



**Strengthening parliamentary
democracy in SADC countries**

DRC country report

Claude Kabemba

Series editor: Tim Hughes

THE SOUTH AFRICAN INSTITUTE OF INTERNATIONAL AFFAIRS

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About the author

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Preface

The roots of parliamentary democracy in Southern Africa are spreading and deepening despite operating in sometimes infertile soil. All countries in the Southern African Development Community (SADC) region now operate some form of parliamentary democracy. While a majority of countries exhibit text book constitutional, electoral and parliamentary architecture, the operation of these institutions is highly disparate. Some labour under the threat of civil war, constitutional flux, and monarchical fiat; others have operated consistently and constitutionally for decades. While there is little fundamental region-wide disagreement on the mechanisms for achieving a democratic polity, there is far less agreement on the appropriate powers, role and composition of legislatures; and still less discussion, let alone agreement, on the appropriate relationship between parliaments and 'the people'. Indeed the longevity of some parliaments in Southern Africa is no indicator of their constitutional strength, nor the strength of public engagement with them. Established parliaments can operate in an exclusive and exclusory manner. Established parliaments can also become susceptible to (un)democratic reversals, particularly with respect to a strong executive and single party dominance. Conversely, newly elected parliaments can forge innovative and healthy public participation programmes, thereby strengthening and deepening democracy.

This series of reports forms part of the South African Institute of International Affairs' (SAIIA) three-year research, conference and publications programme examining parliamentary democracy in SADC countries. Its normative objective is to contribute to strengthening parliamentary democracy throughout the region. Specialists in all 13 SADC countries were contracted to conduct primary and secondary research into the state of parliamentary democracy and to make recommendations on how parliamentary democracy might be improved, strengthened and sustained.

Specialists were tasked with researching a number of key themes. The first was to provide a country-specific overview of recent and current constitutional, electoral and parliamentary practice. This included 'nuts and bolts' issues such as the electoral system, constitutional provisions for the executive, legislative and judiciary and party political configurations. The organisational structure of parliament, including assembly rules, the roles and powers of committees, the status of the speaker, whips, members, as well as the functioning of parliament as

an oversight actor, were examined. These questions go, *inter alia*, to the status and credibility of parliament with the electorate.

The second theme was to conduct primary research into provisions for public engagement with parliament. There are two dimensions to this relationship. The first is the mechanisms and modalities parliaments use to convey and publicise their activities to the electorate and civil society in general. These may range from the publication of Hansard to the parliamentary web site. The former serves as a recordal of fact (after the fact), but the latter may also serve to publicise future parliamentary activity and is thus a potentially powerful tool. The more textured research centred on the degree to which parliaments encourage and facilitate the participation of the public in their activities. This may range from the public affairs offices, to the holding of public committee hearings in distant and rural areas.

The other side of the public engagement equation is the channels and practices used by civil society to interact with and lobby parliaments ranging from advocacy, petitions and protests, to oral and written submissions.

Public parliamentary access is often characterised by an 'insider-group' and 'outsider-group' dichotomy. The insider group is typically well-organised and funded, usually with a clearly identified constituency base and infrastructure. Insider groups may be issue specific, or cohere around markers such as class, race, religion and ethnicity. Such groups often develop effective methods and modalities of political mobilisation, support, lobbying, access and influence. Outsider groups, however, are often the mirror images of their more powerful counterparts. They may share common interests, or suffer from a common affliction or practice, but lack the resources and capacity to either mobilise effectively, or lobby for their interests. Outsider groups may be extensive in number and may even represent a numeric majority or plurality of the population, yet still operate on the margins of political and parliamentary engagement.

An important, or potentially important, linkage in this relationship is the media, and thus researchers were tasked with examining and evaluating their role. There may be an operational and political distinction between the parliamentary coverage of state-owned media, a national broadcaster and a commercial operator. Researchers were asked to evaluate briefly the effectiveness of these channels of communication and dissemination.

Finally, after workshopping their findings, researchers were asked to write a set of tightly formulated recommendations for strengthening parliamentary democracy in their respective countries.

We at SAlIA thank Claude Kabemba for his research and for the application and industry with which he has tackled his work in sometimes difficult

circumstances. This country report will appear in abridged form in a compendium of all 13 SADC country case studies. Its findings and recommendations will be incorporated into a SADC-wide best practice handbook.

Lastly, we should like to express our deep gratitude to Ambassador Torben Brylle of the Royal Danish Embassy in Pretoria for his constant support and that of the Danish government in generously funding this project.

Tim Hughes

SALIA Parliamentary Research Fellow

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Executive summary

This study attempts to understand the nature and functioning of parliamentary democracy during the Democratic Republic of Congo's (DRC) political transition. The current parliament brings together parties in dispute and should therefore be considered as a mechanism for conflict resolution. With serious violent conflicts still happening in the east of the country, parliament is serving both to prevent a return to fully-fledged war and to help end the conflict.

It is, however, a parliament of crisis – as is the case with all institutions in times of transition. Parliament is functioning in a difficult and complex environment characterised by unpredictable internal and external political factors and lacks the logistical and financial resources needed for its effective operation.

The first section of this country report provides background to parliamentary democracy in the DRC since independence. This background is important in understanding the origin of some of the characteristics of the current parliament – both the institution and its members. This is followed by an analysis of the structure of the transitional parliament and its efficacy. Thereafter the nature of the relationship between citizens and parliament is examined, highlighting specifically the different channels of communication that exist between the two. Civil society's engagement with parliament is also dealt with in detail.

It is important to state at the outset that this is the first research of its kind conducted on the DRC's transitional parliament. The research found that the transitional parliament is experiencing enormous difficulties, which include surviving in a conflictual political environment, the presence of a very strong executive, and the obstacles faced in attempting to institutionalise a culture of parliamentary democracy in the country.

This situation exists for two main reasons: first, the undemocratic legacy of previous regimes continues to haunt the current transition phase and its institutions; and second, the nature of the negotiations and the results thereof deliberately did not include parliament's oversight role over the executive.

Although the transitional constitution recognises parliament's control of the executive it does not allocate to it the power to sanction; and as such, parliament is reduced to a supervisory role only.

Additionally, a major weakness for the transitional parliament is that it does not manage its own operating budget. This budget is controlled by the executive, which allows the latter to manipulate parliamentary activities.

The research also found that very little contact exists between parliament and the public. This is because, first, members of parliament (MPs) and senators are not elected; they are handpicked and therefore have no credibility in the eyes of the people. Second, interaction between politicians and the people is not part of the Congolese political culture; and third, MPs lack relevant skills and knowledge to perform their tasks adequately.

The research also makes a strong case that being a parliament of transition, its main objective is to create the necessary environment so that elections can take place within the two-year timeframe determined at the Inter-Congolese Dialogue. This pressure could explain the constraints facing parliament (including that MPs and senators have been prevented from taking parliamentary leave) and why most legislation has been passed without public input.

The research found further that parliament is experiencing structural and resource difficulties that hamper its basic operation and impact negatively on its work and, more importantly, on the work of parliamentary committees. The main structural difficulty is that there is no opposition or ruling party arrangement in parliament; the five groups in parliament are considered equal and have the same number of representatives. Although this does not translate into bargaining power, it does complicate the normal functioning of parliament. Since all stakeholders are considered equal it is difficult to reach consensus because each party pushes to ensure that its position prevails. Materially, parliament is lacking basic resources in all areas.

Despite all these weaknesses the research noted that parliament has been working relatively well considering the hurdles that must be crossed to meet the objective of taking the country to democratic elections scheduled for June 2005. Parliament has adopted most of the laws brought before it; however, it is one thing to adopt laws and quite another to ensure that they indeed bring about a stable country once the transition period ends.

While the post-election parliament will undoubtedly need massive support, both institutional and material, it is unfortunate that external support given to the transitional parliament has been minimal and disproportionate to the challenges it faces. International partners are urged to move away from the approach whereby they focus on servicing the executive at the expense of parliament. In the post-election period external partners should give special attention to the elected parliament by supporting it financially, logistically and materially.

1. Introduction and background

The aim of this study is to assess the efficacy, credibility and impact of the DRC's transitional parliament. The formal structure and functions of any parliament are easy to access as they are contained in various state documents, such as the constitution and internal rules of procedure.

While this work takes cognisance of these texts, it focuses specifically on the practical side of parliament's work and its relationship with the executive, civil society and the public.

The study also tries where possible to assess how the transitional parliament respects classical parliamentary principles.

Creation of the current parliament

This research was conducted at a critical period in the political life of the DRC. After five years of war, a transitional arrangement was signed in Pretoria in April 2003 by all the key stakeholders in the political landscape. The national parliament was one of the most important institutions created as a result of the transition, and it was given responsibility to draft the necessary laws that would lead eventually to the country's first democratic elections in 44 years.

The members of the current national parliament were not elected but rather chosen by the leaders of the different groups represented at the Inter-Congolese Dialogue held in South Africa in 2003. The parliament – comprising two chambers, the National Assembly and the Senate – has since been at work. Its life span is two years and can be extended by six months only. It will be replaced by an elected parliament after the elections scheduled to take place at the end of the transition period.

The DRC's experience with parliamentary government

To understand how the present transitional parliament functions it is necessary to examine the DRC's past experience with parliamentary government, which is very limited.

