties with very small numbers of representatives in the National Assembly, the introduction of an electoral threshold could be considered in order to avoid a proliferation of parties and independent MPs.

On the other hand, the single-member component of the mixed system would provide the closest link for constituency service between voters and their representatives and therefore has the best fit with the role voters expect of those whom they elect. It would also assure the electorate that no candidate is imposed by party organisations, a consideration that was central in the choice of an open-list PR system.⁶

However, since no major voices have called for a review of the current electoral system it seems that it will remain unchanged for the 2011 elections and,

6 The fact that a prominent member of Mobutu's presidential staff was Rwandan, that Rwandan forces later overthrew Mobutu and installed Laurent Kabila, that Rwanda later attempted to depose Laurent, and that it has supported, and still supports rebel/militia movements in Kivu province, all result in an almost obsessive fear among the Congolese that Rwandans (by whom they mean speakers of that language, not necessarily citizens of that country) have the ability to insert themselves into and control almost any political process. Given the continued conflicts involving Rwandans (both Tutsi and Hutu) in the east of the country, an electoral system that cannot be manipulated by a particular party is a particular priority for the Congolese.

given the centrality of the system to the 'political settlement' in the DRC, it would be a mistake for outsiders to press for change. The system must be selected and accepted by Congolese politicians.

Support for women candidates

The emphasis in the first post-conflict election was, inevitably, on including all those who might otherwise return to war. Thus there was a male bias to the process and only a limited number of women put their names forward. A mere 8,4 per cent of members of the National Assembly are women, despite the fact that almost 20 per cent of the candidates were female.

The open-list PR system tended to be detrimental to the promotion of gender equality within the framework of the Declaration on Gender and Development, adopted in 1997 by SADC, which aims for a minimum of 30 per cent of women in representative institutions. In the open-list system a voter registers support for a party by voting for one of its candidates and the number of votes a specific candidate receives determines his or her place on the party list. The consequence is that even if a party nominates female candidates and even if it supports them in the campaign (and the parties can be criticised on both these grounds) prejudice against women among voters causes them to fall to the bottom of their party lists, where they are less likely to secure a seat. Thus fewer women were elected than were nominated.⁷

Indirect election of senators and provincial governors

The election of (national) senators and provincial governors is conducted indirectly by the provincial legislatures through a secret ballot. There is widespread belief that these indirect elections, most of which took place in January 2007, were characterised by bribery of the provincial parliamentarians, persuading them to vote without taking into account the wishes of the electorate.

While the AMP won a majority of seats in seven of the country's 11 provincial assemblies and opposition leader Jean-Pierre Bemba's Union pour la Nation coalition secured the remaining four provincial legislatures, opposition parties, CSOs and independent analysts all argue that these indirect elections gave way to corruption involving all the parties, though more suspicion was directed at the AMP. This situation has caused a lot of anger. In the Bas-Congo, a province which gave a majority of seats in the provincial assembly to the opposition UN,

⁷ There is no doubt that closed-list PR is the system more likely to improve gender equity than other electoral options. Nonetheless, the choice of the electoral system is at the centre of current political conflicts in the DRC – including the recurrence of Nkunda's rebellion. In these circumstances it would, in our view, be an error for international actors to press for a closed-list PR system for gender reasons. Women have a greater interest in not being killed or raped than in having more representation in the National Assembly, as valuable as the latter might be.

there were violent popular protests when an AMP governor was elected. About 100 people were killed when the Kinshasa government cracked down on the protestors in a response many considered to be disproportionate.

It must be pointed out that bribery was not the only reason for the opposition losing the control of governorships in three of the four provinces in which it had won the provincial assembly elections. Some key opposition leaders have admitted that Bemba had failed to make substantive concessions to his UN coalition partners in terms of power-sharing deals, which led them to cross over to the AMP.

None of this invalidates, however, the more important point that money is influential in Congolese electoral politics. There have also been complaints that, because of the indirect system used for their selection, senators and governors are largely unaccountable to the electorate. This accusation has been countered by some analysts, who argue that the directly elected members of Parliament (MPs) have not been particularly accountable either.

There have been numerous calls for the repeal of the indirect system of election of senators and governors, but thus far there has been no move in this direction. It is worth noting that the election of mayors, commune burgomasters and other executive heads in the decentralised entities after the 2009 local government elections will be based on the same indirect system, a situation that is expected to produce the same effects.

After the 2006 election some optimistic observers felt that even though the national elections might have done little to stabilise the country there was hope for the development of a quasi-federal '*république des gouverneurs*' in which smaller entities, the provinces, would become the relevant frame for accountable governance. The outcome of the provincial elections undermines this possibility, raising a long-standing issue, namely that election support and observation tend to diminish dramatically in sub-national elections.

