

Lettres de Byblos

Letters from Byblos

No. 20

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(EDS)

**The Democratic Republic of Congo -
DEMOCRACY AT GUNPOINT**



Centre International des Sciences de l'Homme
International Centre for Human Sciences
المركز الدولي لعلوم الإنسان

Byblos 2008

Lettres de Byblos / Letters from Byblos

A series of occasional papers
published by



Centre International des Sciences de l'Homme
International Centre for Human Sciences
المركز الدولي لعلوم الإنسان

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Published in 2008 in Lebanon by the International Centre for Human Sciences, B.P. 225 Byblos (Jbeil), Liban.

ISBN 978-9953-9023-3-3

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The Democratic Republic of Congo - DEMOCRACY AT GUNPOINT

Introduction

The title of this book prepares the reader for an account of nearly 16 years of political change in the Democratic Republic of Congo. From 1990 to the 2006 elections the process of democratisation went hand in hand with bullets. Political violence could jeopardise the process at any time. To hold onto power, violence was necessary. To snatch a patch of liberty, violence was indispensable. War even served as a tool to establish a democratic order. Electoral campaigns were marked by violence, as was the publication of election results. The potential for violence caused public opinion, both domestic and international, to despair about Congo. But the democratic process in Congo plodded on like the tortoise, day after day through all the dark years, to the surprise of all those who predicted the partition of Congo and the collapse of the democratic process. The interference of the army is not completely over yet, and there are still some pockets of armed violence in the eastern part of the country. But Congo has completed the hardest part of democratic and credible elections.

In this book, the authors provide an objective analysis of the Congolese crisis and the peace process and assess the post-conflict situation from the demographic, educational, economic and judicial points of view. Furthermore, they examine the Constitution of the Transition, the position of the army in this constitution, the contribution of civil society to building democracy and the Congolese population's perception of the democratic process.

Theodor Hanf attempts to place the Congolese crisis in the context of historical evolution by showing how the Congo has been persistently looted since the days of the Independent State of the Congo in the 80s of the 19th century. After the end of the

cold war, afro-militarism became a core competence in Central Africa, and turned the Congo into a state pillaged by others. The relations between neighbouring states slid into open militarisation that fed a culture of terror in the region. Thereafter, militias and foreign forces financed their activities by plundering Congo's resources.

Pamphile Mabiála seeks paradigms that explain the Congolese transition, with its atypical duration, its nature and its actors. He examines the development of this transition, the violence that has attended it, its positive aspects, the vicissitudes of democratisation, the peace process and the elections.

Ferdinand Mushi analyses the risks of interethnic coexistence in South Kivu, in eastern Congo, by emphasising the issues at the heart of conflict. He highlights the roles of nationality, land, political competition, attachment to a sovereign state, neighbours' expansionistic desires and the weight of imperialism as driving forces and the roles of the actors involved.

Pamphile Mabiála provides a historical overview of the question of Congolese nationality because he is convinced that its significance can only be understood within its historical context. At first, he presents a brief account of the geographical history of Congo before offering a general review of legislation on nationality from the colonial era to the present.

Jean Labana analyses the political negotiations that accompanied the peace process, discussing all the peace summits on the Democratic Republic of Congo, from the Lusaka Accord to the Inter-Congolese Dialogue.

Léon de Saint Moulin studies the post-conflict demographic reality of Congo. As no census has been conducted for a good 12 years, his goal is to determine the population of each region and provide estimates of the population of each city in 2004.

Martin Ekwa examines the challenges and the stakes of the educational system, from the colonial legacy, through the golden age, to the decline. He suggests ways of overcoming the crisis in the educational system and expresses his belief that the Congolese state ought to give priority to the education of its citizens and youth, who are the future of the nation, thereby contributing to the qualitative transformation of the society.

Didier de Failly does not think that the Congo is already a post-conflict country. His study seeks to explain the economic situation in a post-conflict Congo. He looks at the economic reasons for the paradox of Congo's great wealth of Congo and its population's extreme poverty. Factors such as the failure of Zairianisation, recurrent insecurity and the increase in global consumption have all contributed to the dramatic developments of recent decades. In eastern Congo, market forces are at work. Finally, he expresses some thoughts on an economic arrangement between the countries bordering the Great Lakes.

Jean-Michel Kumbu examines the positive points and the pitfalls in the Constitution of the Transition of 4 April 2003. Positive points include the principles and values

mentioned in the preamble, the democratic character of the organisation of political power, the right and obligation of each citizen to defend the nation and the consideration given to the problem of the protection of civil rights. He also sheds light on some pitfalls such as possible confusion regarding the link between the Global Accord and the constitution, the role of the head of the state as guarantor of the independence of the judiciary and the exaggeration of the inviolability of human rights, among others.