The history of the DRC's political system traces the major political stages through which the Congolese state has passed since independence. Five main periods can be identified.

Parliamentary system: Independence–1965

Delegates at the 1959 roundtable in Brussels adopted a proportional representation (PR) electoral system as well as an electoral law that guaranteed 'free and fair elections' whereby political parties were allowed to campaign freely. On this basis the first post-colonial democratic elections for parliament and provincial assemblies were held in May 1960.

These elections were subject to universal suffrage and were held on the basis of the Fundamental Law that had been passed by the Belgian parliament on 19 May 1960. The Fundamental Law introduced a federalist parliamentary regime headed by a strong double executive, but it failed to define clearly the functions of the president and prime minister.

Modelled after the Belgian constitution, the Fundamental Law provided for a parliamentary system of government with a president as chief of state who was elected by parliament but not responsible to it, and a prime minister and cabinet responsible to the bicameral parliament. Each of the six provinces had a provincial assembly elected on the principle of rule by universal suffrage and considerable authority was delegated to the elected assemblies. These provincial assemblies then elected their provincial governments.

Parliament comprised two houses: the House of Representatives and the Senate. The National Assembly's 137 members were elected for a four-year term according to the plurality system on open lists (single, preferential vote). The country was divided into 26 constituencies with the number of candidates varying between two and 12 depending on the size of the population in a respective constituency.

Table 1: DRC general election results, 1960

<i>Parties and leaders</i>	<i>Number of seats</i>
Movement Nationalist Congolais (MNC) – Lumumba	33
PNP – Bolya	22
Partie Solidaire Africain (PSA) – Kamitatu	13
Associations des Bakongo (Abako) – Kasavubu	12
Centre de Regroupement Africain (Cerea) – Kashamura	10
Confédération des Associations du Katanga (Conakat) – Tshombe	8
MNC – Kalonji	8
Balubakat – Sendwe	6
Others	25
Total	137

Source: Lodge T, Kadima D & D Pottie, *Compendium of Elections in Southern Africa, Eisa, Johannesburg, 2002, p 80.*

The Senate, comprising 84 senators, was elected by partial vote (indirectly) by the six provincial assemblies. Fourteen senators including at least three traditional leaders were designated for each of the six provinces. Senators were designated through PR.

A unicameral system was adopted at provincial level. The size of the electoral membership of the provincial assemblies varied from 60 in those provinces with a population of less than two million inhabitants, to 90 in those provinces with three million or more inhabitants. Additional members, representing 10–15% of the elected membership of the assemblies, were to be elected subsequently from a list of 'customary chiefs' or 'notables'. A provincial executive was elected by an absolute majority of at least two-thirds of the members of the provincial assemblies. Finally, a state commissioner, appointed by the head of state with the approval of the Senate, represented the central government in each province. According to article 184 of the Fundamental Law, the state commissioner's main function was to "administer state service" and "assure the coordination of provincial and central institutions".

Both houses were vested with equal and full legislative power, except in matters reserved for the provincial governments. The government comprised ministers and the prime minister, who was answerable to parliament.

Head of State, Joseph Kasavubu, was elected indirectly by parliament with 159 votes, 43 against and 11 abstentions. The Prime Minister, Patrice Lumumba, was nominated and could be dismissed by the head of state. Since Lumumba had no majority in parliament winning only 33 seats, he formed a coalition government. He needed the support of parliament to secure the installation of his government by the chambers, and it was only when a member of Lumumba's party was elected to the presidency of parliament in one of the most disparate coalitions, that Lumumba was able to present his government to parliament for approval. His government was approved by both the chamber of deputies and the Senate, with 74 deputies voting in favour, one against, five abstentions and 57 absences, and 60 senators approved the government, with 12 against and 8 abstentions.

But Lumumba's unconstitutional dismissal by President Kasavubu on 5 September 1960 was rejected by parliament, prompting Lumumba in turn to dismiss the president. Parliament refused to confirm the dismissal of either Lumumba or Kasavubu and tried unsuccessfully to bring about reconciliation between the two. This double dismissal created a vacuum and precipitated Mobutu's first coup d'état, which effectively neutralised both Kasavubu and Lumumba. Mobutu put in place a college of commissioners through which he assumed power.

It is important to note that the division of the executive leadership between the head of state and the head of government, with the former presumably acting as a symbol of authority, was the most conspicuous – and potentially dangerous – feature borrowed from the Belgian constitution.

In line with the tradition of parliamentary government, executive powers were to be exercised by the introduction of a motion of censure that could lead to an overthrow of government when it no longer enjoyed the confidence of the chambers. But the passage of such a motion required a two-thirds majority of either one of the chambers, or a simple majority of both chambers, and it could occur only after a cooling-off period of at least 48 hours. Following the introduction of the motion after Lumumba's assassination in January 1961, successive prime ministers were appointed by the president and government, and approved by both chambers.

Following political instability characterised by declarations of secession in Katanga and South Kasai, President Kasavubu suspended parliament in September 1963. In 1964, a new constitution – the Constitution of Luluabourg – was approved by referendum and revised several electoral provisions. It maintained some of the inconsistencies of the Fundamental Law and reinforced the power of the president as well as the federal system. The head of state was now to be elected by an electoral college formed by the National Assembly, the provincial assemblies and representatives of delegations from the capital, Leopoldville.

New parliamentary elections were held in 1965 under the new constitution. Moïse Tshombe was elected head of government and the dynamic of parliamentary democracy re-emerged. Only male Congolese 18 years or older could elect the 167-member parliament which would serve a five-year term. To register as a candidate for election, it was necessary to obtain only 100 signatures in support of such candidacy.

The new chamber of parliament was constituted during an extraordinary session called by the president 60 days after the closure of voting. According to the constitution, parliament could only sit in an extraordinary session when it had one-third of its members present and all decisions were to be taken by absolute majority. This was the case even when MPs from some provinces were unable to attend because of instability or delays in the release of election results. The experience with parliamentary democracy was again interrupted in 1965 when Mobutu carried out his second coup d'état.

Suspension of parliament and military dictatorship: 1965–1967

When Mobutu assumed power in 1965, he established a dictatorship based on

an extreme centralisation of power and the personalisation of political rule, suspending parliament and ruling by decree.

Reintroduction of parliamentary system: 1967–1991

The constitution of 24 June 1967 introduced a one-party state. In 1970, Mobutu's *Mouvement Populaire pour la Révolution* (MPR) party was institutionalised as the supreme organ of state. The political space was now monopolised by the party-state and the new party was in charge of organising elections. The president was elected for a seven-year term and a 217-member parliament was elected via a single list for a five-year term. For both, the plurality system was formally in effect. The MPR's Political Bureau selected the candidates for the legislature without going through an election process.

In 1975 a new law was introduced whereby parliamentarians were elected by 'hand-clap vote': that is, the candidates' names were announced in public and instead of counting ballot papers, the level of applause (evaluated by officials) determined the allocation of mandates. In 1977, however, the secret ballot was reintroduced. Although several candidates were allowed to compete for the same seat in parliament, their nomination had to be confirmed by the MPR. In 1980 in an effort to weaken parliament, Mobutu created the MPR Political Bureau which was charged with organising parliamentary elections and selecting MPs to enter parliament. In 1981, a group of 13 MPs wrote to Mobutu asking for the liberalising of the political environment. In 1982 a single list system was reintroduced and candidates were again nominated by the MPR's Political Bureau. The reintroduction of an elected parliament was achieved due to the political pressure brought to bear on Mobutu by the two Shaba (now Katanga) wars of 1977 and 1978, initiated by the *Front National pour la Libération du Congo* (FNLC).

In 1987 the state party introduced a semi-competitive election system whereby the MPR produced a list of 1,075 candidates from which the electorate had to choose 210 MPs. Candidates were allowed to send observers to the polling stations to oversee voting and counting. A special committee within the central party was formed to verify the election results and to deal with irregularities.

Popular demand for a parliamentary government: 1991–1997

In 1990, Mobutu abolished the one-party system and in 1991 a national conference was organised. At the end of the conference a transitional constitution was adopted which reinstated the separation of powers and a power-sharing formula was reached. After intense negotiation, Mobutu and Tshisekedi became

co-prime ministers. The compromise called for Mobutu to remain as president during a two-year transitional period, but this time as a ceremonial rather than executive head of state. A transitional parliament was also installed.

This arrangement, however, quickly fell apart and Mobutu dismissed Tshisekedi and his government. In 1993, Mobutu named a rival government, brought back the old constitution and reconvened his old parliament. The conflict between the pro- and anti-Mobutu forces led to a duplication of political institutions: two governments, two parliaments and two currencies co-existed in Zaire. Political deadlock was finally overcome after lengthy negotiations, with the two parliaments merging into one transitional parliament which was, in contrast to the National Conference, dominated by pro-Mobutu forces.

In 1995 the transitional parliament installed an electoral commission comprising 44 members: 22 from the opposition and 22 Mobutu-loyal members. The draft of an electoral law published in March 1997 proposed an absolute majority run-off system for presidential elections and a plurality system for a national legislative council. Voters were to apply for registration at their local electoral commission, which then had to establish a voters' index, but the process was interrupted by the 1997 war that overthrew Mobutu and installed Laurent Kabila as president.

