



Congo-Kinshasa: New Democracy Must Build on Local Leaders

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guest column

With conflicts in the Democratic Republic of Congo cooling, and warriors aspiring to become democrats, the country's new constitution is coming under increased scrutiny.

*In a novel development for the DRC – where there is persistent worry that only a strong centre can hold the far-flung state together – power is split between national, provincial and even local institutions, write constitutional experts **Olivier Kambala wa Kambala** and **Coel Kirkby**. This is a development that should be welcomed, they say.*

All eyes were on the Democratic Republic of Congo (DRC) on October 29, 2006, when incumbent president Joseph Kabila faced his old vice-president Jean-Pierre Bemba in a run-off of the presidential elections. Neither had won the absolute majority needed to secure the presidency. Kabila won the run-off handily with nearly 60 per cent of the vote, but also polarized the new state. People from the east voted in large numbers and overwhelmingly for Kabila. In the west, however, only half of the eligible voters turned up (except in Bemba's Equatorial province stronghold), and most voted for Bemba.

The fiery presidential elections were the climax of a long, often violent drama to recreate a state from the ashes after the administration of Mobutu Sese Seko, who seized power in a coup in 1965, collapsed in 1997. Now, with the fighting cooled and warriors transformed to democrats, it is time to examine the challenges facing the newly-elected government, operating under a new constitution.

The political choices embodied in the constitution are critical to a country whose history is scarred with rebellions since its independence in 1960. A century of Belgian colonization left a paltry infrastructure to govern the third largest country on the continent. After independence, President Joseph Kasa-Vubu and Prime Minister Patrice Lumumba had no time to address the problem before resource-rich provinces – Katanga, South Kasai and Oriental – tried to secede. Mobutu's coup ended these threats by brutal suppression.

Mobutu relied during the era of Cold War *realpolitik* on military and financial backing from the United States and other western countries. For as long as he kept up an anti-communist façade, his backers largely ignored his unabashed hypocrisy, crony capitalism and brutal means to suppress any voice that dared to question his regime. But when the Soviet Union disintegrated, the “red” threat disappeared and western donors became increasingly embarrassed by Mobutu’s undemocratic tactics. When cash infusions dried up, his well-oiled patronage network began to rust and crack.

To the east, Rwandan *génocidaires* escaping Paul Kagame’s victorious Rwandan Patriotic Army unleashed a war that would bring Laurent-Désiré Kabila, a Lumumba supporter and later an eastern Congo rebel leader, westward. Mobutu fled into exile as his regime finally succumbed to the very Lumumbist-inspired forces he had first crushed as a 35-year-old army officer. Kabila, despite taking Kinshasa and being installed as president, was unable to unite the country and end civil strife before he was assassinated in 2001.

After Joseph Kabila inherited his assassinated father’s role, he sought out a diplomatic end to the stalemate he could not end by force. The Inter-Congolese Dialogue of 2002 created a forum for all de facto players to negotiate a peaceful settlement. The Global and All-Inclusive Agreement signed in Pretoria with the mediation of the South African government set out a schedule to disarm and reunify the country through elections. The transitional government set up a year later with Kabila as president and four vice-presidents (including Bemba) went about integrating former enemies and drafting the transitional and later final constitutions.

Despite sporadic fighting, the first vote in over four decades took place with the December 2005 referendum on the final constitution. Etienne Tshisekedi, a veteran political opposition leader, called a controversial boycott on the eve of the vote. The Congolese voted overwhelmingly “Yes” to the new constitution. Voters seemed to endorse the peaceful transition and reject all those who, like Tshisekedi, would stand in its way. National and provincial legislative elections took place in the same window period to form a bicameral parliament and provincial assemblies from which emerged provincial governments.

Mobutu is gone, but he left behind the persistent worry that only a strong centre can hold the far-flung state together. While the current rebels-turned-politicians have sought to unite their various kingdoms, their new constitution also reflects a fear of balkanization. The Presidency is a powerful institution in the French model and controls the army. The national legislature – Senate and National Assembly – retains significant powers to draft laws for national defence, foreign affairs, taxation and more. While the National Assembly is elected on proportional representation, the Senate is indirectly elected by provincial assemblies. Senators thus come from and represent their respective provinces. This novel change recognizes the new constitutional order in the DRC where the sovereign power is split between the national, provincial and even local levels.