Joseph Mvioki evaluates the Congolese legal system and verifies its suitability to ensure respect for the law, guarantee equality before the law, and grant injured parties, whether natural persons or legal entities, just compensation for damages suffered. He points to a number of reprehensible practices in the functioning of the Congolese legal system at the level of judges, police detectives and clerks of the court, which have allowed a quasi-informal administration of offices and jurisdictions to emerge. The causes of this malfunctioning have to be investigated in light of, among other things, the failure to keep within budget, the absence of documentation, the poor keeping of archives and the absence of measures to safeguard public property. He concludes that the rehabilitation of the judicial apparatus can speed up the advent of the rule of law in Congo.

Pierre Akele deals with the military dimension in the Constitution of the Transition. He tries to understand why the legislator describes the Armed Forces of the Democratic Republic of Congo (FARDC) as national and republican. He defines the responsibilities of civilians and military personnel in the national defence and the responsibilities of the minister of national defence in coordinating government activities, military supervision of defence and the senior leadership of operations. He highlights the constitutional position of the supreme commander and discusses how national defence and the armed forces are subject to the law and the meaning to be given to the notion of forming a restructured, integrated national army as stipulated in the Global and Inclusive Accord.

Baudouin Hamuli studies the contribution of civil society in building democracy in the DRC. He highlights the circumstances under which civil society has emerged, how it increasingly gained social and legal recognition and has actively participated in the democratic opening, the fight for freedom of expression, the struggle to organise free and fair elections and the fight against poverty.

Beatrice Schlee wonders whether the Congo is a hopeless case. Based on a survey conducted in Kinshasa in 2002, her analysis describes the perception of democracy and the electoral perspectives in the DRC. The author examines the chances for a democratic order in Congo, and tries to answer the question whether ethnic diversity is the only explanation for the conflicts and the level of violence among the population of Kinshasa. She looks at the population's interest in and attitudes towards democracy. The perceptions of democracy, elections, political leaders' chances and the level of political participation are analysed using variables such as

age, linguistic group and level of education. This study points out elements of similarity between the 2002 survey results on the future president and the 2006 elections.

All these studies show that the Congo is a country with the potential for a great future, not only due to its natural resources; but also, and mainly, thanks to the dynamism of its population. The end to the crisis of political legitimacy through free, democratic and transparent elections inaugurates a new era in which the Congolese people can learn from the painful experiences of the past and work better to preserve their common interests with respect for one another's human dignity.

This book is published as part of the research project "Culture and Democracy" of the UNESCO-affiliated International Center for Human Sciences in Byblos, Lebanon. Professor Hanf, who knows the Congo not only as a former visiting professor at Lovanium University in Leopoldville, today Kinshasa, but also because he has followed the political evolution of Congo day by day, was pleased to find the Congo listed amidst the priorities of research of the Center. The purpose of the project is to look for possible solutions to conflicts in various countries that will enable them to establish a democratic political order. We thank him from the bottom of our heart for thinking of Congo and, in particular, for agreeing to edit this volume in frank and cordial collaboration with Beatrice Schlee and us. We also extend our gratitude to UNESCO for having financed the preliminary research. Finally, special mention in this regard must be made of Mrs Andrea E. Ostheimer, the local representative of the Konrad Adenauer Foundation in the Democratic Republic of Congo, who took a great interest in this project and spontaneously contributed to sponsor the original version of this book¹.

Pamphile Mabilia Mantuba-Ngoma

¹ Sous la direction de Pamphile Mabilia Mantuba-Ngoma, Theodor Hanf et Beatrice Schlee, La République Démocratique du Congo : Une démocratisation au bout du fusil. Kinshasa, Konrad-Adenauer-Stiftung, 2006.

A country doomed to pillage?

The Congolese crisis in historical context

THEODOR HANF

In the European Middle Ages it was customary for mercenaries to go without regular pay for long periods. On the other hand, they had the right to plunder the territories they occupied and to treat the conquered population as they pleased. The chance to sack a wealthy city - such as the *sacco di Roma* - was every mercenary's dream.

Central Africa is a very wealthy region. There it is easy for soldiers to follow Wallenstein's dictum: live off the land. Angola, Congo-Brazzaville and also Congo-Kinshasa (called hereinafter the Congo) all have an abundance of easily exploitable resources. Thus, it is hardly surprising that whereas Angola has had the longest war and Congo-Brazzaville the most violent, the Congo, the largest and wealthiest country in the region, became the neighbours' favoured location for settling their disputes while siphoning off its wealth at the same time. This country blessed by nature has a long history of misfortune. Indeed, its modern history is one long series of pillaging.