Parliament under rebel takeover: 1997–2001

President Kabila suspended the democratic process and put in place his own Constitutional Commission to draft a new constitution. In 1998, the Constitutional Commission presented a draft of the new constitution to the public while the civil war threatened Kabila's reign. In the meantime, Kabila formed a parliament and randomly selected its members. Parliament's location was moved from Kinshasa to Lubumbashi, the second biggest city in the country. This parliament had no power and was never consulted. President Laurent Kabila concentrated all executive, judicial and legislative power in his own hands.

In 1999 the Southern African Development Community (SADC) organ for Politics, Defence and Security convened the Lusaka talks to end the war and, more importantly, to allow the Congolese to start discussing a new political system. No major progress was made until the assassination of Laurent Kabila in 2001 and his replacement by his son Joseph Kabila as head of state. In a similar fashion to his late father, Joseph Kabila ruled for some time by decree and the parliament left behind by the father continued to be irrelevant. The younger Kabila, however, created an environment that would contribute to the conclusion of the Inter-Congolese Dialogue on 17 December 2002.

2. The DRC's transitional parliament

The Inter-Congolese agreement was signed in Pretoria on 17 December 2002 and endorsed at Sun City on 2 April 2003. The transition process started on 30 June 2003 when the transitional government was installed. The transitional constitution emerging from the Pretoria agreement proposed a 1+4 system – that is, a president deputised by four vice-presidents. This approach was adopted to appease the Congolese politicians who all wished to become president.

More importantly though, this formula signalled the introduction of inclusiveness in Congolese politics – a value on which the entire negotiation process from the Lusaka Peace Accords to the Pretoria Peace Agreement was founded.¹

The inclusive nature of the negotiations reflected an important change in political thinking; for the first time, Congolese were coming to terms with a situation in which different groups could work together to achieve a common purpose – namely, peace and political stability. The accords retained Joseph Kabila as president during the transition period, supported by four vice-presidents until the end of the transition. Each vice-president is responsible for a particular commission, as shown in Table 2.

The transitional constitution in article 104 provides for the existence of a bicameral parliament. Article 97 of the transitional constitution stipulates that the legislative function is exercised by the National Assembly and the Senate. This was to allow for the adoption of balanced laws. Parliament is the most important institution for the expression of democratic debate and for the success of the transition.

Table 2: Vice-presidents and their portfolios

<i>Vice-presidents</i>	<i>Commission</i>
Jean Pierre Bemba (MLC)	Economic and Financial
Azarias Ruberwa (RDC-Goma)	Politics, Defence and Security
Yerodia Ndombasi (ex-government PPRD)	Development and Reconstruction
Zahidi Ngoma (Non-armed opposition)	Social and Cultural

Source: Kabemba C, Perspectives on the Role of Key Stakeholders in the DRC's Political Transition, *Eisa Occasional Paper No 26, November 2004*.

Composition of parliament

Parliament is constituted by the five main groups and three smaller entities that participated in the Inter-Congolese Dialogue and which signed the final peace agreement.² The five main groups in parliaments are:

- the former government – *Parti du Peuple pour la Reconstruction et la Démocratie* (PPRD);
- the two rebel movements – the Congolese Rally for Democracy (RCD) and the Movement for the Liberation of Congo (MLC);
- the non-armed opposition; and
- civil society.

The first three groups fought each other and now hold the balance of power in parliament. The non-armed opposition and civil society groups are weak and aligned to the first three. The other three entities are the RCD-KML, RCD-N and the Mai Mai. They are insignificant, but play a role at critical times when alliances are formed in parliament around certain issues.

Role of parliament

The National Assembly's roles and functions are stipulated in article 98 of the transitional constitution. These are to:

- legislate;
- exercise control over government, public enterprises and the civil service;
- monitor the implementation of resolutions reached at the Inter-Congolese Dialogue; and
- adopt a constitution to be put to referendum.

Article 104, section 2 of the transition constitution stipulates the roles of the Senate, the main one being to mediate political conflict among the different institutions. It is also charged with writing the draft constitution. Together with the National Assembly, the Senate is responsible for examining legislation relative to nationality, decentralisation, public finance, electoral processes and democracy support institutions.³

Distribution of seats in the National Assembly and Senate

The National Assembly is led by the MLC's Olivier Kamitatu and the Senate is led

by civil society representative Bishop Marini Bodho who is president of the Church of Christ in Congo.

The distribution of seats in both houses that was agreed to during the negotiations and contained in the transitional constitution reflects the representation of the different delegations to the talks. The National Assembly and the Senate comprise 500 and 120 members respectively.

The Inter-Congolese Dialogue gave 282 seats (56.4%) in the National Assembly to the three former belligerents (PPRD, RCD and MLC) and 218 seats (43.6%) to the other main stakeholders and smaller entities. Regarding the Senate, the PPRD, MLC and RCD have a total of 66 (55%), while the other groups together have 54 senators (45%).

These figures demonstrate the imbalance that exists in both the Senate and the National Assembly. Furthermore, some groups and individuals have never occupied their seats. These include Katebe Katoto (RCD) and Mwami Ndatabayé de Ngweshe from South Kivu, while the *Union pour la Démocratie et le Progrès Social* (UDPS) has never occupied its two seats in the Senate.

According to the transitional constitution, all the groups were charged to ensure balanced provincial and gender representation in parliament. Members were not elected but hand-picked by the leaders of the different groups. Tables 3 and 4 show that the transitional arrangement gave equal power to the

Table 3: National Assembly seats for main stakeholders and entities

<i>Main stakeholders</i>	<i>Number of MPs</i>
RDC-Goma	94
MLC	94
Ex-government (PPRD)	94
Civil society	94
Non-armed opposition	94
Sub-total	470
<i>Entities</i>	
Mai Mai	10
RCD-KML	10
RCD-N	5
Small entities	5
Sub-total	30

Source: Kabemba C, *op cit.*

Table 4: Senate seats of main stakeholders and entities

Main stakeholders	Number of Senators
Ex-government (PPRD)	22
MLC	22
RCD	22
Civil society	22
Political opposition	22
Entities	
Mai-Mai	4
RCD-KML	4
RCD-N	2
Total	120

Source: Kabemba C, *op cit*.

belligerents, but to ensure that the process was not simply controlled by the belligerents, the non-armed opposition and civil society were given the same number of seats in both the National Assembly and the Senate.

The situation in the DRC is such that all the belligerents want to take part in the management of the state; and since there was no winner on the battlefield, all the belligerents at the negotiations are considered equal.

Inclusive and equal representation in state institutions was a *sine qua non* for ending the war. Parliament therefore represents all the major stakeholders and smaller entities that participated in the Inter-Congolese Dialogue. This model is reflected in the consensual arrangement in parliament. When difficulty is experienced in reaching consensus in parliament, the presidents of the political groups engage outside parliament until consensus is reached.

Gender representation

Of the 500 MPs in the National Assembly, only 57 are women. The Senate has 120 senators of whom only three are women. This is a very biased representation and one that goes against the spirit of the Lusaka Accords, which placed the minimum threshold at 30% in line with the SADC protocol. The biased representation began at the Sun City negotiations where only 54 of the 365 delegates were women, and the agreement reached there did not ensure a gender balance.

Significantly, the under-representation of women cuts across all the groups

represented in parliament, including civil society which has only 14 women MPs from the 68 women who were present at the negotiations.

Although the concept that political power belongs to men is culturally entrenched in the Congo, the current situation in the DRC still presents opportunities to advance women's participation in state institutions. This would mean that new laws and legislation must be drafted deliberately to ensure increased women's participation. The recently adopted Constitution of the Third Republic has introduced parity of gender representation in all state institutions. Women's participation in decision making in other SADC countries has been promoted by those who hold power in political parties and other institutions, and this is required in the DRC if the situation facing women in politics is to improve.

MP selection process

The selection of MPs was left to the discretion of each group, and in general preference was given to those who had participated in the Inter-Congolese Dialogue.⁴ In practice, however, the interpretation and spirit of the accords was not observed, there were no criteria for choosing MPs, and some constituencies are not represented in parliament. It has been suggested that some MPs bought their seats in the National Assembly.

Civil society MPs

Members of civil society were given priority but, once again, a regional quota was to be respected. Two groups were in competition: the Kinshasa group which was seen as opposing government and the Eastern group which was seen as a government ally. The choice of civil society members was chaotic and this competition continues to paralyse civil society action in parliament. It is important to note that the choice of civil society members was influenced by political party interference. Each political party wanted to ensure that members of civil society groups with whom they enjoyed close relations were represented in parliament in large numbers, as this could work in their favour during parliamentary deliberations.

Ex-government and armed opposition MPs

The process was confusing and was characterised by tension. Regionalism and ethnicity played a role in the choice of MPs among these groups. Some of those who were at the Inter-Congolese Dialogue were not included, while people who were not at the negotiations received seats.

Entities

These entities have close ties with the main political parties and are essentially an extension of these political parties. The leaders of these entities had a monopoly in deciding who was to go to parliament. The RCD-KML and the Mai Mai are said to be closer to the ex-government PPRD group while the RCD-N is said to support the former rebel group MLC.

Non-armed opposition MPs

The choice of members from this group was a very delicate process considering that there are over 200 political parties in this category and that subdivisions exist within these groups. However, only those present at the Inter-Congolese Dialogue were eligible. Since each party has a close relationship with one group among the three main players – PPRD, RCD and MLC – the latter strongly influenced who went to parliament from among this group. In fact, some members of political parties who were not at the Inter-Congolese Dialogue were incorporated due to these alliances.

