

**Baseline Assessment of the National Assembly of Togo: December 4, 1996**

## I. INTRODUCTION

At the invitation of the president of the National Assembly of Togo and representatives of political parties in the parliament, the National Democratic Institute for International Affairs (NDI) sent an assessment mission to Togo from November 26 to December 4, 1996. The objectives of the mission were threefold: to gather current information on the functioning of the National Assembly and the legislative process in Togo; to examine the major issues which effect the Assembly's ability to function; and to help identify the Assembly's technical needs and issues around which NDI would tailor its training programs for members of the Togolese parliament.

The members of the assessment delegation were: Joao de Menezes Ferreira, a lawyer by profession and former member of the Parliament of Portugal; Lana Pollack, a former state senator from Michigan and current president of the Michigan Environmental Council; Derek Butler, a former staffer of the Canadian Parliament, former NDI field representative in Madagascar and currently an occasional lecturer at the University of Newfoundland; and NDI Program Officer Benjamin Feit and Program Assistant Susan Kupperstein.

The delegation arrived in the capital city Lomé at the time that the Togolese National Assembly was in its sixth ordinary legislative session since its installation in 1994. Over the course of the nine day mission, the delegation met with the leadership of the National Assembly, leaders of the parliamentary groups, committee chairs, key staff persons, the Minister in Charge of Relations with the Assembly, leaders of several political parties not represented in the Assembly, representatives of major non-governmental organizations (NGOs), journalists, and members of the Ad Hoc Committee for Audiovisual Communication (CAC) and the National Electoral Commission (CEN). The delegation later traveled with a deputy to his constituency in the Amou prefecture to observe

how constituency servicing is perceived and conducted in Togo. The delegation also met with U.S. Ambassador Johnny Young and Embassy personnel (See Tab 2 for meetings schedule). The mission was funded by the United States Agency for International Development.

## II. EXECUTIVE SUMMARY

This report contains the delegation's findings on the Togolese National Assembly's composition and administration; its capacity to engage in legislative oversight activities, pass legislation and represent the citizenry; and the degree to which the Assembly's internal structures, such as permanent committees and parliamentary groups fulfill their roles and contribute to the operation of the Togolese legislature. The report also outlines NDI's proposed future course of action in Togo, based on the delegation's conclusions and the information it gathered.

Although the primary purpose of the mission was to undertake a political as well as a technical assessment of the functioning of the National Assembly, the delegation also noted that the current political environment in Togo is in the process of falling increasingly under the control of President Etienne Gnassingé Eyadema's ruling party, the *Rassemblement du Peuple Togolais* (RPT). The most glaring example of the consolidation of President Eyadema's power is the winning of three by-elections held in August 1996 by the RPT. Combined with several recent defections of opposition deputies to Eyadema's RPT, these recent victories have given the president's party a solid majority in parliament. Representatives of opposition parties and independent and credible observers claim that the by-elections were seriously flawed.

Although there are several independent newspapers in Togo, the broadcast media is tightly controlled by the state and is used to the political advantage of President Eyadema and the RPT. Reportedly "spontaneous" marches of popular support for Eyadema's regime dominated the nightly

television news for the entire period that the delegation was in the country. Citizens are shown demanding that a referendum be held to amend a constitutional provision, which currently restricts the mandate of the president, to allow Eyadema to maintain his position indefinitely. Opposition parties, on the other hand, have little or no access to the state media, despite the existence of the Ad Hoc Committee for Audiovisual Communication, or CAC, whose mandate is to ensure equitable access by political parties to the state media. A few independent radio stations do exist; however, they only play music rather than disseminate news. Although it is technically not illegal for private radio stations to produce news reports, they are abstaining from doing so until the National Assembly adopts a press code that provides clear guidelines for private press and protects the rights of journalists. Journalists are understandably timid because harassment is commonplace. For example, the very weekend prior to the delegation's arrival, three independent reporters were detained (and released soon thereafter) for having printed erroneous information about a local military officer.

Legislative debate in Togo is extremely polarized and tends to be centered around partisan political bickering rather than on issues of concern to average Togolese citizens. Deputies from all political persuasions rhetorically place much importance on the need to reach consensus in legislative debate. However, working toward compromise as a means to achieving minimal consensus is generally overlooked. This intractable attitude of most Togolese legislators manifests itself in the majority party's bulldozing their legislative proposals through the Assembly. The parliamentary opposition, for its part, retaliates by walking out of individual plenary and committee debates, believing they could not win the vote or have an impact on the outcome.

With a solid majority now in parliament, the RPT and the government has announced its legislative priorities as including the permanent establishment of certain fundamental institutions as

provided for in the constitution, such as the National Committee on Human Rights, the Constitutional Court and the Supreme Court. These institutions were all created during the transition period prior to the presidential elections of 1993, but have not yet been made permanent due to several years of partisan squabbling and a fractured Assembly. As international pressure continues for positive democratic reform, the government of Togo attempts to maintain the trappings of a democratic framework, forcing its proposals through the Assembly with little meaningful debate.

