



BRIEFING
Elections in the Democratic Republic of Congo
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Introduction

On November 28, 2011 the Democratic Republic of Congo is holding its second election since the end of a decade-long civil war in 2003. At stake is the credibility of the country's fledgling democracy. The electoral process is a significant test of how robust the country's new institutions are, and how much independence they have managed to establish for themselves over the last five years. The participation of significant opposition figures such as Etienne Tshisekedi and Vital Kamerhe means that the electorate has the choice between three viable presidential candidates. This places significant pressure on the ruling party, and incumbent candidate Joseph Kabila, whose track record for the first five year mandate is relatively poor.

The constitutional amendment

Following through on an initiative mooted in 2010 by a non-executive advisory structure controlled by the Presidency, in early 2001 the Senate and the National Assembly passed a constitutional amendment which modifies the electoral system for presidential and legislative elections. The presidential contest was changed from a two-round voting system to a plurality voting system. There is little doubt that the constitutional change was made in order to boost President Kabila's chances. It is unlikely that Kabila would have received the 51% of votes necessary to win in the first round. This would have motivated the opposition parties to unite for a second round, making the contest significantly more difficult for Kabila.

The Independent National Electoral Commission (CENI)

The Commission Electorale Nationale Indépendante (CENI) is a Congolese institution, established in March 2011 as a successor body to the Commission Electorale Indépendante (CEI)¹, which oversaw the organisation of the 2006 elections. The CENI is run by a seven-member team, composed of three members selected by the opposition and four members selected by the ruling party. Unlike its predecessor, the CENI does not include representatives of civil society.

The President of the CENI, Pastor Daniel Ngoy Mulunda, is a close associate of President Kabila. From the start, his appointment significantly tainted the perception of the independence and neutrality of the CENI. The Vice-President of the CENI, Jacques Djoli, a member of the opposition Mouvement pour la Libération du Congo

¹ The CEI was one of the five transition institutions established by the 2002 Congolese peace accords, and was in place from 2003 – 2006.

(MLC), is perceived as a more reliable and neutral actor. He has often made statements which contradict Mulunda on key questions such as the CENI's preparedness for the election, and the election date.

In 2006, the CEI received significant logistical, financial and other support from the United Nations Mission in the DRC (MONUC) and the international community. MONUC provided massive logistical support, as well as financing, essentially running the entire election, which cost over \$1 billion dollars. In the 2011 election, the financial, logistical and organisational responsibilities have shifted to the Congolese government and the CENI. Only 20% of the financing for the elections is coming from the international community, while the remaining 80% is coming from the Congolese government. Financing has been an issue throughout however. The CENI does not have its own treasury, and has had to request funds from the government throughout the process. This has contributed to causing significant delays in the procurement process, especially the ordering of urns and the printing of the electoral ballots. The opposition has said that this indicates that the CENI is not operating as an independent body.

Problems with the electoral process

The voter registration process started in February this year² and was completed in July. The process has been heavily criticised by the opposition, which accused the CENI of registering dead people, minors, and armed personnel (who are not allowed to vote) as well as of registering the same person several times. The national voter registration process was supposed to take only three months, but numerous logistical difficulties – old electoral kits, difficulty accessing remote areas, late deployment of material and personnel, logistical and financial constraints, late payment of electoral agents, and inadequate stock of voter cards – led to the process only being completed in July.

The delays also meant that the review and validation of the voter registry comprising 32,024,640 voters, could not be completed until after the passing of the annex to the electoral law, which determines the number of parliamentary seats per district.

The subsequent verification of the voter lists also prompted an outcry, as it was conducted without independent observers, and in the absence of representatives of civil society or political parties. The political opposition, most notably the UDPS, subsequently demanded access to the CENI's central server to verify the voter lists. The CENI denied the UDPS request, prompting weeks of protests in September and October. The CENI then said that it would allow the UDPS to audit the voter's rolls as part of a commission which would include representatives from the ruling party, a proposal which the ruling party rejected. The wrangling between the CENI and the UDPS continued into the campaigning period and has yet to be resolved.

A number of observers have commented on notable irregularities, such as the large increase of registered voters in Katanga province when compared to a smaller increase in Kinshasa, the country's fastest-growing and most populous city. In

² The CEI started the voter registration process in Bas-Congo and Maniema before it handed over to the newly-formed CENI in March 2011. The national voter registration process was supposed to take only three months, but numerous logistical difficulties – old electoral kits, difficulty accessing remote areas, late deployment of material and personnel, logistical and financial constraints, late payment of electoral agents, and inadequate stock of voter cards – led to the process only being completed in July.