3. The National Assembly and the Senate

Structure of the National Assembly and the Senate

The National Assembly and the Senate are structured in a similar way and both have four main structures:

The plenary

This is the supreme decision-making body.

The office of the president of the National Assembly and Senate

No group can be represented in the office by more than one member and the groups are chosen for the duration of the transition. This office is led by the president (the equivalent of the speaker) of the National Assembly or Senate who represents the institution and coordinates its activities. S/he is responsible for all human and financial matters and is seconded by three deputy presidents and a rapporteur of the National Assembly/Senate.

The first deputy president deals with all related legal matters such as the drafting of laws and coordination all National Assembly/Senate work. S/he plays the role of acting president when the president is absent and chairs meetings. The second deputy president monitors all National Assembly/Senate activities. This involves organising commissions of inquiry, interpreting the law, as well as responding to oral and written questions. The National Assembly and Senate each have a policy unit that checks the authenticity of written questions and proposes these to the second deputy president for possible reaction. The third deputy president deals with intra-parliamentary relations and is the liaison between the Senate and the National Assembly.

The rapporteur reads all declarations adopted by the National Assembly and supervises the drafting process and the production of National Assembly/Senate documents. S/he is seconded by three deputies. The first deputy is in charge of finances and is acting spokesperson when the rapporteur is absent. The second deals with MPs and senators' personal issues and the third is in charge of MPs and senators' leave and other logistics.

But the offices of the rapporteurs of both houses have been criticised by MPs and senators for being problem-ridden, ineffective and of little value. Senators

and MPs are sometimes not informed of meetings or the information reaches them late, thus forcing them to report late. There is no mechanism for communication between the rapporteurs' offices and parliamentarians or senators, and information does not filter to MPs/senators in an organised way.

Commissions

Commissions are working groups tasked with examining draft laws. They can be permanent, special or ad hoc, and are created at the initiative of the National Assembly, its president's office, by a group of MPs or by government. The life span of a commission is usually brief as it ceases to exist once it has submitted its report to the speaker's office or to the head of the commission.⁵ The National Assembly and the Senate work with eight permanent commissions (see Table 5).

The commissions comprise members nominated by their political groups, and each commission office has a president, three vice-presidents, a spokesperson and three vice-spokespersons. The choice of president of commissions initially involved lengthy negotiations between the parliamentary groups to ensure consensus and fair representation in the commissions. Table 5 shows that each

Table 5: National Assembly and Senate permanent commissions

<i>National Assembly commissions</i>	<i>Party in charge</i>	<i>Senate commissions</i>
Political, Administrative and Legal	Non-armed opposition	Political, Administrative and Legal
External Relations	RCD-KLM	External Relations
Economic and Financial	PPRD	Economic and Financial
Defence and Security	Mai Mai	Defence and Security
Women, Family and Youth Chapter 9 (Support to Democracy Institutions)	MLC RCD-N	Women, Family and Youth Support to Democracy Institutions
Social and Cultural	RCD	Social and Cultural
Reconstruction and Development	Civil society	Political Conflict and Mediation

group in parliament controls one commission – the civil society group is in charge of Political Conflict and Mediation Commission; the RCD is in charge of the Social and Cultural Commission; the RCD-N leads the commission that looks at Chapter 9 institutions; the MLC is in charge of the Women, Family and Youth Commission; the Mai Mai lead the Defence and Security Commission; the PPRD lead the Economic and Financial Commission; the RCD-KLM is in charge of External Relations; and the non-armed opposition lead the Political, Administrative and Legal Commission.

The core work of parliament is conducted in the commissions and their sub-commissions. The commissions are supported by the political office and the administration and technical office. The political office is led by a director who answers directly to the president of commissions. The director is seconded by a vice-director and there are also a number of political advisers.

The administration and technical office is divided into the office of the general secretary and a policy unit. The policy unit comprises a group of experts or advisers which support MPs in their daily activities and advise MPs and senators on various matters. The policy unit is divided into four sections of expertise: political, administrative and legal; economics and finance; socio-cultural; and external relations. However, the policy office will create a committee comprising experts from the different sections when multisectoral issues are discussed.

Critics argue that most decisions in the National Assembly are taken in commissions (where most matters are discussed) and not in plenary, and that the plenary is merely a rubberstamp of commission decisions. Critics note further that there are many instances where commission decisions are influenced by the executive, which allegedly bribes commission members. MPs argue that commission members have more benefits than other MPs (for example, higher salaries and travel privileges) and that there is a feeling that these 'favours' need to be returned by supporting government positions.⁶

Additionally, many commissions are not operating. Most MPs interviewed said that only three commissions are really functional, namely the Political, Administrative and Legal Commission, the Economic and Financial Commission and the Chapter 9 Commission.

Financial difficulties were suggested as being the main cause for the non-functioning of the other commissions, but other reasons – such as a poor choice of members characterised by nepotism – were also put forward. People are nominated to commissions not on the basis of their ability and know-how, but for their political allegiance to a particular party leader.

For example, the Senate Vice-President Justin Bomboko has been inactive for some time due to illness but his position has remained vacant for months. An

acting vice-president has not been appointed, as any move to nominate an interim person to the position has been seen as an attempt to 'steal' the position from Bomboko.

Parliamentary groups

As mentioned, those groups and entities that participated in the Inter-Congolese Dialogue were automatically installed as parliamentary groups. Parliamentary groups are formed on the basis of ideological cohesion; they set up their own rules and procedures and designate their representatives to the various parliamentary commissions.

Each parliamentary group meets with its MPs and government representatives outside the official circuit of parliament to strategise, take positions and, if possible, propose alliances on different issues.⁷

The constitution prohibits groups being formed on the basis of ethnic allegiance;⁸ however, ethnicity is evident in the activities of the commissions and parliamentary groups. Parliamentarians and senators of the same ethnic groups or provinces, although from different political groups, have been known to meet outside parliament to strategise on positions that would advance the interests of a particular province in the transition and future dispensation.⁹

In general, as in any other parliamentary democracies, MPs defend their groups' interests and take into account power relations. Despite their differences the various groups do form alliances when the need arises; however, alliances have on occasion been formed based on individuals' interests rather than on that of the nation. For example, those who committed war crimes are determined not to pass laws which would incriminate them.

This is the irony of the Congolese transition; that important pieces of law are being drafted by the same people who are supposed to be punished by such laws, and it is therefore difficult to predict what laws will emerge from this transitional parliament. People doubt whether this parliament is able to produce legislation that protects the interests of the state and its people, as opposed to protecting the individuals who control the institutions of transition.

According to a civil society representative interviewed: "All activities of the institutions of transition are based on personal interest." For example, when it was time for parliament to decide the fate of those implicated in the assassination of President Laurent Kabila, the MLC and RCD formed a common front against the PPRD, while the latter joined with the non-armed political opposition group. However, on the law on amnesty, the leader of the non-armed opposition – who is also implicated in massacres from the first war – joined forces with MLC and

RCD against the PPRD. In this context, the executive sometimes exerts pressure on parliament to block the adoption of uncomfortable laws. There is also a level of hypocrisy. For example, at executive level, ministers have been known to agree on a specific issue, but then ask their members in parliament to block the law on the same issue.

Relations between the National Assembly and the Senate

Article 104 of the transitional constitution defines the respective responsibilities of the two houses and points also to matters that must be dealt with by the houses. In a bicameral system the Senate (upper house) usually has supremacy over the National Assembly (lower house). The Inter-Congolese Dialogue ensured, however, that the Senate does not have supremacy over the National Assembly on matters that fall under the jurisdiction of both houses, such as legislation relating to nationality, decentralisation, public finance, the electoral process and Chapter 9 institutions; in such cases the position of the National Assembly takes precedence.

The two houses also collaborate on the national budget and the constitution draft process. In terms of the budget, this is first studied by the National Assembly which then sends it on to the Senate. Regarding the draft constitution, the transitional constitution in article 98 gives the Senate responsibility to initiate the draft constitution; however, it is the National Assembly that must adopt it and put it to a referendum.

The National Assembly and Senate commissions also collaborate when dealing with the same issues and the speakers of the two houses send each other administrative letters to request information on matters that affect both houses. For example, between 22 February and 5 July 2004, the president of the National Assembly sent letters to the president of the Senate asking him to fast-track the adoption of the Chapter 9 institutions' organic laws. A legal time frame exists that the Senate must respect.

4. Relations between parliament and government

Parliament has a special responsibility to pass laws that the government requires in order to achieve peace, order, stability and the well-being of its citizens. The success of the transition is thus heavily dependent on the efficacy of parliamentary work. As such, a permanent and organic relationship exists between parliament and government at all levels.

Parliament and the republican president

The republican president communicates with parliament through written or oral messages.¹⁰ There is also direct contact between the republican president and both houses. For example, between February and July 2004 two meetings were organised between the presidents of both houses and the republican president. The first meeting was attended by the president of the National Assembly; the republican president and the minister of budget and finance to discuss the working conditions of National Assembly members. The second meeting, which discussed ways to fight corruption and the embezzlement of funds in public enterprises, was attended by the republican president and the National Assembly and Senate presidents. According to the Inter-Congolese Dialogue, the National Assembly and the Senate cannot be dissolved. The republican president can, however, write to parliament to remind it of its responsibilities, and the president has twice written to parliament regarding the slowness in drafting and passing legislation.