The Congo Free State: A private mining company run as an absolute monarchy

Economic interest was the driving force behind the exploration and conquest of the immense region stretching from the Great Lakes to the mouth of the Congo River in the 1880s. The well capitalised International African Society financed expeditions to

the area, civilian at first and military afterwards. Its chairman - in his private capacity as an ordinary person - was Leopold II, king of the Belgians. He won Bismarck's support for a unique enterprise in the history of the European conquest of the African continent. At the Berlin Conference in February 1885 the superpowers of the time approved the establishment of the Congo Free State as an absolute monarchy with full sovereignty under international law. This suited the European states, who charged the new state to respect the freedom of trade and navigation and to observe neutrality.

Leopold II, Belgian king and constitutional monarch, thus became the sole master of the country and of the fate of his subjects. Not bound by a constitution, he governed by decree and without control or supervision, eventually transferring the Congo to Belgium as though it were his personal domain. His influence in Congo was unrivalled anywhere since the end of the absolutism. Nevertheless, he knew how to distinguish between the state treasury and his own coffers. His intention was to benefit European interests, in particular the rapidly industrialising Belgian economy, by exploiting the wealth of Congo. Sober Belgian businessmen were initially reticent about the exotic ambitions of their king; they were more interested in iron and coal than rubber and ivory. Yet, Leopold persevered, combining firmness with foresightedness. His introduced harsh laws. The native population was given the right to exploit the land, but not to own it. Any land that was not cultivated was declared state property. Natives were harshly treated to force them to "work and progress" - in keeping with the motto of the Free State. When the head tax failed to induce enough farmers to seek a paid job on the plantations, he imposed the *corvée* - two months of compulsory unpaid labour per year. Anyone who tried to avoid the *corvée* was brutally punished. This harsh and merciless policy was enforced by the *Force Publique*, a troop of mercenaries under the command of European officers.

The king's foresightedness was confirmed by the discovery of huge deposits of diamonds, copper, cobalt and other minerals. In the late 19th and early 20th centuries Belgian entrepreneurs, attracted by land concessions and monopolies, built a network of railways and river transportation and opened mines. Leopold's finally reached his goal in 1908, when Belgium assumed control of the Congo as a Belgian colony.

The Congo, a model paternalistic colony

The absolute monarchy may have passed, but not absolute rule. For the next half century the new lords were colonial technocrats, lightly controlled by the remote Belgian parliament. A new age of absolutism dawned. In order to rationally exploit the resources of Congo, the Belgian government dispatched some 10,000 civil servants to the colony, and the Belgian businesses sent as many experts as possible - more than any other colonial power on the continent. They succeeded in creating a model colony

with an exemplary infrastructure, a thriving economy, and, in addition, an authoritarian welfare state. In 1950, the Congo's health services were among the best in the tropics; in 1960, Elisabethville (Lubumbashi) was able to pride itself on better housing conditions than Johannesburg, a city of the comparable size; in the same year, 70% of school-age children attended schools - a percentage far higher than in any other African territory.

However, there was a darker side to this bright coin of the enlightened colonialism. The head tax and the *corvée* remained in force, administered and imposed more efficiently than at the time of the Free State. The colonial technocrats kept their distance from the natives - whom they disrespectfully referred to as such and regarded as inferior. The patterns of social distance between the colonial administrators and the natives were comparable with those in apartheid South African - though without the ideological rationalisation of the latter. The natives were assigned living quarters in separate residential districts, ordered to leave European districts at sunset and forbidden to frequent restaurants and bars. They also had separate schools. There were restrictions on the number of natives admitted to secondary school. Until 1954, there was absolutely no tertiary education, apart from training for the priesthood. What the South African system of the time sought to create by job reservation was achieved much more elegantly by the Belgian colonial technocrats: most mid- and upper-level careers were reserved for university graduates, and thus inaccessible to the Congolese.

Nevertheless, there was no lack of flaws in the apparently perfect machine of the enlightened colonial rule. There was no mechanism to channel the frustrations of those Congolese who received a level of education sufficient to encourage aspirations and ambitions that could not be fulfilled. Towards the end of the 1950s, these Congolese were numerous enough to form an anti-colonial movement that, though not well organised, was strong enough to cause Belgium to abandon its model colony, barely two years after the first public demonstrations for independence.

The "Congolese swarms"

Independence on 30 June 1960 was followed by five years of political and military turmoil. These eventful years - mutinies, Belgian exodus, secession attempts, assassination of Patrice Lumumba, the first prime minister and nationalist idol, armed intervention by the United Nations, governments and anti-governments, constitutional conflicts, farmer and student uprisings, mercenary sagas and multiple foreign interventions - have been adequately documented and analysed. However, it is useful to recall the consequences: the events of these years caused many Congolese to associate democracy, introduced shortly before independence, with what they called

"matata" - swarms. When Joseph Désiré Mobutu seized power in 1965, many observers of the time agreed with the observation that he was greeted by the population with relief, if not enthusiasm.