Katanga the electorate increased by 1,109,330 new voters, while the increase in Kinshasa was only 323,833 new voters, in spite of the fact that the estimated population growth rate in Kinshasa is higher than in Katanga. It has been suggested that this imbalance is due to increased registration efforts in Katanga, where Kabila is from and where he still enjoys moderate popularity.³

The Logistics

There are a total of 18,386 candidates running for 500 seats in the National Assembly and 11 presidential candidates.

In the legislative race there are⁴:

541 Independent candidates

494 PPRD candidates⁵

476 PALU candidates

466 MSR candidates

447 UNC candidates

394 PPPD candidates⁶

389 AFDC candidates

386 UDPS candidates

And many thousands of candidates from smaller parties.

Due to the large numbers of candidates, some ballots may be as long as 54 pages. Local NGOs have estimated that it will take the average voter 7 minutes to vote, which would mean that in order for all 32 million voters to cast their votes, the polls would need to be open for 48 hours.⁷

There will be a total of 63,000 polling stations. MONUSCO has given the CENI access to its 80-strong fleet of helicopters and planes, and will help to deliver over 3000 tonnes of electoral material to 15 hubs and 210 sub-hubs by November 25, three days before the election is due to be held. The South African government is also providing air transport support to deliver the electoral materials, notably for the delivery of the ballots, which are being printed at 17 different printers in South Africa.

Although the CENI insists that everything will be in place on time, a certain level of slippage is inevitable, not just because of the country's size and poor infrastructure, but also because of weaknesses in the CENI and the tremendous time pressure that everyone is now under. If the voter registration process is anything to go by, there will be inevitable problems with communications, unpaid CENI worker salaries, transport, lack of fuel, missing electoral materials, etc.. It is important that such irregularities are kept to a minimum however in order not to undermine the credibility of the entire election.

By November 18, 90% of the voting booths and the electoral kits had been delivered to various points in the country, ballot boxes had been delivered to at least six

³ Jose Bazonzi, Regard sur l'enrôlement des électeurs en 2011: éléments d'appréciation en amont du processus électoral (Draft), Centre d'Etudes Politiques, Université de Kinshasa, Octobre 2011.

⁴ Statistics from the CENI at www.ceni.gouv.cd, accessed November 1, 2011.

⁵ PPRD, MSR, PPPD and AFDC are members of the MP.

⁶ This is a PPRD satellite party.

⁷ Interview with Jerome Bonso, President of LINELIT, Kinshasa, October 2011.

provinces (out of eleven)⁸, and the presidential ballots had been printed and delivered to Kinshasa.

The 11 presidential candidates

Joseph Kabila – Kabila is the incumbent, running as an independent with the backing of the Majorité Présidentielle (Presidential Majority, MP), a coalition of dozens of parties, the most significant of which are: The Parti du Peuple pour la Reconstruction et la Démocratie (PPRD) the Mouvement Sociale pour le Renouveau (MSR) and the Alliance des Forces Démocratiques du Congo (AFDC) led by Bahati Lukwebo. The newly-created Parti du Peuple pour la Paix et la Democratie (PPPD) is a satellite PPRD party created recently. It too is fielding a large number of candidates (see below).

Kabila has lost several key members of his coalition, notably Mbusa Nyamwisi, the leader of the Rassemblement Congolais pour la Démocratie – Kisangani/Mouvement de Libération (RCD-K/ML). Nyamwisi is also running for president, but it is believed that he will ultimately back Tshisekedi.

Nzanga Mobutu, the son of Mobutu Sese Seko, and leader of the Union des démocrates Mobutistes (Udemo) has also left the presidential coalition after falling out with Kabila earlier this year.⁹ Nzanga is also a presidential candidate, but he is not expected to fare well in areas outside of his home province of Equateur.

The president also has an alliance with the Parti Lumumbiste Unifié (PALU) led by octogenarian opposition leader Antoine Gizenga. This alliance was forged following the first round of presidential elections in 2006, when Kabila failed to garner a 51% majority and faced MLC leader Jean-Pierre Bemba in a run-off election. The alliance between Kabila and PALU boosted votes for the president in the western part of the country, where he was already unpopular, and contributed to his victory in the second round. PALU was rewarded with the Prime Minister's job, a deal which has not been made explicitly in this election. PALU's support base is essentially limited to Bandundu. PALU supporters are said to be unhappy that the party did not field a presidential candidate¹⁰, and it remains to be seen whether they heed the leadership's call to vote for Kabila.