Parliament and the four vice-presidents

There are four vice-presidents and each is responsible for a particular commission (see Table 2). The National Assembly can meet with the relevant vice-president to discuss issues should it be confronted with difficulties that fall within the portfolio of a particular vice-president.

Parliament and government

Although they are not MPs, government ministers have access to National Assembly and Senate sessions and are obliged to assist and give clarification on matters concerning their ministries when requested to do so.

The relationship between parliament and government is mostly characterised by their cooperation in the elaboration of laws. Although government is expected to give input on most laws before they can be adopted, its lack of capacity has meant that it is sometimes not able to respond within the 10-day time frame stipulated by the constitution (article 125).

MPs interviewed testified to the fact that government has often failed to initiate legislation in time and that this has delayed parliament activities. For example, the Sun City Accords state that the National Assembly must adopt legislation on decentralisation a month after parliament has been established. But the minister of interior only introduced the draft to parliament a year later, and this law has not yet been discussed.

Even when the National Assembly initiated the process, government was tardy in sending its remarks. In fact, the adoption of laws by parliament has generally been slowed by government's ineffectiveness in taking the initiative when it comes to elaborating on laws where it has the expertise, human resources and logistics – such as matters dealing with decentralisation, the army, amnesty and the electoral system.

Parliament's direct control

According to the constitution (article 98), the National Assembly controls the activities of government both directly and indirectly. This is based on a resolution taken at the Inter-Congolese Dialogue which states that parliament exercises direct control over the government, public enterprises and the public service.¹¹

Parliament's oversight is critical and is exercised through the following mechanisms:¹²

- Written or oral questions with or without debate.
- Investigations.
- Interpellations.
- Auditing by the commissions.

However, the weakness of parliament's oversight role during this transition period is that it can only comment on government activities but has no power to sanction government, thereby dulling its oversight function. Parliament does not have binding decision-making authority over the executive, nor can it decide on the fate of a minister. In fact all parliamentary critiques of government have been viewed by most observers as symbolic only, and this has serious implications for the authority of parliament.

In theory, the legislature has control over the executive – for example, through parliament’s direct control, members of government must declare their assets to the National Assembly.¹³ In practice, however, the opposite is true, especially when it comes to finances since the government controls parliament’s budget. Anecdotal comments were made by MPs who say, for example, that when the executive is unhappy with a parliamentary decision it simply holds back MPs’ salaries.

Due to lack of resources, of the five commissions of inquiry that control implementation of the Inter-Congolese Dialogue resolutions, only three are operational – namely, the commission for the examining the validity of contracts signed during the wars, the commission charged with the restitution of private and public goods that were confiscated, and the commission of enquiry into the destruction of the environment by Rwandese refugees and the war. (Another commission is meant to deal with the number of deaths linked directly or indirectly to the war, and a permanent commission is meant to deal with ethnic conflict.)

Parliament’s indirect control

Parliament exercises indirect control through the Audit Office in line with article 165 of the transitional constitution. This control, when correctly applied, could improve the management of public enterprises and public service.

Yet the control of public services is still very new and it will be some time before parliament uses this tool to effect on a regular basis. Parliament has already used this method effectively; the Bakandeja Report saw some ministers and chief executive officers of public enterprises being found guilty of corruption.

5. Relations between parliament and the public

An alarming lack of communication exists between parliament and the public. This relationship is normally supposed to be maintained through the following channels:

Open parliament debate

Sessions of the National Assembly are open to the public and anyone interested is welcome to attend. However, this is a very limited avenue of engagement because, on a practical level, only those living in the capital (Kinshasa) can go to the National Assembly and physically follow the discussions. But even here it is not guaranteed that people will go to parliament.

Daily hardships have forced the Congolese people to withdraw from political issues in their fight for survival. People struggle to meet their basic needs and probably would not even consider spending money on transport to listen to unelected MPs discuss issues of little real relevance to them. As one member of a grassroots civil society groups said: "This is simply a waste of energy and resources."¹⁴ Furthermore, the dates and times of parliamentary sessions are generally unscheduled; and even when they are scheduled, not even MPs and senators know when sessions are due to take place. This is due to the inefficiency of both the National Assembly and the Senate rapporteurs' offices.

The media

The DRC has one of the most diversified and independent media sectors on the African continent. According to the Ministry of Media and Information there are 213 newspapers countrywide and Kinshasa alone has 108 newspaper houses. The DRC has at least 52 private television stations and 119 private radio stations, including public, commercial and religious stations.¹⁵

Although the media is the most important channel of communication between parliament and the public, this interaction is limited for two reasons: first is the weak capacity of both the public and private media. The public do follow what is going on in the local media, and people generally come to know about parliamentary activities through the foreign media. This is because the coverage of parliamentary activities is very limited despite the fact that parliamentary

proceedings are open to the public and are televised by public and private stations and aired on various radio channels.

Although the national broadcaster reaches all the provinces, it seldom covers the activities of parliament in its entirety. The private media, which have only limited coverage, also do not give enough space to parliamentary activities in their programming. Owing to the size of the sector in the DRC, one expects the media there to play a significant role in informing the public.

Furthermore, the media should share responsibility for the lack of a coordinated approach on how parliamentary news is communicated to the public. This is because the media in the DRC are weak in terms of data collection and generally focus on news that will bring in sound financial returns. But since there are few companies in the DRC able to provide the media with advertising revenue, the media's only source of 'financial return' is from politicians who pay for their information to be aired or published. This politicisation of the media is a major weakness. The National Assembly has recognised this, stating in a report that:

*The politicisation of the media organs and the weak capacity of public media explain the state of things. Because of this weakness, public opinion is not always well informed around the work which takes place in the National Assembly and its different commissions ...*¹⁶

The second reason for the limited interaction between parliament and the public is the censorship of parliamentary deliberations. Some parliamentary debates which are deemed critical of government are not broadcast, and there have been cases where broadcasts have been interrupted while MPs were talking. This censorship, of course, limits the media's access to important parliamentary information.

As one MP said: "There are times when discussions are conducted behind closed doors. This is done at the discretion of the president of the National Assembly and by orders of the executive."¹⁷ When something is considered sensitive in the view of the president of the National Assembly and the executive, the cameras are switched off. For example, when parliament was discussing the budget, the president of parliament thought the debate was too sensitive to broadcast. On this occasion the government believed that MPs may discuss matters that could anger citizens, but equally important, according to a youth organisation representative: "MPs also would not have liked people to see them simply focusing their discussion on their own remuneration. This parliament has discredited itself by failing to include in their debates issues concerning public servant salaries. Instead they spend time discussing their own salaries."¹⁸

However, the weak link between parliament and the media falls at the door of the National Assembly and Senate rapporteurs who are responsible for passing information on to the media. Although they do give briefings to the media, these are not consistent and properly structured. In addition, parliament has little experience on how to link parliamentary work to the media.

There have been calls within parliament for the presidents of both the National Assembly and the Senate to go out and explain what parliament is doing. Observers of parliamentary work in the DRC maintain that only the president of the National Assembly invites the media and seldom explains parliamentary activities, and then only under pressure from the International Committee in Support of the Transition (known by its French acronym as CIAT). MPs also give interviews in their own capacity to explain issues being debated in parliament, and the media, both radio and television, invite MPs or senators to discuss issues of interest to the public.

Parliament's press releases and reports

Parliament does issue press releases, but only very seldom. This is due to a lack of professionalism on the part of parliament's media attaché and spokesperson. In general, the Congolese parliament lacks a culture of reporting on what is happening inside parliament.

Parliament is also expected to produce minutes and reports of its proceedings, but this is jeopardised by lack of resources and inadequate infrastructure. The National Assembly produces two reports a year on its activities which are meant to constitute a source of information for the public, but these reports are not easily accessible to the public;¹⁹ MPs contend that only limited copies are printed due to lack of funds.

Constituency visits

Although MPs were not elected but handpicked, it is assumed that every group represented in parliament has constituencies across the territories. But MPs, and even their political groups, have generally failed to link up with citizens to explain what they are doing.

While this deficiency could be explained for MPs representing political parties, it does not wash in the case of MPs from civil society, which has a structured constituency base that is easily accessible. Members of civil society who are outside parliament argue that those inside parliament do not consult with them.²⁰

There is a common assumption among MPs and their political groups that their seats in parliament were awarded to them because they fought the good fight to bring democracy to the people. They therefore tend to behave as elected MPs and, because they assume they have the monopoly on popular support, they act as though they do not necessarily need to consult with the public.

This is a distorted argument. In democracies, elected governments and MPs are required to consult regularly with the people to ensure citizen participation in decision making and the drafting of laws. This weakness, however, is not peculiar to the DRC; elected MPs in other SADC countries also fail on this count and the issue is hotly debated across the region. However, the situation is compounded in the DRC in that the main barrier to MP-citizen relations is the unelected character of parliament.

Additionally, MPs' lack of preparedness to exercise their functions is contributing to the weak performance of parliament. Congolese MPs say they were not prepared or trained to assume their responsibilities and do not know what it means to be an MP. In fact, most MPs do not follow the debates in parliament and many more do not even bother to attend sessions.

