

Pre-conditions for Elections Programme in Southern Africa (PEPSA) Baseline Analysis Questionnaire			
Country	DRC	Researcher	Claude Kabemba
<i>Please enter your answers in the space below each question.</i>			
[I] Country Political Context (Introduction Section of the SADC Principles)			
General			
1. <i>Has the country undergone a democratic transition? If so, when and how?</i>			
<p><i>The country is expected to hold its first democratic election in June 2005 after 44 years of dictatorship and war. However, it is possible that that elections would be postponed for six months in accordance with the Constitution of Transition signed in Pretoria at the end of the inter-Congolese Dialogue signed on the 17 December 2002 in Pretoria and adopted on the 1st of April 2003 at Sun City.</i></p>			
2. <i>Has the country's government signed and ratified major international human rights declarations and protocols? Which ones?</i>			
<p><i>The DRC has signed and ratified the following international treaties:</i></p> <ul style="list-style-type: none"> • <i>Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984;</i> • <i>Convention on the Prevention and Punishment on the Crime of Genocide (1948)</i> • <i>International Covenant on Civil and Political Rights (1966)ICCPR;</i> • <i>International Covenant on Economic, Social and Cultural Rights (1966);</i> • <i>Convention on the Elimination of All Forms of Discrimination against Women (1979);</i> • <i>Convention on the Elimination of All Forms of Racial Discrimination (1965);</i> • <i>Convention on the Rights of the Child (1989);</i> <p><i>(Source UNDP Human Development Reports, 2004)</i></p>			
Political parties			
3. <i>Is the country a multi-party democracy?</i>			
<p><i>The country is not a multiparty democracy. The DRC experienced a relatively short period of multiparty democracy after independence in 1960. From 1965 to 1997 it was a military and a one party state under Mobutu. From 1997 to 2003, it has been governed by the military. From 2003 to today it has had a government of national unity which emerged from the inter-Congolese Dialogue.</i></p>			
4. <i>How many political parties are registered and active?</i>			
<p><i>According to the Ministry of Interior, the DRC by the 20th of September 2004 had 249 registered political parties and 97 were active.</i></p>			
5. <i>How many parties are represented in the legislature?</i>			
<p><i>The legislature reflects the major groups which participated in the Inter-Congolese Dialogue. There are three main political groups represented: the PPRD, the MLC and The RCD. A conglomerate of political groups which did not take part in the war are also represented. There are also small entities which consider themselves as political parties: the Mai-Mai, the RCD/KML, and the RCD/N.</i></p>			
6. <i>Do political parties have programmes?</i>			

<i>Most political parties are in their embryonic stage of formation. The important ones such as the PPRD, the RCD and MLC have put together programmes but have never presented them to the citizenry.</i>
7. <i>Which party is the ruling party?</i>
<i>There is no ruling party. The government is run as a collective by three major parties – the PPRD, MLC, RCD and the non-armed opposition under the 1+4 system where President Joseph Kabila is seconded by four vice-Presidents; one from each party.</i>
8. <i>What is the total number of elected parliamentary seats and share of seats for the ruling party</i>
<i>Total seats in the National Assembly – 500, and in the Senate – 120. All the major political parties have 94 seats each.</i>
9. <i>Which one is the main opposition party?</i>
<i>The 1+4 system has created a situation where there is no ruling party and no opposition. The four main groups in parliament have equal number of deputies and senators.</i>
10. <i>What is its share of the elected parliamentary seat</i>
<i>N/A.</i>
11. <i>How is the participation of parties in elections regulated and legislated?</i>
<i>There is still no law that regulate political parties' participation in elections. The Electoral Law has not yet been adopted.</i>
12. <i>Are political parties generally aware of the SADC principles governing democratic elections?</i>
<i>No. The DRC, despite the fact it is a member of SADC and that the resolution to its internal political problems was organised by SADC has very little contact with SADC. Political parties in the DRC also do not have knowledge of SADC activities. Many are not aware of the SADC Principles and Guidelines. Although President Kabila signed the Mauritius declaration, these Guidelines are not part of political process discourse in the DRC.</i>
13. <i>If so, what is their attitude towards the principles?</i>
<i>There is no debate on the principles.</i>
14. <i>How have political parties promoted the implementation of the SADC principles?</i>
<i>N/A.</i>
Civil society
15. <i>What is the state of civil society organisations?</i>
<i>Civil society is vibrant and multifaceted. It is politicised and divided along political and ethnic lines. Civil society is taking part in all the institutions of transition and is represented in Parliament. Civil society is one of the five groups in parliament with 94 seats. It also controls all the institutions which support democracy; commonly known as chapter 9 institutions.</i>
16. <i>Is the general legal and political environment conducive for civil society organisations to operate?</i>
<i>Yes. The Sun City Accords make allowances for civil society to operate freely.</i>
17. <i>What specific roles do CSOs play in the electoral process?</i>
<i>Despite the fact the DRC has not organised an election in 44 years, civil society has been engaged in activities relating to elections such as training and advocacy.</i>
18. <i>What legal and/or political constraints restrain the CSOs before and during elections?</i>
<i>Political: Very little contact. Economic: Very little resources.</i>
19. <i>Are CSOs aware of the SADC Principles governing democratic elections?</i>
<i>Yes. Some members of civil society have strong connections with other civil society groups in SADC; there are also however a number of CSOs which have not contact outside the DRC.</i>