Voter registration

Financial and time constraints meant that voter registration in 2005-2006 was not preceded by a general population census. The process was based on Law No 4/028 of 24 December 2004 on the identification and registration of voters and the figures used came from population projects, no census having been taken since 1981. Voter registration is compulsory in the DRC, though voting is not.

Only nationals holding exclusively DRC nationality and aged at least 18 are eligible to register. Among those excluded from registering are Congolese nationals physically absent from the country at the time of registration, including those living abroad, as well as nationals serving in the security forces (the army and the police).

In response to major logistical challenges registration took place on a rolling basis from province to province and lasted from June 2005 to February 2006. It had not been completed by the time of the constitutional referendum in December 2005. In view of the armed conflict in the country and the logistics involved an impressive amount was achieved. Of a projected eligible population of 28-million voters, 25,7-million were registered. The complex, IT-intensive technology, which relied on fingerprinting to ensure that no one registered more than once, succeeded in eliminating multiple registrants. The complexity of the system raises questions about sustainability, however.

There is suspicion as well that there were too few registration centres in the west and that the figures were over-inflated in the east of the country, President Joseph Kabila's stronghold. Opposition parties and CSOs argued that it was absurd that the eastern DRC, whose population less than a decade ago was not substantially larger than that in the western DRC and which suffered from lengthy civil wars leading to a massive number of internally and externally displaced people and an estimated four million dead, could still have more voters than the west.

One of the allegations was that refugees and migrants from Rwanda, Burundi and possibly Uganda had been included, especially in the Kivu provinces. None of the international, regional or national election observer missions, political parties or an independent study has, however, confirmed these allegations.

It must be noted that the UDPS boycotted both the registration and the election, alleging that the entire process was flawed. It is believed that thousands of people responded to the party's boycott call.

For the 2009 and 2011 elections the voters' roll will be updated to include people who did not register before for a variety of reasons, including age, absence from the country, and boycott. Voter registration will include 16-year-olds, who may be given a distinctive card that they will be able to use in 2011, once they are 18. It is not clear by what process dead voters will be removed from the roll, however, given that the country does not have a rigorous system of recording births and deaths in a civil registry, and this could prove to be a substantial problem in presidential elections in 2011 and beyond, when, typically, most of those using and officiating at a particular polling station will favour the same candidate.

The 2007 Kenyan elections demonstrated that when the election is close the temptation to 'vote the graveyard' in the presidential poll is irresistible and widespread, making it impossible to tell who actually wins. This suggests that serious consideration should be given to fusing or at least automatically linking the voters' roll with the citizens' register, so that deaths recorded in the latter lead to the amendment of the former and changes in address noted for the former are noted in the latter.

As in 2005-6 the electoral commission will rely heavily on MONUC for logistical support, though MONUC does not intend to be a full co-partner of the CEI/CENI but prefers to let the Congolese take the lead in order for them to achieve sustainability and autonomy.

The implementation of the voter registration process is being delayed by the absence of indispensable laws and by a lack of government funding for the electoral commission. Most donors have already committed funding to the UNDP, though some key donors are not yet convinced that the country is genuinely committed to the local government elections, and have therefore shown limited enthusiasm.

The election campaign

Many observers anticipated large-scale violence during the 2006 elections as a result of the incomplete demobilisation, disarmament and reintegration (DDR) process of the various armed groups, the lack of a multiparty democratic culture, the negative role of Rwanda in the Nord-Kivu province, the political polarisation between the eastern and western provinces, as well as the prevalence of ethnic and regional politics countrywide.

Ultimately, the only major battles occurred at the highest levels of the state and despite the fact that more than 100 political parties had signed a code of conduct and that Kabila and Bemba had committed themselves in writing not to resort to violence during and after the elections. Other incidents of violence remained isolated and localised. Overall, the people of the DRC showed an admirable degree of self-restraint, refusing to become involved in the spasms of violence during the campaigning period and after the election.

Against this background the conflict management panels put in place by the CEI throughout the country, with the technical assistance of EISA and funding from DFID and the Swedish International Development Agency (Sida), combined with improved voter education and information programmes, proved invaluable in preventing and managing election related conflicts at the grassroots level.

The fact that the elections generally went off well should not, however, be allowed to camouflage the inherent volatility of the process in many areas of the country. In Bukavu in South Kivu province, for instance, a number of short-lived episodes of mob violence at polling stations on election day might easily have escalated and brought the voting process to a halt in large parts of the city. The incidents were prevented from escalating by the intervention of international election observers linked to a local church mission, whose local knowledge and reputation managed to keep the crowds at (relative) bay until the arrival of the MONUC.