Opposition parties consistently criticize the ruling party for attempting to consolidate its power by hastily setting up these new political structures without achieving minimum consensus. However, apparently lacking an alternative response, the opposition tends to marginalize and, to a certain extent, victimize itself by frequently walking out of the Assembly. Since the parliamentary opposition is shut out from coverage by the state media and has no public relations strategy, it suffers from a lack of public visibility. Consequently, its walk-outs appear counterproductive and serve only to frustrate political discourse and polarize further legislative debate. During the NDI mission, however, the government sent a draft press code to the leadership of the Assembly. They expect the bill to be debated during the next parliamentary session beginning in April 1997. The new code, if passed, could provide for some independent and news-oriented radio and television.

While the current political context in Togo is troubling, there are some positive signs that the National Assembly has the potential to play a fundamental role in counter-balancing undemocratic practices by the executive branch. Although the recent by-elections are considered by most observers to have been manipulated, the original legislative elections of 1994 were seen as generally representative. The 1994 election resulted in a strong showing by opposition parties. At this moment, the parliamentary opposition, while still walking out of individual debates, is taking a more

active role in the legislature. This can only be considered a positive development given that there were long periods in 1995 and 1996 during which the major opposition party the *Comité d'Action pour le Renouveau* (CAR) completely boycotted the deliberations of the National Assembly.

There is a general sense among most observers that Togolese deputies, from both the ruling and opposition parties, are well trained, operate at a relatively sophisticated level and understand legislative procedure. Each of the major parties within the National Assembly has deputies who are law professors and jurists. There are also several jurists among the parliamentary staff who can understand, analyze and develop legislation. The NDI delegation witnessed Togolese deputies in plenary sessions and observed that they grasp the fundamental principles of passing legislation and exerting legislative oversight. Deputies from the ruling RPT party even reproached their own ministers during oral questioning periods.

In terms of representing the citizenry, a concept that may not be fully comprehended in some of the other countries in the region, Togolese deputies retain some inherent advantages. Constituencies in Togo are well delineated and allow for clear and direct representation, as deputies are elected from 81 single-member districts. Togo is also a small and relatively accessible country, which allows for deputies to return often to their constituencies. To facilitate contacts with constituents, deputies are paid graduated travel allowances depending on the distance between their home villages and Lomé. Upon being elected, deputies are accorded interest-free loans for the purchase of private cars. Thus nearly all Togolese deputies own vehicles. Nevertheless, the delegation heard reports of one instance in which opposition deputies had been prevented from returning to their districts by RPT supporters and some armed forces.

### III. RECENT POLITICAL BACKGROUND

Togo has experienced three separate regimes since independence, with each subsequent transfer of power resulting from a military *coup d'etat*. Sylvanus Olympio, Togo's first president, governed the country from 1961 to 1963 when Africa's first post-independence *coup d'etat* cut short his mandate. With the backing of the military, opposition leader Nicholas Grunitzky, who was in exile at the time of the *coup d'etat*, became president for what was supposed to be a five-year term. However, in 1967, on the fourth anniversary of Grunitzky's ascension to power, then-lieutenant Etienne Gnassingbé Eyadema staged a *coup d'etat* and began his lengthy reign which continues to this day.

Despite repeated promises to return the country to civilian rule, Eyadema banned all political parties, ruled by decree and maintained tight control over the political life of the country. In 1969 Eyadema created his own political party, the RPT, beginning a 24-year period during which Togo functioned as a one-party state. Although Togo developed a fairly stable economic base relative to other small, non oil-exporting countries in Africa, Eyadema's increasing acts of favoritism and authoritarian rule engendered considerable popular resentment. Strikes, demonstrations and riots forced Eyadema to accept to organize a National Conference in May 1991. Conference participants then stripped Eyadema of most of his authority, legalized multiparty activity and set out to rewrite the constitution and prepare for new elections.

Beginning in October 1991, in the first of a series of brash moves to reverse decisions made during the conference, elements within the Togolese army loyal to Eyadema attacked the residence of the transitional prime minister and attempted to take him hostage. Although the army retreated to its barracks after the attack, subsequent army assaults -- on the prime minister, transitional

parliament, opposition leaders and others -- forced the transitional authorities to grant the RPT key positions within the transitional government. This agreement opened the way for the restoration to Eyadema and the RPT of most of the power that had been stripped from them during the National Conference.

An electoral calendar, which called for a constitutional referendum and presidential elections, as well as elections for the 81-seat National Assembly before the end of 1992, was repeatedly allowed to lapse. The referendum was finally held in September 1992, although the presidential election was delayed until August 1993. That election was finally organized only after a difficult series of negotiations between Eyadema and his political opposition concluded in July 1993 and resulted in the Ouagadougou Accords. However, due to irregularities and shortcomings in the electoral preparations, major opposition candidates boycotted the election. While the government expressed its unwillingness to postpone the election, international observer teams, including NDI and the Carter Center, withdrew their delegations before the elections stating that conditions did not exist for acceptable presidential elections to take place. With no viable opposition candidates contesting the election, Eyadema was re-elected with more than 96 percent of the vote.

Following the presidential election of 1993 and before the legislative elections of January 1994, the Togolese government agreed to resolve many of the problems that had led to the opposition boycott of the presidential contest. The legislative elections initially planned for November and December 1993 were subsequently conducted on February 6 and February 20, 1994. In contrast to the boycott of the presidential election, most major political parties participated in the legislative elections. Those elections took place under conditions that were deemed to be satisfactory by international observers. Opposition parties emerged from the election with a slim majority of seats



in parliament. The CAR obtained 36 seats, while the *Union Togolaise pour la Démocratie* (UTD) won seven. Eyadema's RPT won 35 seats and two smaller pro-Eyadema parties won three.