There is no question that Kabila enjoys far greater resources than any of his fellow presidential candidates. He is able to rely on access to presidential planes to travel throughout the country, a considerable advantage considering that the DRC only has one remaining national airline. He also has preferential access to the RTNC, the state broadcaster. In addition, he has pro-Kabila radio and TV stations in key cities such as Lubumbashi, Kisangani, Goma, Bukavu, and Mbuji-Mayi. Tele 50, a private television station run by former Radio France International journalist Jean-Marie

⁸ Radio Okapi interview with Jacques Djoli, vice-president of the CENI, November 10, 2011.

⁹ Mobutu was removed from his post of vice-prime minister after spending several months absent without leave in Europe.

¹⁰ Interview with Senior PALU leader in Kinshasa, October 2011.

Kassamba, and Digital Congo, a website are media with national reach which, in addition to the RTNC, are Kabila's primary national propaganda tools.

Etienne Tshisekedi – a veteran of Congo's political scene, Tshisekedi and his Union pour la démocratie et le progrès sociale (UDPS) has enjoyed a political renaissance after opting out of recent key political processes such as the 2003 transition government and the 2006 elections. His intransigent views then - he refused to participate in the 2003 transition government because the opposition did not elect him as its vice-president, and boycotted the 2006 election, after declaring the process flawed – had cost him significant political support, as most Congolese were less interested in political posturing than political stability. The resurgence in his popularity is to a great extent fuelled by the poor performance of the Kabila government, which has brought very few substantive improvements to the lives of the average Congolese person. Tshisekedi also enjoys substantial support in his home province of Kasai Occidentale and neighbouring Kasai Orientale, as well as in the capital Kinshasa.

Vital Kamerhe - Kamerhe owes most of his political career to the Kabila family. Plucked out of a technocrat job by Laurent Kabila in 1997, Kamerhe rose through the ranks of the presidential entourage to become the government's main negotiator throughout the Congolese peace talks. He was rewarded with the post of secretary-general of the PPRD. In the 2006 election campaign, Kamerhe, who is from South Kivu, ran Kabila's election campaign and is widely credited with consolidating the president's support in eastern DRC. Following the election, he was elected president of the National Assembly, where he managed to carve out an independent niche for himself. Already on uncertain terms with the president, who had started to perceive him as a political rival, Kamerhe's criticism in early 2009 of the government's decision to allow Rwandan troops to pursue Hutu rebels on Congolese soil, ultimately cost him his post. After a year in exile in South Africa Kamerhe returned to Kinshasa, founded his own political party, the Union Nationale Congolaise (UNC) and declared himself a presidential candidate. He enjoys support in Kinshasa, and in North and South Kivu, as well as among the country's elite. However many are still distrustful of Kamerhe, fearing that his candidacy is a Kabila plot to split the opposition vote.

Leon Kengo wa Dondo - Kengo is a former Prime Minister under Mobutu. Now the President of the Senate, Kengo is from Equateur. Kengo is not one of the main competitors in this election. Some political analysts in Kinshasa believe that Kengo may be positioning himself to step into a political void should the election outcome be contested, or the elections be postponed at the last minute. Under this scenario, Kengo, who is second in line to the presidency according to the constitution, would preside over an interim government which would lead the country to new elections.

Nzanga Mobutu - President of UDEMO, Mobutu is essentially a spent force politically. He made little of his senior position in government – he was vice Prime Minister in charge of social affairs, and has not used his national post to expand his party's base. Mobutu enjoys some support in Equateur, where his family is from, but he is not expected to garner significant votes.

Mbusa Nyamwisi - Former leader of the Rassemblement pour la Démocratie

– Kisangani – Mouvement de Libération (RCD-K/ML), a former rebel movement, Nyamwisi, which party was a member of the MP until recently. Nyamwisi was Kabila's foreign minister from 2006 until 2008 before being appointed Vice Prime-Minister of Reconstruction. Nyamwisi gradually fell out with Kabila, in part over what he felt to be the PPRD's dominance of the MP and the government. Nyamwisi, who is a Nande from Beni in North Kivu, is running as an independent, and has in recent weeks been playing an active behind-the-scenes role trying to get opposition figures to run on one ticket.

Adam Bombole - From Equateur, Bombole was elected deputy for the MLC from Kinshasa in 2006. He is running as an independent

Oscar Kashala - a medical doctor based in the USA, Kashala is running for president for the second time. He is running as a candidate for the Union pour la reconstruction du Congo (UREC).

Nicephore Kakese - a veterinary doctor residing in Lubumbashi and South Africa, originally from Bandundu, he is running as the presidential candidate for the Union pour le réveil et le développement du Congo (URDC).

