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THE AFRICAN CENTRE FOR THE CONSTRUCTIVE RESOLUTION OF DISPUTES

ELECTIONS AND CONSTITUTIONAL  
DEMOCRACY IN AFRICA



## EDITORIAL

BY VASU GOUNDEN

This edition of *Conflict Trends* focuses on Elections and Constitutional Democracy in Africa. It is arguably one of the most important topics affecting the lives of ordinary Africans and yet it is probably one that most Africans understand and appreciate less that they ought to.

In this new century and millennium, more than at any other time in history, most Africans and for that matter most of the inhabitants of this planet of ours, are living under constitutional democracies. In the past, Africans have over time been governed under autocracies or some form of dictatorship. These forms of rule have evolved into a system that many of us today call constitutional democracy. It is a system which unlike the earlier democracy of the Greeks allows the *demos* or people to directly elect their representatives.

The constitution establishes the government with a clear separation of powers between the legislative, administrative and judicial arms of government to constitutionally enshrine a system of checks and balances. This is to ensure that those who make the laws will not be the same as those who implement them, and these two groups will be separated from those who conduct oversight on the proper and legal implementation of those laws. A constitutional democracy is based on a hierarchy of laws and the supreme law to which all other laws must conform is the constitution.

The *demos* or people have a right that is guaranteed in terms of the constitution to elect a set of representatives to govern them and to participate in such elections in regular intervals so that they can replace those representatives that they are dissatisfied with. In recent years there has been an encouraging trend that has witnessed more women being elected as representatives. This signals a further evolution of our system of governance.

In the daily life of an ordinary African, therefore, the constitution and elections determine the rights and

privileges that they enjoy and prescribe the obligations that they must subscribe to. It is therefore imperative that the people are allowed to elect their representatives in a free and fair atmosphere. It is more important, however, that people understand the importance of electing the right people for these representatives will articulate their interests for the next several years. If they vote for the wrong representatives, they could hamper their own development by several years. The recently adopted Democracy Charter in Congo-Brazzaville by African Ministers from across the continent lays down the guidelines on elections and good governance, and seeks to ensure electoral organs are independent to host credible and fair elections.

Unfortunately, poverty, illiteracy, self-interest, and group-interest alongside a host of other issues collude to subvert elections with varying degrees of negative consequences. These range from court challenges against election fraud to open civil war to settle a disputed election. This issue of *Conflict Trends* seeks to provide the reader with a range of views and situations that highlight the complexity of elections and constitutional democracy.

Africa has made steady progress with regard to political and economic developments. Many conflicts have been settled and several more are in the process of being settled. The continent continues to be confronted with huge social challenges that require stable political and economic conditions if they are to be adequately addressed. These conditions are in turn dependent on the framing of inclusive constitutions and the conduct of free and fair elections. It is therefore incumbent on all of us to understand the nature of these processes and to find solutions to improve the establishment of inclusive constitutions and the conduct of free and fair elections. ▲

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A voter shows a ballot paper during a political rally in Lagos, Nigeria 2003.



JUDA NGWENYA / REUTERS / THE BIGGER PICTURE

## CONSTITUTIONAL DEMOCRACY AND CONSTITUTIONALISM IN AFRICA

WRITTEN BY **ANDRÉ MBATA MANGU**

IntroducingDefining constitutionalism and democracy remains a challenge. For a long time, the two concepts have been polemic and diversely understood.<sup>1</sup> Yet, the “veneration” of constitutionalism and democracy is among the most enduring and probably justified vanities of liberal democratic theory.<sup>2</sup> As Wiseman rightly pointed out regarding democracy:

Many governments of quite different types wish to describe themselves as democratic. In some cases

the term has even been incorporated into the official name of the state ... although it is a noticeable paradox that in most cases where this happened (e.g. the German Democratic Republic, the Peoples’ Democratic Republic of Yemen or the Democratic Republic of Congo) the states concerned appear significantly undemocratic.<sup>3</sup>

According to Rosenfeld, constitutionalism is “a three-faceted concept”, as it requires imposing limits

on governmental powers, adherence to the rule of law, and the protection of human rights.<sup>4</sup> Constitutionalism is the antithesis of arbitrary rule. Its opposite is despotic government, the government of will instead of law.<sup>5</sup>

As far as democracy is concerned, its different definitions revolve around what Abraham Lincoln referred to as “government of the people, by the people and for the people”.<sup>6</sup> It is a political system characterised by the participation and government of the people through their freely elected representatives, by the recognition and promotion of human and peoples’ rights, including the rights of the opposition and the minorities.

Nowadays, there is practically no African country without a written constitution and whose leaders do not profess their faith in the ideals of constitutionalism and democracy. The present paper revisits the twin concepts of constitutionalism and democracy briefly. It also reflects on the related concepts of constitution, elections, and multi-partyism. Against this theoretical background, it highlights the current state of constitutionalism and democracy in Africa where elections have been placed high on the agenda and stresses some challenges that need to be overcome to ensure the establishment and consolidation of constitutionalism and democracy on the continent.



**A woman votes during the Nigeria’s local elections in 2004.**

The people are sovereign in any democratic government which is based on the rule of law expressing their will.

Modern constitutionalism is democratic constitutionalism and modern democracy is a constitutional one. Britain has been generally cited as a case of democracy without a constitution, in ignorance of the fact that constitutionalism is as much known in Britain as it is in democratic countries with a supreme constitution. Britain also has a constitution, even if this constitution is a customary or unwritten one. Constitutionalism and democracy are so related that “constitutional democracy” may appear to be a tautology.

### **Constitutionalism and Constitutions in Africa: Need for Clarification of Two Different but related Concepts**

One of the mistakes generally made by some politicians, and even by some intellectuals, has been to indulge in the confusion between constitutionalism and written constitutions. Grey<sup>7</sup> and Olukoshi<sup>8</sup> rightly deplore such confusion between constitutionalism as defined earlier and written constitutions, or between constitutionalism and the constitution-making process.

The constitution is not a novelty in Africa. Many African countries had constitutions even before gaining

their independence. Except for those people who embarked on a struggle for independence in countries like Guinea, Algeria, and the former Portuguese colonies, these constitutions were received from the former colonial powers and imposed on African people. On and after independence, the constitution was seen as evidence within the international community that the state deserved independence and it became an admission card within the club of “civilised nations”. Coups d’état and violent changes of government followed that honeymoon of constitutions in Africa and were characterised by the repeal of the previous constitutions and by the adoption of the new ones, which were to be repeatedly amended and violated. Unfortunately, this proliferation of “constitutions” throughout Africa did not usher in a paradise for constitutionalism.

As Schochet has pointed out, “there is a closeness between constitutionalism per se and the having of a Constitution, a closeness that is behind the easy and frequent slippage from one to the other”.<sup>9</sup> Yet, constitutionalism and constitutions should be distinguished. The latter refers to the form, to the document itself, while

his government, and to restrict or deny them most fundamental human rights.

From the sovereign citizens they are supposed to be in a democratic regime, the people were reduced to the status of subjects and the rule of law was replaced with the rule of the will and wish of the strong man – a military or civilian ruler – who acceded to power in an undemocratic manner, that is by coups d’état, political assassinations or vote-rigging.

Constitutional referendums have been regularly organised. However, these referendums have been hardly democratic. Most of the time, as recently in the DRC, the uneducated people did not know anything about a referendum and thought that referendum was a natural person comparable to President Kabila or Etienne Tshisekedi. Many people found themselves with a document of which they knew nothing and which was imposed on them by some political leaders as well as by some leaders within the international community, who made it crystal-clear that they did not expect anything other than a massive “yes” vote. It is difficult to build a sustainable democracy on the basis of a constitution

## THERE IS NO DEMOCRACY IN OUR MODERN TIMES WITHOUT ELECTIONS. NEVERTHELESS, FOR ELECTIONS TO BE DEMOCRATIC, SOME CRITERIA SHOULD BE MET BEFORE, DURING AND AFTER THE PROCLAMATION OF THE RESULTS

the former relates to the substance, to values embedded in the constitutional provisions. Constitutions may go with constitutionalism and *vice versa* but the rule is far from being absolute as there have been many exceptions. Constitutionalism presupposes the existence of a constitution, whether written or unwritten. However, the opposite is not true as can be demonstrated by a brief enquiry into the political and constitutional history of many African countries since independence.

Although many African leaders were eager to adopt new “constitutions”, to amend, abrogate or replace the old ones with the new ones in order to consolidate their personal powers, with countries such as the Democratic Republic of the Congo (DRC) beating the world-record of one “constitution per year” in its 46 years of independence, the actual situation has been painted by Okoth-Ogendo as one of “constitutions without constitutionalism”.<sup>10</sup> Instead of limiting the powers of the government, establishing the rule of law, protecting human and people’s rights and fostering democracy, most constitutions were enacted to rather remove any checks on governmental power, to limit the power of the sovereign people, to subject them to the will of the president and

adopted in such a way. The recent Kenyan referendum, during which the constitution proposed by the government of President Mwai Kibaki was rejected, entered Africa’s post-colonial history as an exception to the sacrosanct principle of general approval of any constitutional text submitted to referendum and bodes well for the future of democracy and elections on the continent.

### **The Character of Democracy and Elections in Africa**

In the minimalist conception articulated in the Western or liberal political theory and championed by scholars such as Dahl and Schumpeter, democracy is a specific political machinery of institutions and processes.<sup>11</sup> It is procedural, formal or institutional democracy, stressing political rights to the detriment of all other human and peoples’ rights, including socio-economic rights, and focusing on elections and multi-partyism.<sup>12</sup> From a minimalist view, democracy is synonymous with competitive or electoral democracy. However, elections are not new in Africa. Africans are used to (not free and fair) elections. For the current year (2006), presidential elections have been held in

countries such as Chad, the Comoros, Gabon, and Uganda. Africans are also expected to go to the polls during the second half of 2006 in the DRC, Côte d'Ivoire and Madagascar.

Presidents Omar Bongo (Gabon), Idriss Deby (Chad) and Yoweri Museveni (Uganda) were "naturally" re-elected during an election, confirming the long-standing rule enforced by many African leaders: "one does not organise an election to lose it". Elections have not resulted in the consolidation of democracy in many African countries. In the 1990s, countries such as the Republic of Congo, Central African Republic (CAR) and Burundi reverted to rebellions and military rule shortly after new leaders were elected following elections which were declared free and fair. There are still doubts as to whether the forthcoming elections in the DRC and Côte d'Ivoire will lead to the consolidation of peace, constitutionalism and democracy in these two war-ravaged francophone countries.

To borrow from Okoth-Ogendo's metaphor of "constitutions without constitutionalism", there have

attempt to launch a campaign to have the constitution amended.

Second, elections should be held in a peaceful environment. Free and fair elections are not possible when there is no tolerance, no peace in the country and where fundamental rights and freedoms such as freedom of expression, freedom of demonstration, freedom of association, freedom of the media, and freedom of movement and residence are denied to the people and the candidates.

Third, during the preparation for elections, there should be rules agreed upon by all the parties and the people. These rules would include the constitution itself and any legislation dealing with voters' registration. Without any information on the exact number of voters, it becomes difficult for the relevant institution to decide who has won the election and for the losers to accept defeat.

Fourth, institutions such as an electoral independent commission and the judiciary should be in place and well-equipped to organise and monitor the registra-

## CONTRARY TO THE THINKING OF SINGLE-PARTY OR MILITARY RULERS, THERE IS NO DEMOCRACY WITHOUT POLITICAL PLURALISM OR MULTI-PARTYISM. HOWEVER, AS FOR ELECTIONS, MULTI-PARTYISM IS NOT DEMOCRACY

been elections without democracy in many African countries and confusing the two is rather a fallacy, the electoralist one.<sup>13</sup> The anti-thesis of the electoralist fallacy is what Selligson Mitchell and Booth<sup>14</sup> have termed the "anti-electoralist fallacy". The latter assumes that elections never matter for democratisation. There is no democracy in our modern times without elections. Nevertheless, for elections to be democratic, some criteria should be met before, during and after the proclamation of the results.

First, the rule of law should be established and prevail under a supreme constitution freely accepted by the people themselves and providing for the separation of powers and the protection of human and people's rights. It is amazing to see how some African leaders have been "playing" with the constitution to obtain a third term where the constitution under which they were elected allowed for two only. Presidents Nujoma (Namibia), Bongo (Gabon), Deby (Chad), and Museveni (Uganda) have so far been successful in this regard. Attempts by Presidents Chiluba (Zambia), Muluzi (Malawi) and more recently Obasanjo (Nigeria) were fortunately unsuccessful. A good example in this regard came from Benin, South Africa, and Tanzania where Presidents Soglo and Kerekou, Mandela and Mkapa did not even

tion process and these institutions should be legitimate, autonomous, independent, non-partisan and representative of all the people in order to command respect by all the parties. They should not allow themselves to be used by the incumbent president, the government of the day or the ruling party. Nor should they be controlled by some foreign powers or donors. Should they run the process, they would ultimately decide who should run the country in their best interest.

Fifth, elections should be open to all adult and law-abiding citizens. Women should participate in the process on an equal footing with men. Interestingly, the new DRC constitution contains a provision dealing with "parity", which means mathematical equality in the representation of men and women in different political institutions. This is a revolutionary principle. Unfortunately, the different lists submitted by the parties for the 2006 elections are likely to confirm that "parity" remains a dead letter since women represent less than 30% of the candidates.

As far as electoral laws are concerned, they should be enacted by the representatives of the people in Parliament and should provide for electoral systems that guarantee the full participation of the people in the government. In African multi-ethnic and racial societies, the most appropriate system should avoid the dictatorship of

the majority and the “winner takes all” rule and allow for the representation of minorities. Proportional representation appears to be preferable to the majority system. On the other hand, the winner of the election should necessarily be the one who won the majority of votes to avoid situations where somebody may be elected president or a Member of Parliament without obtaining the majority, as currently is possible in a number of African countries. Electoral laws should be fully explained to the people and to the candidates so that they know their rights and duties. They should be informed in advance about the conditions required to run for elections and to register as a candidate, when a candidate wins the election, which institutions proclaim the results, the right of the losers to challenge the results and the institutions empowered to deal with electoral disputes.

During the election, the candidates of the different parties should be treated equally and a climate of political tolerance and non-intimidation should be established among candidates and their respective supporters. The media should contribute to enhancing the political culture of the people through dissemination of information, and help to create and maintain a peaceful environment. Some candidates should not be discriminated against in their access to public media. The latter should also be independent and impartial. Unfortunately, they have been used and abused by the government of the day or the ruling party in many African countries.

The critical role of the army and other security forces cannot be ignored. Free and fair elections and democracy itself are compromised if the army and other security forces are not impartial and in the service of the entire nation. When the army and other security forces pledge support to the ruling party and to the incumbent president, as they did during the run-up to the last presidential election in Zimbabwe, where the chief of staff openly declared that they would not accept any government other than one led by President Robert Mugabe, the prospects are bad for democracy.

On the other hand, to ensure free and fair elections, there should be a possibility for election monitoring by independent observers and candidates should be allowed to have their own witnesses during the vote. Everything should be done to avoid any vote rigging by the incumbent government or the ruling party, given the tendency of many leaders to succeed themselves in order to remain in power and become *de facto* presidents for life, or “republican monarchs” to be succeeded by their sons as has happened in the DRC and in Togo. The same scenario is being prepared in countries such as Egypt and Libya where the presidents’ sons are being groomed to take over once their “heroic” fathers are gone.

As stated earlier, the rule for many African presidents is that they cannot lose elections organised

by themselves. Presidents Bongo (Gabon), Paul Biya (Cameroon) and Deby (Chad) managed to succeed themselves. Another tendency among African leaders is to reject the results of any election when they are not declared winners. So far the few heads of state to have conceded defeat without resorting to armed conflict or a coup d’état include former Presidents Kaunda (Zambia), Kerekou and Soglo (Benin), and Diouf (Senegal). As for the opposition candidates, many do not even await Election Day to challenge the results for vote-rigging.

Once electoral results have been released, the losers should be entitled to challenge them peacefully before the judiciary instead of resorting to violence. So far, very few losers have congratulated the winners in African elections. In democracy, political leaders are not enemies. It is interesting that there are very few cases of “good losers” and “fair-play” in African politics. One of these came from West Africa when a defeated president, Abdou Diouf, officially congratulated Aboudlaye Wade on his election as the new Senegalese president.

### **Democracy and Multi-partyism in Africa: Complementary but not Synonymous**

Political parties have been identified as crucial to the process of democratic transition and consolidation. Contrary to the thinking of single-party or military rulers, there is no democracy without political pluralism or multi-partyism. However, as for elections, multi-partyism is not democracy. As Nzongola-Ntalaja has remarked, “if multi-partyism is not necessarily synonymous with democracy, it is difficult, if not impossible, to show that a one-party system can be democratic”.<sup>15</sup> Multi-partyism should, however, not be confused with democracy. Authoritarianism may well tie the knot with integral multi-partyism. In the 1990s for instance, more than 400 political parties existed during the Mobutu-guided transition in Zaire. Instead of advancing democracy, these parties contributed to the survival of the authoritarian regime of President Mobutu.<sup>16</sup> the authoritarian leaders of some African countries have contributed themselves to feeding opposition to their own regimes and even funding the electoral campaigns of some opponents to give the impression that they democratically won the elections because opposition parties participated.

One major problem with multi-partyism in Africa concerns the “ethnicisation”, “racialisation” and “regionalisation” of parties. The recruitment is mainly made along ethnic, racial, or regional lines. In South Africa, for example, parties run by white leaders mainly attract white supporters while black people are attracted by parties run by black leaders. Some parties are even more racial (not necessarily racist) and more ethnicist than others. The challenge is, therefore, to deracialise, de-ethnicise and “nationalise” political parties.


On the other hand, democracy in many African countries is undermined by the lack of a responsible, credible and principled opposition, one based on democratic values rather than on a permanent search of political positions for its leaders. Many opposition leaders practise the “politics of the belly” and are incapable of sustaining a long opposition. Some have been tempted and even corrupted to join the ruling party and accept lucrative posts in the Cabinet and public enterprises. Some opposition leaders have been used by the ruling party and the incumbent president to serve as Trojan horses and help them weaken and even destroy any opposition to the regime. Yet, without a viable, responsible, and principled opposition, there cannot be a strong and sustainable democracy.

### Conclusion

Constitutional democracy and constitutionalism are distinct but related concepts. While constitutions are instruments of constitutionalism and elections crucial for democracy, they cannot be confused. This article stressed a number of conditions to be achieved for a constitution to lead to the establishment of constitutionalism and for elections to be democratic and contribute to democratic consolidation. The history of post-colonial Africa has hardly been a success story for constitutional democracy and constitutionalism. With the exception of countries such as Benin, Botswana, Ghana, Mali, Mauritius, South Africa, Tanzania, and to some extent Namibia and Mozambique, it has been a story of failure.

African leaders proclaimed in their national constitutions and African instruments such as the Constitutive Act of the African Union (AU, 2000), the Declaration on Democracy, Political, Economic and Corporate Governance (2002) and the Base Document of the African Peer Review Mechanism (APRM, 2003) adopted within the framework of the New Partnership for Africa’s Development (NEPAD, 2001) that they were committed to constitutional democracy and constitutionalism as a prerequisite for an African renaissance. Arguably, the absence of constitutional democracy, lack of respect for constitutionalism, and poor governance has been and still remains the main cause of conflicts on the continent.

This article stressed a number of challenges to be overcome for constitutional democracy and constitutionalism to be established and consolidated in many African countries. As various cases cited in this special issue demonstrate, these challenges are numerous but in no way insurmountable. There is no way to embrace the triumphant Afro-pessimism denying democracy, constitutionalism, and development to the continent. Constitutional democracy and constitutionalism also belong to Africa and are feasible in the

continent, as they are anywhere else. However, Africans should understand that constitutional democracy and constitutionalism can never be given on a silver platter. Constitutional democracy and constitutionalism will always be the result of struggles in which many sacrifices will have to be made. 

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### Endnotes

- 1 See Schochet, D.J. (1979) “Introduction: Constitutionalism, Liberalism, and the Study of Politics”, in Pennock, J.R. & Chapman J.W. (eds) *Constitutionalism*, New York: New York University Press, p 6; Ronen, D. (1986) “The Challenges of Democracy in Africa: Some Introductory Observations”, in Ronen, D. (ed) *Democracy and Pluralism in Africa*, Boulder: Lynne Rienner Publishers, p 1.
- 2 Schochet, Ibid, p 1.
- 3 Wiseman, J.A. (1990) *Democracy in Black Africa, Survival and Revival*, New York: Paragon House Publishers, p 4.
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- 8 Olukoshi, A. (1999) “State, Conflict, and Democracy in Africa: The Complex Process of State Renewal”, in Joseph, R. (ed), *State, Conflict and Democracy in Africa*, Boulder & London: Lynne Rienner Publishers, p 453.
- 9 Schochet, Ibid, p 11.
- 10 Okoth-Ogendo, H.W.O. (1996) “Constitutions without Constitutionalism: Reflections on an African Paradox”, in Zoethout, C.M. et al (eds), *Constitutionalism in Africa. A quest for autochthonous principles*, Gouda: Quint Deventer, pp 3-25.
- 11 Mangu, Ibid, pp 175-176.
- 12 Ibid.
- 13 Ibid, pp 198-199.
- 14 Ibid, p 199.
- 15 Nzongola-Ntalaja, G. (1997) “The State and Democracy in Africa.”, in Nzongola-Ntalaja, G. & Lee, M. (eds) *The State and Democracy in Africa*, Harare: AAPS Books, p 15.
- 16 Mangu, Ibid, p 201.