20. <i>If so, what is their attitude towards the principles?</i>
<i>Internal political issues have not allowed civil society to focus on the principles.</i>
21. <i>How have CSOs promoted the implementation of the SADC principles?</i>
<i>It is still too early to tell. Debate is focussing more on the constitutional and legal framework that will guide the country to election than the SADC Principles themselves.</i>
22. <i>Are CSOs engaged in civic and voters education?</i>
<i>Yes.</i>
Media
23. <i>What economic/legal/political constraints restrain the media in general?</i>
<ul style="list-style-type: none"> • <i>Economically the media is facing the same hardship the entire country is experiencing. It has no resources and has no access to new technology.</i> • <i>Legally the media is regulated but journalists are not protected.</i> • <i>Politically, there is high degree of interference from government especially in the Public Broadcaster. Private media are also politicised. In fact most them are own by politicians.</i>
24. <i>Is there an independent media council?</i>
<i>No.</i>
25. <i>Are the state media independent?</i>
<i>The National Radio and Television of Congo is the Public Broadcaster but it is not independent. It has close ties to the PPRD, President Joseph Kabila's party.</i>
26. <i>Do the state media perform the role of a public service broadcaster?</i>
<i>Yes, but under heavy influence from the PPRD.</i>
27. <i>Is there a self-regulatory body of the media?</i>
<i>The High Authority of the Media.</i>
28. <i>A media monitoring project?</i>
<i>No.</i>
29. <i>Do the media have a general code of conduct and ethics?</i>
<i>Yes. The High Authority of the Media has drafted one. But not all media houses have adhered to it.</i>
30. <i>How is this enforced?</i>
<i>Partially, through the monitoring of the different media houses.</i>
31. <i>What specific role do the media play in the electoral process?</i>
<i>The media is expected to play a key role in the upcoming elections. The High Authority of the Media's main role in this transition is to put in place conditions for the media to be able to contribute positively to the electoral process. Both print and audiovisual media dedicate time and programming to the elections.</i>
32. <i>Is there a specific code of conduct for election reporting?</i>
<i>No.</i>
33. <i>How is this enforced?</i>
<i>N/A.</i>
34. <i>What legal/political constraints restrain the media during elections?</i>
<i>None.</i>
35. <i>Is the media generally aware of the SADC principles governing democratic elections?</i>
<i>The media has not formally been introduced to the SADC guidelines, and as such is largely unaware of their existence.</i>
36. <i>If so, what has been/is its role in promoting the principles?</i>
<i>N/A.</i>
[III] Principles for Conducting Democratic Elections (Section 2 of the SADC