There is currently no training to help MPs to acquire the necessary skills. The main reason might be that since this is a transitional period, donors are reluctant to use resources on unelected MPs.

Some MPs pointed to parliament's busy schedule as a further factor preventing them from reporting to the people. Indeed, since parliament opened in June 2003, it has never gone into recess and no MP or senator has been granted leave. Still, civil society members and church groups interviewed criticised MPs for their self-interest and obsession with their own political survival.

Public opinion and parliament's work

It is necessary to state at the outset that no one in the DRC has faith in surveys undertaken by Congolese institutions and organisations. However, it is important to reflect on what the people think of the current parliament.

The DRC's political past has forced the population to lose interest and retreat from politics. The population is currently not very interested in the management of state affairs. In the prevailing confusion, the population does not see a direct link between the institutions of transition and basic service delivery.

There are two reasons for this. First, the legacy of the way in which parliament functioned during the Mobutu era still lingers. In general, the behaviour of MPs is reminiscent of the Mobutu period when MPs expected favours from government rather than acting as watchdogs on government, and the population thus had very

little respect for parliamentarians. Today's parliamentarians believe they owe their positions to those who handpicked them; the mindset of MPs has therefore not progressed. It seems that consulting the public in the drafting of legislation is still taboo, and even more so because today's MPs know they are not appreciated and respected.

Second, this parliament was not elected, which has contributed to the less than cordial relationship between MPs and the population. The public has the impression that MPs care more about their own interests than the interests of the general public. According to civil society representatives, voting as they did to be paid \$1000 a month when civil servants earn less than \$20 a month demonstrates MPs' selfishness.

Table 6: Social groups' appreciation of the National Assembly

<i>Social group</i>	<i>Approve (%)</i>	<i>Disapprove (%)</i>	<i>Observations</i>
NAPO ²¹	1	99	MPs are not credible. They like money more than their work. They are against the population and are driven by political power (as was the case in the Mobutu period). They are the rubber stamp of government.
Students	4	96	Parliament has no impact on the transition; no concrete laws have been adopted; MPs are not credible; laws are not popularised.
Churches and civil society	55	45	Parliament has adopted very important legislation, but it has been slow and has failed to popularise such legislation.
Civil servants	0	100	MPs use business trips to access per diem allowances. They are very slow in adopting laws. Since MPs are not elected they are answerable only to their political groups.
Chapter 9 institutions	9	91	Both houses do give attention to the social conditions of citizens but they are very slow in adopting legislation. Relations between the different groups in parliament are difficult.

Source: Transition en RCD: Le peuple exige les Elections Libres, Démocratiques et Transparentes dans le Delai, NAPO, Kinshasa, June 2004.

Research conducted by *Réseau d'Education Civique au Congo (RECIC)* to test social groups' appreciation of the work of parliament found that Congolese have a very low level of trust in their parliament and in parliamentarians (see Table 6).

Although, as stated, surveys are not trusted and or even considered in the DRC, the author found this picture to match closely the opinions expressed by the different stakeholders interviewed for this report.

6. Relations between parliament and civil society

There are two sets of civil society in the DRC interacting with the institutions of transition (including parliament): one set operates within parliament and the other operates outside its parameters. The members of civil society represented in parliament were chosen during the negotiations as part of the all-inclusive approach to negotiations.

Civil society – cognisant of the culture and behaviour of Congolese politicians – decided to take part not only in the negotiations but in governance during the transition period as well. Thus, many members of civil society are serving in government structures and in parliament. More significantly, civil society was given the responsibility to lead the five Chapter 9 institutions.

The civil society groups that operate outside of parliament were led to believe that those within parliament would represent their cause and protect the interests of Congolese citizens. It was imperative that civil society be directly involved with the adoption of laws in order to ensure that the interests of the general public were taken into account.

This arrangement attempted to resolve the failure by governments and regional organisations throughout Africa to incorporate civil society into policy formulation and implementation. The participation of civil society in the institutions of transition was designed to influence policies, but also to keep in touch with its base outside parliament. This would have constituted civil society's comparative advantage vis-à-vis the other groups, which have no structured support outside parliament. While this arrangement was sound in conceptualisation, the reality was somewhat different.

In practice, the link between the two sets of civil society is weak and unstructured. It has not been easy for those inside parliament to communicate with their counterparts outside or to adopt common strategies on matters of importance to the future of the DRC.

In an environment where the major concern is political survival of the individuals and groups involved, members of civil society in parliament have been co-opted and manipulated to act in the interest not of the larger civil society, but rather of the three dominant political formations in parliament.

Civil society was supposed to play the role of a 'cooling system' – managing differences and forging a consensus that works in favour of the interests of the people. Yet civil society has been an insignificant partner in the battle for

influence over the drafting of legislation. Put differently, because civil society has been politicised it has lost the ability to influence processes in parliament. Despite the fact that most people think that the idea of a civil society represented in parliament was a constructive development, civil society complains of being left out in the formulation of laws.

One key problem with civil society in parliament is that it is not seen as united, but rather divided between the main three blocs and forced to take the position of the three major political groups. According to Senator Professor Wamba dia Wamba:

*It is not a real civil society we have in Congo. The classic elements are absent. We have a civil society inside that is responsible more to political parties than to the people. For the one outside, it is more responsible to the donors than to the people.*²²

In general, members of civil society who remained outside parliament maintain that it was a mistake to have joined the institutions of transition. The politicisation of civil society has deepened, and is also ethnically and regionally structured. As one civil society representative noted: "One does not respect a government that does not respect your province of origin."²³

Civil society both inside and outside is divided along ethnic and regional lines. The division is acute especially between those people from Kasai and Kivu fighting for leadership. This has contributed to the weakening of civil society, especially inside parliament. The leader of the civil society group in parliament is from the east of the country and is accused of being a government agent, while civil society members from Kasai Province are said to support the opposition party UDPS, which is not represented in parliament (the leader of the UDPS is from Kasai Province).

There is also some sort of alliance between civil society members from the east and from Katanga in the south of the country. Both are said to favour the ex-government political party, PPRD.

Civil society from the east has become dynamic and powerful because of the war that is still raging and continues to kill people in that region. Observers argue that this group believes that the PPRD is its ally in its fights against Rwanda's invasion and destabilisation of the region.

Katanga's civil society groups simply associate with the PPRD because President Joseph Kabila and some of his closest confidants in government are said to be Katangese.

The civil society groups that operate outside parliament believe that those

inside parliament are now playing political games where political parties are the major players, and in which civil society has been taken hostage. Civil society has little space to manoeuvre within parliament.

Furthermore, contact between the two civil society groups is very limited. As one interviewee stated:

I was not in favour of civil society being incorporated in government, the Senate and the National Assembly. It would have been better if civil society was only given control of Chapter 9 institutions. By being in government institutions [civil society] has lost its most important characteristic as the police of the political leaders and of government.²⁴

Given the way in which things operate in the current parliament, it is impossible for civil society to criticise and expect to be taken seriously, especially when civil society members are aware of the extent to which significant political parties contributed to their nomination. Most people interviewed said that there is no honest relationship between civil society and parliament and no permanent contact between the civil society groups represented in parliament and those outside.

Nevertheless, all is not bleak; civil society does lobby parliament. There are instances where civil society MPs have collaborated directly with those outside to introduce recommendations to certain draft laws. There are also cases where civil society, despite the criticisms levelled against it, has played a critical role. One clear example was the intervention of civil society in the adoption of the electoral commission organic law and in the organic law relating to Chapter 9 institutions.

With time, a reconfiguration and maturation of the groups and members in parliament seems to have taken place. For example, on the amnesty question, civil society MPs are creating a lobby group called the Amnesty Coalition. This group is linked to human rights groups outside parliament and aims to ensure that political parties involved in war-time atrocities do not water down draft legislation so that they are not incriminated.

Furthermore, a group of civil society MPs is compiling a magazine that will report daily on the activities of parliament. The magazine, to be called *Hemicycle*, is aimed at reflecting on both the strengths and weaknesses of parliament and how to reinforce civil society action.

As has been shown, civil society can mobilise public opinion to put pressure on parliament, but it is not doing this in a consistent and organised manner. This is due to the presence in the civil society group of members who, critics say, have simply been deployed by political groups to undermine civil society initiatives.

People interviewed suggested that some leaders of civil society are working with political figures and parties to the detriment of the rest of the group.

Civil society groups operating inside parliament naturally share the failures and successes of the transition. Indeed, there are those today who think that civil society should have stayed out of the institutions of transition altogether.

The real civil society is indeed outside of parliament, but has been depleted of its best human resources who have joined parliament, government and Chapter 9 institutions. Having lost its best representatives, civil society is experiencing difficulty in reconstituting itself.

The church

Religious groups could have played a central role in influencing the work of parliament, yet the church has failed to play a determining role in this transition. Analysts and observers note that churches are divided and many religious groups are affiliated to political formations.

In addition, the church does not enjoy total trust and credibility, although it remains the only actor that can mobilise people in a more significant way since its actions are taken seriously.

The labour movement

Labour movements are very weak owing to the paralysis throughout Congolese society, but they have started to reorganise since the beginning of the transition. Most labour groups mobilise directly, or through an MP, to approach parliament.