## LOCAL GOVERNANCE AND CONSTITUTIONAL DEMOCRACY: COMPARATIVE INSIGHTS FROM LESOTHO AND SOUTH AFRICA

WRITTEN BY **VICTOR SHALE**

### **Introduction**

The importance of local governance to constitutional democracy, particularly in Africa, cannot be overemphasised. A general observation from the existing literature on the democratisation process in Africa since the 1980s is that this process has been extremely important in re-orienting African political systems away from authoritarian rule towards multiparty and competitive political governance. Africa has made some giant strides, particularly by jettisoning military dictatorship and deliberately steering politics away from bullets.<sup>1</sup> The significance of this development is that it has provided a new lease of

life to the continent. The democratisation process has been legitimised by regular elections which are themselves guaranteed by national constitutions. It follows, therefore, that there is a strong relationship between elections and constitutional democracy where the former is provided for under the latter. The recognition of this relationship has led to even undemocratic regimes trying

**Above: South Africans queue to cast their ballots in the 2006 local government elections.**

to reinvent themselves to claim legitimacy through elections.<sup>2</sup>

The democratisation process in Africa has also gradually filtered to community level through nascent local government systems. Increasingly, local government has played a key role in economic development, promotion of democracy, sustenance of livelihoods and poverty alleviation. This paper looks at the appropriateness of local governance in constitutional democracy. Lesotho and South Africa are used as case studies where challenges, lessons and best practices from the two countries' local government elections are discussed. The two countries share similarities largely due to the fact that Lesotho is entirely landlocked by South Africa, whilst the people of the two countries are closely related.

### **Africa and Constitutional Democracy**

The notion of constitutional democracy assumes a form of governance where the power of the people is spelled out in a constitution. The conundrum in Africa, though, is that there is a mismatch or disharmony between the theory and practice of constitutional enshrinement of governance by the people. Africa's democratisation process has had to grapple with realising peoples' expectations and accommodating their perspectives while supporting equally important socio-economic and political reforms. There has also been a need for public programmes targeted at the citizens so that they understand that democracy and democratic governance mean sovereignty vested in the people and the need for them to seize the opportunity it presents.<sup>3</sup>

Many had hoped that post colonial Africa would see a peaceful democratic era. However, the continent is still faced with many problems, among which conflict, poverty and HIV/AIDS rank high. This is attributed largely to the dearth or absence of good governance.<sup>4</sup> There are arguably efforts being made by the African Union (AU) through its programmes such as the New Partnership for Africa's Development (NEPAD) and the African Peer Review Mechanism (APRM). These continental efforts have combined with regional initiatives at the behest of the regional economic communities (RECs) such as the Economic Community of West African States (ECOWAS) and the Southern African Development Community (SADC) to tackle the continent's socio-economic and governance problems. It is to the experiences of Lesotho and South Africa in respect of local governance that the next section now turns.

### **Political Transitions in Lesotho and South Africa**

There are basically two dominant features that can be noted about South Africa and Lesotho starting from 1990. The two countries began with political reforms

introducing democratic governance. Lesotho held its first democratic elections in 1993, which brought 23 years of authoritarian regimes (one-party and military) to an end. A year later in 1994, South Africa held its first democratic elections, thus ending the apartheid era.<sup>5</sup> These two major transformations ushered in a new political dispensation and raised people's expectations. The changes also increased citizen participation, which, however, should not be misconstrued as agreement in policies and their implementation. People can participate in the affairs of their community and country yet disagree on modalities. Participation is often stifled once a top-down instead of a bottom-up approach to decision making is adopted. In most cases people resist policies not because such policies are bad but rather because of the patron-client approach of policy makers. It is therefore important to analyse the experiences of both countries in terms of lessons learned from the investiture of constitutional democracy and local governance.

Having experienced one-party rule from 1970 to 1986, military dictatorship from 1986 to 1993 and ruling Basutoland Congress Party fragmentation in 1997<sup>6</sup>, Lesotho has made giant strides in terms of entrenching constitutional democracy. After the political transition to multiparty democracy in 1993, the other significant achievement was embarking on electoral reforms. This was prompted by the 1998 political riots which were thwarted by the intervention of the SADC forces consisting of the South African National Defence Force (SANDF) and the Botswana Defence Force (BDF) at the request of the Lesotho government, which was under siege from major opposition parties and a mutiny of the Lesotho Defence Force (LDF).<sup>7</sup> The reform saw the adoption of a new electoral model – the mixed member proportional (MMP) system – prior to the 2002 general elections.

The new democracy in South Africa ushered in by the 1994 elections marked the beginning of a new social, economic and political discourse in the country. A democratically elected government came into being with a mandate to craft and implement policy and institutional reforms that would, amongst other things, ensure the creation of free and just society, and improve socio-economic conditions (especially for the marginalised groups). The new Constitution adopted in 1996 pointed the trajectory that the reforms should assume; how governance should be organised; responsibilities of government and government structures; and most importantly how to safeguard democracy. The Constitution through the Bill of Rights entitles citizens to socio-economic rights and obliges the government to ensure the progressive realisation of those rights within its resource capacity. Consistent with this constitutional obligation, the government has adopted policies that will



**A Basotho man casts his ballot in Lesotho's first local government elections since independence from Britain in 1966.**

enable it to provide services that allow citizens to enjoy their rights.

### **Local Governance**

One of the major lessons to be learned from the major transformations in the two countries is their commitment to democracy beyond elections. This is manifest in their respective constitutional provisions for decentralisation and the establishment of local authorities. Both countries have been able to create a legal environment conducive to development at the local level. However, while institutional and legal frameworks for decentralisation have been developed, in practice the two countries still have a long way to go in dealing with local governance challenges. The decentralisation of governance, policy formulation and service delivery to the people provides a litmus test to deal with those challenges. They not only have to grapple with the central-local relations seeking to provide support to the local authorities which have a critical role in service delivery, but also in ensuring that their citizens participate

effectively in local governance. They have to ensure that people's expectations for improved services are met.<sup>8</sup>

### **Lesotho**

The April 2005 local government elections in Lesotho brought an end to an intractable trial and error period of decentralisation since the country's independence in 1966.<sup>9</sup> The Ministry of Local Government, charged with the responsibility to spearhead the decentralisation process, has had to decide on the model which would address the country's needs. This would in turn inform the legal framework and institutional arrangements. Lesotho has retained the first-past-the-post (FPTP) electoral model for local government. Two important developments regarding these elections deserve mention. First, controversy arose over the nomination of candidates in the run-up to the elections. The ordinary members of the ruling party in particular wanted to nominate their own candidates rather than the party's preferred candidates. This led to a stalemate which saw dissatisfied members contesting elections against their own party. Secondly, there was an unprecedentedly high number of independent candidates. These candidates performed well in the polls to the chagrin of the party bosses. Both incidents indicate a polity which is maturing; the phenomenon of independent candidates provides an alternative conduit to participation in elections.

The challenges for Lesotho's decentralisation are two-fold. First, the country has failed to develop the necessary conditions for the establishment of a functional and viable system of local government. These include, but are not limited to, the demarcation of municipal and council boundaries, gender equality, development of frameworks for local government finance and fiscal decentralisation, human resources, decentralised planning, infrastructural facilities, and capacity building for councillors and council staff. The demarcation of boundaries is indispensable for local government as it provides the geographical limits within which the councils would perform their roles as well as within which communities would participate. The fiscal framework is also critical because it not only indicates the central-local financial resources allocation formula and revenue sharing methods but spells out the rules and regulations within which limited resources are to be managed. Equally important is the question of staffing, as even before local authorities are established, government has to know the number of required human resources and the type of skills needed to perform specific functions. Related to this is capacity building to ensure the necessary management and technical skills at local government. A planning framework is also important for decentralisation so that the financial resources are used for plans

## A LESSON TO BE LEARNT HERE IS THAT MAKING CONSTITUTIONAL PROVISIONS FOR DEMOCRACY WITHOUT PRAGMATIC CITIZENS' PARTICIPATION AND CONFLICT MANAGEMENT MECHANISMS IS NOT ENOUGH

that derive from the communities instead of plans that descend from the top.

Out of all these pre-conditions, only legal amendments for the inclusion of women and the demarcation of boundaries were done prior to the elections. In the former case there was an amendment to the Local Government Act of 1997 and the Local Government Elections Act of 1998 providing for quotas to include women in local authority structures. The country achieved one-third women's representation despite robust challenges from the patriarchal folk. However, the real test for the government is to ensure that women are indeed empowered and are not turned into a proxy of their male counterparts. The demarcation of boundaries was done hastily ending up with many councils, which has economic consequences for the country.<sup>10</sup> Due to the delay in putting the other necessary processes and systems in place, councils which were elected in April 2005 have not yet embarked on any substantive development activities. In the absence of the foregoing conditions, therefore, public participation as one of the virtues of democracy remains a distant mirage in Lesotho's local governance. The country is yet to develop a comprehensive and well coordinated implementation strategy which will make the local government system work.

The second major challenge is that while Lesotho has in principle embraced the fundamentals of constitutional democracy at all spheres of governance, there still remains ambiguity pertaining to the role of the traditional form of governance versus the modern system. This begins with the Senate (Principal Chiefs) and the National Assembly (MPs) at the national level and between area chiefs and local authorities at the local government level. Despite having identified functions to be decentralised, government departments face a haziness which impedes the operationalisation of local governance. The net result of this uncertainty is power struggles and conflicts between traditional and modern structures. The resultant uncoordinated and supply-driven delivery of services has further excluded people from decision making. Thus, the cleavage between the decentralisation policy's implementation on one hand and expectations for service delivery on the other has also lowered peoples' confidence in local government.

### **South Africa**

The constitution of South Africa provides for the establishment of local government as a sphere of

government. Bound by legislation and policy frameworks to work with the people, local government is strategically positioned to render services to communities, deepen local democracy and uphold governance.<sup>11</sup> For municipalities to achieve this mandate they require resources in order to ensure that the needs and interests of the people are catered for. One of the challenges for South Africa's municipalities is the need to integrate the interests of communities which, under apartheid, were divided along racial and ethnic lines. Their task is to harmonise the competing interests and unite all constituencies. Similarly, there is a question of harmonising traditional leadership with modern governance institutions. The scope and functions of traditional institutions versus the local government system still remain blurred. According to some, the constitutional powers of traditional authorities in South Africa are currently circumscribed and their role is reduced to being advisory, ceremonial, and extra-constitutional.<sup>12</sup> Traditional leaders have as a result generally argued that disregarding their leadership history would only make decentralisation in South Africa a fiasco.<sup>13</sup> South Africa also has to do more work with respect to intergovernmental relations.

South Africa adopted a combination of proportional representation (PR) and constituency-based electoral systems for local government elections. The second South African local government elections held in March 2006 were preceded by violent protests relating to poor service delivery. These were largely prevalent in the Free State Province, the Western Cape and to a limited extent, in the other provinces. This can be interpreted as citizens' message of local government's failure to meet their expectations. The elections were also surrounded by controversy regarding the re-demarcation of boundaries, as witnessed in Matatiele (Eastern Cape Province) and Khutsong (Gauteng Province). This led to some voters declining to vote in protest. The nomination of candidates was also a hot issue, as the ruling African National Congress (ANC) members protested against the party imposing some candidates. In exercising its power, the ANC went ahead and selected candidates. Some members in the Western Cape Province decided to contest elections against the party candidates in protest and in defiance of the party's warning that by so doing they would be automatically expelled from the party.<sup>14</sup> These developments fly in the face of the achievements of internal democracy within the ANC. They have

exposed another challenge which faces parties which were formerly liberation movements. This is the struggle to balance exercising powers as a liberation movement and as a ruling party when confronted with a quagmire of a political nature. A lesson to be learned here is that making constitutional provisions for democracy without pragmatic citizens' participation and conflict management mechanisms is not enough.

### Conclusion

The experiences in both Lesotho's and South Africa's local government elections reflect those of many other countries in Africa. It is fundamentally important for any country aspiring to democratic local governance to have all the necessary pre-conditions and processes in place before introducing it. These include legislative, financial, infrastructural and institutional frameworks. The difference between Lesotho and South Africa in terms of implementation of local government is that the former conducted local elections prematurely. Without the frameworks which spell out the roles and responsibilities of the various role players, local governance cannot succeed. This does not suggest that the South African approach has been perfect, but the country has managed to address most of the required processes. The two countries have, however, not managed to integrate traditional institutions in their local governance systems.

The two case studies point to a need to primarily make local government relevant for people other than just a constitutional election requirement. Countries should inculcate the importance of elections as not an end in themselves, but the beginning of a governance process. This has been one of the weaknesses of the two countries as manifested in their ruling parties' failure to let members nominate candidates. While the experiences of Lesotho and South Africa resonate with the constitutional efforts being made by other countries in Africa, the failure to translate elections into sustainable democratic governance remains a challenge which can easily undermine the key pillars of democratic principles. ❏

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# WOMEN AND ELECTIONS IN AFRICAN POLITICS

WRITTEN BY **KEMI OGUNSANYA**

## **Introduction**

Women play a crucial role in peace-making and peace-building processes in Africa. In recognition of this contribution, some countries have placed women in positions of authority in government, conforming to the Beijing Platform for Action 1995, with 30% representation of women at all levels of decision making. While this achievement is cause for hope, women are still largely excluded from political decision-making positions. At the 23rd Special Session of the UN General Assembly held in June 2000 to review the 1995 Beijing Platform for Action, governments all over the world were committed to “set and encourage the use of explicit short and long-term time-bound targets or measurable goals, including where appropriate, quotas to promote progress towards gender balance, including women’s equal access to and full participation on a basis of equality with men in all areas and at all levels of public life, especially in decision-making positions, in political parties and political activities, in all government ministries and at key policy-making institutions, as well as in local development bodies and authorities.”<sup>1</sup> As a result, increasing numbers of women are participating in conflict resolution, peace-making, peace-building and reconstruction as recognised by the UN Security Council Resolution 1325 on Women, Peace and Security. This article draws attention to the challenges faced by women in politics and democratic governance in Africa, and the various approaches and methods to increase the participation of women in governance and decision-making, looking at various electoral systems that positively place women in positions of leadership.

## **Women and Political Leadership in Africa**

Africa has culturally been a patriarchal society and leadership the domain of men. Consequently, African women hold leadership positions with limited experience. This presents enormous challenges both in their private and professional lives. African women seeking leadership roles come up against several biases such as stereotypic tendencies, sexism, corruption and hostility. Therefore, African women need to be empowered to assume leadership roles in preparation for such challenges, and to enable them to participate effectively in peace-making and peace-building processes.<sup>2</sup>

Africa is privileged to have two female heads of state from Liberia, five deputy/vice presidents from

Uganda, Gambia, Zimbabwe, South Africa and Burundi, and a large number who have held senior ministerial positions in various countries. Mrs Ruth Sando Perry led a transitional government from 1996 to 1997 after seven years of brutal war in Liberia and organised free elections, which were won by Charles Taylor. A decade later, on 16 January 2006, Mrs Ellen Sirleaf Johnson became the first democratically elected female president in Africa. Uganda’s Dr Specioza Wandira Kazibwe became the first female vice-president in Africa in 1994, followed by Mrs Isatou Njie-Saidy of Gambia in 1997. Zimbabwe appointed Joyce Mujuru as second Vice President of the country in April 2005, and this was followed by the appointment of Mrs Phumzile Mlambo-Ngcuka as Deputy President in June 2005, the highest political position ever held by a South African woman. Burundi capped the success of women in leadership positions with the appointment of Mrs Alice Nzomukunda as second Vice President in August 2005. Rwanda Zade history through its triple ballot system in their last general elections, which saw 49% of those elected into political positions at all levels of decision-making being women; and in late 2003 appointed Aloysia Cyanzaire as Chief Justice of the country. Rwanda is now considered to have the highest percentage of women in government in the world, followed by Sweden (Powley, 2003, 21-22).<sup>3</sup> This has led to a call by government institutions, and regional and national civil society organisations for 50% representation of women at all levels of decision-making by 2020 at the last Southern African Development Community (SADC) Summit held in August 2005.<sup>4</sup> Gender mainstreaming in the African Union can be seen in the balanced representation of the African Peer Review Mechanism established in 2003, and the appointment of Gertrude Mongella<sup>5</sup> as the first president of the Pan African Parliament in 2004, with Dr Nkosazana Dlamini-Zuma, South Africa’s Foreign Affairs Minister, the first female to head the Peace and Security Council of the AU. This is in correlation with the 50% equal representation of women required by the African Union.

## **Women and Political Representation in Africa**

Women represent 52% of the world’s population and the highest number of voters in any election, yet they are the least represented in governance and political processes. In particular circumstances, women activists face torture, political detention and unlawful imprisonment,



**Zanzibari women at a political rally in Tanzania ahead of the Presidential polls in October 2005.**

and women attempting to enter politics face much resistance from their husbands, families and society at large.<sup>6</sup> To overcome the dilemma of fewer women in governance, therefore, greater access to information is required. As the cases of Mozambique, Rwanda, Seychelles, South Africa, Uganda, Tunisia and Morocco<sup>7</sup> clearly reveal, gender equity is crucial to encourage good governance, transparency and accountability.

A few African countries have made efforts to increase the number of women represented in governance; such measures include a quota for women's representation in the national constitution of the country. Tanzania was the first African country to include a 20% quota representation for women in its national constitution of 1998,<sup>8</sup> followed by the Burundi constitution of 2005 with 30% representation for women<sup>9</sup>. The reservation of one-third of local government electoral divisions (seats) for women in the amendment to the Lesotho Local Government Act Section 4 (3) of 2004<sup>10</sup> for the local elections held in April 2005, saw an outcry by male counterparts declaring the new legislation unconstitutional and not in conformity with their constitutional rights to freedom from discrimination, equality and participation in government as entrenched in the national constitution. Legal action was taken against the Honourable Minister of Local Government Dr PM Sekatle based on these provisions, and the Court of Appeal of Lesotho on

June 30, 2005 handed down a landmark decision relating to women's rights and validating the first democratic local government elections held in Lesotho by declaring the reservation for women as constitutional. This is the first ruling of its kind in the sub-region.<sup>11</sup>

The emphasis is being shifted from a 'quantitative' to a 'qualitative' participation of women in politics and decision-making processes. Occupying a seat in Parliament is already a great achievement, but there is now the need to improve and enhance women's effectiveness in political positions and strengthen their impact in decision-making forums, such as government, cabinets, local, provincial and state assemblies, political parties, the judiciary, labour organisations, NGOs and the media.<sup>12</sup> In what has come to be known as the 'politics of meritocracy', women are now being appointed to political positions based on merit. The appointment of Mrs Ngozi Okonjo-Iweala as Nigeria's first female Minister of Finance following her twenty years' working experience with the World Bank, serves as a credible example.<sup>13</sup> In Uganda, women need a university degree or its equivalent for them to participate in political processes.<sup>14</sup> Similarly, South Africa encourages women ministers to hold in an acting capacity the Office of the Presidency when the elected President and Deputy President are out of the country, in accordance with the constitution.<sup>15</sup> Three women ministers have held this position within a period of 24 hours in the past 12 years



CHRIS HONDROS / GETTY IMAGES / TOUCHLINE PHOTO

**A Liberian woman drops her ballot during the Presidential run-off to either award the Presidency to George Weah or Ellen Johnson Sirleaf.**

of democratic governance in the country, and one of these ministers is now the Deputy President of South Africa.

### **Gender Balance in Political Representation**

As most African states transform from single-party states and military rule towards multi-party democratic governance, key to the transformation of dominant political values is the holding of regular elections and appropriate electoral systems that will set the framework for electoral processes. The value of an election is determined by the type of electoral system adopted, which basically serves as an instrument for expressing the choice of the governed by translating votes into parliamentary seats.<sup>16</sup> There are many electoral systems observed globally, and there are four main types of electoral systems widely acceptable, namely the Single Member Plurality (SMP), Single Member Majoritarian (SMM), Proportional Representation (PR) or Party List System and Mixed Members Proportionality (MMP), with multiple variations within and permutations amongst them.