Shortly after the election, however, the Supreme Court nullified results in three districts that had been won by opposition candidates. The Court ordered new elections for those seats. The Court's decision allowed the RPT to maintain a plurality in parliament with 35 seats while the CAR held 34, the UTD had 6, and the last three seats were filled by the two smaller parties. While the UTD initially joined the CAR in boycotting the Assembly to protest the annulment, by April 1994 UTD leader Edem Kodjo accepted an offer by President Eyadema to be prime minister of a coalition government. The CAR renewed its boycott of the Assembly in November 1994, stating that it would return only if an accord could be reached with the government concerning the three by-elections, originally scheduled to take place on November 27, 1994. Since November 1994, the by-elections were continually postponed, as the different parties could not agree on the conditions under which they should be organized. In March 1995, the CAR ended its parliamentary boycott after an agreement that provided for equitable representation between the government and opposition parties on national and local electoral commissions.

Elections to fill the remaining three legislative seats took place on August 4 and 18, 1996. As expected by many observers prior to the election, President Eyadema and his supporters exerted considerable effort to ensure that the three seats were won by the RPT, giving him greater control of the National Assembly. After gaining the three seats in the by-election, the balance of power within the Assembly officially shifted even more favorably toward the RPT. Soon after the official election results were announced, Edem Kodjo resigned from the position a prime minister. Eyadema appointed a new prime minister, Kwassi Klutsé, whose governmental program was approved by the

National Assembly during a recent extraordinary session. Forty-three deputies voted in favor of Prime Minister Klutse's program.

#### IV. MISSION FINDINGS

The NDI delegation arrived in Togo during the National Assembly's sixth ordinary session since its inception in 1994. Despite its rather tumultuous institutional history and due to the recent by-elections, the delegation found that the Assembly, for the first time in its two and a half year existence, involves all of its members in the legislative process.

##### **A. Composition and Administration of the National Assembly**

###### *1. Composition*

The Togolese parliament or National Assembly is a unicameral legislature. Members or deputies are elected by direct universal suffrage in 81 single-member constituencies. The National Assembly's term lasts for five years. There are no term limits for deputies. Any member of the armed or security forces wishing to run for elected office must resign prior to presenting his or her candidacy. Candidates for seats in the Assembly have running mates, or *suppléants*, who replace a deputy in case they vacate their post in the course of their term. For example, a deputy who is appointed to serve as a government minister must resign from the legislature, ceding his or her seat to the *suppléant*.

The National Assembly meets in two ordinary sessions each year. The first session begins on the first Tuesday in April and the second, which focuses primarily on the national budget, begins meeting on the first Tuesday of October. Each session lasts for three months. The president of the National Assembly must call an extraordinary session if requested to do so by the president of the republic or by an absolute majority of the members (See Tab 5; Togolese Constitution, Title 3, Article

55). Since the 1994 legislative elections, the National Assembly has met in six ordinary sessions and eight extraordinary sessions.

The position of deputy is considered to be a full-time occupation. The legislative rules of procedure require that a deputy speak and read French, the official language in Togo, and thus the language in which all legislative business is conducted. Deputies tend to be highly educated and bring experience to the legislature from their previous positions as school teachers, civil servants, doctors and professors. The delegation was told that there are six jurists in the National Assembly, two of whom were law professors prior to being elected deputies.

## *2. Administration*

The Bureau of the National Assembly (*Bureau de l'Assemblée Nationale*) manages the daily operations of the Assembly, which include nominating and overseeing Assembly personnel, developing the Assembly's budget, and determining the Assembly's agenda and the management or conduct of floor debates. The Bureau includes the president of the Assembly, two vice-presidents, two questeurs and two secretaries. The members of the Bureau are elected through secret ballot. The distribution of leadership positions is regulated by articles in the rules of procedure which require such distribution to "reflect the political configuration of the National Assembly". In addition, the rules of procedure forbid any one parliamentary group from taking two consecutive leadership posts (See Tab 6; Rules of Procedure, Chapter 4, Article 9 and 10).

The president of the National Assembly chairs all Bureau meetings, oversees the Assembly's budget and chairs all debates during plenary session. The delegation noted that Assembly President Dahuku Péré keeps tight control over Assembly debate, much to the consternation of some opposition deputies who claim that he is openly partisan instead of remaining above politics as

president of the legislature. Other observers, however, praised President Péré for his probity, effectiveness and even-handed leadership. The delegation observed during a plenary session that while the president often had the final word, he did not seem to favor one party over another, often times censuring his own party members to keep the discussion moving.

The two questeurs serve as bursars and, under the guidance of the president of the Assembly, supervise the administrative and financial management of the National Assembly. The questeurs prepare the Assembly's budget and present it to the finance committee for review. Ostensibly the Assembly establishes its own budget independent from governmental interference. The reality, however, is that the Minister of Finance always reduces the Assembly's budget due to constraints and austerity measures. One of the questeurs complained to the delegation that while the government does not regulate the deputies' salaries, it finds other ways in which to pare down the Assembly's overall budget.