The *Union Nationale des Travailleurs du Congo* (UNTC) is the largest labour movement. Its president is a member of the Senate; it has the necessary infrastructure and a considerable, qualified work force and is represented in both public and private entities.

There are also specialised labour movements for the public sector and for teachers, with the latter being very strong. These are well organised and influential within civil society, both inside and outside parliament.

7. External support to parliament

There has been some external support to enable parliament to begin functioning, but this support remains minimal considering parliament's needs. The support comes from different quarters and covers different needs.

Drafting legislation and training MPs

Since the mandate of this parliament has primarily been to pass the laws necessary to ensure that elections take place, most of the support to both houses has been in this area. The Electoral Institute of Southern Africa (Eisa) supported the Senate in drafting the constitution of the Third Republic and took the senators to Kisangani to start writing it up. The National Democratic Institute worked with the National Assembly in the elaboration of the law on nationality and organised workshops in the different provinces to discuss this important issue.

The United Nations Mission to the DRC (Monuc) closely follows the work of parliament and is interested in seeing that laws are adopted in a transparent manner. Monuc's main objective here is not only to reinforce parliament's capacity, but to make sure that parliament gives sufficient time to discuss issues related to elections and that elections are not delayed. The CIAT intervenes in the adoption of laws to ensure that they are balanced.

Monuc and CIAT generally do not interfere with the work of parliament. According to a Monuc staff member: "There is not a single case where the CIAT intervened in the work of parliament, except in the case of the organic law of the electoral commission because it was blocking the entire transition process."²⁵

The Belgian Senate provides support by training Congolese senators. This training is accompanied by logistical support. The forum of French and Belgian socialist parties organised a workshop for political parties to discuss the form of the state. There are also ad hoc and uncoordinated interventions that are difficult to identify.

Infrastructure

In general, support remains minimal in the face of the difficulties confronting parliament. The international community would like to support parliament, but only after the elections; they maintain that it does not make sense to support a

provisional parliament and then to start afresh when a new and legitimate parliament is elected.

Observers say that the main reason is that many Western governments are still not sure if the transition process will bring peace to the DRC. Parliament has, however, received donations from a number of embassies. Great Britain has assisted in the area of information technology and media equipment (20 computers, a television set, 24 printers, a photocopying machine and 2,000 reams of paper), while the Italian Embassy offered \$30,025 for installing the internet, printing 500 access cards for MPs and printing 1,500 copies of the rules of procedure document. Many other donations have been given to parliament but in very limited amounts.

8. Summary and recommendations

Despite the numerous constraints linked to the operation of parliament, it is important to recognise parliament's achievements since its installation on 22 August 2003, including the drafting and adoption of controversial legislation. It has also been able to sit during all of its scheduled sittings.

At the time of completing this study, parliament had already dealt with most of the laws mandated by the transitional constitution, including the Constitution of the Third Republic which was adopted on 16 May 2005.

Summary: Parliament's institutional, structural and material difficulties

Method of decision making

The current structure does not permit parliament to work smoothly; the fact that the main groups have equal power has paralysed the work of parliament. Since parliament has no ruling party and main opposition, all decisions are adopted by consensus. In addition, the work of parliament is sporadically interrupted when certain groups boycott sessions if their views are not accommodated – this stalls deliberations which cannot proceed if all groups are not present.

Insufficient practical parliamentary experience

The DRC has no practical parliamentary experience. After 44 years of independence we are only now witnessing the emergence of real parliamentary politics in the DRC. This lack of experience is compounded by the lack of a parliamentary tradition. Personnel are not qualified and the staff that worked in Mobutu's autocratic parliament have aged.

The Senate disappeared from the political scene in 1967 and has only re-emerged after 37 years. In purely practical terms, it is difficult for parliament to operate efficiently when it is still in the process of creating its own rules, norms and standards.

Inexperienced MPs

Parliament is weak in the first instance due to the poor quality of MPs. Although

there are some who are very good, they operate in appalling conditions, which render them ineffective. To demonstrate the ineffectiveness of parliament's internal discussion, one MP noted that:

In the Senate, as it is for the National Assembly, there is no real debate of ideas. This poses a big challenge for the kind of state that we are trying to build. MPs avoid robust debate on issues.²⁶

However, during the interviews, praise was levelled at the president of the National Assembly. Observers argue that most of the achievements of the National Assembly must be attributed to his hard work, commitment and expertise. He is highly competent and knows how to manage MPs, and often plays the role of mediator between the different groups.

One area in which the president of the National Assembly worked hard was in putting together the structures of the commissions, considering that they needed to be inclusive and representative. The process required patience and negotiating skills to reach consensus and compromise. In contrast, critics of the Senate president say he has very little influence and that it is his vice-president who is in control and does most of the work.

The disparity in the level of experience and ability among senators and MPs is huge, and this gap must be closed.

Insufficient and inappropriate infrastructure

The achievements of this parliament must be applauded given that it has operated in the most difficult conditions and is experiencing serious set-backs. The building housing parliament was not constructed to accommodate a National Assembly and a Senate of 500 and 120 members respectively. There are insufficient offices to accommodate all the commissions and political groups, plus the administration. Most commissions have found alternative offices outside parliament, but this has made the work of its members very difficult as they have to commute between these offices and parliament.

Parliament also lacks the necessary equipment and logistics. Most offices are badly equipped and have no computers, papers, printers or photocopying machines. Few offices have telephones and those that do are not used because the lines are so bad.

MPs also face transportation and communication difficulties. Besides their monthly salaries of at least \$1,500, MPs have no other benefits such as transport, communication, medical aid or family education support. This affects the morale

of MPs and senators who in many instances fail to attend parliamentary sessions because they are supplementing their income elsewhere.

Furthermore, parliament is finding it difficult to administer and manage its 620 members, especially in terms of their social needs (i.e. medical assistance). The absence of appropriate technology makes even the payment of salaries problematical.

Slow deliberation

The influence of the three main political groupings in the transitional parliament and their executive monopoly has had a negative impact on parliament's functioning. Many important laws are not being discussed because parliament's agenda is dictated by the executive.

The procedure of adopting laws through consensus has retarded the work of parliament and could, at some stage, block the entire transition. The National Assembly and the Senate are run on the basis of the peace agreement and no group in parliament has jurisdiction over another. This situation has made it difficult to proceed quickly with the work of parliament, given the maximum consensus requirement.

Financial dependency

The work of parliament is further impeded given that parliament does not control its own budget (this is a government function), and that the budget allocated is in any case insufficient. Lack of control over its finances makes it difficult for parliament to control the executive and other state institutions, such as public enterprises. This financial dependence on the executive is a serious obstacle.

Absence of accountability

Lack of accountability and transparency is dissipating parliament's resources. MPs say that there are serious irregularities especially when it comes to MPs and senators' travel arrangements. Serious nepotism takes place in order to access *per diem* allowances. The Senate asked that a committee of inquiry be established to investigate financial irregularities; however, this inquiry has failed to take place.

Weak oversight capacity

Parliament's control over the executive is minimal due to the inability of

parliament to sanction any members of government. Parliament is therefore seen by many people as a mere rubber stamp of executive positions.

Lack of independence

While the work undertaken by parliament in drafting and adopting controversial legislation is laudable, this legislation needs to be of high quality and seen to be supporting the interests of the people. But parliament's lack of independence and autonomy – and the fact that its reputation has been tarnished by perceptions of its closeness to government – have undermined the public's confidence in its work.

Weak civil society

The democratisation process in the DRC needs the involvement of civil society alongside the other stakeholders. In particular, the elaboration of laws needs citizen involvement. Although it initially appeared to be a good idea to involve civil society in all the institutions of transition, including parliament, the impact of civil society within parliament has failed.

Poor channels of communication

There is a dearth of channels for parliament–citizen communication. The laws and decisions reached in parliament and which are to take the country to elections have no broad-based input and have not been popularised.

Recommendations

The DRC must quickly end the transition period since a post-transition parliament that is democratically elected will have the legitimacy to act on behalf of the people. The transitional parliament has fared well under tough conditions and has been able to present the country with the necessary laws, including a constitution, that will enable it to hold its first democratic elections in more than 44 years. But the post-election parliament will need to operate in a totally new environment that is supportive of its work.

The electoral system adopted is crucial for the kind of parliament that will eventually be installed. The electoral system chosen must ensure accountability, inclusiveness and representivity in parliament, since the future parliament must have qualities that differentiate it from the previous (and current) failing and weak parliaments.

The current parliament is very weak in terms of gender representation. The electoral system adopted must therefore, among others, strive to achieve gender balance in parliament. Political parties must also be empowered with the necessary information on how to meet gender representation requirements within their own structures.

The current parliament also disregarded the question of the participation of traditional leaders. There is therefore a dire need for creativity in electoral engineering in the DRC to ensure that unelected traditional institutions are not disregarded and that indigenous structures are given an opportunity to be democratic. The system adopted during the First Republic could help in this regard.

One consideration could be to maintain a bicameral legislature whereby members of the lower house are elected and members of the upper house are appointed and represent predominantly the traditional leadership.

The powers of parliament vis-à-vis the executive must be clearly articulated in the constitution of the Third Republic. Furthermore, the constitution must be clear on the obligation of the executive vis-à-vis parliament. In brief, the relationship between the legislature and the executive must be clearly and unambiguously spelt out.