→ **Single Member Plurality (SMP)** also known as the **First Past the Post (FPTP)** is the dominant electoral system which is held in single member districts. Voters cast one vote for one candidate, and the candidate who wins the **most** votes is elected.<sup>17</sup> However, a political party could win by a simple majority of seats and not a majority of votes, which casts aspersions on this electoral system.<sup>18</sup>

→ In the **Single Member Majority (SMM)** system, voters cast one vote for one candidate and the candidate who wins the majority of the votes is elected. Some countries practise this through the **Alternative Vote** wherein voters rank the candidates in order of preference. A candidate should get over 50% of first preferences in order to be elected. Others apply the Single Member Majority through a **Two Round System** where a second election is conducted if no candidate wins a **majority** in the first round of elections.<sup>19</sup> This electoral model was applied in the second round of elections held in Liberia which saw the election of Ellen Sirleaf Johnson as the first democratically elected woman on the continent.

→ **Proportional representation (PR)** involves a close match between the percentage of votes that political parties receive and the number of seats they obtain in legislative assemblies. PR attempts to reduce the disparity between a party's share of the national vote and its share of parliamentary seats. PR can be practised in various ways such as (a) Party List Proportional Representation and (b) Mixed Member Proportionality.<sup>20</sup>

→ **Party List proportional representation** systems are used in multiple winner elections to Parliament. In these systems, parties make lists of candidates to be elected, and seats are allocated to each party in proportion to the number of votes the party



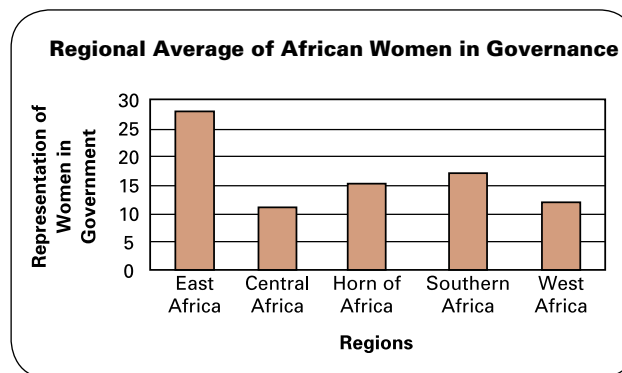
receives. Voters may vote directly for the party, as in South Africa, or they may vote for candidates and that vote will pool to the party. The order in which the political party lists candidates may be pre-determined by some method internal to the party as a **closed list** ranked according to the party's choice of candidates, or may be determined by the voters at large as an **open list** where electors can express their preference for candidates in correlation with the voting of a political party.<sup>21</sup> The PR List System is considered to be more conducive to stability and broad representation in the process of governance than FPTP, and can have a major impact on the representation of women in political leadership.

→ Parallel or Mixed system is a combination of PR Party List and Plurality-Majority (or FPTP) electoral systems. The **Mixed Member Proportional (MMP)** system sees the voter casting two votes, one for the local or district Member of Parliament, and one for the political party. Thus, a portion of the parliament is elected by FPTP and the remainder through PR Party lists, with the PR seats being used to compensate for any disproportionality produced by the district seat results. This electoral system was adopted in Lesotho for the 2002 national elections as a compensatory model after the controversial elections of 1998 when a civil war was averted following the intervention of the Southern African Development Community (SADC) armed forces.<sup>22</sup>

### Representation of Women in African Parliaments

The appropriate electoral system goes beyond changing attitudes and mind-sets of cultural bias against women. The Proportional Representation List system is well favoured as the preferred electoral system, which has shown a dramatic increase in women's representation particularly enjoyed by member states in the SADC region.<sup>23</sup> A PR electoral system tends to give women a slight advantage in governance in comparison to the FPTP electoral system peculiar to most African states, which gives women modest gains in political processes.<sup>24</sup> As a constituency-based system in which the electorate votes for candidates and not political parties, choices are based on candidates' delivery. Unfortunately, this model tends to support the incumbent and popular candidates to the disadvantage of women who have limited experience and exposure to political processes. The combination of quota systems and the majority electoral system has seen the inclusion of women at all levels of decision-making. Political parties are compelled to field women candidates during elections, thus providing the platform for women to acquire skills, hold positions of authority, build capacity and gain insight into the

expectations involved in political processes. This combination has proved effective in the East African region, which presently has the highest level of women in governance beyond other regions in sub-Saharan Africa (See chart below).<sup>25</sup>




### Strategies for Strengthening Women's Participation

Peace-building is a continuous process and the equal participation of men and women at all levels of governance and decision-making structures must be recognised in order to advance peace, stability, gender equity, human rights and good governance. Therefore:

- The African Union should continue its cooperation with regional structures to strengthen electoral processes on the continent, to develop standards to ensure gender parity in governance, and to set up mechanisms to monitor the implementation of such standards.
- Regional and national organisations should conduct an audit of performance against targets set by member countries.<sup>26</sup> Many African countries need to embark on deliberate electoral reform to ensure the advancement of women's representation.<sup>27</sup>
- Amendments to existing constitutions should guarantee gender equality, as happened in South Africa, Mozambique and Namibia, by 2010.<sup>28</sup>
- Lobby groups should advocate a fifty-fifty campaign in favour of 'one man and one woman' regardless of the electoral system adopted.<sup>29</sup>
- Civil society can play a crucial role as a pressure group in highlighting gender disparities. Women's groups need to increase pressure through networking and advocacy on gender mainstreaming, protection of women's rights and prioritising media mobilisation on women's role in political processes.
- The media needs to improve the status of women by advocating that women's issues involve both men and women to hasten change in customs, beliefs and values.

- The media should be encouraged to project women in a positive way, support their election campaign(s), and act as an agent for change on gender equity through portraying women in their multiple roles, and highlighting positive achievements.<sup>30</sup>

## Conclusion

African women still face many challenges in the conflict resolution process ranging from oppressive cultural traditions, illiteracy, domestic violence, to religious structures. Women's organisations need to involve influential men as 'champions' to act as agents for change by increasing the capacity of men to understand the challenges facing women, and involving them in signing protocols. They should also make them understand the socio-cultural divide and encourage them to embrace conventional laws and statutes that protect women such as CEDAW.<sup>31</sup> Women's organisations need to prioritise key needs for the inclusion of women in political processes and recommend region-wide policies. Women's organisations should also increase access to resources through creating a database of specific challenges facing women and document strategies and programmes developed by and for women to meet these challenges. Women should also mobilise personal and community networks to ensure the broad participation of women in political processes and promote awareness of electoral rules and regulations. Civil society organisations should provide training in electoral processes, public speaking, media skills, civil rights and conflict resolution.<sup>32</sup> 

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Young Angolans call for general elections in 2006 since the end of hostilities after 27 years of civil war.



ALEXANDER JOE / AFP / TOUCHLINE PHOTO

## POST-CONFLICT ELECTIONS AND DEMOCRACY: A COMPARATIVE ANALYSIS OF THE MOZAMBIQUE AND ANGOLAN ELECTIONS

WRITTEN BY **TONY KARBO** AND **MARTHA MUTISI**

The post-conflict election period in Mozambique and Angola provides interesting cases replete with challenges and lessons for Africa. While Mozambique faced the challenge of getting President Joaquim Chissano of FRELIMO and RENAMO leader Afonso Dhlakama together for dialogue, Angola's major challenge was the failure to disarm belligerents, making it easy for UNITA to return to conflict after its 1992 electoral defeat by MPLA. Whilst Mozambique is regarded as a post-war democratisation 'success story', Angola is known as a tricky case of post-war elections because the 1992 polls resulted in fresh war between UNITA and MPLA.

The case studies of Angola and Mozambique chronicle the experiences of two African countries that experienced internal strife soon after independence from colonial rule. A protracted civil war erupted immediately after Mozambique gained its independence from

Portugal in 1975. In 1992, a negotiated peace agreement was signed by the warring factions, the Front for the Liberation of Mozambique (FRELIMO) and the Mozambique National Resistance Movement (RENAMO). The major aim of the signed peace agreement was to allow the participation of various parties in elections. In 1994, the first ever multi-party elections, organised and supervised by the United Nations (UN), were held. President Joaquim Chissano and FRELIMO won both the presidency and a majority of the 250 parliamentary seats. RENAMO won 112 seats and a coalition of other political parties won nine seats. This outcome was of course not unpredictable. The 1994 elections were characterised by low-key electoral campaigns by both major parties and an uneven playing field in terms of the manner in which state resources were utilised in favour of the ruling party, FRELIMO. In spite of these shortcomings, observers declared the elections largely "free and fair".<sup>1</sup> The

elections were hailed by various observers as a mark of success from war to peace and a move towards democratisation. Subsequent elections held in 1999 and 2004 proved these observations to be fairly founded.

Like Mozambique, Angola plunged into a protracted civil war soon after gaining independence from Portugal in 1975. In 1991, a peace agreement was signed between the Popular Movement for the Liberation of Angola (MPLA) and the National Union for the Total Independence of Angola (UNITA) in Bicesse, Portugal. The agreement provided for elections to be held within 18 months. This time limit was set to expedite the signing of other statutes in the agreement including review of the constitution. Almost immediately, a constitutional amendment was carried out paving the way for general assembly elections to be held every four years. This constitutional amendment was designed to amplify provisions in the Bicesse accords. As in Mozambique, the 1992 elections in Angola were conducted under heavy international supervision. Unlike Mozambique, however, only limited demobilisation occurred in Angola prompting UNITA, a major contender in the elections and party to the Bicesse accords, to refute the outcome of the elections and return to war.

Elections in post-conflict environments are fundamentally different from those organised under normal circumstances. In post-conflict societies, elections are widely regarded as effective mechanisms for articulating the political aspirations of competing groups that may have previously been belligerents. Elections are, in addition, intended to settle the highly contentious issue of political legitimacy of an incumbent government. These assumptions have been found wanting on the one hand and perhaps credible on the other when one takes a critical look at Angola and Mozambique. "Experience has shown that adding a national election to an already volatile political situation can be a recipe for escalating violence and continuing chaos."<sup>2</sup> The experience in Angola demonstrates that it is important to evaluate under what circumstances elections can either facilitate or undermine the establishment of a new democratic order in a post-conflict society. Although elections are a defining characteristic of democracy, the timing and method of electoral processes are critical. The 18-month deadline for holding elections in Angola after the signing of the Bicesse accords did not offer adequate time for building a party machinery that was capable of offering a credible challenge to the incumbent MPLA government, which had the control of the state and its institutions including the electoral commission. The outcome of these elections was renewed fighting and reversal of the gains made during the signing of the peace agreement. Edward Newman agrees with the assertion that hurried elections can exacerbate existing tensions, which might

result in support for extremist groups or encourage patterns of voting along wartime allegiances.<sup>3</sup>

Many observers have noted that variations in electoral procedures can play a key role in determining whether political competition evolves along extremist or centrist lines, and hence in developing moderate and broad-based political parties.<sup>4</sup> Voting patterns in post-conflict societies differ from those which are relatively at peace. Although an election will not on its own resolve deep-rooted problems, particularly in a society that has been deeply traumatised by conflict, they can facilitate the ushering in of a new democratic dispensation. In the case of Mozambique, elections clearly played a vital role in breaking with the past. Various political parties have participated in all three elections that have been held since including the 1994 elections. Angola's experience, however, has demonstrated how flawed elections can create more problems than they solve. Fast-tracking elections can have devastating consequences. It is, therefore, imperative that elections in post-conflict societies be organised after a peaceful political environment has been secured.

Post-conflict elections are significant because they precipitate negotiated settlements and solidify peace accords, apart from ensuring a smooth transitional period and symbolising an end to intra-state conflict.<sup>5</sup> Countries such as Liberia and Sierra Leone attest to the significance of elections in creating durable peace. However, this perspective on elections negates the challenges related to the design and implementation of post-conflict elections and the propensity of election results to generate conflict. The 1992 elections in Angola failed to put an end to hostilities and to establish a suitable environment for democratisation and reconstruction.

Authors such as Nasong'o argue that "elections can be used as a yardstick to measure democracy in countries emerging out of strife. In essence, a nation can only be considered democratic if its electoral process is free, fair, just and open to the participation of all political parties and adult suffrage".<sup>6</sup> As the democratisation process comes under the spotlight, so does the need to understand electoral processes. This view is supported by Raporot and Weinbergh who single out four ways in which electoral processes are important. Their views are that in a democratic state, elections legitimise the state, and play the role of bonding citizens and parties to the state. They also play a socialising role of instituting democratic values among the citizenry and are a convenient means of political power transfer. However, the nexus between elections and democracy in post-conflict societies is unclear. Conducting elections may not translate into democracy, especially in societies characterised by tension and fragility, which create unfavourable conditions for the conduct of free, fair and transparent

elections. Angola's transition is a clear example of such fragility and uncertainty. In spite of the inclusion of various provisions that called for such elections, the operating environment in the country was not responsive to the numerous demands required for the conduct of free, fair and transparent elections. Demobilisation and disarmament in Angola was at best a token exercise given that by the time of the 1992 elections, only an insignificant amount of demobilisation had occurred. Thus, the view that elections have the potential to precipitate and consolidate democracy in Africa is doubtful. One can, however, argue that while elections are not *ipso facto* synonymous with democracy, the value of elections

has helped to consolidate and refine the election process, which has ushered in renewed hopes for all African countries engulfed in violence and protracted conflicts. Angola has not been sufficiently tested in this regard. The one-off elections held in 1992 cannot be used as a litmus test for measuring post-conflict election success. The continent and indeed the international community are yet to see how the general elections scheduled for 2007 will usher in a new dispensation. Upholding the constitutional provisions around elections and creating sufficient space for pluralistic ideas to flourish in Angola will be the ultimate test.

The discourse surrounding civil society's role

MARCO LONGARI / AFP / TOUCHLINE PHOTO



**Polling officers validate results in Mozambique national elections held in 2004.**

to democracy is clear as elections allow the electorate to choose freely their leaders who will guarantee the representation of the governed.

The 1994, 1999 and the 2004 elections in Mozambique have demonstrated that elections can facilitate a more participatory environment in post-conflict societies. Though the government in power has consistently retained control of both the presidency and parliament, the main opposition party has continued to challenge the ruling party through the polls. This persistent contestation and challenge to the incumbency

in the election processes has occupied centre stage in post-conflict societies. The nurturing and consolidation of democracy and peace processes in Africa requires concerted and collaborative efforts of various stakeholders including civil society. Civil society has been credited with mediation and other vital functions in rebuilding post-conflict societies, as well as providing technical assistance in election processes.

An important aspect in analysing post-conflict elections is the process itself. Electoral processes include the design of the electoral system, electoral laws, distribution



MARCO LONGARI / AFP / TOUCHLINE PHOTO

**Supporters dance in the streets of Maputo hours before the Presidential campaign closes, December 2004.**

of polling stations, the nomination of candidates, delimitation of boundaries, management and control of elections, registration of voters and candidates, voter education, equal access to the media and other state resources by all political parties irrespective of size or influence, the actual voting itself, the counting of votes and the announcement of results. These issues are of critical importance, and the possible advantages of any given electoral process will be undermined unless due attention is paid to them. Equally critical within these sets of processes and activities is the monitoring of each process and activity at every turn. Both Angola and Mozambique reflect electoral processes which have been undermined by the monopoly and domination of ruling parties regarding access to and the utilisation of state resources. The consequence has been that the party in power ends up winning elections outright. The MPLA and FRELIMO in Angola and Mozambique have won elections decisively leaving opposition parties very little to work with.

It is the role of civil society organisations to lobby government and other international players to institute free and fair electoral procedures. Voter education programmes covering issues such as voter registration and the process of voting should be provided prior to the election. As some observers have rightly pointed out, elections are not rigged on election day. Rather, competing

parties are robbed of any fair competition before polling day. Elections must be seen not as isolated events, but as part of a holistic process of democratic transition and governance. In post-conflict societies, electoral assistance is often used as an entry point for broader good governance initiatives and democratic processes. One vital element in this regard is the formulation and implementation of a legal electoral framework that is regularly updated to reflect and respond to the new political realities of a post-conflict society. Such a framework should be acceptable to all former belligerents in a post-conflict society and must be seen as an instrument that will strengthen their commitment to the new political and democratic dispensation. In Angola and Mozambique, where such a legal framework existed, it had to be revised and applied to the prevailing conditions at the time or soon after the signing of peace accords.

Many times, the discussion of electoral systems and democratisation boil down to recasting the constitutional order in question. Makumbe proposes that "elections must be conducted in accordance with certain specific legal procedures, and certain specific pre-conditions must obtain". These procedures and preconditions derive from the constitution. Such requirements include transparency in the procedures that are employed in the conduct of elections, a peaceful political environment

where contestants are on a level playing field with equal opportunities for gaining the support of the voters, and equitable access to the mass media, among others.

### **Lessons From Angola and Mozambique**

The 2004 elections in Mozambique demonstrated that the politicisation of the electoral body overseeing the process is not a guarantee of impartiality. Mozambique's 2004 elections were supervised by the National Elections Commission (CNE), which was composed of ten members from the ruling party FRELIMO, eight members from the opposition party RENAMO and one non-aligned member nominated by civil society. The election was clearly won by FRELIMO, but the processes and procedures, during the elections, especially the voter registration were widely criticised by observers, resulting in claims that FRELIMO 'stole' the elections.

A lesson emerging from the Angolan and Mozambican cases is that it is important to demobilise and disarm ex-combatants before conducting elections to prevent belligerents from reverting to war after elections. The United Nations Angola Verification Mission (UNAVEM) did not ensure that conditions in Angola in 1992 were conducive for holding elections. The UN learnt a lesson from this bitter experience, hence its caution in the 1994 elections in Mozambique. Mozambique's 1994 elections were greatly assisted by the UN peacekeeping operation, ONUMOZ, which was richly endowed with troops and civil personnel. ONUMOZ was able to carry out significant demobilisation and disarmament well before the elections, resulting in almost 80,000 FRELIMO and RENAMO troops being cantoned and demobilised and more than 200,000 weapons recovered.

Another lesson relates to the need to conduct a comprehensive review of the electoral processes and systems to promote confidence-building measures in electoral management. This is enhanced by independent organisations, comprising technocrats and representatives of civil society and political parties, to manage the elections in order to curtail state dominance and corruption of the electoral process. Since the 2002 peace accord between UNITA and the MPLA in Angola, elections have not been held, although there is a promise of national elections in 2006. There are still disagreements over the conduct and management of the impending elections. Therefore, there is a need for civil society and the international community to be visible during election processes in the two countries to protect democracy. Election observation missions are pertinent because not only are they an instrument for democratisation but they are also an important mechanism for conflict prevention.

Furthermore, the development of strong political parties is pivotal to the successful transition of a post-conflict society. In a situation where civil society is weak,

and guerrilla movements are not yet transformed into vibrant political parties, elections can prove to be challenging, as was the case in Angola. Strong and vibrant political parties provide a space for reconciliation to occur and for the establishment and building of a sustainable democratic environment.

The perils of post-conflict elections need to be addressed in order to ensure the democratisation of states. This, however, does not mean that post-conflict elections are a comfortable exercise. This is why Rich says, "Whatever the balance, promoting and assisting democracy in post conflict situations is ambitious and sometimes hazardous." It is against this background that the role of the UN in managing and monitoring such elections is paramount. The greatest role of the UN is to ensure that a certain level of security is assured before post-conflict elections and democratization can take place. "Democracy needs a functioning state in which to operate and it needs security at least sufficient to allow for a free and fair vote to take place. Where it is not possible to assure a workable level of security there can be no effective democratization process."<sup>7</sup>

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### **Endnotes**

- 1 Observation missions from SADC, the Carter Centre and the European Union all declared the elections free and fair.
- 2 Terry Collins in "The UN Role in Promoting Democracy", United Nations University (UNU) Press, 2004.
- 3 Edward Newman, co-editor of "The UN Role In Promoting Democracy," UNU Press, 2004.
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# THE CONSTITUTIONAL REFERENDUM IN THE DEMOCRATIC REPUBLIC OF THE CONGO

WRITTEN BY DIEUDONNÉ TSHIYOYO



DAVID LEWIS / REUTERS / THE BIGGER PICTURE

With a total land area of 2 344 885 km<sup>2</sup> that straddles the equator, the Democratic Republic of the Congo (DRC) is the third largest African country after Sudan and Algeria. Situated right at the heart of the continent, the DRC is bordered by nine countries, namely Angola, Burundi, Central African Republic, Congo-Brazzaville, Rwanda, Sudan, Tanzania, Uganda and Zambia. The country's population is estimated at 60 million and is made up of as many as 250 ethno-linguistic groups. The DRC is endowed with tremendous mineral resources and is drained by the Congo River and its many tributaries. The second longest river in Africa and fifth longest in the world, with regard to hydro-electric potential the Congo River is second in the world after the Amazon.

## Overview of the DRC's Political History

The DRC is emerging from decades of dictatorship and misrule, which has been worsened by years of civil war. Established as a Belgian colony in 1908, the country was initially known as the 'Congo Free State' when it was formally attributed to King Leopold II at the Berlin Conference of 1885. In 1907, Leopold II transferred the Congo Free State to the Belgian Government and renamed it 'Belgian Congo'.