No Franco-Belgian colony in Africa has had autonomous local government. To this day only British-influenced Nigeria, Sudan, Ethiopia and South Africa have allowed any regional autonomy. But now in the DRC, provinces are important. Ironically, the scramble for power between regional warlord politicians in the 2002 negotiations resembled the 1884 Berlin Conference that began the DRC’s problems. The politicians followed Nigeria’s example by splintering regional power in 11 existing and 15 new provinces (including the city of Kinshasa). However, like the European colonies of a century ago, the provincial borders pay

little heed to natural boundaries. It is thus the promise of power that makes the new constitution so intriguing.

The new provinces will become operational in 2009. Each province is electing a provincial assembly, which in turn will elect a governor. The assembly will share power with the national legislature in many civil rights areas and can also draft its laws for a provincial development plan, regulate customary law, raise taxes and more. On paper, the Congolese provinces have similar powers to Nigerian states and South African provinces. This analogy inevitably invokes the dreaded “f”-word, federalism.

Yet Kabila’s weak government in Kinshasa must rely on autonomous provinces to bring democratic order to far-flung regions. In the 1980s Mobutu experimented with dividing provinces, when he created North Kivu, South Kivu and Maniema. His major preoccupation was to bring administrators closer to the population administered and to make big regions governable. His reforms failed because they were too late and half-hearted.

Right now the situation is different. First, Congolese citizens have participated in a few free and fair elections. Second, there is time to establish governing and administrative institutions before the new provinces are inaugurated. Last, poorer provinces have a constitutionally-assured share of national revenues. Nevertheless, this ambitious plan will face monumental challenges.

The new constitution’s most daring move is to curtail the role of Kinshasa as the nation’s treasury. Provinces are assured 40 percent of national revenues raised in their territories. This critical provision ensures that resource-rich provinces, like Katanga, keep some of the cash raised from their minerals and gems. Poorer provinces will also share in the riches through the “equalization fund”, an independent institution created by the constitution which directs up to ten percent of national revenue to development projects in needy regions. The constitution’s drafters hoped these checks on Kinshasa’s power would discourage the growth of the kind of secessionist forces and presidential patronage which preceded the falls of Lumumba and Mobutu.

A number of challenges lie ahead. The national parliament has yet to pass a decentralization law that will clearly define the division of powers between the state and provinces. It is also uncertain how the provinces’ shares of revenue will be determined and administered. As Nigeria’s history shows, what the constitution says is often far from what happens in practice. Provinces have already started to demand that the central government draft a (presumably favourable) finance law soon. Katanga and the Kasais, where most primary industry is based, are especially concerned that their revenues will match the regions’ relative poverty. If Kabila’s government fails to satisfy them, it risks another secessionist movement or even the slow-burn seen in Nigeria’s oil states. Even if the central government can pull off this balancing act, there is no guarantee the provinces can deliver even the most basic services to the long-suffering people. In this case, no clever dividing of the spoils will quench their justifiable anger.

While the idea of autonomous provincial government is welcomed, in practice little has changed so far. Early this year provincial assemblies in 11 provinces elected their governors (elections for the other 15 provinces will occur once the national assembly passes a law governing provinces). Candidates of the Alliance of the Presidential Majority, a coalition of

political parties allied to President Kabila, prevailed in 10 of the 11 elections. Only in Equateur province did another party, Bemba's Movement for the Liberation of Congo, win.

As in South Africa, a single party dominates at the national and provincial levels. Autonomous provinces will mean little if a single person or party controls the politicians manning them. Observers should keep a close eye on the upcoming elections for the new provinces and the extent to which those allied to Kabila's People's Party for Reconstruction and Democracy work together with the government in Kinshasa.

After decades of misrule followed by a horrific civil war, Kabila's new government has little practical reach outside Kinshasa and perhaps some provincial capitals. But these vast lands are far from lawless. Traditional authorities and even local war lords offered some order in the vacuum after Mobutu's fall. This is recognized in the constitution, which created "territorial decentralized entities" (cities, communes, territories and chiefdoms) modelled on the old administrative hierarchy left by the Belgians. These bodies will be semi-autonomous, with a distinct legal personality and powers over administration and financial resources. While they are lowest in the national-provincial-local hierarchy of power, local governments are often the only ones with a day-to-day impact on people's lives.

In some sense, Kabila's long-term legitimacy will depend on his and the provinces' ability to tap into these local authorities. Rather than treating them as mere afterthoughts, Kabila would do well to build the new Congolese state on the sturdy shoulders of the many local leaders, rather than construct an imaginary empire spreading outward from Kinshasa.

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