Parliament's material and human resource capabilities will need to be strengthened in order to professionalise the operation of parliament. The first important issue that will need to be resolved is that of parliament's budget. Parliament must have a budget that it manages independently. Its accounts must be made public and an audit must be undertaken regularly. Another critical area that needs to be built up urgently is the research capabilities within parliament. MPs and parliament cannot contribute to the drafting of legislation without up-to-date and reliable data on the state of society.

MPs and senators will have to undergo training through lectures and international visits and exchange programmes with other parliaments in the region, continent and beyond. For example, the committee responsible for examining the government's finances and budget process must be empowered with the necessary skills to provide effective oversight of the executive. And further, the future parliament must have the requisite oversight power which will allow it to draft laws that are in line with the country's internal realities and dynamics. This is paramount if the DRC is to maintain the momentum of democratisation and social development.

This is why the different parliamentary committees (especially the committee on finance) will need serious attention, ensuring they are able to provide effective oversight of the executive. The appropriate training to educate the budget

committee should be considered as soon as a democratic parliament is installed. But training will also be required for other committees as well.

An efficient and effective channel of communication between parliament and citizens will need to be set up quite quickly. The DRC will not advance in resolving its socio-economic challenges if there is no engagement between parliament and the public. Strategies and mechanisms must be put in place to ensure that citizens have easy access to parliament's work. Besides access to parliament itself, there should be a flow of information from parliament to the communities. Two ways to achieve this could be considered:

- Parliament must regularly produce, publish and disseminate reports and minutes of its activities in French as well as in the four official national languages (Kikongo, Lingala, Tshiluba and Swahili).
- The relationship between parliament and the media must be strengthened with the creation of a vibrant media office in parliament. The national broadcaster should devote time each day to cover parliamentary activities. In addition, the activities of parliament must be communicated to the media, advertised in newspapers and aired on radio stations and television channels.

There is a need to depoliticise the media to allow it to be able to report independently on parliamentary activities. All public and private channels must be given equal opportunity to cover the activities of parliament, and government's monopoly over the national channels must be reduced.

Parliament and its committees must draw up schedules that are published in advance in order that members of the public, the media and civil society interested in the different matters can attend these debates. Parliamentary committees must be encouraged to publish the minutes of their meetings and reports of their hearings. They should also have a media strategy which would allow the media to access information coming from parliamentary committees.

Another matter requiring attention is how to decentralise the work of parliament. Kinshasa, where parliament is located, has historically been the best informed region in the country as far as the work of parliament is concerned, and this to the detriment of the other regions. The future electoral system and form of state should allow for provincial legislatures that could deal directly with provincial-related issues. This would go some way towards bringing parliament closer to the people.

There is also a need to depoliticise the work of civil society in the DRC. Civil society involvement and participation in the activities of parliament has not

necessarily added value to the work of the transitional parliament; and those civil society groups represented in parliament should probably critically evaluate their contributions. It is important for civil society to revisit and adjust its intervention strategy to ensure that its noble mission is preserved. Parliament must remain a space for politicians, and civil society must be allowed to return to its traditional role as watchdog. At the same time, appropriate facilities must be put in place to allow civil society to engage with and lobby parliament and its committees. For this to happen, civil society must have access to first-hand information from parliament.

Civil society must also increase its ability to engage with the parliamentary process. Despite the fact that the DRC has a diversified civil society sector, it is mostly the human rights component that has been active in lobbying and it is this group that is currently represented in parliament. Grassroots and professional civil society groups must be brought into the equation and allowed to engage with parliament. Obviously, all these groups must have the necessary lobbying, networking and monitoring skills for them to be able to engage effectively with parliament.

Since political parties are the main actors in any parliament it is necessary to train them on parliamentary operations and organisation, and on how to analyse the different laws that come from government or the executive.

International assistance is of paramount importance for the establishment and sustainability of an effective parliament in the DRC. A weak parliament will negatively affect the democracy that the international community is seeking to establish.

Notes

- 1 Ibid.
- 2 There are groups that participated but which are not part of this parliament, for example the G14 and *Union pour la Démocratie et le Progrès Social* (UDPS). In the case of G14, however, while the decision was that the group will remain out, some of its members joined other groups and are in parliament today.
- 3 See, DRC Transitional Constitution, paragraph II, article 104.
- 4 Interview with a senator, Kinshasa, October, 2004.
- 5 See article 31 of the internal regulation of the National Assembly.
- 6 Interview, Kinshasa, October 2004.
- 7 Interview with a member of the Policy Unit, Kinshasa, October 2004.
- 8 DRC Transitional Constitution, article 103; and National Assembly Rules and Procedures, articles 36 and 40.
- 9 Interview, Kinshasa, October 2004.
- 10 DRC Transitional Constitution, article 110.
- 11 DRC Transitional Constitution, article 98.
- 12 As prescribed in article 112 of the DRC Transitional Constitution and article 121 of the Internal Rules of Procedure of the National Assembly.
- 13 The DRC Transitional Constitution in article 19(2) obliges government members to declare all their possessions as soon as they start work. Importantly, this provision was not applied to MPs when the National Assembly was installed due to various logistical problems.
- 14 Interview, Kinshasa, October 2004.
- 15 Kabemba C, *The State of the Media in the Democratic Republic of Congo*, commissioned paper, AIJ, 2004.
- 16 *Rapport d'activités Semestriel du Président de l'Assemblée Nationale du 22 Août 2003 au 22 Février 2004*, Kinshasa, 2004, p 9.
- 17 Interview, Kinshasa, October 2004.
- 18 Ibid.
- 19 The author was unable to access the two first reports produced.
- 20 Interview, Kinshasa, October 2004.
- 21 NAPO (*Noyaux d'Action pour la participation populaire*) is a community-based organisation comprising men and women of the same areas or same street, with the aim of taking concrete action in any area of social life to empower their community.
- 22 Interview, Kinshasa, November 2004.
- 23 Ibid.
- 24 Ibid.
- 25 Interview, Kinshasa, October 2004.
- 26 Ibid.

Appendix: List of interviews conducted

Interviews were conducted in Kinshasa in October 2004 with the following stakeholders:

1. Claudia Banz, Political Affairs Officer, Monuc
2. Pierre Lebrun, Political Affairs Officer, Belgium Embassy
3. Hubert Kabumgulu, Researcher, Chair Unesco, University of Kinshasa
4. Parfait Moukoko, Resident Director, National Democracy Institute
5. Nicolas Lianza Likwale, President, Youth Today (*Jeunes Aujourd' hui*)
6. Willy Katambwe, Assistant to the President of the Senate Constitutional Commission
7. Marcel Kapambwe Nyombo, MP, Member of the Economic and Financial Commission
8. Pamphile Badu wa Badu, President, Ethics and Anti-Corruption Commission
9. Georges Ngonda Makiese, Secretary to the President of the Ethics and Anti-Corruption Commission
10. Reverend Malu Malu, President, Independent Electoral Commission
11. Kambala Christophe, Secretary, Ethics and Anti-Corruption Commission
12. Advocate Jean Marie Mwila, MP, Civil Society group
13. Chantal Westshi Ngoyi Tshite, Adviser in the Office of the President of the Senate
14. Professor Ernest Wamba Dia Wamba, Senator, Parliament
15. Augustin Kibassa Maliba, MP, National Assembly
16. Dieudonne Mushagalusa, Coordinator, *Collectif des associations des Jeunes Solidaires du Congo*
17. Mbwiti ma Lwamba Florence, *Reveil et Dynamisme des Femmes a la Base*
18. Chantal Wetshi Ngoyi Tshite, Adviser in Charge of Democratic Institutions, Senate
19. Denis Wathum Jacan Wadambe, Adviser, Policy Office of the National Assembly

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- Procès- Verbal de la Séance Plénière du jeudi*, 18 September 2003.

- Procès- Verbal de la Séance Plénière du vendredi, 19 September 2003.*
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List of acronyms

CIAT	<i>Le Comité International d'Accompagnement de la Transition – International Committee in Support of the Transition</i>
DRC	Democratic Republic of Congo
FNLC	<i>Le Front National pour la Libération du Congo – National Front for the Liberation of Congo</i>
MLC	<i>Mouvement de libération du Congo – Movement for the Liberation of Congo</i>
MNC	<i>Mouvement National Congolais – Congolese Nationalist Movement</i>
Monuc	United Nations Mission to the DRC
MP	Member of parliament
MPR	<i>Mouvement Populaire de la Révolution – Popular Revolutionary Movement</i>
PPRD	<i>Parti du Peuple pour la Reconstruction et la Démocratie – People's Party for Reconstruction and Democracy</i>
PR	Proportional representation
RCD	<i>Rassemblement Congolais pour la Démocratie – Congolese Rally for Democracy</i>
RCD-KML	<i>Rassemblement Congolais pour la Démocratie, Mouvement de Libération, Kinsangani – Congolese Rally for Democracy–Liberation Movement, Kisangani</i>
RCD-N	<i>Rassemblement Congolais pour la Démocratie, National – Congolese Rally for National Democracy</i>
RECIC	<i>Reaseau d'Education Civique au Congo – Civic Education Network of Congo</i>
SADC	Southern African Development Community
UDPS	<i>Union pour la Démocratie et le Progrès Social – Union for Democracy and Social progress</i>
UNTC	<i>Union Nationale des Travailleurs du Congo – National Workers Union of Congo</i>

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