There is still reason to fear massive violence during the transitional elections but for several reasons concerns about an escalation of violence at the grassroots level in 2009 and 2011 are likely to be more localised: local government elections do not directly threaten national elites, most of the former rebel movements no longer have the capacity to resume a full-scale war, and the geographical scope of General Nkunda's rebellion is relatively limited to Nord-Kivu.⁸

In terms of risks outside the Kivus the danger of violent behaviour would largely come from the presidential camp, especially if it felt threatened by a possible regrouping of opposition parties, combined with UDPS's probable participation in the 2009-2011 elections. Other possible reasons for the presidential camp to be tempted to resort to violence and intimidation, particularly ahead of the 2011 general election, include internal divisions within the AMP, the decreasing popularity of the president in his eastern stronghold because of the continuing war, lack of security and continued control of parts of the national territory by the Nord-Kivu rebels of General Nkunda, the brutalities of the Rwandan Hutu militias in the Kivu provinces and the Ugandan LRA in the Province Orientale bordering Uganda, and general dissatisfaction with the government both in the west and the east owing to the lack of service delivery, rampant corruption and escalating levels of poverty. Therefore, in order to help reduce tensions and promote a culture of political tolerance and moderation, conflict management panels must be re-established to deal with conflict at grassroots level. It would also be useful to pressure politicians from both the ruling majority and the opposition to recommit themselves to political tolerance and to a peaceful electoral process.

Such a commitment at national level will probably be forthcoming for local elections, since the stakes are lower. The same is likely to be true of the 2011 elections if the main question is only which coalition will gain a majority in the National Assembly (and thus the prime ministership). If the presidency is in play, however, there will be a strong likelihood that violent conflict will be resumed. For better or worse, Bemba's legal troubles make it unlikely that the UN alliance will pose a serious presidential threat in 2011. However, the deepening and spreading of current divisions within the AMP combined with better unification and organisation of the opposition could threaten Kabila's hold on power in 2011.

Election security

'Securisation du Processus Electoral au Congo' (SPEC) was a UNDP project intended to ensure the security of the electoral process throughout all phases of

⁸ In late March 2009 the DRC government and the CNDP rebels signed a peace accord, a process facilitated by former Nigerian president Olusegun Obasanjo.

elections (pre-voting, voting and post-voting). It was an administratively difficult project as the DRC army and police have their own 'unusual' rules. On the ground, however, it was relatively successful. Thousands of troops were trained, equipped and deployed.

The overall security of the elections nationwide was dealt with by the UN troops and the EUFOR (European Forces) in Kinshasa. The DRC police, trained by the French and British, ensured the safety of electoral operations in and around the polling centres and stations and the results centres and supervised the transmission of results, the security of polling staff, and so on. As a result, no major incidents were recorded during the 2006 general elections. In 2007, during the indirect elections of senators, governors and vice-governors, however, clashes between civilians and the armed forces caused the deaths of hundreds. It is not clear whether SPEC was still a running programme, at this time.

Incidents of violence between the two rounds of the presidential election sent a strong signal to the Congolese people that despite the democratic process political power in the DRC is only available for those who also hold various degrees of coercive power – either their own or those of international guarantors. The only viable contenders for the presidency commanded armed men. Though the Congolese people did not want violence, the contenders engaged in spates of it, which might have worsened without international intervention. For example, donor mediation was critical in deescalating the crisis that occurred when the Congolese army attacked Bemba's residence in Kinshasa.

The dispute, dubbed by the Congolese the 'Kabila-Bemba War' of March 2007, was not the direct result of the elections but of unresolved issues such as the reunification of the army, the security of political leaders, the collaboration between leaders after the elections, and so on. The degree of popular support for Bemba evinced by the election results clearly demonstrated that he remained a threat to Kabila, so, although Bemba's personal security detail posed no threat to the country, it provided an excuse for cracking down on a strong political opponent with a substantial following in the capital. What Kabila failed to realise was that the real threat lay in his native land, the east of the DRC, and that the complexity of the country meant that the DRC itself was a time bomb.

In 2007 the UNDP commissioned a team of international security experts to evaluate the SPEC Programme, but its report has not been made public.

Post-election

Settlement of election disputes

Many disputes over the electoral processes were addressed through the CEI and the courts from the start of registration onward, particularly in respect of the

national and provincial assembly elections. A special division of the High Court, set up to resolve electoral disputes speedily, functioned competently and fairly but rejected about 60 per cent on technical grounds. Although these decisions were correct (and, in view of the fact that most of the evidence was hearsay, inevitable), they did not give the complainants the satisfaction of having their cases heard. The courts cancelled 18 election results because of irregularities.