The Bureau develops the legislative agenda, but must obtain final approval from the Presidents' Conference (*Conférence des Présidents*) before the agenda is presented to the plenary chamber for adoption or amendment. The Presidents' Conference is attended by all of the members of the Bureau, the presidents of all of the permanent committees and the chairman of each parliamentary group. At the behest of the president of the Assembly, the Presidents' Conference meets at the beginning of each session and may also meet periodically when necessary. The Presidents' Conference also rules on the admissibility of all bills coming before the Assembly.

The delegation met with the secretary general and the directors of the Assembly's administrative services. The secretary general was hired only three months prior to the delegation's arrival. His principal responsibilities are to coordinate all of the services in the Assembly. The

delegation was told that prior to the secretary general's appointment, Assembly services were practically non-existent. The Assembly's support services are now organized in four separate divisions: documentation and archives; legislation; general services; and finance and treasury (See Tab 4 for administrative chart). While many staff positions have recently been filled, the delegation noted that some of the services are not yet functional.

The National Assembly has a staff of approximately 75 persons. Half of these are "temporary hires" such as chauffeurs, cleaning staff, etc. Deputies do not have personal assistants. Each permanent committee is assigned one staff person. The delegation was told that most of these committee staff persons are jurists. In addition, the director of the legislative division holds a Ph.D. in law. Because deputies do not have personal staff, Assembly personnel is considered nonpartisan and as such, they are not expected to develop legislation or undertake any major initiatives.

The National Assembly is located at the *Palais des Congrès*, a large meeting hall typically used for international conferences, political party meetings, and cultural events. This building complex also houses the National Election Commission (CEN) and the CAC. While the delegation noted that the building structure is spacious enough to accommodate all three institutions and allow for some future expansion, the president of the Assembly pointed out the difficulty of sharing space with two other institutions, which, he observed, are non-legislative branch entities; he saw such proximity as a potential intrusion on the legislature's autonomy. The Assembly has only four telephone lines, although it appeared as though all Assembly offices had telephones connected to one of the four lines. Each of the parliamentary groups and all members of the Bureau have offices in the building. While the secretary general has an office in the *Palais des Congrès*, most other legislative staff occupy offices in the former Assembly complex nearby.

The parliamentary library and archives are also located at the former Assembly building. The Assembly library has a few valuable resources. Records of legislative debate, some resource books, and back copies of *Togo Presse*, the government newspaper, are all kept in the library and are available to deputies and the public. The Assembly archives, on the other hand, are found in a small, dusty and dank storage room. Documents are not classified in any order and boxes appear to have partly decayed because of improper care.

Many deputies and staff persons complained to the delegation about the lack of resources for the Togolese National Assembly. Debates in plenary session are recorded on a large reel-to-reel recorder and the tapes are kept in the library. However, the rules of procedure require that the debates be transcribed and it appears as though long delays occur in completing this task. The first vice-president and some staff such as the secretary general, the director of legislative affairs and personnel in the financial services have access to computers. The director of financial services, however, complained to the delegation about the lack of sufficiently trained staff with knowledge of spreadsheet programs. Thus, Assembly spending is often recorded and calculated manually.

## **B. Organization of the National Assembly: Committees and Parties**

### *1. Committees*

There are seven permanent committees (*commissions*) in the National Assembly each of which has at least nine deputies (See Tab 3, list of deputies by committee). Each deputy must be assigned to one committee as a voting member. Members of the Bureau, however, do not serve as committee members but may, as is the case with other deputies, observe and participate in committee debates as non-voting members. Draft bills are automatically referred to and reviewed by the appropriate permanent committee prior to being considered during floor debates in plenary session. Each

committee elects a chairman, vice-chairman and two secretaries. As with leadership positions in the Togolese Assembly, the distribution of responsibilities on the committees must reflect each parliamentary party's relative strength within the Assembly. Consequently, deputies from opposition parties chair four of the seven permanent committees. There are five separate meeting rooms within the *Palais des Congrès* for the seven committees.

Committee chairmen explained to the delegation during a joint meeting that ad hoc investigative committees and commissions of inquiry can be formed to control and oversee actions by the executive branch. The delegation learned that since 1994, the National Assembly has twice formed ad hoc investigative committees. However, reports from these committees were never submitted to be debated upon in plenary session. By the same token, the committee chairmen told the delegation that many parliamentary inquiries had been conducted and reports were not presented in plenary session.

In principal, permanent committees must produce two separate reports on their activities. This is all the more important because according to National Assembly rules committee meetings are closed to the public. One of these reports, which usually accompanies legislation to be considered subsequently during plenary debate, summarizes the committee's deliberations and any amendments made to the bill examined. In addition, the Assembly rules require that a bulletin be produced and published with the names of deputies present, the decisions of the committee and the results of all the votes taken (See Tab 6; Rules of Procedure, Chapter 10, Article 46). During a meeting with all committee chairmen, however, the delegation was told that these bulletins, otherwise an excellent source of public information on parliamentary work, are never produced for lack of money and staff.

Based on discussions with committee chairs, various deputies and staff, the delegation noted

that committees in the National Assembly suffer from absenteeism by some of their members. A simple majority is needed in each committee for a quorum. However, the president of the Assembly stated that this fairly lenient quorum is often not achieved, requiring the rescheduling of committee meetings and delays in parliamentary work. Certain committees are more active than others, with some meeting as often as three times per week. The delegation also noted that there is a pernicious lack of good faith on the part of deputies from the ruling party, which has negative affects when played out in committee meetings. For example, the delegation noted that the ruling party has stalled committee discussion on a bill, only to pass large portions of the bill in the absence of opposition members<sup>1</sup>. Opposition parties, on the other hand, could be more effective in committees and perform their function better if they understood how to negotiate, work out compromises, influence the debate during committee meetings and use properly the chair.