Josue Mukendi - a pastor from Lubumbashi, of Kasaien origin, running as an independent

Jean Andeka - a lawyer, running for the Alliance des Nationalistes Croyants Congolais (ANCC)

Kabila, Kamerhe and Tshisekedi have been campaigning throughout the country, travelling to all the key urban areas. Several other candidates have visited a few locations, while Mbusa Nyamwisi, Nzanga Mobutu, Oscar Kashala and Josue Mukendi have done almost no campaigning at all.

Observers

The international community as well as domestic NGOs and the religious community will provide observers for the elections. The European Union, the Southern African Development Community (SADC) and the African Union will all be deploying several hundred observers, while international NGOs such as the Carter Centre, the Electoral Institute of Southern Africa (EISA), and the International Foundation for Electoral Systems (IFES), among others, will also deploy several hundred observers. MONUSCO is not deploying observers and there are concerns that the numbers of observers may be inadequate.

Domestic NGOs and the country's main churches are deploying the bulk of observers, at last estimate, over 30,000, several thousand of whom have received training in election monitoring. The process of accrediting local and international observers started on November 8 and ran through Nov 17. In addition to independent observers, all political parties are allowed to deploy two witnesses per polling station. By Nov 17, only very few political parties had registered observers, prompting the CENI to extend the registration period by a week. Opposition parties have blamed their failure to accredit their witnesses on time on the late publication of the map of polling stations, which, they say, prevented them from recruiting and mobilising their

witnesses on time. However this is essentially viewed an excuse, and most observers believe that the political parties – even the most well-resourced ones such as the PPRD, UDPS, UNC, etc. – do not have sufficient resources to pay a nominal fee to the witnesses.

International support

Although significantly scaled down from its involvement in the 2006 election, the international community is still involved in supporting the Congolese election process. To date it has provided \$170 million in direct financing for the electoral process itself, while additional funding has been provided for voter education and awareness raising activities as well as for training of key security personnel charged with maintaining safety during the elections.

MONUSCO also remains a key mediator between the various political forces and the CENI, and it has stepped in several times to attempt to keep the process on track. At the same time however, MONUSCO and the international community have been criticised for not speaking out against important flaws in the process, notably the voter registration process. Observers have also been surprised by the international community's silence in early 2011 in response to the passing of the constitutional amendment modifying the electoral system. There is a sense that the country's international partners are suffering from “donor fatigue” and are no longer willing to remain as engaged in the Congolese democratic process as they were in the past. It is unclear what the consequences of such a relative disengagement might be, but there is no doubt that the quality of this election will suffer as a result of reduced international involvement.

It is important to note that the international community, and MONUC / MONUSCO in particular have frequently been used as scapegoats by Congolese politicians and the government. The present reconfiguration of MONUC into MONUSCO, and the concomitant reorientation of its mandate to the stabilisation of the country is the compromise found following President Kabila's public statements in 2010 that he that wanted to see the UN retreat from the country, because he felt that its continued presence outside of key conflict zones such as eastern DRC was a violation of Congolese sovereignty.

CSAC / Media

The Conseil Supérieur de l'Audiovisuel et de la Communication (the Congolese Audiovisual and Communications Council, CSAC) is the successor of the Haute Autorité des Médias (the High Media Authority) which was a transition institution. Its primary mandate is to ensure that Congolese media outlets refrain from hate speech and provide candidates with equal access. However, the CSAC was only formed in August this year and lacks independent resources. It is also based only in Kinshasa, and therefore cannot monitor all media throughout the country. CSAC has an important role to play, especially as it is common for the main politicians to have their own media outlets, both on a national as well as on a regional and local level. As noted above, President Kabila has media outlets which are favourable to him in key cities as well as on a national level, notably DigitalCongo and Télé 50. Vital Kamerhe is supported by the Congo Media Channel (CMC TV) which belongs to Kabila's former spokesperson Kudura Kasongo. Tshisekedi has access to several stations, notably Radio Télévision Lisanga (RLTV) which is owned by Roger Lumbala, the

leader of the Rassemblement Congolais pour la Democratie – National (RCD-N), a former rebel movement, and to CNTV owned by Alexis Mutanda.

Supreme Court

Following the CENI's announcement of an interim election result – scheduled for December 6, the Supreme Court will make the final decision about the validity of the election outcome on December 17. It will also adjudicate any contestations which might arise during the election, including for the legislative elections (it has two months to adjudicate contestations in the legislative elections, and only seven days to adjudicate a dispute in the presidential election). This places great pressure on the nine Supreme Court judges, only two of whom have training in electoral matters. With over 18,000 candidates, contestations are bound to be numerous, and it will be difficult for the Court to process disputes in a timely manner unless additional judges are seconded to assist. Another flaw in the system is that candidates can only make their contestations in Kinshasa, an undertaking which requires time and resources. There are also concerns about the Supreme Court's impartiality. It is perceived to be close to President Kabila, and its rulings on election matters this year have entrenched this impression. It does not therefore seem likely that the Supreme Court would act independently in the event of a contested result, if the outcome would be unfavourable to Kabila.