It is generally believed that much of the success of the use of the justice system to resolve electoral disputes can be attributed to the support provided by the international community, which helped restore the reputation of the courts, which had steadily deteriorated during the Mobutu years.

Disputes over the presidential results took both legal and extra-legal forms. Just before the CEI was to announce the results of the first round, in which, to the fury of the Kabila campaign machine, there was no clear winner, Kabila's troops surrounded CEI headquarters, with tanks, directing their canons at the building. The same troops also shot at Bemba's helicopter and attacked his residence while he was meeting with diplomats about the stalemate.

After the run-off Bemba's MLC challenged the results in the Supreme Court, even before they had been published, and, when the party lost, MLC supporters, accusing the judiciary of not being impartial and independent, set fire to the Supreme Court building. Bemba's challenge led to the premature publishing of the results (ie prior to the legal deadlines), in order to prevent further conflict.

This alteration of procedure as a conflict-prevention strategy had the adverse effect of reinforcing the widespread view that the international community backed Kabila.

Loss of momentum after the elections

While the 2006 elections benefited from tremendous assistance from the international community, the transitional Parliament and, to a lesser degree, the transitional government, there has been limited support for post-election programmes like the promotion of accountable governance, the fight against corruption and poverty, and preparations for the 2009 and 2011 elections. Funding for the local government elections has been elusive, a factor that has cast uncertainty over whether these elections will be held as scheduled.

These considerations raise the issue of how long donor funding should continue for elections in the DRC. Everyone (CSOs, donors, party officials) interviewed by us in Kinshasa was persuaded that the maintenance of democracy in a post-conflict society requires at least 10 years of donor commitment after the first elections and that the funding must be dependable. If local capacity is to be made sustainable, skills developed in one election must be kept available for the next one. This requires core funding for the periods between elections

to enable vital preparatory activities such as voter registration, civic and voter education, testing of computer systems, and the conduct of staff, observer, and voter training.

Popular disillusionment

There is increasing impatience with the growing poverty levels, the corruption of public officials and their cronies, high salaries paid to members of the national and provincial governments and legislatures, the absence of peace in the east, the shrinking of the democratic space, political assassinations and human rights violations.

The absence of democracy dividends in the form of jobs and a better life for all has also created a considerable amount of disenchantment which may trigger declining public trust in democratic institutions and processes. Conversely, the electorate may choose to sanction their representatives by voting them out.

While it is unrealistic to expect government to address all these challenges so soon after being elected to office, there are concerns that democracy is benefiting only a small coterie of the political elite, the recipients of state largesse, while the masses are being asked to wait for the fruits of the 'five presidential projects' (*les 5 chantiers*) promised during Kabila's election campaign. Conversely, appropriate civic and voter education programmes may help the electorate to be better informed and educated and therefore equipped to make mature choices like voting out under-performing representatives in the next elections.

A possible direct consequence of this situation could be voter apathy in future elections or even a general disillusionment with democracy, a situation which could open the door to and legitimise extra-legal means of accessing and/or retaining power.

Bemba's arrest

The DRC opposition leader's arrest and indictment in the International Criminal Court (ICC) for crimes against humanity has affected the MLC and the parliamentary opposition as a whole, and has been interpreted by his supporters as 'this-is-what-happens-to-the-losers'. As a result, in the future politicians may use all the means at their disposal to ensure that they do not lose an election.

The development of democracy in the DRC is at a critical stage. Entrenching a democratic culture takes a long time and it is imperative to build on the achievements of the recent past in order to avoid reversals. The role of the international community will continue to be of paramount importance not only in providing funding but also in monitoring and acting on the risks associated with incumbency, especially in a context where the opposition is getting weaker. In concrete terms, the shrinking of the democratic space in the DRC shows that

the presidential political group could sooner or later change the rules of the game to favour itself either by making it easier for itself or more difficult for the opposition, or even by attempting to extend the two-term limit.

It would not be surprising if the incumbent attempted to influence the post-transition electoral commission⁹ in his own favour by manipulating the new commission's composition, independence, impartiality, and even professionalism in order to guarantee victory. Furthermore, Rwanda (understood in a broader sense, meaning the government, the Hutu militias, and successive Rwandan-backed rebel movements) has demonstrated its strong destabilising effect on the DRC.

Concerted international diplomatic efforts are being made at present to resolve this situation. The consolidation of peace and democracy in the Congo will depend heavily on these two factors (the behaviour of the incumbents and that of Rwanda). The other factors are directly or indirectly linked to these two.