Following a series of mass revolts and political

**Above: Civil society leaders display a poster on how to vote in the 2005 constitutional referendum.**



unrest, which began in the late 1950s, the Congo gained its independence from Belgium on 30 June 1960. But its early years as a sovereign state were marred by political and social instability, largely due to events ordered from outside intended to secure control of Congo's natural reserves.<sup>1</sup> The instability saw Col. Joseph Mobutu seize power in November 1965 in a military coup. In 1971, he renamed the country Zaire. The Mobutu regime's 32-year rule was both a military dictatorship and a system of absolute power and personal rule. Political pluralism was abolished and replaced with a single-party state characterised by violent repression of any form of political opposition. A dominant feature of Mobutu's rule was the institutionalisation of corruption. Mobutu was removed from power in May 1997 by a rebellion led by Laurent Kabila, who renamed the country the Democratic Republic of the Congo (DRC). Kabila's rebellion was backed by Rwanda and Uganda.

Despite the popular acclaim that greeted their accession to power, Kabila and his government did not meet

### **The Transitional Political Dispensation**

The DRC transition process formally started on 30 June 2003 with the installation of a transitional government, which is a political compromise between the five main armed groups: the former Kinshasa government, the *Mouvement pour la Libération du Congo* (MLC), the *Rassemblement Congolais pour la Démocratie* (RCD-Goma), the *Rassemblement Congolais pour la Démocratie-Mouvement de Libération* (RCD-ML), the *Rassemblement Congolais pour la Démocratie-National* (RCD-N), as well as Mai-Mai militias. The main mandate of the transitional institutions is to take the country to a democratic dispensation through competitive multiparty elections.

With regard to the executive powers, the transitional arrangement establishes a political system generally known as '1+4'. In this system, President Kabila is supported by four Vice-Presidents, each responsible for a particular commission.<sup>3</sup> Legislative powers are vested in the Transitional Parliament, which was inaugurated in

## **ITS EARLY YEARS AS A SOVEREIGN STATE WERE MARRED BY POLITICAL AND SOCIAL INSTABILITY, LARGELY DUE TO EVENTS ORDERED FROM OUTSIDE INTENDED TO SECURE CONTROL OF CONGO'S NATURAL RESERVES**

the democratic aspirations voiced by the Congolese. In August 1998 the regime was challenged by an insurrection backed by Rwanda and Uganda after Kabila fell out with his erstwhile backers. Other neighbouring states, including Zimbabwe, Angola, Namibia, and Chad, intervened militarily to support the Kinshasa administration. Laurent Kabila was assassinated in January 2001 and his son Joseph Kabila replaced him as head of state. The new president successfully negotiated the withdrawal of foreign forces occupying the eastern DRC and adopted a more conciliatory approach based on dialogue.

In December 2002, the Pretoria Accord resulting from the Inter-Congolese Dialogue held in Sun City, South Africa, was signed by all belligerent parties, the political opposition and civil society to end the fighting and establish a government of national unity. Known as the 'Global and All-Inclusive Agreement on the Transition', the accord was a roadmap for the DRC's transition to a stable, peaceful, and democratic state. It provides that political, military, and economic power shall be shared by the former belligerents, civil society, and the political opposition during a two-year transition period, with two possible 6-month extensions<sup>2</sup>, within which a referendum on the post-transition Constitution and national elections should be held.

Kinshasa on 22 August 2002 and consists of the 500-seat National Assembly and the 120-seat Senate. Seats in these Chambers were allocated according to a quota agreed upon by all signatories of the Inter-Congolese Dialogue.

The transition was initially to be completed by 30 June 2005. On 28 April 2005, the chairperson of the Independent Electoral Commission (CEI) submitted to both chambers of Parliament the technical report on the progress of the electoral process and officially requested the extension of the transition. On 17 June 2005, both the National Assembly and the Senate approved the CEI's request and extended the transition period to 30 June 2006. The reality on the ground, however, suggests that it will go beyond this deadline.<sup>4</sup> The resulting electoral schedule allowed the CEI to call for a constitutional referendum on 18 December 2005, to be followed by legislative and presidential elections before the end of June 2006.

### **Legal and Institutional Framework for the DRC Constitutional Referendum**

The Constitutional Referendum of December 2005 was viewed as a crucial step towards lasting peace and democratisation. Initially planned to take place in February 2005<sup>5</sup>, the referendum was later postponed to 27 November 2005, and subsequently delayed to 18

and 19 December 2005. The legal framework governing the referendum consisted of the 2003 transitional Constitution, which resulted from the 2002 Pretoria Agreement and a range of specific laws and regulations related to the establishment of an electoral management body, Congolese citizenship and the identification and registration of voters.<sup>6</sup> The transitional Constitution provides for the establishment of an independent and impartial Independent Electoral Commission (CEI) responsible for the management, conduct and supervision of the referendum and elections at all levels.

### **Main Features of the Post-transition Constitution**

The post-transition constitution establishes a unitary state with a substantial level of decentralisation and sets up a system in which the President is elected by universal suffrage, with an absolute majority. The constitution also provides for a firm system of checks and balances of power between the executive, legislative and judicial branches of government. The minimum age for presidential candidates was lowered from 35 to 30 and the constitution allows only two five-year terms in office. The Prime Minister will be a member of the largest party or coalition represented in Parliament and would be named by the President. The Constitution establishes a bicameral parliament elected through a proportional electoral system for a five-year term. Lastly, the Constitution provides for gender parity at all levels of government.

The Constitution decentralises authority and grants greater autonomy to provinces, which are increased from the current 10 to 25 semi-autonomous areas drawn along ethnic and cultural lines, plus the capital city Kinshasa. The provinces are meant to be economically autonomous, keeping 60% of the revenues they generate to finance local projects and submit 40% to the central government. In addition, the Constitution recognises the various ethnic groups living in the DRC at the time of independence in June 1960. This was intended to end a long history of controversy and uncertainty of ethnic Tutsis, living in the eastern DRC, adjacent to Rwanda.

### **Voters' Registration**

The last population census was conducted in 1981, making population records unreliable and outdated. This situation is exacerbated by the permeability of national borders and the complex migratory flows of refugees that have resulted from the recurring wars in the Great Lakes region. The debate around voter registration during the transition, therefore, was whether or not it should be preceded by national census. Although it was recognised that a general census before voters' registration would be ideal, technical and financial challenges, and

the relatively short duration of the transition period, forced the CEI to opt for the exclusive identification and registration of prospective voters. This approach was limited to the identification and registration of Congolese nationals, of at least 18 years of age, who were eligible to vote.<sup>7</sup> To register as a voter one must be a Congolese citizen and reside in the DRC during the registration process. Only nationals holding exclusive Congolese nationality were allowed to register. The minimum voting age is 18 and the dual system of identification and registration was compulsory.

The voter registration process started in Kinshasa on 20 June 2005 and was progressively extended to all the provinces, for logistical and security reasons. The process should have been completed by the end of October 2005. However, the registration process was still underway in some parts of Bandundu and Equator provinces and was suspended just 48 hours before referendum day. As a result, the accuracy of voters' rolls was not guaranteed as these were not made available to the general public for inspection and systematic update before the referendum. In general, apart from the delays, the voters' identification and registration proceeded well.



DAVID LEWIS / REUTERS / THE BIGGER PICTURE

**Ballots are counted after huge numbers voted to adopt a constitution paving the way for national elections in over 40 years.**



**Supporters hold up poster of President Joseph Kabila during a political march in Kinshasa.**

Out of an initial estimate of 28 million potential voters, a total of 25 021 703 citizens registered to participate in the referendum and the general elections.

### **The Campaign Process**

The campaign ahead of the referendum was generally peaceful, except for a few isolated cases of violence reported in the eastern part of the country. Political parties from across the spectrum expressed strong views on both the draft Constitution and the referendum process. The political parties lined up in two main camps: the 'yes' vote and the 'no'. The 'yes' camp was made up of parties currently participating in the transitional government, while parties not participating in transitional institutions campaigned either for a boycott of the process or for the 'no' vote. Most of the parties not represented in the transitional government came out strongly in opposition to the approval of the draft Constitution. Some groups, including the largest opposition party, the *Union pour la Démocratie et le Progrès Social* (UDPS), called for a boycott of the referendum. President Joseph Kabila led the 'yes' campaign, arguing that a 'no' would be catastrophic for the peace process and the successful implementation of the transitional calendar within the constitutional timeframe. He argued that a rejection of the draft Constitution would plunge the DRC back into chaos and political instability. Maintaining a non-partisan

stand, the Catholic Church urged people to participate in the referendum and make their own choice. The political parties focused their efforts on urban centres and hardly involved the countryside. The 'no' camp complained about the lack of a level playing field and inequitable treatment.

### **International Assistance to the Electoral Process**

The international community has been supporting the electoral process since the launch of the transition through bilateral and multilateral interventions. This assistance is coordinated by the United Nations Mission in the DRC (MONUC). The assistance of the international community is mainly based on two elements: technical support and financial support to the CEI. The CEI receives support in terms of institutional capacity development and technical expertise from a number of international partners.<sup>8</sup>

The financial support to the electoral process is through a 'basket fund', which serves as a joint structure for the mobilisation, coordination and management of the financial resources and for making available technical expertise to the CEI for programming activities. The 'basket fund' is managed by the United Nations Development Programme (UNDP), which has pledged to cover the electoral budget estimated at US\$ 432 million. The DRC government has promised to contribute US\$ 40 million, representing roughly one-tenth of the total cost of the elections. MONUC is providing US\$ 103 million in logistical support while other donors are providing the rest of the budgetary allocation.

It is worth underlining that MONUC is the UN's biggest and costliest mission ever, with an annual budget of approximately US\$ 1 billion. It is the largest peace-keeping operation in the world with 15 558 troops, 520 military observers, 324 civilian police and 2 493 civilian staff.

### **The Referendum**

The referendum was held over two days, on 18 and 19 December 2005, with relatively few security incidents, despite fears that the call for a boycott issued by the UDPS and the volatile security situation in the eastern DRC would lead to disturbances. The security situation on the eve of and during the referendum was generally calm, apart from some incidents and attempts at voter intimidation, notably in the UDPS stronghold of Mbuji-Mayi. The UDPS had called not only for a boycott of the referendum and elections, but also of the voter registration exercise, claiming fraud and irregularities in the process.

A total of 37 270 polling stations were established across the country in approximately 9 500 voting centres,

## THE CONSTITUTION RECOGNISES THE VARIOUS ETHNIC GROUPS LIVING IN THE DRC AT THE TIME OF INDEPENDENCE IN JUNE 1960. THIS WAS INTENDED TO END A LONG HISTORY OF CONTROVERSY AND UNCERTAINTY OF ETHNIC TUTSIS, LIVING IN THE EASTERN DRC, ADJACENT TO RWANDA

with an average of 750 voters per polling station. Polling was generally free of major hindrances, even if some technical flaws were observed in the process. The size of the country posed great challenges given the lack of effective logistical, communication and transport means.

As for security, the national police provided stationary security at polling stations. There were a reasonable number of police officers to control access to polling stations and their presence was discreet. This contributed to the peaceful and orderly environment that prevailed during the voting. To ensure that the referendum was conducted peacefully and effectively, MONUC assured not only the safe delivery of polling materials throughout the country, but also provided overall security coverage for the process. MONUC's military division assisted the CEI, especially in areas where problems of insecurity persisted, including Maniema, northern Katanga and the western parts of North and South Kivu provinces.

### **Voter Turnout and Results of the Referendum**

According to figures released by the CEI, a total of 15 698 451 out of the 25 021 703 registered voters participated in the referendum, representing a turnout of 62.74%. The highest turnout was recorded in the eastern provinces and the lowest in Kasai Oriental, presumed to be the stronghold of the UDPS, which campaigned for the boycott of the process. The final results indicated that the people of the DRC endorsed the new Constitution, thus laying the foundation for the first democratic elections since independence in June 1960. The results released by the CEI showed that a total of 12 461 001 Congolese out of 15 505 810 who effectively took part in the poll voted in favour of the post-transition Constitution, representing 84.31%, while the 'no' vote was estimated at 2 319 074 ballots (15.69%). The results also show that there were some 725 735 spoiled ballot papers. The post-transition constitution was subsequently promulgated on 18 February 2006.

The referendum was a momentous step towards the organisation of elections in the country. Its success has marked a significant turning point in the history of the country and represented an opportunity for the Congolese to democratically choose their system of governance. It has also given the CEI and all other

electoral stakeholders the possibility to test their capacity and improve their ability to ensure greater success in the forthcoming elections. It is hoped that the current process will lead to an era of peace and democracy for the country and the region as a whole. 🇷🇵

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### **Endnotes**

- 1 Ndaywel è Nziem, Isidore (1997), *Histoire du Zaïre: De l'Héritage Ancien à l'Age Contemporain*, Louvain-la-Neuve: Duculot.
- 2 Article 196 of the transitional Constitution allows for an extension on recommendations of the Independent Electoral Commission and a joint decision of the transitional Parliament.
- 3 The four vice-presidents and their respective portfolios:
  - Jean-Pierre Bemba Ngombo (MLC): Economics and Finance.
  - Azarias Ruberwa Maniwa (RDC-Goma): Politics, Defence and Security.
  - Abdoulaye Yerodia Ndombasi (ex-government): Development and Reconstruction.
  - Arthur Zahidi Ngoma (non-armed opposition): Social and Cultural.
- 4 The election date has subsequently been set for 30 July 2006.
- 5 Article 1 of the Law n° 05/010 of 22 June 2005 setting the referendum date.
- 6 These include the following legislation:
  - Law N° 04/009 of 5 June 2004 establishing the CEI and governing its internal organisation and functioning;
  - Law N° 04/024 of 12 November 2004 regulating DRC citizenship;
  - Law N° 04/002 of 15 March 2004 on political parties;
  - Law N° 04/028 of 24 December 2004 on voter identification and registration; and
  - Law N° 05/010 of 22 June 2005 governing the organisation of the Constitutional Referendum.
- 7 Law N° 04/028 of 24 December 2004 relating to the identification and registration of voters establishes the conditions under which the right of suffrage is allowed in the DRC.
- 8 These include among others the MONUC Electoral Division, the European Union Support Programme to the Electoral Process, Electoral Institute of Southern Africa (EISA), Konrad Adenauer Foundation (KAF), the International Foundation for Electoral Systems (IFES) and the National Democratic Institute for International Affairs (NDI).

**A Zambian shows her voting card during the Presidential elections held in December 2001.**



## ELECTORAL REFORMS: MANAGING ELECTORAL CONFLICTS IN ZAMBIA

WRITTEN BY **PETER TENDAIWO MAREGERE** AND **BRENDA MOFYA**

Zambia has held three multiparty elections since the restoration of multiparty democracy in 1991. This peaceful transition raised expectations of a smooth process towards democratic consolidation. But the Zambian democratic process has remained stuck in a transitional zone between actual democracy and authoritarian systems<sup>1</sup>. This article argues that Zambian elections fall short of the expectations of a democratic process due to the institutional uncertainty surrounding elections, absence of a democratic constitution guaranteeing and safeguarding electoral democracy, as well as limitations of important institutions like the Electoral Commission of Zambia. The continued uncertainty around the rules and regulations guiding elections and electoral administration has been a source of conflict

within the Zambian political framework with no end in sight, thus maintaining the same party in power over the past three consecutive elections.

Prof MO Hinz, UNESCO Chair for Human Rights and Democracy, Faculty of Law, University of Namibia once noted that<sup>2</sup>:

Democracy cannot be decreed; democracy is a continuous process that embraces the entire society. In other words, as much as democracy is the goal of elections, the societal acceptance of certain democratic rules and values is the pre-condition of elections at the same time. The cardinal question though is that, how can this pre-condition be secured, at least to the extent necessary to build

a successful electoral process on it that deserves to be called democratic?

This is the dilemma that African realities pose notwithstanding the quest for democratic dispensation within the continent. Whilst it is imperative that stronger democracies should be advocated in Africa, the concept itself should be subjected to critical contextualisation, as a relative ideology. In Africa, academics have concluded that democracy should be defined with social, cultural and historical relevance, and should thus be placed within the distinct boundaries relative to the character and interests of specific groups at a given point in history. A greater challenge obtains in the Zambian scenario where 74 different cultures are manifested in languages (though the most commonly used are seven). If, for argument's sake, the languages constitute social boundaries, how does an electoral democracy satisfy such diversity? It can be argued (with the assistance of further research) that the lack of consensus in the constitutional review initiatives<sup>3</sup> could be used as a barometer for such diversity. At the heart of these democratic initiatives was the need to solve the political power transfer dynamic which has been problematic since the last years of Dr Kenneth Kaunda's era<sup>4</sup>. Obviously the conduct of democratic, free and fair elections became an important component of the discussions.

Any credible electoral process is dependent upon a sound political and constitutional dispensation that nurtures the electoral regime and its supporting institutions. Thus constitutional and legal frameworks are the cardinal documents that inform the context within which elections are conducted. Quite positively, this fundamental realisation has been evident in the Zambian scenario, at least in theory. But the operationalisation of these important principles has been a bone of contention. Where then is the missing link? Is it that people do not believe in constitutions or that constitutions in themselves are a rare phenomenon in the African cultural framework to the extent that their relevance in the day to day lives of the ordinary people is not easily understood?

Interestingly, contrary to a widely accepted viewpoint, constitutions, both written and unwritten, have always existed in Africa as the foundation for social organisation<sup>5</sup>. Yet the notion that the constitutions in Africa should reflect the diversity of their nationals cannot be overemphasised. This, however, is the whole idea behind the concept of constitutionalism which Professor Julius Ihonvbere refers to:

... essentially the focus of what we mean by Constitutionalism is on two issues; first, the process of constitution-making and the extent to which it is

popular and democratic; and second, the available openings, institutions, and processes of making the Constitution a living document by taking it to the people so that they are in a position not just to have access to it, but that they understand it, claim ownership and deploy it in the defence of their individual and collective rights and the democratic enterprise<sup>6</sup>.

Thus the advancement of the citizenry's civil and political rights, which of course underpin their effective and unhindered participation in an electoral process, should find home in the spirit of the constitution and constitutionalism. It is against this background that the Zambian electoral reform debate will be analysed in terms of whether or not there is or has been a deliberate move to encompass the same. What attempts have been made to engage the Zambian populace in an attempt to democratise the electoral process? What are the constitutional guarantees for the conduct of democratic, free, fair, transparent and credible elections? Are the electoral management bodies like the Electoral Commission of Zambia (ECZ) and the electoral dispute mechanisms democratic both in the manner in which they are constituted and in their overall function?

There is growing international consensus that the principle of free and fair elections is a core value of electoral democracy. In fact, this principle is contained in key international instruments and regional protocols which deal with issues of human rights, democracy, and good governance. In many countries in Africa, Zambia included, attempts have been made to incorporate the principle, albeit with different expressions, in national constitutions and other domestic laws incidental or connected to the running of elections. However, this principle does not operate in a vacuum. On the contrary, research has shown that the principle can only find practical expression through a series of interrelated principles, institutions, guarantees, and rules provided for in the legal order. These include constitutionalism and the rule of law; universal, free, and secret ballot; separation of powers; representative and participatory democracy; judicial independence and impartiality; freedom of information and a free press; political pluralism; and transparent and accountable governance, all of which represent values without which free and fair elections would not be possible. The cardinal question therefore is: is this principle immediately apparent in the Zambian case?

The Zambian Electoral Reform Technical Committee (ERTC) in its preamble concurred with the principle that an efficient electoral process is a necessary condition and cornerstone for effective democracy and good governance<sup>7</sup>. However, in Africa, elections have yet to serve as

reliable barometers for enhanced democracy and good governance in reality. The elections are, in most cases, characterised by conflict and or controversy, which often results in electoral petitions filed by the parties that may be aggrieved by the outcome of the elections.

### **Constitutional Crisis**

There have been successive attempts to engage the population in constitution making in Zambia. The Mvungi Commission, the Mwanakatwe Commission and of late the Mung'omba Commission all aimed at

which seem to affect the Mung'omba Commission as well. Quite recently, the opposition parties attempted to move a motion in Parliament for the establishment of a Constituent Assembly without success.