Committees have established professional working relationships with members of the executive branch. As a matter of routine, committees invite ministers or high ranking civil servants from their corresponding ministries for briefings on legislation that is being examined by the committee. However, committees in the National Assembly do not hold public hearings concerning issues of interest to constituents or pending legislation. Representatives of intermediary groups, such as NGOs and experts from academia that could inform the debate in committee meetings, are completely disconnected from the Togolese Assembly and have never been invited to testify before

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<sup>1</sup>The delegation was told about a recent debate in the Laws Committee in which the opposition CAR party had boycotted the discussion and the committee chairman, a member of the opposition UTD, had stepped out of the room at the end of the meeting. RPT deputies, who alone constituted the quorum for this committee, quickly seized on the opportunity of having no opposition present to pass the final articles of a draft bill creating the Constitutional Court. Opposition deputies told the delegation that it had taken the committee several weeks to finalize the same number of articles as the RPT had passed in only five minutes with an no opposition in the room.



committees (See section D in this report for more details).

## *2. Parliamentary Parties and Groupings*

There are two parliamentary groups in the Togolese National Assembly. A minimum of eight deputies is required to form a parliamentary group (See Tab 6; Rules of Procedure, Chapter 8, Article 27). The ruling RPT party formed a coalition with the *Union pour la Justice et le Développement* (UJD) prior to the 1994 legislative elections. These two parties have since formed the RPT-UJD parliamentary group, which is now in the majority. The *Comité d'Action pour le Renouveau* (CAR) is the second parliamentary group in the Assembly. The *Union des Togolais pour la Démocratie* (UTD), with only five deputies has no parliamentary group, but with the CAR occupy a total of 36 seats in the Assembly and therefore comprise a formidable opposition (See Tab 3 for list of deputies by political affiliation).

The parliamentary opposition has been plagued by disunity and President Eyadema's "divide and rule" tactics. Following the 1994 legislative elections, the CAR and UTD opposition parties secured enough seats in parliament to form a majority coalition. A rift occurred, however, when following the elections, Eyadema refused to name the leader of the CAR, the largest party in the opposition, as his prime minister. Instead, Eyadema persuaded the leader of the junior partner in the opposition coalition, the UTD party, to break ranks with the CAR and take the premiership. After winning the three by-elections held in August, Eyadema secured for his RPT party a solid majority in the Assembly and therefore disposed of his alliance with the UTD, naming a technocrat beholden to him as the new prime minister. Not surprisingly, there is a high level of mistrust between the CAR and the UTD. In fact, a leader from the UTD told the delegation that his party does not consider itself to be allied with the CAR in the opposition, and consequently would vote with the ruling RPT

on some issues.

The delegation noted that the parliamentary opposition also has a problem with party discipline on individual votes; in certain cases deputies have switched camps. One rule that may exacerbate this problem is the possibility for deputies to call for a secret vote. Independent journalists told the delegation that, particularly prior to the by-elections when the RPT did not have an absolute majority in the Assembly, the ruling party often used this method to surreptitiously secure the support of enough opposition members to win approval of bills being voted upon by the legislature. While deputies are allowed to join or affiliate with any parliamentary group (See Tab 6; Rules of Procedure, Chapter 8, Article 27), Assembly rules do not cover the switching of parties or parliamentary groups. The delegation learned that at least two CAR deputies had switched their party affiliation to the ruling RPT. In one case, after a secret vote on the election code, the second vice-president in the Bureau and member of the opposition UTD, voted with the RPT and was subsequently dismissed from his party although he remains a member of the Assembly as an independent deputy.

### **C. The Legislative Process**

Both the government and deputies of the National Assembly can develop and introduce bills. Bills introduced by the government are first debated and approved in a council of ministers meeting and then sent to the Bureau of the National Assembly. Private bills are sent by deputies directly to the Bureau. After the Presidents' Conference examines a bill and determines its admissibility, the bill is sent to the appropriate committee. The committee then sends the bill, along with a report detailing the committee discussions and any amendments made, to the plenary for final debate on each article in the bill. The delegation was given conflicting information about the extent to which bills are amended in committee meetings. Deputies from both the majority and opposition, however, agreed

that the Assembly has a difficult time in working out compromises and reaching consensus on legislation. The president of the Assembly said, however, that in some rare cases consensus has been found, particularly when deputies have united to denounce mismanagement by government officials or during oral question periods.

Since 1994, the Assembly has examined 37 government bills, adopted 29 and tabled eight. While the Togolese constitution says that both the government and deputies can develop and introduce legislation, the Assembly tends to defer legislative initiative to the government. The unfortunate tradition in Togo of repressive single-party rule and rubber-stamp legislatures is the most persuasive explanation for the lack of a more pro-active culture within the current legislature. Since the Assembly's first ordinary session, 15 bills have been introduced by parliamentary groups or deputies. Only two of these bills were adopted, 12 were tabled. This data shows that the majority of private bills that are introduced never make it to the floor for debate. NGO representatives claimed that this is due to the overwhelming influence and control that the president of the country wields over the Assembly's agenda. In addition, while the Togolese Assembly may be more active in undertaking legislative initiatives than other parliaments based on the French model, certain deputies explained to the delegation that the Assembly could take more legislative initiative if adequate material resources and better trained staff were available. One deputy from the ruling party told the delegation that most deputies do not have adequate legal training, putting them at a disadvantage *vis-à-vis* executive branch officials. They also have not created any professional relationships with outside lawyers who could help in drafting legislation.