REFLECTIONS ON THE FUTURE

Local government elections

The local council elections proposed for the Congo in 2009 present a dilemma – on the one hand, they are essential to continued political party development, the institutionalisation of electoral management in the DRC, and the integrity of the general election in 2011; on the other, they may well result in a premature destabilisation of the existing local government structures in the country.

During the colonial period the Belgians institutionalised chiefdoms as the basic unit of governance. In some places this meant providing formal recognition and clear geographical boundaries for existing institutions, in others, hierarchies of chiefs were new structures, gradually displacing previous patterns of governance by councils of elders. In both cases the Belgians came to influence or control the processes of chiefly selection – although those selected tended to have life tenure once appointed. The upward reaching hierarchies of headmen and chiefs in the colony were met by the downward reaching hierarchy of the Belgian-staffed colonial state. In the early independence period the local councils briefly contested the authority of chiefs and district bureaucrats, but the last such local elections were held in the early 1970s, after which the Congo/ Zaire reverted to its colonial pattern.

⁹ The transitional constitution provided for the replacement of the transitional CEI, which comprised representatives of political parties and CSOs, with a Commission Electorale Nationale Indépendante (CENI) after the 2006 national and provincial elections.

During the civil war the importance of the chiefs was almost certainly further enhanced – while other officials fled before warring armies and militias the chiefs alone remained with their people to provide some modicum of order and to negotiate with contending ethnic groups and warlords. It is virtually certain that these ‘traditional’ institutions underwent substantial change during the war, probably becoming even more authoritarian and exploitative. But to rural dwellers they would remain the face of order; the one force in their environment they could understand and with which they could negotiate. It is thought that only half of the country’s *tribunaux de paix*, the lowest judiciary level of the bureaucratic face of order, are functioning today.

Local government elections and the reinstatement of local councils will disrupt the authority of both the lowest levels of the Congolese bureaucracy and the chiefs. The former hardly matters very much in most places, for the formal state has had little real authority since the latter years of Mobutu. The chiefs, however, are there, and they matter. The plans for the new order of local councils do include provision for the representation of chiefs, but will nonetheless present a challenge to them – a new structure of authority and accountability. Everywhere in Africa the transition from the sole authority of chiefs and headmen at the communal level to a pattern of shared governance has proved to be conflictual and disruptive. (Of course, some countries, such as Tanzania, stripped the chiefs of all authority, but that is not contemplated in the DRC.)

A further consideration is that local government elections in Congo in the early independence period (1957) produced a set of political and ethnic alliances that were often completely different from the national ones (Young & Turner 1985, ch 5). Thus the local elections may serve not to strengthen the national political parties and alliances (which aren’t very strong anyway) but rather to complicate their lives still further.

Is this the right time for such a disruption of local order? A new local government Act has still not been finalised and even if it were, it is unclear exactly how powers and responsibilities would be divided between old and new structures. Is it wise to disrupt local order when it still has not been re-established in many places and is fragile in others? On top of this, will local elections drive local warlords who lose them into renewed conflict and reinforce the dictatorship of those who win? And what resources will the new local councils have to pursue their mandates, since, currently, even most of the provincial assemblies are underfinanced? There is no doubt that the monopoly of communal power by the chiefs and headmen must be challenged in the long run or rural Africans will be left as ‘subjects’, not ‘citizens’ (Mamdani 1996), accountability will be poor, and ethnic divisions reinforced. But, given everything else the Congo is currently facing, it is legitimate to ask whether this is the right moment for the challenge.

From a national political perspective, however, the local governance picture looks quite different. Local government officials – be they chiefs, bureaucrats or councillors – will have considerable influence on the conduct of the national and provincial elections planned for 2011. Since the colonial era chiefs and headmen have survived by backing the government of the day and local bureaucrats can be expected to skew things toward those who appointed them.

Many of the current local officials are leftovers from the Mobutu era, but Kabila's PPRD/AMP government has already begun to replace them unilaterally, giving rise to the perception that the government is not committed to holding local government elections in 2009. The appointments are seen to be giving undue advantages to the incumbents. Local council elections create the possibility that there would be opposition (or at least neutral) management of the electoral process in many parts of the country. Thus the opposition parties see local government elections as absolutely central to democracy and to keeping alive the possibility of 'alternance' (ie, a change in the governing party).