In 1996 an attempt by the Mwanakatwe Commission to amend the Constitution failed as people's submissions were ignored. Subsequently, the political parties contesting the elections in 2001 advocated for an immediate review of the Constitution after the 27 December 2001 plebiscite. It was against this background that President Levy Patrick Mwanawasa appointed a

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**Protesters demand a new constitution in Lusaka, Zambia.**

people-driven constitutional reform, albeit under the Inquiries Act. One of the most controversial provisions in this legislation is that the President determines the terms of reference, and appoints the Commission, and the Commission reports to the President. The method of review and adoption of the Constitution under this Act allows the government to override the wishes of the people. Consequently, this has been a source of contention, particularly following the constitutional review undertaken by the Mwanakatwe Commission. For instance, the proposal by the Mwanakatwe Commission to adopt the Constitution via a Constituent Assembly was rejected by government for technical reasons,

Commission chaired by Mr Wila Mung'omba in April 2003. The Mung'omba Constitution Review Commission (CRC) in its report of December 2005 noted with concern that the current Constitution as amended does not explicitly deal with the subject of democratic governance though there are a number of statutes dealing with the electoral process. Moreover, principles of democracy, such as separation of powers and regular, free elections are indirectly addressed under other chapters of the Constitution. Meanwhile, the Constitution of Zambia Bill of 2005, meant to repeal the Constitution of Zambia Act of 1991, which invariably contained public submissions to the Constitution Review Commission exercise, has

not been debated by Parliament. The bone of contention was the adoption process of the Constitution Review Commission's report, which upon the inception of the Commission was supposed to be adopted by a Constituent Assembly. Its shifting to the legislative process elicited resistance from major stakeholders.<sup>9</sup> A similar predicament also befell the Mwanakatwe Constitution Review Commission process. The net effect is that the 2006 elections might be conducted under the old constitutional framework. Ironically, the management of electoral conflicts rest squarely on a Constitution that encompasses the spirit of constitutionalism. That is, the constitutional principles should create an environment of political predictability and thus contribute substantially to confidence building, indispensable in situations of heightened conflict.

### **Electoral Reform Process**

In the quest for a democratic electoral process, the Electoral Reform Technical Committee (ERTC) was appointed to review the country's electoral process and make recommendations aimed at ensuring the conduct of free and fair elections. The ERTC drafted its report after

The question of the electoral system to adopt in the forthcoming elections has remained a contentious issue in Zambia notwithstanding the recommendations from the ERTC and the CRC. The current debate is centred on the absolute majority concept (50% plus one vote) in the determination of presidential poll results. This concept, despite being recommended by the Mvunga and Mwanakatwe Commissions, has since not been adopted for use in the 2006 elections. This issue has elicited debate and conflict in Zambia in the last few months to the extent that it might have an impact on the acceptability of election results. Again this raises the question of the Constitution as an instrument for resolving conflicts that arise out of the electoral process.

The electoral reform bill of 2006, which seeks to provide a framework for the conduct of elections, has since been criticised by among others the Law Association of Zambia and Non-Governmental Organisation Coordinating Council for not incorporating people's views submitted to the ERTC as well as retaining the status quo wherein the power to determine the date of the elections lies with the President. The President of the Law Association, Mr William Mweemba,

## **APPROPRIATE MECHANISMS HAVE TO BE BUILT INTO THE ELECTORAL LAW THAT ALLOW FOR THE PROPER HANDLING OF ELECTORAL CONFLICTS. THE ELECTORAL COMMISSION IS THE MOST ADEQUATE ENTRY POINT, BUT IT SHOULD ALSO HAVE THE POWER TO TAKE UP POTENTIAL CONFLICTS PRO-ACTIVELY**

wide consultation and submitted its report on 11 August 2004. The Minister of Justice and Attorney General, George Kunda, then ordered the ERTC to subject the report to further public scrutiny. The final report was submitted to the Minister on 18 July 2005.<sup>9</sup>

Prior to the ERTC, the Mvunga Commission of 1991 in its report had recommended that a fresh electoral regulatory regime be enacted to enhance the conduct and supervision of elections in line with the new democratic dispensation. The Commission also recommended that the electoral system with respect to the determination of a winning candidate should be reviewed to tackle the problem of a simple majority winner who could, in fact, have received a minority of votes in relation to the total number of valid votes cast. The ERTC borrowed this provision when it recommended that a mixed member majority system be adopted for forthcoming elections. This was buttressed by the recommendations of the Constitution Review Commission (CRC).<sup>10</sup> The provision was deemed to be fundamental as it would promote fair representation of political parties, women, minorities and interest groups.


has noted that the government should have passed the Constitution Amendment Bill, which would have settled matters including electoral reform.<sup>11</sup> He further observed that the passing of the Bill would cause more confusion after the 2006 elections because the Bill does not address the contentious issues that were replete in the electoral process in Zambia. The issue of the absolute majority concept (50% plus one vote) in the determination of presidential elections, the transitional period for the incoming president, repeal of the Public Order Act, parental clause, independence of the media, the matter of the Chief Justice being the returning officer for presidential elections when he also sits to hear the cases of election petitions, and others were contentious issues that required further deliberation.<sup>12</sup>

Therefore, appropriate mechanisms have to be built into the electoral law that allow for the proper handling of electoral conflicts. The electoral commission is the most adequate entry point, but it should also have the power to take up potential conflicts pro-actively. Though there is general agreement about the importance of the Electoral Commission of Zambia (ECZ) in its role as the primary



instrument for overseeing the electoral process, there has been a public outcry over its autonomy, lack of legal mandate to register and regulate the conduct of political parties, observers and monitors or even to enforce its own electoral code, and its impartiality and independence. Debate has been raging over the creation of an independent institution detached from the Executive. The CRC in its report recommended that the Constitution establishes an independent and autonomous electoral commission under which the Electoral Office should operate. It also stated that the Chairperson and the Vice-Chairperson of the Electoral Commission should be Zambian citizens qualified to be Judges of the High Court. Unfortunately in the absence of a new Constitution, these recommendations will be of no value.

The electoral system governing the elections deserves constitutional recognition. Part of the constitutional foundation should be on how elections would be organised, supervised and certified. In other words, what has become accepted practice in Southern Africa, namely the establishment of a widely mandated Electoral Commission, should form part of the pre-electoral constitutional arrangement. Having the Electoral Commission as a constitutional body will empower such a commission. Independence and organisational efficiency are the most important characteristics of an Electoral Commission. The geography and ethnic composition of a given country should assist in determining the needed number of commissioners. The nomination of commissioners should be the result of consultations with all possible stakeholders and not directly by the Executive as is currently the case in Zambia. This will ensure that electoral conflicts are covered under the same constitutional recognition.

So how should electoral conflict be managed in Zambia? The answer is twofold: First, government and non-government stakeholders need to be in (constitutional or quasi-constitutional) agreement about the principles of the electoral process as well as the principles governing the political order envisaged before or after elections. Secondly, the process to reach these agreements must be governed by an attempt to achieve the widest possible consensus. A very prominent element is to have a broadly accepted vision regarding the socio-political order after the elections. Support for nation building, an effort to reconstruct society for the benefit of all, reconciliation with the past, mutual tolerance, safeguarding of existing material achievements, human rights for all and protection of minority positions are key concepts, which such a vision might entail. 

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- 10 The Final Report of the Constitution Review Commission, December 2005 noted: "In its consideration of the subject, the Commission noted the recommendations of the Electoral Reform Technical Committee (ERTC), that Zambia should adopt MMR which combines the FPTP and the PR system, with 200 Members of Parliament excluding the Speaker. The Commission further notes the recommendation by the Electoral Reform Technical Committee on the specification of the PR seats consisting of 35 women; three persons living with disabilities and two youths aged 21 to 30." The proposal that the forty PR seats should replace the eight nominated seats was equally noted.
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# BENCHMARKS FOR CREDIBLE ELECTIONS IN THE SADC REGION

WRITTEN BY **KEMI OGUNSANYA**



DAVID LEWIS / REUTERS / THE BIGGER PICTURE

## **Introduction**

The Southern African Development Community (SADC) region has made significant strides in the consolidation of democratic practices and institutions. The constitutions of member states enshrine the principles of equal opportunities and full participation of citizens in political processes. In a signed treaty on elections, member states share a common vision of “human rights, democracy and the rule of law” as the guiding principles. In addition, Article 5 of the treaty commits member states “to promote common political values, systems” as well as “consolidate, defend and maintain democracy, peace, security and stability” in the region.<sup>1</sup> SADC was established in 1992 by nine member states. Five countries have since joined, making a total of fourteen independent states in the regional body.

The development of benchmarks to govern democratic elections is aimed at enhancing the transparency and credibility of elections and ensures the acceptance of election results by all contesting parties. This article draws on the strengths of the region in developing normative instruments for the conduct and management of credible and fair elections, overshadowed by challenges of structural, political and societal issues that might otherwise affect the socio-political stability of the region and provides alternative strategies for successful elections for the region.

**Above: Election officials count ballots in Kinshasa following the constitutional referendum in 2005.**

## **Norms and Standards for Democratic Elections**

Elections are a crucial ingredient of democratic transformation as they create opportunities for the electorate to choose their national and local leaders periodically, who manage public affairs on their behalf. Elections are conducted under certain accepted rules, procedures and regulations embodied in each individual country's constitution, and attract international, regional and national attention. The constitution forms a firm foundation for elections as a fair and legitimate method of selecting and replacing governments democratically whereby the population of a society can exert political and social power over the government. As most African states transform from single-party states and military rule towards multi-party democratic governance, key to the transformation of dominant political values is the

conducting and managing elections in the sub-region. Member states adopted the norms but only Botswana has ratified the document. To compensate for the rigidity of the norms and standards, the Heads of States and Government adopted the *Principles and Guidelines Governing Democratic Elections* in August 2004. The principles, though not legally binding on member states, are seen as a fundamental benchmark to govern the conduct of elections in the region, and seek to inform the region's electoral processes. This challenges member states to ensure they comply with their electoral legislation towards the enhancement of democracy within the SADC region. For instance, Zimbabwe took the necessary measures to conform to the principles by enacting the Zimbabwe Election Commission and Electoral Acts. Civil society has also contributed to the monitoring and observation of elections, with the

## **ELECTIONS ARE A CRUCIAL INGREDIENT OF DEMOCRATIC TRANSFORMATION AS THEY CREATE OPPORTUNITIES FOR THE ELECTORATE TO CHOOSE THEIR NATIONAL AND LOCAL LEADERS PERIODICALLY, WHO MANAGE PUBLIC AFFAIRS ON THEIR BEHALF**

holding of regular elections and appropriate electoral systems that will set the framework for electoral processes.<sup>2</sup>

Elections by their nature can be confrontational. In African countries, elections are associated with tensions and the eruption of political antagonism between social groups competing for the ownership and control of the state machinery. The southern African sub-region is no exception to these democratic processes and challenges. At the end of the 20th century a number of southern African countries held multi-party elections and were plagued with election-related conflicts. Hence, preparing and conducting democratic elections should be acceptable to all sides – this becomes an important element of peaceful resolution of disputes.<sup>3</sup> In an effort to determine what constitutes best democratic practices, and with the aim of mitigating election-related conflicts, a number of initiatives have been undertaken at continental, regional and national levels to observe and monitor elections.

At continental level, the African Union (AU) adopted the *Guidelines for Electoral Observation and Monitoring Missions* in 2002 and in 2003 adopted the *Declaration on the Principles Governing Domestic Elections*. At the regional level, the SADC Parliaments adopted the *Norms and Standards for Elections in the SADC Region* in March 2001, with a mandate to ratify the document at the national level as a benchmark for

Electoral Commissioners Forum in the SADC region with regional non-governmental organisations adopting the *Principles for Election Management, Monitoring and Observation* (PEMMO) in November 2003.

Since the adoption of the SADC *Principles and Guidelines Governing Democratic Elections* in July 2004, they have served as benchmarks for elections in six SADC countries: Botswana, Namibia and Mozambique in 2004; and Zimbabwe, Mauritius and Tanzania in 2005. There were concerns that these principles would not be adhered to during the Zimbabwe 2005 parliamentary and senatorial elections, particularly with the enactment of the Public Order and Security Act (POSA) of 2002, the Access to Information and Protection of Privacy Act (AIPPPA) of 2002, the Miscellaneous Offences Act, and the Citizenship of Zimbabwe Amendment Act of 2001. These laws are considered to be in breach of the SADC principles for conducting democratic elections. Though media reports described the Zimbabwean elections as peaceful, they were conducted in an atmosphere of fear and intimidation.

### **Promoting Democracy through Election Monitoring**

While elections are an essential part of the democratic process, on their own they are not sufficient to ensure a democracy. Election monitoring, through building trust

in democratic processes and ensuring fair elections, forms a major part of the process of promoting democracy. The presence of independent and non-partisan election observers reassures voters that they can safely and secretly cast their ballots, and that votes cast will be credibly tabulated without any tampering. Thus, election monitoring deters fraud in the voting process. The basic underlying notion of election observation is to ensure that pre-conditions for elections are met. These pre-conditions include transparency in the electoral process, independent media coverage of election campaigns, freedom of speech and protection of human rights. Monitoring and observing an election ensures the quality of the elections is not compromised, tries to counteract corruption, and prevents manipulation of election results.<sup>4</sup>

International and regional observers require an invitation from the host country's electoral authorities and must be positively received by major political parties to ensure observers can play a meaningful impartial and neutral role. International observers include representatives from the United Nations (UN), African Union (AU), the Commonwealth, the SADC Parliamentary Forum, SADC Heads of States and foreign embassies, as well

In 2002, the SADC Parliamentary Forum pronounced that the Zimbabwean presidential elections were not credible and fair, as they did not adhere to the norms and standards for elections in the sub-region. Similarly, the Commonwealth Observer Mission also declared the elections as not free and fair. This had a negative impact on the political and socio-economic situation in Zimbabwe.

Effective election monitoring begins long before voters cast their ballots. In an effort to bring power to the people and create an environment of representative democracy, pre-election and post-election phases need to be observed beyond the polling and counting activities. In this regard, there are long-term and short-term observation missions to monitor all phases of the elections. Experience has shown that pre-electoral monitoring is as important as the election day. Thus, when monitors undertake investigations weeks or months prior to the election day, they are able to identify pressing issues, enabling the authorities to make the necessary changes before the elections take place. It becomes pertinent, therefore, to undertake pre-electoral monitoring to assess the institutional factors that contribute to the election-day outcome.<sup>6</sup>

In an attempt to mitigate election-related conflicts,

## ELECTION MONITORING, THROUGH BUILDING TRUST IN DEMOCRATIC PROCESSES AND ENSURING FAIR ELECTIONS, FORMS A MAJOR PART OF THE PROCESS OF PROMOTING DEMOCRACY

as regional civil society organisations such as churches, NGOs, electoral management bodies, aid agencies and the media. Election observers analyse election laws, and assess voter registration processes, voter education efforts, independence of the electoral commission, delimitation of voting boundaries, nomination of candidates, counting of votes in specific circumstances, acceptance of the election results, and openness of electoral campaigns, focusing on certain inequalities amongst electoral stakeholders that need to be addressed, such as unequal funding of political parties, inadequate access to state-owned media and electoral violence.<sup>5</sup>

There is some competition between international and domestic observers and monitors. Domestic monitors are biased in favour of their countries and normally monitor the electoral process from the delimitation of voting districts until the proclamation of the results by the relevant authority. However, voters see domestic monitors and observers as partisan to the electoral process, whereas international and regional observers bring confidence to the electoral process and show the international community's support for the host country.

the SADC Parliamentary Forum has decided to extend its observer missions to encompass all phases of the elections. It has abandoned its earlier focus on observing the polling and election results only.<sup>7</sup> Accordingly, the Forum intends to mitigate election-related violence and uphold its objectives to promote good governance and political stability in the region, where elections become a source of celebration and not a source of conflict. The outcome of an election can also lead to electoral violence if one of the political parties rejects the outcome of the elections. Legal action or in extreme circumstances a reversion to civil conflict can result if the election results are not well captured and released timeously, as was experienced in Angola in 1992 and in Mozambique in 2004.

### **Guidelines for Successful Elections**

Election preparedness and credibility of the polls is determined by a number of structures and mechanisms put in place to ensure the mandate of the populace is well represented. Apart from the normative instruments which serve as benchmarks to assess the management and conduct of elections in the region, member states

must endeavour to undertake electoral reform and review constitutions to ensure they conform with recognised international standards similar to the liberal constitutions in South Africa, Namibia and Mozambique.<sup>8</sup>

Impressive strides have been attained in the SADC region to consolidate democracy. However, the independence of electoral management bodies (EMBs) and normalisation of elections is crucial for the stability of the region. Thus, an electoral legal framework must be clear, unambiguous and enshrined in the constitution of the country, which is acceptable to electoral stakeholders. The integrity of EMBs remains a challenge in Mozambique and Angola, where they are considered partisan. The credibility and integrity of EMBs must be protected by ensuring their electoral practices conform to the multi-party democratic culture.

Trust needs to be built amongst electoral stakeholders, particularly political parties, the media and civil society, which can be achieved by continuous engagement. Concrete mechanisms to maintain consultations include conflict management committees, party liaison committees, weekly briefings, mediation forums and conflict panels at voting stations. Furthermore, the electoral Code of Conduct must be observed by contending political parties in an election. In South Africa, all nine provinces require 'peace pledges' from political parties contesting the elections at all levels of governance to ensure an election free from violence, abuse of human rights and intimidation. Gender equity and free access to the media is incorporated in the electoral code of conduct.

Traditionally, Election Courts have dealt with election-related disputes, and decisions have been delayed due to a backlog of cases, which has contributed to electoral violence in specific circumstances. During elections some member states have declared specific courts as election tribunals to deal solely with election-related disputes, and have increased the number of judges available during election period. Alternative dispute resolution and conflict management processes such as mediation forums are considered swift, cost-effective and accessible to address election-related disputes. In South Africa, the application of conflict management processes saw a reduction in electoral violence with limited cases before the electoral courts. Overall, electoral courts are encouraged to serve as a deterrent to prohibitive acts during elections.

### Recommendations

The Southern African region is recognised for its political achievements and the sustainability of its democratic institutions. Major challenges include the equal participation of women, the management of electoral conflict, and to ensure similar standards are

replicated amongst member states in the region. In a conference organised by the SADC Parliamentary Forum to review the norms and standards for elections held in November 2005 in Maputo, Mozambique, participants celebrated political achievements attained in the region, progress towards reforming electoral systems and processes in accordance with the *Norms and Principles Governing Elections* in the region. Sharing of information, lessons learned and best practices in the preparation and conduct of elections have improved relationships amongst member states by engaging parliamentarians to work towards the legislation of electoral laws and practices that conform to the norms and standards for elections. Regrettably no existing continental and regional election-related instruments that serve as benchmarks to credible elections are legally binding on member states, and they are generally subordinate to national laws and constitutions. In Zimbabwe, the electoral laws breach the norms and standards for democratic elections. To ensure the norms and principles are enforceable, a review process should be undertaken to involve all stakeholders and should incorporate measures to ensure gender equity, intra-party democracy, electoral system design, election observation, and the roles, responsibilities and composition of observation missions.<sup>9</sup>

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MARCO LONGARI / AFP / TOUCHLINE PHOTO

## THE ROLE OF THE MEDIA IN THE DRC ELECTIONS: BEYOND THE ‘WATCHDOG’ FRONTIER

WRITTEN BY **UFO OKEKE UZODIKE** AND **AYO WHETHO**

### Introduction

The principal democratic role of the media, according to traditional liberal theory, is to act as a check on the state. The media should monitor the full range of state activity, and fearlessly expose abuses of official authority. This watchdog role is said in traditional liberal theory to override in importance all other functions of the media.<sup>1</sup>

It is true to say that the media play a crucial role in nurturing and consolidating a democratic ethos and facilitating the enjoyment of fundamental freedoms, one of which is the right to free expression of thoughts and ideas. The media in fulfilling their mandate as the “fourth estate of the realm” check the exercise of power by state agents. In so doing, the media play an

important role in fostering respect for the rule of law and promoting accountability in governance as is usually the case in emerging, new and (most certainly) consolidated democracies. These conceptions underscore the thesis of classical liberalists regarding the democratic role of the media – the watchdog function. Whereas the ‘watchdog’ role of the media is pre-eminent in established or consolidated democracies – such as those of the global North – the function of the media in societies becoming democracies in Africa takes a slight detour from the traditional liberal thesis. In other words, the role of the media in societies in transition does not necessarily entail only offering a check on the actions of

**Above: Mainstream media at a polling station during the Constitutional referendum in Kinshasa, DRC.**

government. It also involves playing other, more formidable roles in regard to social engineering and nation-building such as facilitating the processes of political participation and democratisation. The foregoing is exemplified by the role of the media in the democratisation processes in Benin (1990), South Africa (1994), Nigeria (1999) and Liberia (2005/6).

Worthy of note is the fact that the democratic role of the media in post-conflict environments encapsulates more than the 'watchdog' function. The settlement of conflicts is often accompanied by a programme of transition towards democratic rule. Integral to such a programme is the electoral process, the success of which depends on a variety of factors, including mass political education and acceptance. Against this backdrop, there is a need to rethink the democratic role of the media by deconstructing the traditional liberal paradigm. Thus, the focus of this article is to examine the "other" role of the media in democratic transition in societies emerging from the spectre of conflict, using the Democratic Republic of the Congo (DRC) as a case study.