Government ministers and top civil servants are regularly called to testify before committees and to brief deputies on legislation. Deputies from both ruling and opposition parties said that

requests for ministers to testify are generally respected. Ministers can also be questioned during plenary sessions about their specific actions or general policy. The president of the Assembly said that nearly all ministers have been called to field questions from deputies in plenary session. While several deputies said that ministers always come to the Assembly when called, a few opposition deputies complained that ministers sometimes evade their responsibility, claiming they are unavailable to answer questions or are occupied on a mission that precludes them from appearing before the Assembly.

Within the executive branch of government there is a minister in charge of relations with the National Assembly, whose principal responsibilities include keeping track of committee work and following the progress of legislation in the Assembly. The minister attends council of ministers meetings and acts as an advisor to the government on relations with the legislature. The minister told the delegation that he is in contact with Assembly personnel on a daily basis. While the minister keeps close track of the Assembly, there is no obvious indication that his activities blur the jurisdictional boundaries between the executive and legislative branches. Although the minister is often present at committee and plenary sessions, as expected he does not participate in deliberations or any of the Assembly's other internal bodies such as the Bureau or the Conference of Presidents. When the delegation arrived, however, a request was under review by the Assembly leadership for the minister to maintain an office within the *Palais des Congrès*. Some deputies indicated to the delegation that they would consider this move an infringement on the autonomy of the legislature. This request was still under examination when the delegation completed its mission.

#### **D. The National Assembly's Relationship with NGOs, Media and Public**

NGOs and academics are rarely called upon to testify before committees. In fact, representatives of all NGOs with whom the delegation met said that besides informal contact, they had not formed professional relationships with deputies. The secretary general of one human rights organization told the delegation that he did have regular contact with deputies and followed closely the Assembly's work. However, when asked if members of his organization had ever testified before the committee on human rights, the secretary general said that such a practice would be futile since the committee did not contain any members from opposition parties. NDI delegation members informed the secretary general that, not only were opposition parties represented on the committee, but the committee chairman was himself a member of one of the smaller opposition parties. Later, the secretary general admitted to the delegation that his organization simply "did not have enough time" to engage in legislative advocacy work.

The National Assembly and the media suffer from a lack of understanding about their respective roles and accepted procedures in relating to each other. For example, the delegation noted that no meeting space is identified within the Assembly building for the press and for interested members of the public. Journalists employed by the state media do cover the Assembly's plenary proceedings. However, even the president of the Assembly, a member of the ruling party, complained about the lack of professionalism within the staff of the Togolese media, journalists' unfamiliarity with legislative functioning and their inability to provide balanced news coverage. On the latter point, the president explained that because TV and radio journalists receive their salaries from the state, they feel beholden to it and, as a result, only provide favorable coverage to the party in power.

Opposition parties are essentially shut out from public media coverage. Opposition deputies told the delegation on numerous occasions that all of their efforts to access the state media have been unsuccessful. However, other Togolese provided the delegation with alternative explanations. The president of the CAC told the delegation that opposition parties often do not follow accepted legal procedures. For example, they frequently do not give advance notice to the relevant authorities in time for the proper logistical arrangements to be made for them to receive media coverage. “Opposition parties want to appear victimized”, the president of the CAC stated.

The public’s perception of the Togolese legislature, based on what the delegation was told, is that there is a general lack of political good will between majority and opposition deputies, which hinders its proper functioning. Representatives from local NGOs often criticized their elected representatives for becoming too occupied with “politics” rather than identifying and finding solutions to society’s problems. Many deputies, recognizing their inability to reach a compromise or achieve consensus, seemed disconcerted by the zero sum mentality that characterizes most discussions in the Assembly.

The delegation was told that constituents at the village level often misconstrue the deputy’s role and are constantly preoccupied with asking their deputies for personal favors. Deputies attribute their constituents’ attitude to a general misunderstanding of their task and responsibility as representatives of the nation. Indeed, the National Assembly is only in session for six months of the year, and is considered by some deputies as being under immense international pressure to establish permanent institutions to provide the political framework in which increased social and economic development can take place. When asked whether his party could advance educational, health or economic issues on the legislative agenda, one deputy from the opposition UTD party told the

delegation that there is simply no time or political will to move beyond partisan squabbling over the details of new political institutions. According to some representatives of opposition parties, defending their own rights to participate freely in the political process and the establishment of a level playing field must come first. Another deputy from the ruling party expressed his frustration about political aspects of his job always taking precedence over developing sound and meaningful policy. He told the delegation that he simply “cannot do everything”.

## V. CONCLUSIONS

The following are the delegation’s conclusions, which are based on discussions with a wide range of Togolese interlocutors both inside and outside of the National Assembly, first-hand observations of parliamentary proceedings, and subsequent deliberations among the delegation members and NDI staff.