If the foregoing were the only problem there might be a way to negotiate a temporary resolution between the 'chiefly order' and the 'level political playing field' positions. A representative of the MLC suggested to us that the party would be willing to postpone the elections if the key positions in the local bureaucracies were filled by all the parties on a proportional basis. In fact, there are other considerations as well. One is the fact that the Sun City agreement which created a transitional government specified that local government elections would precede the national ones. The main civilian opposition to Mobutu, the UDPS, led by Etienne Tshisekedi, was affronted by its exclusion from the transitional government and boycotted the national elections, reducing their legitimacy. For the UDPS local government elections offer a face-saving way to re-enter the electoral process – a new start in the cycle of elections at the 'proper' level specified at Sun City. Most observers (although probably not the government) feel that it is important to bring the UDPS back into the system. Furthermore, the negotiated distribution of local positions to the parties would be of no benefit to the UDPS as it does not have a presence in the National Assembly.

The final consideration is the institutionalisation of electoral management in the DRC. The Congolese members of staff who gained experience and training running the 2006 elections are already beginning to dissipate. If there are no elections for them to manage in 2009 they will be gone by 2011 and the process of building a depoliticised election machinery will have to begin again from scratch. Furthermore, MONUC provided essential logistical support for the 2006 elections and would assist again in 2009, with the possibility that it might continue its mission thereafter. If the 2009 elections are not held, however, it is unlikely that any of the essential logistical support will be available in 2011.

None of these considerations would be definitive if it were likely that the Congolese people will want to renew Kabila's mandate in 2011. More thorough registration in the west and the participation of the UDPS might well produce a different result, especially if, as seems likely, the government fails to deliver on its election promises of peace and development.

One of the reasons why combatants in the civil wars agreed to fight elections was that they were assured by the international community that the process would not end in the 'winner taking all for all time'. If the donors are to assure the combatants – not all of whom have yet fully disbanded their armies – that they will have a 'free and fair' chance in 2011, the democratic momentum must be maintained.

On balance then, almost all the independent observers and development partners we consulted felt that it is essential to hold local government elections in 2009. The only dissenting voice is that of the European Union delegation, whose opposition appears to rest on the grounds of economy rather than of local stability.

A compromise between all the preceding considerations and opinions – but one which no one suggested to us – might be to hold local government elections only in towns. Such elections would pose no challenge to the chiefs and would be substantially easier and less costly to organise. A similar interim solution was followed in Mozambique.

Democratisation and the future of the Congolese political system

Executive power in the DRC is formally divided between a president, currently Joseph Kabila of the PPRD/AMP, and a prime minister, currently the newly appointed Adolphe Muzito, of the PALU/AMP. (Muzito was previously budget minister.) Kabila, who replaced his assassinated father, has neither a clear nor a strong personal power base. He is young, does not have a university education, is primarily a Swahili speaker (he does not speak Lingala, or much French) and is sometimes accused of being a foreigner. His political future appears to depend on the ability of Chinese contractors to deliver, at least on improving the roads, one of the 5 *chantiers* he promised in his election campaign.

Since the PPRD is unlikely to be prepared to lose control of the presidency in the 2011 elections it may well look for a stronger candidate. Katumba Mwanke, from the office of the president; Moïse Katumbi, governor of Katanga; or Vital Kamerhe, speaker of the National Assembly, could, in principle, replace Kabila if the party feels threatened. Katumbi and Kamerhe each has a strong popular base, (although there are international objections to the former). Currently, however, Kabila appears to be strengthening his power base and to be moving to marginalise

Kamerhe.¹⁰ So we are not suggesting that Kabila's removal is likely, only that it is unlikely that 2011 will bring a change in the party controlling the presidency, even if Kabila himself does not stand.

Notwithstanding the above, it is quite possible that a more united opposition hoping to gain a majority in the National Assembly may pose a strong challenge in 2011. In that case, although the PPRD is likely to retain the presidency, it might well lose the prime ministership and its majority in the Assembly.

Does this mean democracy is at hand?

If democracy is defined narrowly to mean only relatively free and fair multiparty elections and a significant chance of change in the political parties ruling the country, the answer would be 'yes'. However, the answer is 'no' if the question is rooted in a deeper understanding of democracy as being based on the rule of law, protection of the political rights of minorities, a vigorous press, and, above all, the level of responsiveness of the political leadership to the wishes of the citizenry.

In most respects Congolese political life seems to be remarkably lacking in accountability. The courts are notably corrupt. It is true that the special divisions of the courts established to hear challenges to the elections acted with integrity, but they were formalistic, denying most of the appeals on technical grounds. The legislative bodies in the transitional and new governments have passed an impressive number of new laws on governance issues, often with technical assistance from citizen and donor bodies. Legislators have also attempted to hold the government accountable for its misdeeds. As the opposition is a minority, however, it can only voice complaints, not enforce improvements. It is unclear as well whether legislators are acting in their constituents' interests or their own as members of the elite.