Principles)
37. <i>What legislation provides for citizen participation in the political process, especially in elections?</i>
<i>The Constitution of Transition. The Parliament is debating the constitution of the 3rd Republic which will contain conditions and requirement. Before adoption, the Constitution will be put to a referendum.</i>
38. <i>In what concrete ways does citizen participation in the political process (especially before and during elections) take place?</i>
<i>N/A.</i>
39. <i>What legislation provide for political freedoms including freedom of association, political movement and freedom of speech?</i>
<i>The Constitution of Transition.</i>
40. <i>Are these freedoms and political tolerance allowed by political actors during electioneering?</i>
<i>No.</i>
41. <i>What is the frequency and regularity of elections in the country (consider both national and local government elections please)?</i>
<i>N/A.</i>
42. <i>Are there the dates of elections specifically predetermined by a relevant constitutional or legislative provision?</i>
<i>N/A.</i>
43. <i>To what extent is access to public resources (i.e. funding for campaigning and access to the public media) by political parties during elections equitable?</i>
<i>N/A.</i>
44. <i>What is the exact role of the judiciary in the electoral process?</i>
<i>The Judiciary's role in the coming elections has yet to be clearly defined. But already its involvement has been flawed through its intervention on the adoption of the Electoral Commission Organic Law.</i>
45. <i>Does the judiciary exhibit impartiality in handling electoral matters?</i>
<i>It has so far not been challenged.</i>
46. <i>Which Electoral Management Bodies (EMBs) have the responsibility to run elections?</i>
<i>The Independent Electoral commission will run the upcoming elections.</i>
47. <i>What is the exact role of these Electoral Management Bodies (EMBs) in the electoral process?</i>
<i>To organise free and fair elections. See Article 5 of the Organic Law of the IEC.</i>
48. <i>How independent and impartial are these EMBs in discharging their electoral mandates?</i>
<i>This has not been tested yet.</i>
49. <i>Which institutions are responsible for conducting voter education?</i>
<ul style="list-style-type: none"> • <i>The IEC</i> • <i>Civil Society</i> • <i>Political parties.</i>
50. <i>In what ways do these institutions coordinate their efforts in undertaking voter education?</i>
<i>Coordination is clearly apparent between various civil society groups. There is a liaison committee between civil society and the IEC in this regard. There exists also a liaison committee between politics and IEC.</i>
51. <i>Is there a political culture of acceptance and respect of election results by political parties? What explains this trend?</i>
<i>N/A.</i>
52. <i>If not, why do political parties contest election results?</i>

N/A.
53. <i>What the legal provisions exist for the management for election-related disputes?</i>
N/A.
54. <i>What institutional and regulatory mechanisms are in place for the constructive resolution of election-related disputes?</i>
N/A.
[III] Guidelines for Observation of Elections (Section 4 of the SADC Principles)
55. <i>What legislation guarantees the rights and freedoms of the citizens?</i>
The Constitution of Transition, 2003.
56. <i>Does the political culture and practice protect and promote citizens' freedoms?</i>
This has not been tested yet.
57. <i>If not, what possibilities do citizens have to complain (independent human rights commission/ombudsman?)</i>
National Human Right Commission.
58. <i>To what extent is the election environment free, fair and peaceful?</i>
N/A.
59. <i>How is voter registration conducted and by whom?</i>
N/A.
60. <i>Is voter registration conducted periodically around elections or continuously?</i>
N/A.
61. <i>Is the process of voter registration satisfactory and acceptable to all stakeholders?</i>
N/A.
62. <i>How is the voters' roll prepared and by whom?</i>
N/A.
63. <i>How is the voters' roll maintained and regularly updated and by whom?</i>
N/A.
64. <i>To what extent is the voter's roll easily accessible and non-discriminatory?</i>
N/A.
65. <i>Is the process of preparation and maintenance of the voters' roll satisfactory and acceptable to all stakeholders?</i>
N/A.
66. <i>Is there a culture of announcement of the date of elections timeously to allow all contestants to prepare for the contest?</i>
N/A.
67. <i>What legal provisions regulate private and public funding for political parties?</i>
N/A.
68. <i>How transparent are the mechanisms for private and public funding of political parties?</i>
N/A.
69. <i>To what extent are the mechanisms for private and public funding to political parties satisfactory and acceptable to all stakeholders?</i>
N/A.
70. <i>To what extent does the location of polling stations compromise the integrity of the electoral process and its outcome?</i>
N/A.
71. <i>Where does counting of votes take place?</i>
N/A.
72. <i>In what way(s) does the location of the counting of votes affect the integrity of the poll?</i>
N/A.