In addressing its thematic concern, this article notes that the role of the media, rather than conform to a traditional linear conception, is shaped by a combination of factors ranging from ownership/control and the level of social and economic development of the country to the type of government and the prevailing political atmosphere. Therefore, the media's role is characterised by some fluidity across time and space. On the one hand, the exigencies of the day may demand the performance of a predominantly 'watchdog' role by the media. On the other hand, the predominant media activities in response to social and political realities may include civic and political education, the raising of political consciousness, and efforts to support conflict resolution. The media, for instance, played different roles in several African societies during and after colonial rule.

Bearing this in mind, this article argues that the dominant role of the media in the DRC has been underscored not only by the country's historical trajectory but also by recent circumstances. Whilst one section highlights the theoretical construct within which the article is situated, another explores the Congolese media's dominant role since the conclusion of the Inter-Congolese Dialogue (ICD). The article concludes with highlights of the challenges facing the media in the DRC within the context of its democratic function in a post-conflict transition epoch.

### **The Agenda-Setting Role of the Media**

A number of theories have been advanced to explain the media's impact and role in society. These include the cultivation theory, the free press theory, dependency theory, the magic bullet/hypodermic needle

theory, and the agenda-setting theory. What is common to these constructs is the notion that the media impact on society in terms of the ideas and images they project, and that members of the public either acculturate or react to such ideas in discernible ways. This article adopts the *agenda-setting theory* in view of its relevance to political engineering and social mobilisation towards a defined end. The theory asserts that the media have the "ability to set personal, social and communal agendas"<sup>2</sup> with a view to making people think and act in a goal-oriented manner.

"Agenda setting was first described as the ability of the media to direct people's attention toward certain issues, thereby enforcing upon people what is important or non-important."<sup>3</sup> In terms of the theory's application to politics, for instance, Maxwell McCombs and Donald Shaw<sup>4</sup> establish a causal relationship between the issues the media focus on and the opinions of undecided voters in the United States. As the media set the agenda regarding what issues are salient, people begin to form opinions and to discuss these issues. In this way, the media can define issues and shape the perceptions that underpin and steer political discourse and action. Expressed differently, media coverage launches certain issues into national importance, attracts public attention and instigates action. It is, indeed, possible to extrapolate the central tenet of the agenda-setting theory to the DRC. Apart from the instability in the eastern DRC, no issue has received as much front page treatment in the DRC media as the forthcoming elections. The media have given extensive coverage to the processes that will culminate in the first democratic elections in the country's post-independence history. Consequently, the most important issue in the DRC today is the general election scheduled for June 2006.

### **The Media in the DRC's Democratic Transition**

The media are essential to the conduct of democratic elections. A free and fair election is not only about casting a vote in proper conditions, but also about having adequate information about parties, policies, candidates and the election process itself so that voters can make an informed choice.<sup>5</sup>

The Inter-Congolese Dialogue held in Sun City, South Africa, in 2003 not only provided for the formation of a transitional government, but also established the framework for a transition to democratic rule. A number of institutional, legal and procedural mechanisms were to be developed within this context of transition. These institutions were to mobilise the Congolese for a 'fresh start' following the near collapse of the state. The past few months have witnessed the formation of the *Commission Electorale Indépendante*

(CEI) – the Independent Electoral Commission – as well as the compilation of a voters’ register, the drafting and approval of a new constitution and, more recently, the registration of candidates for the forthcoming elections. The media have played crucial roles in all of these facets of the transitional process.

Prior to the convocation of the ICD, both the print and electronic media – private and public – had embarked on raising awareness regarding the importance of an all-inclusive national dialogue to the DRC’s peace process. Such print media as *L’Avenir*, *Le Soft*, *L’Observateur*, *Le Potentiel* and *La Reference Plus* and electronic media including state-owned Radio-Television *Nationale Congolaise* (RTNC), *Television Congolaise*, *La Voix du Congo* and UN-backed *Radio Okapi* carried editorials and news items which galvanised public interest in the ICD. This led to popular acceptance by the Congolese who, in turn, ensured the ICD’s successful convocation and subsequent follow-up on its principles and directives. The media played an important role in ensuring that the Congolese overcame their initial apathy.<sup>6</sup>

The media not only helped to publicise all the pertinent issues that were germane to the country’s constitutional engineering but also mobilised the Congolese towards participation in the process. In particular, there were animated discourses and, sometimes, heated debates in the private media regarding certain provisions in the new constitution, such as the push for greater gender equity. Besides, a few leaders of former opposition groups had rejected certain constitutional provisions that, in their view, conferred advantages on the incumbent president and, as such, called for a massive boycott of the referendum through which the draft constitution was to be endorsed. The media, in light of these calls, performed its role of political education and moved the country towards stability. Whilst the government-owned media encouraged the Congolese to fully participate in the constitutional referendum, the private media projected the views of both the proponents and critics of the constitutional project. Nonetheless, private media houses, including church radio networks, underscored the importance of a peaceful and hitch-free constitutional referendum to the success of the country’s democratic transition and future stability.<sup>7</sup> The strong participation (62% of eligible voters) and endorsement (84.3%) of the draft constitution during the referendum held on December 18-19, 2005, even when many Congolese were ostensibly ignorant of what was contained in the draft, were a testimony to the powerful effect and remarkable feat of the media in terms of political mobilisation. Table 1 indicates the extent of participation and approval of the draft document during the referendum.

Following the acceptance of the draft constitution, the attention of the Congolese shifted to the processes

**Table 1: DRC’s 2005 Constitutional Referendum at a glance**

	Votes	%
“Yes” votes	12,461,001	84.31
“No” votes	2,319,074	15.69
<b>Total (turnout 62.0%)</b>	<b>14,780,075</b>	<b>100.00</b>
Invalid votes	725,735	
Total votes	15,505,810	
Registered voters	25,021,703	

Source: African Elections Database. Accessed from <[http://africanelections.tripod.com/cd\\_detail.html#2005\\_Constitutional\\_Referendum](http://africanelections.tripod.com/cd_detail.html#2005_Constitutional_Referendum)> Posted on 7 April 2006.

that would culminate in the elections: registration of candidates and electioneering campaigns. Within this milieu, Congolese media organisations – beginning in early 2006 – embarked on the process of enabling full participation in the forthcoming elections. The media have been keeping the Congolese informed about the candidates and the issues that are central to the elections. Across the country, media organisations have been educating prospective voters on how to exercise their democratic rights during the impending elections. In their performance of this role, the media have been providing information about the electoral process with a view to assisting voters to make an informed choice. Against the backdrop of threats by the main opposition to boycott the polls, government-controlled media and UN-backed *Radio Okapi* have emphasised popular support for and participation in the elections as a prerequisite for stability.<sup>8</sup> The success or failure of the elections, however, depends on an interplay of factors, including how well the media promote the logic of peace within the context of an unprecedented democratic transition, and its acceptance by the people. Nevertheless, the functioning of the Congolese media is potentially and actually constrained by a number of factors.

### Challenges

The suppression of the independent media and the excessive government control of the public media during the Mobutu years was a certainty. This facet of the DRC’s history has not only undermined media freedom, but also incapacitated the media and practitioners alike, at least as far as the performance of their democratic function is concerned. Though there has been an improvement in the media’s operational environment since the inception of the transitional government, the DRC is still a difficult terrain for the media. The performance of the media’s democratic function within the context of the transition remains a formidable challenge as noted in a report by *reporters sans frontières* (Reporters Without Borders):



Despite the hopes raised by the 2003 democratic transition accord, the Democratic Republic of Congo continues to be one of those African countries where exercising the right to information can lead to prison, hospital and sometimes the cemetery ... The many news media [have been] caught in a vice between the different factions, the many parties and the various influence networks jostling for power ... The print media have been drawn into a political whirlwind in which a former militia chief is pitted against a minister from a rival faction one day, and a vice-president is pitted against a businessman with conflicting interests the next.<sup>9</sup>

It is also worth mentioning that local and international media have reported several instances of infringement on the rights of Congolese journalists to perform their functions. For instance, the report cited earlier notes the generally perverse situation that Congolese media practitioners found themselves in 2004:

- 6 journalists were imprisoned;
- 32 were arrested;
- 10 were convicted by a court;
- 6 were physically attacked;
- 14 were threatened;
- 5 media premises were physically attacked;
- 2 news media were censored; and
- one reporter was unfairly dismissed.<sup>10</sup>

Within the prevailing atmosphere of insecurity and intimidation in the DRC, the performance of the media's functions vis-à-vis reportage of, and commentary on, the electoral process has become a vocational hazard. Moreover, media practitioners have been caught up in the feuds between political actors (including officials of the transitional government), armed militias and factions that are jostling to control media organisations in order to promote their own interests as the polls draw close. Will the Congolese media be able to stave off the pressure from political actors so as to facilitate a peaceful transition through fair, independent and objective coverage of the process, drawing from their agenda-setting capacity? Only the passage of time will tell; but so far, they have shown themselves willing to take on the challenge of carrying out their professional and historic responsibilities.

### Conclusion

The role of the media in the DR Congo presupposes much more than acting as a check on the activities of government. Since the formation of the transitional government, Congolese media organisations have focused on the activities of the regime with a view to promoting responsibility and accountability in governance. But more importantly, their main role has been the

nurturing of an environment within which a successful transition may be conducted – an undertaking that speaks more to a democratic role beyond the watchdog function. The media have been educating the Congolese about the democratic transition. They have provided a platform for political parties to reach out to the people. However, this has been accompanied by certain critical challenges.

There is no gainsaying the fact that the DRC is at a critical juncture in its history. The future of the country depends largely on the success or failure of the current transition, the kernel of which is the impending electoral exercise. That the forthcoming elections are indeed crucial to the country's future, and its stability, has been demonstrated in the attention that the international community has paid to the process. Though not operating in the best of environments, Congolese media organisations realise the imperative of 'setting the agenda' for a peaceful democratic transition. And one can safely conclude that the media's role in the process could either make or mar the attempt at building sustainable peace in the DRC. 🇷🇸

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# POST-ELECTION RECONSTRUCTION IN LIBERIA: THE CHALLENGES OF SECURITY SECTOR REFORM

WRITTEN BY J. SHOLA OMOTOLA

## Introduction

In the two months of October and November in 2005, Liberia scored a remarkable point in its struggle for sustainable peace, democracy and development. Hitherto ravaged by war, this West African country conducted a multi-party election that ushered in a democratically elected government led by Ms Ellen Johnson-Sirleaf. This feat, no doubt, represents a quantum leap in Africa's democratisation for a number of reasons. Given the protraction, severity and costs of the Liberian civil war that lasted for more than a decade, the elections certainly qualify, for all intents and purposes, as a reference point in the transition from violence to politics across the continent. The election is equally remarkable for throwing up the first democratically elected female president in Africa. This has ramifications for feminist movements, activists, scholars and discourses in Africa and beyond. The general administration of the election, despite sporadic hiccups, suggested that the election, unlike most others in Africa, was not a "fading shadow of democracy" or "without choice".<sup>1</sup>

These reasons reflect a celebration of the victory of democracy in Liberia. But to do so amounts to a misreading of the situation and an underestimation of the challenges of consolidation, that of making democracy survive by promoting democratic political culture and citizenship, which are often much more daunting than the task of establishing it. One of such core challenges especially in post-conflict settings is the arduous task of reforming and reconstructing the security sector. This is because the security sector is central to the maintenance of orderly society. But tragically, it usually ends up as the worst hit in conflict situations. What are the challenges posed for the security sector in terms of the consolidation of the nascent democracy in Liberia? What forms of reform and reconstruction are desirable in the security sector of Liberia? Indeed, what are the prospects of enduring reform and reconstruction of the security sector for sustainable peace, democracy and development? These and other related questions are engaged in this article with a view not only to understanding the depth of the crisis and contradictions of the security sector, but also to charting a viable path towards the consolidation of peace, democracy and development in Liberia.

## The Reconstruction and Security Sector

The concepts of security, security sector, security sector reform (SSR) and security sector reconstruction (SSR1) are different but closely related. The concept of security in its current usage, particularly since the end of the Cold War, transcends the reductionist perspective that tends to equate it with military strategic permutations alone. It has been expanded to accommodate non-military dimensions such as political, economic, social, and environmental elements. This expansion has led to new security concepts such as social security, human security, environmental security and food security. Comprehensively defined, therefore, security connotes freedom from danger or an absence of threats to the many elements that affect the nation's ability to protect and develop itself, promote its cherished values and national interest, as much as promote and boost the well-being of its people. While the military occupies a strategic position in achieving these, the concept of security goes beyond that and includes environmental protection, food availability, accessibility and nutritional factors, and human rights issues including that of the minorities and gender balance.<sup>2</sup>

Therefore, a holistic conception of the security sector transcends military calculations alone. It must of necessity acknowledge the importance and centrality of non-military actors and institutions in the provision of public security. From a security perspective, the security sector encompasses all those state institutions and actors with a formal mandate to ensure the safety of the state and its citizens against acts of violence and coercion, such as the armed forces, the police, gendarmerie, paramilitary forces, intelligence and secret services. It also covers, albeit unofficially, other non-state paramilitary outfits and actors, including the phenomenon of mercenaries, for their activities impact on the governance of the security sector. From a governance perspective, however, the security sector covers the elements of the public sector responsible for the exercise and control of the state monopoly of coercive power. This includes duly elected civilian authorities saddled with the task of managing and controlling the security forces, the relevant ministries such as the Ministry of Defence (MoD) and the legislature that exercises oversight functions over the security sector. In a broad sense, therefore, the



**A polling officer sorts through ballots during the historic Presidential run-off in Monrovia, Liberia.**

security sector encompasses state and non-state security institutions and actors as well as the managers of such institutions and actors to ensure the effective and accountable provision of security to the state and society.<sup>3</sup>

In the event of a reversal of this trend such that the security factor becomes dysfunctional or has collapsed altogether and thereby is unable to provide security to the state and its people in an effective and efficient way, and is equally deficient in its governance, then there is a strong and inevitable need for the reform and reconstruction of the security sector. The whole idea of SSR is to reposition the security sector in such a way as to adequately equip it to provide security to the state and society in an effective and efficient manner, and in the framework of democratic civilian control. In other words, SSR aims to allow for good governance of the security sector predicated upon the ideals of efficiency, equity and accountability.<sup>4</sup> While security sector reform (SSR) does not differ substantively from security sector reconstruction (SSR1), they are not exactly the same. The former applies more to developmental and post-authoritarian contexts and the latter to post-conflict settings with different focuses and challenges. The challenges of SSR1 are basically those of disarmament, demobilisation and reintegration of ex-combatants, judicial capacity-building to permit for transitional justice, curbing the proliferation

of small arms and light weapons, and so on.<sup>5</sup> It should, however, be noted that this line of demarcation should not be overstressed to make SSR and SSR1 appear independent of each other. Rather, they should be seen as a continuum, two sides of a coin, whose primary objective is to see to the total transformation of the security sector in line with efficiency, equity, accountability and civilian supremacy over the security forces. The combination of both terms in the Liberian context is due to the fact that the country currently shares the features of developmental, post-authoritarian and post-conflict states, always in dire need of SSR and SSR1 respectively.

#### **The Reform Context<sup>6</sup>**

The political economy of war precipitated by the mis-governance of the military government of Samuel Doe in the 1980s offers a good starting point to an understanding of the deepening crisis and contradictions of Liberia's security sector. The 1980 coup that brought Doe to power was initially hailed because it ushered in the first indigenous Liberian ruler, and many perceived it as a victory against long-standing Americo-Liberian domination. However, the victory turned out to be short-lived. The goodwill it generated dissipated as no sooner had the Doe regime come to power than it reneged on all

its promises including a commitment to increase the minimum wage from \$750 to \$2000 per month, to raise the salaries of the military forces, to abolish taxes and so on. This failure was soon followed by wanton violation of fundamental human rights of citizens in the form of mass executions of suspected public officers for alleged coup attempts. The crisis assumed a dramatic turn with the ethnicisation of governance and state violence. The result was the mounting of opposition forces united against the Doe regime.

As the tension heightened, the Doe government succumbed to pressure and initiated some reform measures notably the endorsement of a new constitution in July 1984, the lifting of a ban on political parties and

launched on 24 December 1989 by Charles Taylor, a former official of the government of Samuel Doe, under the National Patriotic Front of Liberia (NPFL). By July 1990, Prince Yormie Johnson, a former ally of Taylor in the NPFL, had broken away to form the Independent National Patriotic Front of Liberia (INPFL) due to disagreements over the Economic Community of West African States Monitoring Group's (ECOMOG) intervention. Later, the Interim Government of National Unity (INGU) led by Amos Sawyer and the United Liberation Movement for Democracy in Liberia (ULIMO) emerged as principal actors with Taylor as the most influential. It took the intervention of ECOMOG to check the powerful onslaught of the NPFL against the Liberian Armed Forces



CHRIS HONDROS / GETTY IMAGES / TOUCHLINE PHOTO

**Liberians are urged to vote in the country's first voting since the end of a brutal civil war in August 2003.**

the promise to hand over power to civilian rule in early 1986. Unfortunately, the hopes and optimism generated by this development were, once again, squandered by the regime as Doe decided to contest the presidential election in contrast to his promise not to do so. Eventually, he contested and won the election with an alleged 51% of the vote under the banner of the National Democratic Party of Liberia (NDPL) in October 1985. As protests and opposition mounted against the Doe regime, it became much more ruthless in its clamp-down on opposition forces. In the process, there were several unsuccessful coup attempts.

By 1989, the deepening crisis had developed into a full-blown civil war. This followed the formal assault

(LAF), which had been confined to the capital city of Monrovia. Through ECOMOG's efforts, the INGU under Sawyer was able to hold elections, which Taylor won; he became the president in 1997.

This proved to be only a temporary victory as hostilities broke out again shortly after the Taylor government came to power. In view of this, one can argue that "elections held under wrong conditions can be a real setback for democratization", and elections may even "be the wrong place to start a process of democratization in a collapsing, conflict-ridden state". The exit of Charles Taylor from the political scene in Liberia, following Nigeria's granting of asylum to him in 2003, has been instrumental in the successful transition from violence to multi-party

democracy in Liberia. But certainly, the conditions are far from being “right” to sustain multi-party democracy. This is because the security sector has become dysfunctional, giving rise to the privatisation of violence and coercive instruments of force, the phenomenon of child soldiers, mercenaries, militarisation, proliferation of small arms and light weapons, praetorianism and complete disillusionment of security actors and institutions in Liberia. Legacies of the prolonged regimes of authoritarianism and violent conflicts in Liberia, therefore, provide the complex basis for the reform and reconstruction of the security sector for sustainable peace and democracy. Without this, the new transition from violence to politics may amount to insignificance, given its potential pitfalls, as encapsulated largely in but not limited to the crisis and contradictions of the security sector.

### **Challenges of Security Sector Reform<sup>8</sup>**

What then are the challenges of reforming and reconstructing the security sector in Liberia? The ultimate challenge relates to how to ensure the good governance of the security sector. This challenge embodies two closely related concerns. The first is the arduous task of establishing effective, equitable and accountable security agencies and actors. The second has to do with the equally daunting task of instituting effective civilian control of the security agencies. That is, ensuring a process of stable civil-military relations. With respect to establishing efficient, equitable and accountable security agencies, capable of providing the foundations for all-encompassing sustainable peace, democracy and development, efforts must as a matter of necessity begin with a critical engagement with the legacies of the conflict situations. The most important of these include demobilisation, disarmament and reintegration of former combatants. Of course, the phenomenon of child soldiers and the withdrawal of small arms are also of crucial importance to the exercise. Also relevant here is to the crucial question of refugees and displaced persons. Estimates have shown that at the end of 2003, there were at least 500 000 internally displaced persons and 280 000 Liberian refugees in neighbouring countries of Guinea, Côte d’Ivoire and Sierra Leone. Records also indicate that between 1998 and 2002, about 72 500 combatants were disarmed and demobilised and 42 300 weapons and 1.2 million pieces of ammunition were collected and destroyed. By the end of 2002, nearly 57 000 ex-combatants had registered for reintegration exercises with the intention of undergoing skills training and recruiting assistance to find job.<sup>9</sup>

With this development, an urgent task has to do with a fundamental restructuring of the armed forces. The restructuring exercise should emphasise merit predicated upon the criteria of educational, professional,

medical and physical fitness. In doing this, consideration should be given to the plural character of Liberian society, accommodating all groups on the basis of fairness and equality. This should, however, not be done in a way that will compromise the merit requirements. Efforts should also be made to re-professionalise the military, subject it to periodic training and retraining, attuning it to its task of protecting the territorial integrity and sovereignty of the country from external aggression and internal insurrection. All these should be pursued within a constitutional framework that specifies in clear terms the expected role of the military in a democratic setting.

The security sector, of course, transcends military considerations. Other security agencies such as the police, immigration, customs, secret services and intelligence units also need to be re-professionalised. All this should be done within the framework of a larger reform context targeted at transforming the entire state and society. This is necessary given the changing contours of security to include non-military considerations in the political, economic and social realms. Accordingly, issues of fundamental human rights, environmental protection, and gender balance should be included in the reform process. Without this, a reorganisation of the security forces may not yield the desired result. Equally important is the issue of addressing the roots of the conflict that almost led to the collapse of the country. This requires a carefully mediated process of reconciliation and the establishment of a new socio-political order that guarantees equality of access and opportunities to all groups and interests in the country. The question of the youth as an integral part of the conflict process is also vital to reconciliation efforts. A regime of good governance, capable of managing the resources of the country in response to the critical needs of society, is a *sine qua non* to achieving these. Such societal needs include job opportunities, infrastructural development, economic growth and development, and a sustained regime of political order and stability.