The motive for seeking political office is personal advancement; political success or connections are seen as the most rapid and reliable route to wealth. Vote buying is generally seen as normal, if not as morally correct. It was, however, notable that in 2006 money spent in this way did not always produce results, at least not in the presidential elections. The impact seemed much stronger in the provincial elections. In South Kivu, for instance, a list of the victorious provincial candidates was circulated prior to the actual counting of the vote.

Once obtained, government office offers a wide array of opportunities for what the industrial democracies would consider corruption. The votes of a

10 Following his public criticism of the secrecy surrounding the deal between the DRC and Rwanda to conduct joint operations against the various militias and rebel groups roaming the eastern Congo Kabila and the AMP exerted considerable pressure on Kamerhe, which culminated, after weeks of defiance, in his resignation from the presidency of the National Assembly in late March 2009. Interestingly, Kamerhe was supported in his defiance by the whole parliamentary opposition and a few AMP deputies.

substantial number of legislators appear to be available for purchase by the highest bidder. Of course these features are common to patronage-ridden democracies. In the DRC, however, the flow of patronage seems to stop with the office-holder him/herself. Legislators give very little, if anything, back to their constituencies – not only in policies that favour their interests but even in concrete physical projects or assistance with government jobs and services – the latter being the usual stuff of patron-client relations.

The DRC, which is the size of Western Europe, has an abysmal road system, making it very difficult for legislators – even the current provincial ones – to get back to their constituencies. As a consequence, many don't even try.

Barring massive fraud, the majority of those representatives who take but do not give will probably be defeated in the next round of elections for their failure to deliver on the wild promises they made in their election manifestos. If they fail to win re-election will their successors be more accountable, at least by the standards of patronage? Perhaps, but if not, voter cynicism will set in; indeed it may be doing so already.

Even if a form of accountability does finally take hold in the DRC it will be for the delivery of patronage goods, not for policies that will improve the life of the people. This is probably inevitable in a poor, rural society, for peasants are used to buying social security by building personal relationships, a custom that feeds naturally into patronage politics.

If government officeholders are to deliver any benefits to the citizenry they must have resources, and a fundamental problem in the DRC is that public resources have, overwhelmingly, been privatised. The proceeds of the country's considerable wealth in natural resources go into the private bank accounts of those with power, not into taxes. Even the physical equipment of public offices is treated as private property; within weeks of the 2006 elections the cars, computers and even the plastic office furniture had disappeared into the market place.

Until the income from Congo's collective wealth begins to enter government coffers through the front door as taxes, rather than exit through the back door as private predation, the state will have no resources with which to deliver benefits for its citizens. Some return on this privately appropriated wealth in the form of donations to the development of local communities would be a step forward, even if it is one of patronage. But if there are to be sustainable major benefits the tax base of the state will have to be recaptured from the private hands of the political elite. There is some movement in this direction thanks to the efforts of the tax authorities, but it may be too slow to avoid the deep disappointment of the citizenry, whose hopes were raised by the long-sought return of democracy.

So, democracy in some deep sense will be a long time coming to the Congo and will probably depend on the relocation of the best income-earning

opportunities in private production rather than public predation. Does this then mean that democratisation was a worthless project in which the donors unwisely invested?

Did the elections help to bring peace?

The driving motivation for elections in the DRC was not democracy but peace. Given that instability had become a vortex of human misery into which more and more countries were being drawn, we believe the answer to the question of whether the elections helped to bring peace is cautiously positive, even if the effect is only partial.

The promise of free and fair elections did induce most of the contending military forces in the Congo to withdraw, lay down their arms, or at least suspend fighting. Of course, some groups have not stopped their aggression and others have held back their best troops and *matériel* in readiness to take up arms again if the need arises. The post-election peace was, ultimately, maintained though armed deterrence, exercised by Kabila's presidential guard, MONUC and EUFOR. The basis of power of the rulers thus remains dominantly coercive rather than democratic. In the Kivus governance is not secured and continuing conflict and instability are evident. The influence of regional players (Rwanda, Tanzania, and Uganda in particular) means that their action, reaction and inaction in relation to the election and the electoral results was as important, if not more so, than the domestic electoral process itself. This continues to be the case.

But the 'discourse' has shifted. Groups that once saw legitimate power as coming from the barrel of a gun now have to hide the gun behind a rhetorical screen of popular will or need. That rhetorical discourse tends eventually to take on a momentum of its own and may increasingly shift the locus of combat from the military to the political arena. Whether that political combat is won or lost in terms of the interests of presumed constituents – in other words, whether or not we are getting genuine democratic accountability out of the conflict – is another matter. No matter what, however, we are getting a peace dividend out of which people and the country can begin to rebuild.