73. <i>What legal provisions regulate election monitoring and observation?</i>
<i>N/A.</i>
74. <i>Which institutions are responsible for facilitating election monitoring and observation?</i>
The IEC.
75. <i>Who is allowed to monitor and observe elections? Why?</i>
The IEC.
76. <i>Do monitors and observers get accorded adequate time to be able to monitor and observe all the three stages of the electoral process?</i>
<i>N/A.</i>
77. <i>Do observers get deployed two (2) weeks before the voting day?</i>
<i>N/A.</i>
[IV] Responsibilities of Member States Holding Elections (Section 7 of the SADC Principles)
78. <i>What are the legislated qualifications for voting?</i>
<i>N/A.</i>
79. <i>What are the legislated disqualifications from voting?</i>
<i>N/A.</i>
80. <i>Are these legal provisions for qualification and disqualification applied fairly during elections?</i>
<i>N/A.</i>
<i>Is the practical application of the qualifications and disqualifications satisfactory and acceptable to all stakeholders?</i>
<i>N/A.</i>
<i>Is the political environment generally conducive for all political parties to campaign freely without undue hindrance?</i>
<i>N/A</i>
81. <i>Is there a code of conduct for political parties and to what extent do parties adhere to it?</i>
<i>N/A</i>
82. <i>To what extent are the EMBs competent, effective and well resourced in carrying out their mandate?</i>
It is a new IEC. It has no experience and depends on external funding to function.
83. <i>To what extent are the courts competent, effective and well resourced in dealing with electoral matters?</i>
<i>N/A.</i>
84. <i>What legal guarantees and institutional mechanisms exist to prevent electoral fraud, vote-rigging and other illegal election practices?</i>
<i>N/A.</i>
85. <i>What cases of electoral fraud and vote rigging have been brought to the fore and how have these been dealt with?</i>
<i>N/A.</i>
86. <i>What common irregularities tend to become characteristic feature of elections and how have these been dealt with?</i>
<i>N/A.</i>
87. <i>Are there measures which restrict the freedom of movement of the citizenry or election observer missions?</i>
<i>N/A.</i>
88. <i>Are candidates and/or their agents allowed to monitor the whole electoral process without undue restrictions?</i>

<i>N/A.</i>
<i>89. What is the nature of the participation of women, youth and people with disabilities in the electoral process? Is it high or is it low and why?</i>
<i>N/A.</i>
<i>90. Do observers get invited ninety (90) days before the voting day?</i>
<i>N/A.</i>
<i>91. Do observers get accorded free movement throughout the country and room to communicate with all political parties and candidates, EMBs, media, CSOs and voters without undue hindrance?</i>
<i>N/A.</i>
<i>92. Is the process of invitation and accreditation of observers efficient and non-discriminatory?</i>
<i>Not tested.</i>
<i>93. Are observers allowed access to all relevant national laws and regulations?</i>
<i>N/A.</i>
<i>94. Are observers allowed access to relevant election materials such as constituency delimitation report, voters' Roll etc?</i>
<i>N/A.</i>
<i>95. Do observers have an unimpeded and unrestricted access to all polling stations and counting centres?</i>
<i>N/A.*</i>

** For a number of these questions, given the DRC's unique history and circumstances, it was not possible to answer the questions based on recent experience. In these circumstances, the researcher indicated a lack of information by signalling N/A.*