Pre-election violence and intimidation

There have been numerous incidents of violence between supporters of rival parties, most notably the UDPS and the MP. UDPS and MP supporters clashed in Mbuji-Mayi on October 28, the day of the start of the campaign period. There have been regular incidents of violence since then throughout the country. The international community has expressed concern about high levels of violence, and in mid-November, the Congolese justice ministry, in conjunction with the CENI, appealed to the International Criminal Court (ICC) to send observers. Although deploying election observers falls outside of the ICC's mandate, ICC prosecutor Louis Moreno-Ocampo issued a statement warning that those found to be inciting or propagating election-related violence would face serious consequences. Ocampo also reminded the Congolese that the ICC is pursuing cases against six Kenyan politicians and journalists for their roles in the post-election violence in Kenya in 2006-2007.

Given the Congolese government's somewhat strained relations with the ICC over its refusal to arrest Bosco Ntaganda¹¹ for crimes he committed in Ituri in 2003-2006, it is difficult to believe that the government's appeal to an institution it is actively disrespecting is entirely sincere. Nonetheless, the message, both from the CENI and the ICC is a strong one, and will, at the very least, give pause to anyone considering instigating violence.

Both the ruling party and the opposition have made use of "Kulunas" – the many young disaffected youths in Kinshasa who can be easily mobilised for small sums of

¹¹ Ntaganda was a military leader of the Union des Patriotes Congolais (UPC) a rebel group from Ituri led by Thomas Lubanga, who is now awaiting the outcome of his trial at the International Criminal Court.

money and who have a tendency to become unruly and can quickly turn into dangerous mobs given the opportunity or incentive. In the event of a contested outcome, these are the elements which will most likely cause the greatest problems.

The Congolese police – only several thousand of whom have been trained in riot management – have generally reacted poorly to opposition protest marches and acts of civil disobedience. Unarmed protesters have been shot and beaten up, and at least ten people have been killed by security forces in pre-election violence so far. Several dozen more – mostly UDPS – have been arrested and reportedly tortured.¹²

The United Nations, Human Rights Watch and local NGOs have documented hundreds of cases of election-related violence and intimidation of civil society actors, journalists and politicians.¹³

Heading for a contested outcome?

Both Joseph Kabila and Etienne Tshisekedi have stated that they believe they will win the November 28 presidential election. Kabila has said that he would accept defeat, but will not have to, as he will win. Tshisekedi and senior UDSP officials have said that the only way they can lose is if there is cheating involved. It seems very possible that the country is headed for a stand-off if either of the two candidates wins.

The UDPS has, over the past three months, established a catalogue of errors in the electoral process, which it may well hold up as proof that the election is invalid if it does not win. Key elements are the irregularities in the voter registration process, the dispute over the audit of the voter lists and now the delay in accrediting the political parties' witnesses.

The MP and the President have the benefit of key institutions on their side: the CENI and the Supreme Court, both of which play pivotal roles in the establishment and arbitration of the results. It is not 100% clear that the CENI has the independence to announce a Kabila defeat, and there are significant doubts about the Supreme Court's independence.

The UDPS knows this, and will use this as the basis of a possible contestation if it does not win the presidential election. Given that the two key national institutions' reputations are tarnished, it is likely that international mediation would have to step in to assist with the resolution of any disputes.

In this context of distrust and tension, election observers and the party witnesses will play a key role in establishing whether or not the election was credible. It is therefore desirable that a maximum number of political party witnesses register by the November 25 deadline.

¹² Interview with Jacquemin Shabani, Secretary-General of the UDPS, Kinshasa, October 2011.

¹³ MONUSCO, United Nations Human Rights, Office of the High Commissioner, Report of the United Nations Joint Human Rights Office, *Human Rights and Fundamental Freedoms during the Pre-Electoral Period in the Democratic Republic of Congo*, November 2011.

Useful Congolese websites:

Radio Okapi, a national radio network supported by MONUSCO and Fondation Hirondelle: www.radiookapi.net

Agir pour les élections transparentes et apaisées (AETA) a civil society grouping monitoring the elections : www.aeta-network.org

Commission Electorale National Indépendante (CENI): www.ceni.gouv.cd

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