Electoral competition has weeded out some of the military combatants. Even Azarias Ruberwa, whose forces were important enough to have won him one of the four vice-presidencies in the transitional government, largely disappeared in the 2006 elections. Some groups that claimed to be fighting on behalf of a constituency had their claims tested and have faded away. This, too, is no small accomplishment and the weeding out is likely to continue, enhancing still further the prospects of peace. We might add that the weeding out applied to civilian political parties as well – 197 of 269 formally registered parties contested the national elections in 2006 but only 58 made it into the National Assembly.

Were elections a 'premature solution'?

The return of General Nkunda to the battlefield in Nord Kivu in late 2008 prompted some to question the relevance of the 2006 elections to the restoration of the state and peace in the Congo. Most notably, Paul Collier, in an essay in *The Guardian*, argued that the DRC illustrates that 'the international community has ... a naïve faith in the restorative power of elections' (Collier 2008). Collier's general proposition about international beliefs may or may not be valid, but we submit that the Congo elections show that they can have more effect than he allows. We find him arguing that the Congo 'glass is half empty'; we are pleased that it is 'half full when a few years ago it was almost wholly empty'. We believe that Collier is being a-historical.

At the time of the Lusaka Peace Accord of 2000 and the Sun City inter-Congolese dialogue of 2002 the DRC was being torn apart by combat and resource predation inflicted by African armies and domestic rebels. The agreements provided a political deal which enabled the combatants to back away from the collective disaster their actions had created. An interim government was established, which permitted the reestablishment of a semblance of order, withdrawal of the foreign armies, and demobilisation of most of the rebel militias.

The settlement required that there be elections to determine which of the combatants would play a role in the reconstituted DRC but there was no rush to hold them; elections came only four years later, after one postponement, and, when they were held, the conditions were not ideal – General Nkunda's Tutsi militia remained in the field, Bemba's forces were only partially demobilised, and Etienne Tshisekedi's UDPS boycotted the process because of its exclusion from the interim government. International attempts to reverse these problems failed.

Does this mean that the elections should have been further postponed? On the one hand, the newly elected government could not benefit from the increased legitimacy that UDPS participation would have given it (as the base of civilian opposition to Mobutu for more than a decade) and the general consensus is that it is dangerous to hold elections if one of the parties has not demobilised, as the September 1992 elections in Angola showed.

On the other hand, several of the armed rebel groups faded from the political scene after they failed to gain electoral support; Bemba moved his base from a military to a political one and was defanged via the electoral process; and the UDPS is likely to participate in the next round of elections.

The problem on which critics such as Collier focus is Nkunda's return to war, but this is not a consequence of the elections. Nkunda did not participate in the polls, he was never likely to win them, and he knows that elections will not bring him to power in the future. Furthermore, the elections strengthened rather than

weakened the hand of the DRC government in dealing with him – it presents a far more unified political front and enjoys greater international legitimacy. The latter is particularly important, as the viability of Nkunda's rebellion depends on the men and *matériel* he receives from Rwanda and his ability to export (probably through Rwanda) the natural resources his troops control (conditions that are, in fact, consistent with Collier's thesis about rebellions (Collier 2007)).¹¹

The only way to remove these pillars, which sustain the civil war in eastern Congo, was by concerted and unified international action, something the 2006 elections make more likely. Indeed, this is precisely what happened. The international community was able to broker a deal whereby Rwanda arrested Nkunda and, in return, was able to conduct a joint Congo-Rwanda military operation against the remnants of the Hutu forces in Congo that it feared. Whatever the merits of what was done the prospects for peace in eastern Congo have improved and the international pressure that created that hope would not have been possible without the elections.

CONCLUSIONS

The 2006 elections were imperfect, but they probably reflected the will of the citizens of the DRC at that time. The opposition controls some of the country's governorships and, if it becomes more unified and organised, may gain control of the legislature and the prime ministership in 2011. This is a considerable accomplishment, but it does not represent full democracy. Politics in Congo is driven by money and patronage and politicians are not accountable to the electorate, so the gains made in governance have been marginal. Nonetheless, the elections were extremely important in advancing the prospects of peace in the country – and this more than justifies the huge effort the people of the Congo, the United Nations and the international community put into them.

11 Also for an evaluation of Collier's arguments from the perspective of the larger scholarly literature, see the short review articles compiled in *Concern for the Bottom Billion*, IDS In Focus Series 3 (Brighton: Institute of Development Studies, 2008) www.ids.ac.uk/go/bookshop/ids-series-publications/in-focus/in-focus-issue-3.

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