### ***General Observations:***

C *The overall political environment in Togo is an obstacle to the full development and effective functioning of the National Assembly as a viable branch of government. The opposition is marginalized from participating and influencing political discourse. However, this same opposition tends to victimize itself even more due to ineffective walk-outs of plenary debate and committee meetings. The opposition is shut out from coverage by the state media and therefore has no public visibility. The state media has a monopoly over news coverage and unlike the few private stations in Lomé, has the facilities to broadcast across the national territory.*

C *There is a lack of political good will to seek compromise or consensus on issues. As a result of this behavior by deputies, the public perception of the institution is affected adversely. Many people perceive the Assembly as solely the conduit for polarized and intransigent debate, rather than as a forum for the consideration of public policy issues and passage of legislation.*

C *Partisan squabbling on issues such as the appointment of members of political institutions dominate parliamentary work. There is little meaningful debate on social or economic policy that would respond more to the real needs of constituents. The delegation noted that despite concerns raised by citizens and some of the deputies about the state of the economy and social problems in the country, there was no recent or current debate on policy development. Deputies seemed unwilling to attempt to influence government policy on important economic, educational and other social issues.*

***Legislative Oversight of the Executive Branch:***

C *While deputies understand how to effectively exert legislative oversight of governmental action through the use of interpellations and oral questioning, most legislation introduced by the government is pushed through the Assembly with few, if any, amendments. The delegation noted that the government had sent most of its proposals, which dealt with establishing political institutions, to the Assembly on an urgent basis, requiring the Assembly to act within a shortened time-frame. The opposition accused the deputies of the ruling party of hastily rubber-stamping executive bills submitted to the Assembly. In addition, other mechanisms to control government action, such as the formation of ad hoc committees of inquiry, have not been fully utilized by the Assembly.*



***Legislative Initiative:***

- C *Some of the deputies are adequately skilled and with assistance from qualified parliamentary staff could develop and introduce their own legislation.* Deputies are, generally, highly skilled, with some members from both the majority and opposition parties having legal backgrounds. In addition, some of the staff members are jurists and law professors.
- C *Although deputies of the Togolese Assembly have in the past taken the initiative to draft and introduce legislation, there seems to be difficulties in getting private bills to the floor to be debated upon in the plenary session.* Since the beginning of this Assembly, private bills have comprised less than half of the total number of government bills. The legislature finds itself at an obvious disadvantage *vis à vis* government ministries in developing legislation, particularly because the Assembly has less material resources and staff.

***Constituency Servicing:***

- C *Adequate material resources exist to permit Togolese deputies to represent their electorate and service constituents.* Through the provision of interest-free loans for vehicles, nearly all deputies have private transportation and are thus able to return to and travel within their constituencies. In addition to monthly salaries, deputies are paid graduated travel allowances depending on the distance between their respective districts and the capital city, Lomé. Because Togo is a geographically small and accessible country, it is relatively easy for elected representatives to interact regularly with their constituents.
- C *There is a lack of formal interaction between citizens and their deputies.* Deputies seem to conduct their work without regard to the daily needs of the districts they represent. On the other hand, constituents tend to misunderstand the policy-making role of their elected

representatives. Deputies complained that their constituents are preoccupied with daily needs at the village level and tend to ask only for personal favors. Deputies seemed frustrated over the difficult task of balancing their dual role as a national policy maker and as a representative of a specific constituency.

***Parliamentary Groups:***

C *Parliamentary opposition is ineffective and unable to influence legislative debate. The delegation noted that opposition deputies could benefit from creative ideas on the techniques that would allow them to influence legislative debate. These would include negotiating compromises, using properly the committee chair, conducting hearings and publicizing their views.*

C *A lack of party discipline or party switching under inducements from the ruling party have seriously weakened the parliamentary opposition.*

***Committee Functioning:***

C *Some of the permanent committees are inoperative and for those that do meet, excessive absenteeism by deputies from both sides has impeded their effective functioning. The delegation saw no evidence of committees scheduling hearings with knowledgeable Togolese outside of the executive branch to research issues of importance. It appeared as though committees with no bills to examine simply did not function.*

C *Committees do not publish bulletins, as required in the Assembly rules, that outline their activities, the substance of their discussions and how committee members voted. Since all committee meetings are closed to the public, this provision would be an essential mechanism to keep the public informed about legislative activity and foster the transparency and visibility*

of the institution in general.

***The Media:***

- C *The legislative process is essentially closed to the press and public.* The delegation could not determine that there is any formal interaction between citizens and their deputies. The delegation found that one opposition parliamentary party is not accorded meeting space within the Assembly building because it does not have the requisite number of deputies to form a parliamentary group. The state media is present for plenary debates, but the coverage is recognized by deputies from both sides as partisan. The overall effect is that the visibility of the institution suffers, as well as the public perception and understanding of parliamentary work.

***Intermediary Groups:***

- C *Members of NGO, academics and other Togolese experts do not serve as intermediaries to influence legislative debate or assist the Assembly in researching and drafting legislation.* Representatives of NGOs and academics could play an important role in focusing the attention of deputies on policies that would respond to the general concerns of the citizenry. The delegation learned that while some NGOs did not understand the need to perform an advocacy role, others simply have not made legislative work a priority. This attitude could, in part, be explained by a negative public perception of the Assembly as a powerless and ineffective institution. Those who may be interested in performing an advocacy role may feel that their efforts are more useful if directed toward government ministries rather than the legislature.