Regarding the second task of instituting a stable civil-military relations system, the ultimate concern has to do with how to keep the military to its constitutional roles of defence, not governance, and how to subject it to civil authority. Such a measure is central to the insulation of the new government in Monrovia from military coups. In this respect, constitutional provisions that not only forbid military intervention in politics but also criminalise it are in order. It should go ahead to apportion penalties to defaulters. This measure is common to most African states and has proven to be effective especially in recent years. In the absence of war to engage the military, there is a need to create new military roles to keep them busy. This may take the form of participation in international peacekeeping as well as engagement in other


sectors of the economy such as agriculture and construction. While these approaches are fraught with their own limitations such as the possibility of illegal accumulation of wealth and the low level of technical skills on the part of militaries in Africa, it can however be remedied if the military is subjected to serious re-professionalisation programmes, technical training and retraining.

It may not be out of place to contemplate a code of conduct for the armed and security forces in Liberia, as is fast becoming the norm in Africa.<sup>10</sup> The substance of the code should be the do's and don't's of military and security establishments, defining their relationship to the civil society. This can be enhanced with the presence of oversight institutions such as the legislature, and raising awareness of and respect for democratic values and institutions especially the rule of law and human rights. This method exists in several regional frameworks in Africa such as the July 2000 African Union Constitutive Act and the February 2004 Solemn Declaration of a Common African Defence and Security Policy, both of which stipulate the condemnation and rejection of unconstitutional change of governments, denying such governments recognition and participation in the African Union.

For these to be effectively carried out, there is a need for a great deal of political will on the part of the state, adequate financial resources, institutional capacity such as human and social capital, a virile and robust civil society, and an environment of international cooperation and support. These requirements suffer fluctuating fortunes in Africa, given the declining capacity of the state as a result of years of abuse, and the continuing lack of interest of the West in African affairs following the end of the Cold War. Nevertheless, hopes are not entirely lost. The effort to institute a regime of local ownership of the reform process by Africans offers some bold relief. This is not, however, to say that international cooperation and assistance are not desirable. The point is that they should be pursued as supplements, not alternatives, to local initiative. This is important given the sensitivity of security sector reform and reconstruction to sustainable peace, democracy and development in Liberia.

### Conclusion

In this paper, an attempt has been made to examine the challenges of security sector reform and reconstruction in Liberia. The existence of a dysfunctional, or worse still a collapsed, security sector incapable of providing adequate security to the state and society, following years of authoritarianism and conflict, necessitated the need for reform and reconstruction. The two broad challenges are that of establishing effective, equitable and accountable security institutions, processes and actors; and that of instituting effective civilian control of the security sector. These require engaging the legacies of the conflict

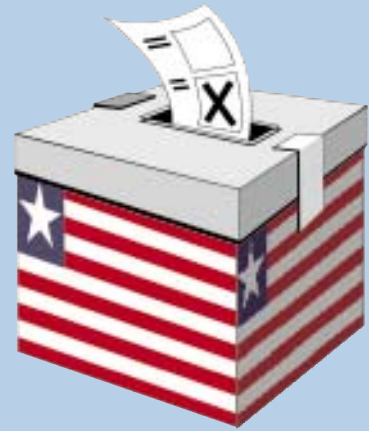
situations, including military, political, economic, social and economic elements. Some of the available options include constitutional frameworks, re-professionalisation of the military, periodic training, developing new military roles, and a sustained regime of good governance capable of managing available resources in the best interests of all irrespective of creed, or religious or political leanings. 

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# SITUATION REPORT LIBERIA



**Liberia is a West African country bordering the North Atlantic Ocean, between Côte d'Ivoire, Guinea and Sierra Leone. The country has a total land mass of 111 370 square kilometres with a population of 3 482 211 whose growth rate is 4.91%<sup>1</sup>. While Liberia is rich in natural resources including rubber, timber, arable land, iron, gold and diamonds, unemployment and those living below the poverty line account for 85% and 80%, respectively.**

## POLITICAL OVERVIEW

Liberia received its independence in 1847. The country was ruled by Americo-Liberians for more than one hundred years. The Americo-Liberian rule ended in 1980 following a military coup led by Sergeant Samuel Doe. But the military government did not change the governance systems. Instead, corrupt practices and limited democratic space characterised these systems. Towards the end of the 1980s, an insurgency led by Charles Taylor, a former government member, erupted in the country. Taylor eventually toppled the Doe regime in 1990. Faction fighting continued for several years until the adoption of a shaky ceasefire that paved the way for the 1997 elections, which Taylor won. The war resulted in more than 200 000 deaths and the displacement of more than half the population. In addition to looting of the country's resources and human rights abuses, the Taylor regime also supported insurgency in the neighbouring Sierra Leone and Guinea.

## CURRENT SITUATION

The fourteen-year civil war ended in 2003 with the installation of a two-year transitional government headed by Chairman Gyude Bryant. The transitional government's mandate was to organise legislative and presidential elections. It was supported by the UN Mission in Liberia (UNMIL) with a total of 15 000 peacekeepers. An Electoral Reform Law (ERL) and the National Electoral Commission (NEC) were established during the transition to organise elections. Fourteen of the country's 15 counties were declared safe zones for returning refugees. Hence by 2004, approximately 300 000 Liberians returned home while 225 000 internally displaced persons (IDPs) were resettled.

In August 2005, the NEC cleared 22 candidates to contest the 11 October presidential elections, and 718 to compete for the 30 and 64 Senatorial and House of Representatives seats respectively. Both the legislative and presidential polls were held on the same day. Over 1.3 million people, more than a third of the population, registered to vote.

There were 3 070 polling stations, 10% of which were located in remote villages. Polling stations were set up in public buildings including churches, schools, huts, tents<sup>2</sup>, derelict buildings and bullet-scarred walls. The elections were monitored by 900 and 400 local and international observers<sup>3</sup> respectively. The NEC released the final results after all the county results were tallied, though interim results were announced as they came.

The Congress for Democratic Change (CDC) and the Coalition for the Transformation of Liberia led with 15 and 8 seats in the House of Representative and the Senate, respectively. Similarly, George Weah, the former world footballer (CDC) led with 28.3% followed by Johnson-Sirleaf (Unity Party) with 19.8%. The other candidates won between 0.3% and 13.9% of the vote. According to the Electoral Reform Law, the NEC scheduled a run-off election for 8 November between the two leading candidates. Sirleaf won with 59.4% thereby becoming the first elected female president in Africa.

However, several challenges emerged. The Citizen Act, enacted in the mid-19th century, disenfranchised a segment of the Liberian population. This Act, which states that only blacks could become citizens of Liberia, excluded from the process the Liberia-born Lebanese community members, and Liberians living abroad<sup>4</sup>. Secondly, an estimated 200 000 IDPs that voted in the presidential elections were excluded in the parliamentaries. Lastly, poor road infrastructure hampered people's movement.

### Endnotes

- 1 July 2005 estimate.
- 2 These were set up in rural areas where public buildings were too far.
- 3 Observers included the former US President Jimmy Carter; US Assistant Secretary of State for African Affairs Jendayi Frazer; and about 70 observers from the European Union (EU), the African Union (AU), ECOWAS and other regional and international organisations and institutions.
- 4 In 2000 between 400,000 and 450,000 Liberians living in the USA sent home over US\$2,000 million through the Western Union to support their relatives.

# SITUATION REPORT BURUNDI



**Burundi is a small land-locked country in Central Africa, often referred to as 'the heart of Africa' due to its shape and central location within the continent. It shares borders with Rwanda in the north, Tanzania in the south-east, and the Democratic Republic of the Congo (DRC) in the west. Burundi's total land area is 27 830 km<sup>2</sup>. It is separated from the DRC by Lake Tanganyika, and straddles the crest of the Nile-Congo watershed. The source of the Nile River is in southern Burundi. Its terrain is generally hilly and mountainous, dropping to a plateau in the east, with some plains. Bujumbura is the capital city.**

## POLITICAL OVERVIEW: Political Situation since Independence

In 1946, the country became a United Nations Trust Territory under Belgian administration. Elections held on 18 September 1961 saw the Union for National Progress (UPRONA), a multi-ethnic party led by Prince Louis Rwagasore, defeat the Christian Democratic Party (PDC) and African National Union of Ruanda-Urundi coalition. Rwagasore was assassinated the same year.

Burundi attained independence on 1 July 1962 as a constitutional monarchy. Tutsi King Mwambutsa IV appointed a Hutu Prime Minister to lead the government. In 1965, the Prime Minister was assassinated. In 1966, King Mwambutsa was deposed by his heir, who himself was deposed the same year in a military coup led by Capt. Michel Micombero. Micombero abolished the monarchy and declared Burundi a republic. His military regime was characterised by civil unrest and one-party politics. In 1976, Col. Jean-Baptiste Bagaza overthrew Micombero. A new constitution, providing for a national assembly was adopted in 1981 and in 1984, Bagaza was elected head of state, in a stage-managed election. However, in September 1987, his regime was deposed in a coup led by Major Pierre Buyoya.

Buyoya's era saw increased ethnic tensions. In 1991, multiparty politics was restored and a new constitution approved in March 1992. The June 1993 election brought to office Burundi's first elected president, and also the first Hutu, Melchior Ndadaye, to power. Ndadaye garnered 66% of the vote and Buyoya 33%. But Ndadaye

was assassinated in a failed military coup three months later. Ndadaye's successor, Cyprien Ntaryamira, was inaugurated in February 1994. In April 1994, Ntaryamira and Rwandan President Juvenal Habyarimana died in a plane crash, marking the beginning of the Rwandan genocide, and exacerbating violence in Burundi. The speaker of the national assembly, Sylvestre Ntibantunganya, was installed as president.

In 1996, Buyoya seized power again. In response to economic sanctions by neighbouring states, he appointed a 'government of national unity', led by Pascal-Firmin Ndimira. In 1997, warring factions agreed to sign a ceasefire, and in May 1998, agreed to attend peace talks in Arusha, Tanzania, mediated by the former Tanzanian President, Julius Nyerere. After Nyerere's death, former South African President, Nelson Mandela, took over the mediator's role in January 2000, with the support of the UN. In July 2001, Burundi's 19 political parties agreed to form a power-sharing government, which was sworn in on 1 November 2001. However, two armed Hutu rebel groups, the Forces for National Liberation (FNL) and Forces for the Defence of Democracy (FDD), pledged to fight on. In November 2003, the main rebel group CNDD-FDD signed the ceasefire and power-sharing agreement. In September 2004, parliament approved a post-transition constitution, which the country approved in a national referendum in February 2005, thus setting the stage for local and national elections.

## BURUNDI ELECTIONS IN 2005

<b>28 Feb 2005</b>	<b>New constitution ratified by referendum</b>	<b>29 July 2005</b>	<b>Senate elections</b>
<b>3 June 2005</b>	<b>Local (Commune) elections</b>	<b>19 Aug 2005</b>	<b>Presidential elections</b>
<b>4 July 2005</b>	<b>National Assembly elections</b>	<b>23 Sept 2005</b>	<b>Hills (Colline) Elections</b>

The president is elected by Parliament, which is bicameral, consisting of the National Assembly and Senate. Members are elected to serve 5-year terms. The National Assembly comprises 118 seats: 100 members are elected by direct popular vote in multi-member constituencies, while 18 members are co-opted, which ensures that the constitutionally mandated ethnic (60% Hutu, 40% Tutsi, and 3 Twa) and gender (minimum 30% women) quotas are met. The Senate consists of 49 members. 34 members (2 from each province) are indirectly elected by communal councillors, 3 are ethnic Twa minority, 4 are former presidents, and 8 are appointed to ensure that gender (minimum 30% women) quotas are met.



## NATIONAL ASSEMBLY ELECTIONS

National Assembly elections were held on 4 July 2005. Voting was generally peaceful; observers deemed the polls free and fair and political parties accepted the results. The CNDD-FDD received 58.55% of the vote, while FRODEBU secured 21.7% UPRONA 7.21%, CNDD 4.14%, MRC-Rurenzangemero 2.14%, and 6.2% of the vote went to others. Consequently, the CNDD-FDD was allocated 59 seats, FRODEBU 25, UPRONA 10, CNDD 4, and MRC-Rurenzangemero 2. In order to meet ethnic and gender quotas, a further 18 members were co-opted after the elections.

Party	No. of Votes	% of Votes	No. of Seats 100 (118)*
CNDD-FDD	1,417,800	58.55%	59 (64)
FRODEBU	525,336	21.70%	25 (30)
UPRONA	174,575	7.21%	10 (15)
CNDD	100,366	4.14%	04 (04)
MRC-Rurenzangemero	51,730	2.14%	02 (02)
PARENA	42,223	1.74%	- (-)
Independents & Others	109,396	4.51%	- (-)
Seats reserved for ethnic Twa members	-	-	- (03)

4 July 2005

## National Assembly of Burundi Election Results

registered voters <b>3,167,124</b>	valid votes <b>2,421,426</b>
	invalid/blank votes <b>24,575</b>
	voter turnout <b>77.2%</b>

\*100 seats were filled based on the election results. The remaining 18 seats were allocated based on the constitutional requirement that 60% of seats are filled by ethnic Hutus, 40% by ethnic Tutsis, 30% by Women, and 3 by ethnic Twa. Figures in parentheses reflect the distribution of seats after these requirements were met.

## POLITICAL PARTIES

Burundi has a multi-party electoral system, dominated by a few strong parties. Parties are usually based on ethnic background.

### MAIN POLITICAL PARTIES

- CNDD** National Council for the Defence of Democracy  
(*Conseil National Pour la Défense de la Démocratie*)
- CNDD-FDD** National Council for the Defence of Democracy-  
Forces for the Defence of Democracy  
(*Conseil National Pour la Défense de la Démocratie-Forces pour la Défense de la Démocratie*)
- FRODEBU** Front for Democracy in Burundi  
(*Front pour la Démocratie au Burundi*)
- MRC-Rurenzangemero** Movement for the Rehabilitation of  
Citizens Rurenzangemero (*Mouvement pour la Réhabilitation du Citoyen-Rurenzangemero*)
- PARENA** Party for National Recovery  
(*Parti pour le redressement national*)
- UPRONA** Union for National Progress  
(*Union pour le progrès national*)

### OTHER PARTIES

- PDC** Christian Democratic Party
- PP** People's Party
- PRP** People's Reconciliation Party
- RADDES** Rally for Democracy and Economic and  
Social Development
- RPB** Rally for the People of Burundi
- UNARU** African National Union of Ruanda-Urundi

### POLITICAL PRESSURE GROUPS

- FNL** Party for the Liberation of the Hutu People –  
National Liberation Front (Palipehutu).  
As of December 2005, the only insurgent group  
still fighting the government.

## SENATE ELECTIONS

Senate elections took place on 29 July 2005. Senators were chosen indirectly through electoral colleges of communal council members. Each of Burundi's 17 provinces elected two senators – one Hutu and one Tutsi. To satisfy ethnic and gender quotas, the remaining seats were allocated to ethnic Twa members, women and former presidents – Jean-Baptiste Bagaza (PARENA), Pierre Buyoya (UPRONA), Sylvestre Ntibantunganya (FRODEBU), and Domitien Ndayizeye (FRODEBU).

### Election Results: Senate of Burundi, 29 July 2005

Parties	Elected Members	Co-opted & Other Members	Total Seats
CNDD-FDD	30	2	32
FRODEBU	3	2	5
CNDD	1	2	3
UPRONA	-	2	2
Ethnic Twa Members	-	3	3
Ex-Presidents (FRODEBU-2, UPRONA-1 and PARENA-1)	-	4	4
<b>Total (turnout %)</b>	<b>34</b>	<b>15</b>	<b>49</b>

On 19 August 2005, parliament elected Pierre Nkurunziza (CNDD-FDD) president, by a vote of 151 to 9. He was sworn in on 26 August 2005.

# SITUATION REPORT **DRC**



**The Democratic Republic of the Congo (DRC) is located in Central Africa. It borders Angola, Zambia, Tanzania, Burundi, Rwanda, Uganda, Sudan, Central African Republic and the Republic of Congo. The country's access to the Atlantic Ocean is a narrow strip of land on the north bank of the Congo River. With an area of 2 345 million sq. km, the DRC is the third largest country in Africa. The capital city is Kinshasa with a population of approximately 6.5 million, while the national population is 58 million (2004 estimate). There are more than 200 ethnic groups; the Luba, Kongo, and Anamongo are some of the larger ethnic groupings. The official language is French, with four main national languages – Lingala, Swahili, Kikongo and Tshiluba. The DRC has vast natural and mineral resources including cobalt, copper, niobium, tantalum, petroleum, industrial and gem diamonds, gold, silver, zinc, manganese, tin, uranium, coal, hydropower and timber.**

## POLITICAL OVERVIEW

The Democratic Republic of the Congo attained independence from Belgium in June 1960 with Patrice Lumumba as prime minister and Joseph Kasavubu as president. The first republic lasted five years (1960-1965), beginning with independence and ending with a military take-over led by Col. Joseph Mobutu. The ensuing crisis assumed the characteristics of an anti-colonial struggle, a secession movement in the province of Katanga, a United Nations peacekeeping operation, and an East-West Cold War proxy war. The crisis also led to the assassination of Prime Minister Lumumba, which was a major setback to the United Nations. Col. Mobutu established a presidential system, although the constitution did not come into force until 1970. He also changed the country's name to Zaïre. Under Mobutu's leadership, the country's economy declined sharply.

The changed political climate after the end of the Cold War forced Mobutu to open up the political system, and he appointed a transitional government. Ethnic strife and civil war, touched off by a massive inflow of refugees in 1994 from conflict in Rwanda and Burundi, led in May 1997 to the toppling of the Mobutu regime by a rebellion led by Laurent Kabila.

Kabila renamed the country the Democratic Republic of the Congo. In August 1998, his regime was challenged by an insurrection backed by Rwanda and Uganda. Troops from Angola, Chad, Namibia, Sudan, and Zimbabwe intervened to support his government. The government and the armed movements as well as Angola, Namibia, Rwanda, Uganda, and Zimbabwe signed a ceasefire in July 1999, yet sporadic fighting continued. Kabila was assassinated in January 2001 and his son, Joseph Kabila, was named head of state. In October 2002, Joseph Kabila successfully negotiated the withdrawal of Rwandan forces occupying eastern Congo. Two months later, the Pretoria Accord was signed by all remaining armed groups to establish a government of national unity. The 1998-2002 war claimed an estimated three million people.

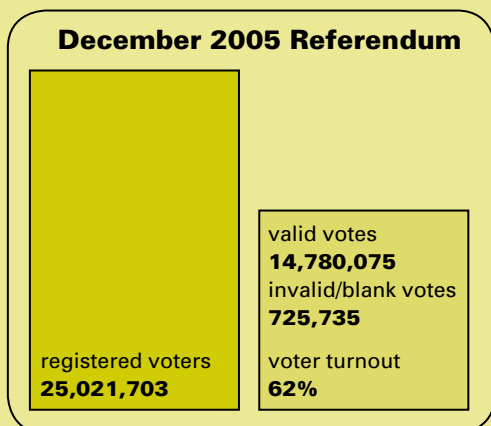
A transitional government was set up in July 2003; Joseph Kabila remained president and was joined by four vice presidents representing the former government, former rebel groups, and the political opposition. In May 2005, a new draft constitution agreed upon by warring parties and the transitional parliament adopted a law which provided for a constitutional referendum.

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## SIGNIFICANCE OF THE REFERENDUM

The 18-19 December 2005 referendum was the first democratic process in which the citizens of the DRC participated in the country's history. The Independent Electoral Commission (IEC) printed and distributed 500 000 copies of the draft constitution in four major languages: Lingala, Kikongo, Tshiluba and Swahili, while 40 000 voting stations in 9,500 voting districts were set up. Out of 25 021 703 (including approximately 9 million female) registered voters, 15 505 810 (62%) (it is estimated that 3 in 5 were women), cast their ballots. Of these, 14 780 075 (84%) voted yes while 16% voted no.



The approved constitution was formally adopted as law on 18 February 2006 thus paving way for presidential and parliamentary elections in 2006. The elections are scheduled to take place in July, and will be the first democratic elections in the country's history.