***Parliamentary Staff and Material Resources:***

- C *The Assembly senior staff, although many are jurists by profession, need basic training on their role and responsibility, as well as on legislative procedure.* The secretary general of the Assembly was recruited only recently to coordinate the Assembly support services. However, training on organizational issues could be beneficial. These include: parliamentary procedures; keeping minutes on plenary and committee meetings; drafting and amending legislation; public outreach, planning of committee and plenary meetings; and record keeping and archiving materials.
- C *The National Assembly lacks material resources, particularly for transcribing debates, writing reports for public outreach, computers and computer spreadsheets to calculate the Assembly's budget.* The Assembly building is sufficiently spacious to allow for the Assembly to operate and expand its support services. The delegation noted that there is unused (yet available) space in the Assembly building.

Delegation members were of the unanimous view that, despite the polarized political environment, NDI should think of creative ways to conduct a parliamentary training program in Togo. Based on the conclusions outlined above, future legislative programming in Togo could take on numerous forms. A wide variety of training programs for deputies focusing on one or more issues related to their role and function (i.e. building the capacity of committees in the legislative process; conducting workshops in researching, writing and amending legislation; training parliamentary staff) could be responsive to needs of the Togolese Assembly. The delegation concluded, however, that given the limited political space in which the Togolese Assembly operates at this time, an NDI program should seek to encourage the current regime to make democratic reforms and foster the full

participation of all political parties, NGOs, the press and the public in the democratic process. Given the limited resources and the original scope of the project, NDI should focus its assistance on important *issues* that will come before the Assembly. Such issues must be those that could have a positive impact on leveling the playing field and liberalizing the political environment. One such issue is the new press code, which will be examined by the Assembly during its April 1997 session.

## VI. NDI PROGRAM

NDI would organize a series of *three roundtable discussions*. The roundtable discussions would provide a forum to encourage dialogue among, and elicit information from, various actors on the draft press law and the process for public input in this and other draft laws. This effort is similar to the groundbreaking program by NDI in the Former Yugoslav Republic of Macedonia where, for the first time, ruling and opposition parties worked together to develop with public input, new election laws. Roundtable proceedings in Togo would be conducted by using an approach similar to that of focus groups. NDI staff and international experts would moderate the roundtable discussions and provide their perspectives, where appropriate, on media relations, the regulation of the press, as well as how various groups contribute to the law-making process in their respective countries. Information from the roundtables would allow NDI staff and experts to elaborate case studies for a subsequent *training seminar* for deputies. The three roundtables and the training seminar would take place prior to the April parliamentary session.

*The first roundtable* -- NDI would conduct the first roundtable for approximately 10 to 20 deputies from both the ruling and opposition parties. This discussion would allow the participating deputies to share their views on the draft press law. They would also be encouraged to discuss ways in which they communicate with NGOs and the public prior to the adoption of

bills in parliament as well as how information on parliamentary activity is disseminated through the media. NDI trainers would provide ideas on specific features of their own countries' press codes and discuss international standards in media law, and public access to information on parliamentary activity.

*The second roundtable* -- NDI would invite to the second roundtable a small group of Togolese journalists from both the private and state media, representatives of NGOs and some parliamentary staff members. NDI expects that the participants will use the roundtable as a forum to discuss their views of how the freedom of the press should be legislated in Togo. NDI also hopes that participants would examine their relationship with the legislature in the law-making process. They could also identify and discuss impediments to their full involvement in the legislative process and suggest ways in which these could be addressed.

*The third roundtable* -- The third roundtable would bring together participants from the first two groups: deputies, parliamentary staff, civic leaders and journalists. The purpose of this final roundtable discussion would be to compare notes and perspectives on the importance of a free press and the regulation of the press. The different participating groups could discuss possible areas of consensus on the draft press code. More generally, they would be expected to begin examining how they all could better interact to foster a more viable legislative branch of government that is visible, and responsive and accountable to the citizenry.

*The training seminar* -- Immediately following the roundtable discussions, NDI would conduct a training seminar for Togolese deputies and a few selected parliamentary staff. The main focus of the seminar would be on the press code. NDI would invite legislators from other countries who are knowledgeable about press laws in their respective countries to complement

those experts who would have already been involved in the roundtable discussions. The international participants would exchange their own experiences with Togolese deputies and staff, and will explore creative approaches to problems Togolese deputies may be encountering. The seminar would also address such topics as: public and NGO participation in the legislative process; the institution's access to information through certain mechanisms such as committee hearings; and transparency and visibility of the legislature.

As a follow-on to the training seminar, NDI, in collaboration with Assembly leadership, would seek to identify other issues being debated by the Togolese legislature and a comparative review of which could serve to inform political discourse. NDI has conducted similar programs in South Africa where the Institute assembled an international team to assist the South African parliament on the issue of ethics and transparency. This program has now been expanded to provincial assemblies. Also, at the request of President Konaré of Mali, NDI recently conducted a comprehensive review of the country's election law. Reports on the review were provided to the government, legislature and political parties, and were used to inform and stimulate constructive debate in the parliament. NDI would also organize legislative study missions in which selected deputies from Togo would travel to other countries in the region to participate in relevant NDI training programs or meet with deputies in those countries to discuss specific issues of interest to the Togolese Assembly.