### Voter Turn-out by Province

Province	Registered Voters	Voter Turnout	Total Votes	Total Valid Votes	Invalid/Blank Votes	% of YES Votes	% of NO Votes
<b>Bandundu</b>	2,689,986	63.2%	1,701,086	1,632,164	68,922	89.00%	11.00%
<b>Bas-Congo</b>	1,232,416	61.9%	763,180	730,030	33,150	72.83%	27.17%
<b>Équateur</b>	2,541,927	73.7%	1,874,372	1,788,078	86,294	83.70%	16.30%
<b>Kasaï-Occidental</b>	2,038,310	40.9%	833,860	785,477	48,383	59.47%	40.53%
<b>Kasaï-Oriental</b>	2,021,418	33.3%	672,359	638,760	33,599	80.79%	19.21%
<b>Katanga</b>	3,517,922	63.8%	2,245,040	2,146,243	98,797	91.42%	08.58%
<b>Kinshasa (city)</b>	2,963,912	46.8%	1,386,812	1,336,545	50,267	51.50%	48.50%
<b>Maniema</b>	629,894	79.3%	499,780	480,085	19,695	95.60%	4.40%
<b>Nord-Kivu</b>	2,462,012	79.0%	1,945,907	1,852,415	93,492	96.68%	3.32%
<b>Oriental</b>	3,257,291	68.4%	2,226,836	2,100,250	126,586	87.48%	12.52%
<b>Sud-Kivu</b>	1,666,615	81.4%	1,356,578	1,290,028	66,550	97.61%	2.39%
<b>National Total</b>	<b>25,021,703</b>	<b>62.0%</b>	<b>15,505,810</b>	<b>14,780,075</b>	<b>725,735</b>	<b>84.31%</b>	<b>15.69%</b>

Source: [http://africanelections.tripod.com/cd\\_detail.html](http://africanelections.tripod.com/cd_detail.html)

# SITUATION REPORT UGANDA



**The Republic of Uganda is situated in East Africa. It is bordered by Kenya in the east, Sudan in the north, the Democratic Republic of the Congo in the west, Rwanda in the south-west and Tanzania in the south. The southern part of the country includes a large portion of Lake Victoria. Uganda takes its name from the Buganda kingdom, which encompasses a portion of the south of the country, including the capital, Kampala. Uganda's terrain is mostly plateau, rimmed by mountains. Its natural resources include copper, cobalt, hydropower, limestone, salt, and arable land.**

## POLITICAL OVERVIEW

Uganda fell under British rule from 1884, first under the British East Africa Company, and later as a British East Africa Protectorate. In 1960, the colonial authorities announced elections for March 1961 in preparation for independence. The 1961 elections were won by the Democratic Party (DP), led by Benedicto Kiwanuka, who became the first Chief Minister. The second round of elections, in 1962, was won by the Uganda People's Congress (UPC)-Kabaka Yekka (YK) alliance. The UPC leader, Apollo Milton Obote, became Prime Minister and led Uganda to independence on 9 October 1962. A crisis erupted in Uganda in 1966 when Prime Minister Obote dissolved the kingdoms and amended the constitution. General Idi Amin Dada staged a military coup d'état in January 1971. Amin's military regime remained in power for eight years, during which time Uganda experienced economic decline, social disintegration, and human rights violations.

Gen. Amin invaded Tanzania in 1979. In response, Tanzania's armed forces, aided by Ugandan exiles led by Uganda National Liberation Front (UNLF), drove the Ugandan army out of Tanzania's territory, entered Uganda, and forced Amin out of power. An interim government organised elections in December 1980 – the first elections to be held since

independence. Milton Obote won the 1980 elections. The results, which various parties contested, triggered a guerrilla war led by the National Resistance Movement (NRM) under Yoweri Museveni.

In 1985, Obote was deposed by General Tito Okello, who set up negotiations with the NRM. The negotiations culminated in the Nairobi Peace Talks, and produced the Nairobi Peace Agreement. But the Nairobi Agreement was not implemented, as the NRM overthrew Gen. Okello and seized Kampala. The NRM government formed a Government of National Unity comprising all political groups, and imposed restrictions on multi-party politics. The first elections under the NRM were held in 1996, and saw Museveni defeat Dr Paul Kawanga Semogerere. Museveni won again in the 2001 elections, beating his former ally and personal doctor Dr Kizza Besigye.

A national referendum in July 2005 paved the way for Uganda's transition to a multi-party political system. In August 2005, Parliament voted to change the constitution to lift presidential term limits, thus allowing Museveni to run for a third term. The first multi-party elections since Museveni came to power were held in February 2006, and Museveni won amidst protests led by the opposition.

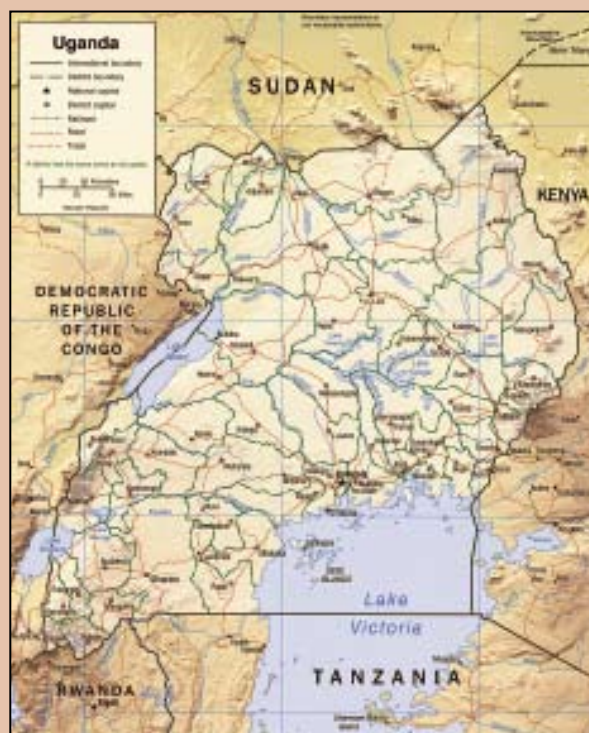
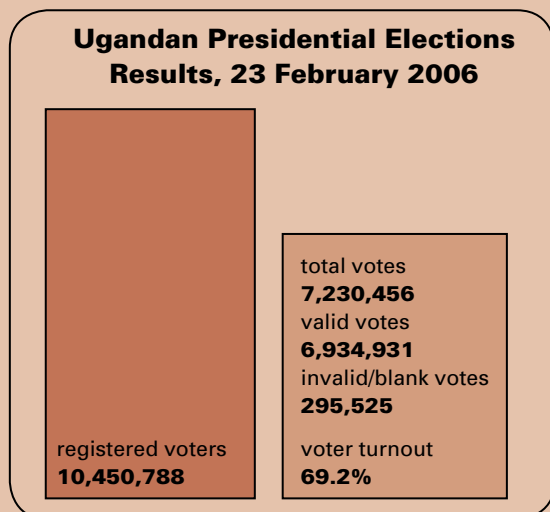
## CURRENT STATUS

**The President of Uganda is both head of state and head of government. The President appoints a Prime Minister, who aids him in his tasks. Uganda's Parliament is unicameral. There are 303 members in the National Assembly: 214 are directly elected by popular vote, while the remaining 81 members are nominated by legally established special interest groups. Out of these 81 seats, 56 are reserved for women representatives, 10 for the army, 5 for youth, 5 for workers, and 5 for the disabled. The president may also appoint up to 10 ex-officio members. Members serve five-year terms.**

The main candidates to contest the presidential office were:

- 1 **Abed Bwanika** – Independent
- 2 **John Ssebaana Kizito** – Democratic Party
- 3 **Kizza Besigye** – Forum for Democratic Change
- 4 **Miria Obote** – Uganda People’s Congress
- 5 **Yoweri Museveni** – National Resistance Movement

Museveni won 59.3% of the vote, while the main opposition candidate, Besigye, received 37.4% of the vote. Others shared 3.3% of the vote.



### COMMENTS

Uganda’s transition to a multi-party political system has been marred by attacks on civil rights. These include the arrest and beating by security forces of opposition MPs, the arrest and arraignment in court of the opposition leader, Dr Besigye, on treason and rape charges, and the seige of the High Court during Dr Besigye’s case by armed security forces. The Supreme Court of Uganda upheld the results of the election, though it admitted there were electoral irregularities. More importantly, the rebel group, the Lord’s Resistance Army (LRA), continues to undermine peace and security in the north, and has done so for the past two decades.

### POLITICAL PARTIES

- CP** Conservative Party; led by Ken Lukyamuzi
- DP** Democratic Party; led by John Ssebaana Kizito
- FDC** Forum for Democratic Change; led by Kizza Besigye
- JEEMA** Justice Forum; led by Muhammad Kibirige Mayanja
- NDF** National Democrats Forum; led by Chapaa Karuhanga
- NRM** National Resistance Movement; led by Yoweri Museveni
- UPC** Uganda People’s Congress; led by Miria Obote

### Ugandan Presidential Elections Results, 23 February 2006

CANDIDATES	NOMINATING PARTIES	NUMBER OF VOTES	% OF VOTES
<b>Yoweri Museveni</b>	NRM	4,109,449	59.26
<b>Kizza Besigye</b>	FDC	2,592,954	37.39
<b>John Ssebaana Kizito</b>	DP	109,583	1.58
<b>Abed Bwanika</b>	Independent	65,874	0.95
<b>Miria Obote</b>	UPC	57,071	0.82
<b>TOTAL</b>		<b>6,934,931</b>	<b>100.00</b>

# SITUATION REPORT UNION OF COMOROS

**The Union of Comoros is a small archipelago nation in the Indian Ocean, at the northern mouth of the Mozambique Channel, about two-thirds of the way between northern Madagascar and northern Mozambique, comprising three islands. These are Grande Comore (1,025 sq. km.), Anjouan (424 sq. km.), and Moheli (211 sq. km.). A fourth island of the archipelago, Mayotte (374 sq. km), has remained under French sovereignty but is claimed by the Union. The country's terrain is rugged and its climate tropical. The major cities are Moroni and Mutsamudu with 30 000 and 20 000 people respectively.**



## POLITICAL OVERVIEW

The islands of Comoros were occupied by the French between 1841 and 1909. After occupation by the British in World War II, they were granted administrative autonomy within the French Union in 1946 and internal self-government in 1968. In 1974, three islands returned a yes vote of 94.6% to become independent, and declared unilateral independence from France later in July 1975 with Ahmed Abdallah as president. The fourth island, Mayotte, chose to remain as an overseas province of France. Abdallah was deposed soon thereafter, in August 1975, in a coup led by French mercenary Bob Denard, and replaced by Said Mohammed Jaffar. A year later, Jaffar was deposed by Ali Soilih. Soilih was, in turn, overthrown and killed by mercenaries led by Denard in 1978, who replaced him with Ahmed Abdallah. In 1989, mercenaries led by Denard assassinated Abdallah, but France intervened to stop their coup. Said Mohamed Djohar became interim president and subsequently won 55% of the vote against Mohamed Taki Abdoukarim in the 1990 multiparty contest. Dohar was removed in a coup led by Denard in 1995, but France intervened again.

The following year, 1996, Mohamed Taki Abdoukarim won 64.3% of the vote against Abbas Djoussouf in a second-round election. In 1997, the island of Anjouan attempted to secede from Comoros. After the death of President Taki in 1998, Tadjidine Ben Massoude became the acting head of state, but he was ousted in 1999 in a coup and replaced by Col. Azali Assoumani. Azali ran as a civilian candidate for the national presidency and was elected in 2002. After three years of a peace process, spiced by several coup attempts and violent protests, 77% of voters supported a new constitution that granted

greater autonomy to the three islands. The new constitution created a union of semi-autonomous islands, each with its own constitution, president, and assembly, and stipulated that the position of Union President, who is the head of state and government, was to rotate between the three islands every four years. According to this constitution, a primary election is to be held on the island that will hold the Union Presidency. The three candidates who receive the most votes then stand in a nationwide election with a simple plurality needed to win. The first Union Presidential elections to be held under the new constitution were conducted in March and April 2002. In the March primary elections held on the island of Grande Comore, Azali Assoumani led nine candidates with 39.81% of the vote, followed by Mahamoud Mradabi and Said Ali Kemal with 15.69% and 10.68%, respectively. In the second-round vote, Azali Assoumani won approximately 80% of the vote after both Mradabi and Kemal boycotted the poll.

But disagreements over power and resources between the Union government and the island governments arose. An intervention by South Africa with support from Madagascar, Mauritius and France resolved the stalemate and an accord in December 2003 paved the way for legislative elections in 2004. The Camp of the Autonomous Islands (*Camp des Îles Autonomes*) won 12 seats, the Convention for the Renewal of the Comoros (*Convention pour le Renouveau des Comores*) won 6 seats while representatives of the regional assemblies took 15, thus making a total of 33 seats. In the next presidential elections, which were held in May 2006, it was the turn of the island of Anjouan to hold the Union presidency.

## COMMENTS

The concept of a rotational presidency as practised in the Union of Comoros is unique. Though several candidates participating in the electoral process have questioned the fairness of the process and often alleged fraud, the model appears to be stabilising the country, and building confidence in the democratic process.

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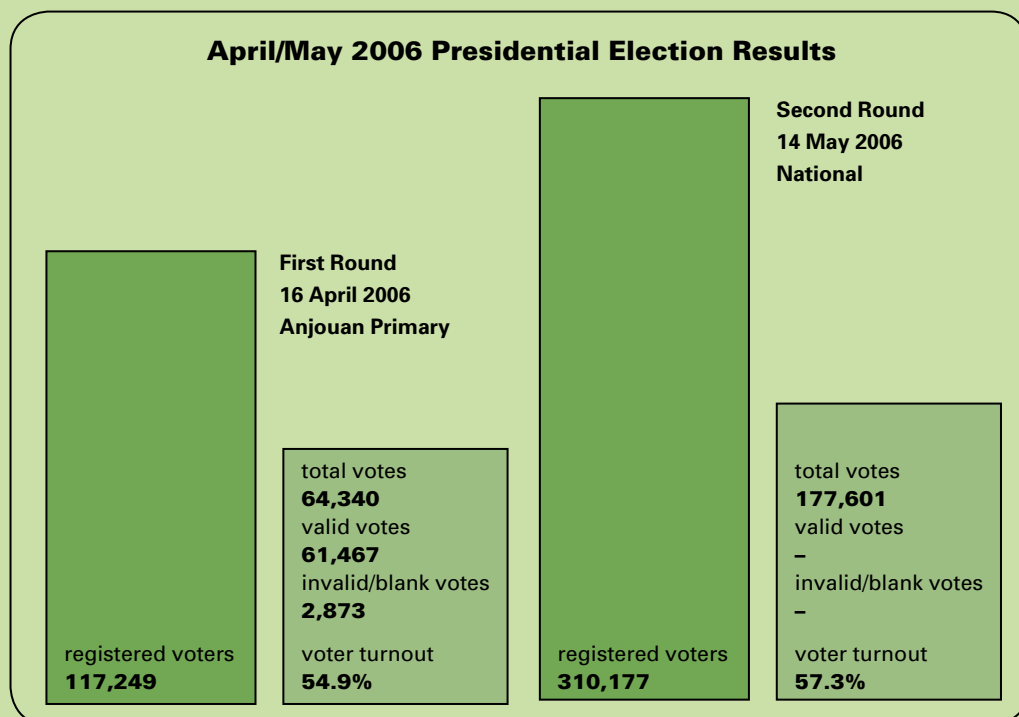
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Candidate (Party)	First Round		Second Round	
	No. of Votes**	% of Votes**	No. of Votes	% of Votes
Ahmed Abdallah Mohamed Sambi	14,568	26.93%	99,112	58.02%
Mohamed Djaanfari	8,052	14.88%	23,322	13.65%
Ibrahim Halidi (MPC)*	6,376	11.79%	48,378	28.32%
Caabi El-Yachroutu Mohamed	5,877	10.86%	-	-
Nourine Midiladji	5,221	9.65%	-	-
Nassuf Ahmed Abdallah	3,276	6.06%	-	-
Halidy Charif	2,868	5.30%	-	-
Said Ali Youssouf	2,353	4.35%	-	-
Chadhoul Abdou (RIDJA)	1,918	3.55%	-	-
Moussa Houmadi (FD)	960	1.77%	-	-
Loutfi Soulimane (PCDP-Djamnazi)	952	1.76%	-	-
Abdourahmane Mohamed Ben Ali	939	1.74%	-	-
Mohamed Ahmed Chamanga	738	1.36%	-	-

\*Ibrahim Halidi was also supported by the Islands' Fraternity and Unity Party (CHUMA), Convention for the Renewal of the Comoros (CRC), and the Djawabu Party (DJAWABU).

\*\*Official results published by the constitutional court state that 61 467 valid votes were cast, but the distribution of votes among candidates totals 54 098 (a difference of 7 369 votes). Percentage figures in the table are based on the latter number of valid votes cast. Results based on the first figure (61 467 valid votes) are as follows: Sambi (23.70%), Djaanfari (13.10%), Halidi (10.37%), El-Yachroutu Mohamed (9.56%), Midiladji (8.49%), Abdallah (5.33%), Charif (4.67%), Youssouf (3.83%), Abdou (3.12%), Houmadi (1.56%), Soulimane (1.55%), Ben Ali (1.53%), and Chamanga (1.20%).

# PROGRAMME REVIEW: MANAGING AFRICAN CONFLICT IN SOUTHERN AFRICA

REVIEWED BY **KEMI OGUNSANYA**

The Managing African Conflict Indefinite Quantity Contract (MAC-IQC) provides a mechanism for securing services in conflict prevention, mitigation and responses in Africa. Working through MAC, USAID supported initiatives to counter the violent conflicts that increasingly jeopardize stability and growth on the continent. The Southern Africa programme sought to advance the efforts of USAID Regional Centre for Southern Africa (RCSA) strategic objectives to prevent potential outbreaks of violence stemming from electoral conflicts concentrating on reducing election related conflicts in the region and build the capacity of regional organisations working in the area of mitigating election related conflicts and electoral reform.

The objectives and expected results of the southern African Programme aims to improve the conduct of elections in Southern African countries and enhance the sustainability of democratic institutions in the Southern African Development Community (SADC) region. The programme was designed to improve the ability of stakeholders to ensure transparent political processes, provide conflict early warning information and resolve disputes arising from contested political issues. Key activities include media workshops, electoral monitoring, technical assistance to regional organisations, research and documentation. This programme is managed by ACCORD and Development Alternatives Inc. (DAI).

The programme is divided into four elements, namely, early warning mechanisms, capacity building, norms and standards, and technical support to USAID bilateral missions. The Programme realised the hosting of a series of Election Reporting Workshops in collaboration with the national branches of the Media Institute of Southern Africa (MISA) in six southern African countries holding elections in 2004 and 2005. The workshops were funded by USAID-RCSA and Konrad Adenauer Stiftung (KAS). The programme also conducted a Conflict Management Workshop for MISA regional and national directors to enhance their capacity in managing conflicts in the region.

The programme provided technical expertise to SADC Parliamentary Forum and coordinated the participation of 10 observers to the South Africa and Malawi National elections in collaboration with the Electoral Institute of Southern Africa (EISA), in which the former President of Botswana, Sir Ketumile Masire headed the Malawi Observer Mission.

An important highlight of the programme was its response to the request of the US Ambassador to Lesotho in which the programme held election related

conflict mitigation activities in Lesotho in preparation for its first local government elections since independence from Britain in 1966. The programme in collaboration with EISA hosted a series of consultation meetings and capacity building workshops with electoral stakeholders in Maseru. ACCORD also conducted a Conflict Vulnerability Assessment (CVA) on Lesotho, presented to RCSA, the US Embassy in Lesotho and collaborating partners for future intervention in Lesotho.

RCSA identified priority countries in the region with weak or failing states, namely Angola and Zimbabwe. The programme provided technical expertise and supported existing activities of USAID bilateral missions in these countries. The programme thus implemented post-election activities for Zimbabwe stakeholders in collaboration with the Zimbabwe Civic Education Trust (ZIMCET) based in Harare, following consultation meetings held with electoral stakeholders before the Parliamentary elections in March 2005.

Similarly, the USAID Mission in Angola requested the programme to develop and implement activities to prevent, mitigate and respond to potential sources of conflict in the period leading up to National Elections in Angola after 27 years of civil war. Although no confirmed date has been set for these elections, it is anticipated that they will take place in September 2007. The programme held consultative meetings with electoral stakeholders in Angola, and a number of recommendations were developed which were adapted for the Capacity Building Workshop to sensitize stakeholders on their roles and responsibilities in preparation for the elections, with special emphasis on the management of election-related conflicts. Activities were implemented with the support of our local partner organisation, the Development Workshop (DW) a non-governmental organisation based in Luanda.

The programme's contribution to research and documentation includes an article on the South African elections in ACCORD's quarterly magazine, *Conflict Trends*. The programme also produced two occasional papers on the Namibia and Botswana national elections, a Special Edition of the African Journal on Conflict Resolution (AJCR) on elections and electoral democracy in seven southern African countries, and this Special Edition of *Conflict Trends* on Elections and Constitutional Democracy. 📄

**Kemi Ogunsanya is ACCORD's Conflict Prevention, Mitigation and Response Advisor.**