Cleptocrator maximus

It was hoped that the time of "swarms" was gone forever. A new ruler had seized power and would hold it for almost thirty-two years. One of the most provocative interpretations of his rule is that by the Caribbean-British writer V.S. Naipaul, who acknowledged Mobutu's ability to "give the people what they never had and had long always needed: a 'negro king'". From the time he took power until his pitiful departure, Mobutu himself never left any doubt about his monocratic ambitions. He wanted to be an African monocrat. His program of "authenticity", the official ideology, illustrated clearly what the word "African" meant to him: there can only be one leader. Saviour, Unifier, Guarantor of Peace, and Great Helmsman were some of his titles. He forbade the use of Christian names and forced people to wear African clothes. His subjects were obliged to spend one day a week doing *salongo*, or "institutionalised voluntary work," accompanied by singing and dancing - just as voluntary as the work itself. He renamed the Congo - both country and river - Zaire. None of this was really African. In reality, the pre-colonial forms of government were very complex, on no account absolutist, let alone despotic. The panegyrics reserved for the leader had no traditional roots, but drew on the vocabulary of seminaries. The "official dress" of the African revolutionary head of state was nothing but a slightly modified Mao costume. The *salongo* was simply a new form of Leopold's *corvée*. Forcing intelligent people to sing and dance to inane lyrics was tantamount to intentional humiliation. And "Zaire" itself is not an African word, but a Portuguese corruption of the word "kikongo", which means "big river." In brief: "authenticity" was only an eclectic fabrication in the service of symbolic manipulation.

Even if there was nothing African about Mobutu's monarchy, we cannot deny its absolutist character. Convinced that nothing that the monarch does is private, Mobutu, unlike Leopold, drew no distinction between the state's budget and his own pocket. Even though he was disparaged by his detractors as *cleptocrator maximus*, he did not consider himself a thief as he emptied the coffers of the state and public institutions. Even though he spent generously on himself and his family - as required of a leader - he used the funds at his disposal first and foremost to stabilise his rule. Extraordinarily skilled in the art of granting or withdrawing political and financial favours, he transformed the state into a court. To prevent the rise of potential power centres, he changed ministers, generals and ambassadors - irregularly, but frequently. Anyone who sought a privileged function could reasonably assume he would get it in a short while. The success of this well-calibrated system of buying loyalty obviously depended

on the availability of considerable sums of money - in a poorer country Mobutu's system would have ground to an early halt. But even the wealth of the Congo could not guarantee its perpetuity. When obedience is better rewarded than effort and efficiency, the quality of public services and institutions is doomed to decline, and even faster when middle- and lower-level public servants follow the ruler's example. Consequences started to appear when Mobutu was at the peak of his power. From 1975 onwards, the world prices of minerals, in particular copper, began to fall. As revenues and foreign exchange declined, the state gradually disintegrated. Civil servants' salaries were paid irregularly or not at all. Increasingly, the government resorted to the central bank's printing presses as stop-gap budgetary solution. By the end of the 1980s at the latest, it was clear that the country was falling apart.

How can we explain that the monarchy, though weakened, managed to survive for another decade and a half - even after the end of the cold war had relieved the western powers of the need to support an old ally who had grown troublesome? The ruler still held the monopoly of power. Nevertheless, the armed forces were no longer as efficient as under Leopold and the colonial technocrats. The Force Publique of the Free State was disciplined and brutal, capable of smashing any resistance to the state's control. In the colonial period, the force was no longer made up of mercenaries, but of Congolese soldiers, both volunteers and conscripts, and under the command of Belgian officers. Following the mutiny of soldiers shortly after the independence, Belgium withdrew its officers. This was Mobutu's hour. Four years earlier he had attained the rank of the lance corporal - the highest level a Congolese could reach in the Force Publique - and then gone into journalism and politics. Lumumba appointed him first secretary of state for defence and then chief of staff. He knew the armed forces very well, and deployed them on the basis of political considerations. When he felt a unit was not very reliable, he would send it to the province where, facing insurgents, it often ran away. His main concern was always the loyalty of the forces stationed around the capital. To ensure their loyalty, he spared them dangerous missions. To curb the rebellions at the beginning of the 1960s, he used Tshombé's Katangese gendarmes and international mercenaries. By contrast, he employed "his" units to depose President Kasavubu and Prime Minister Tshombé and declare himself president. He never used these units unless he faced a rebellion by mercenaries, taking care to reinforce them with Belgian officers and exiled Cuban pilots that the CIA put at his disposal. He succeeded in expelling the rebellious mercenaries and after them the Katangese gendarmes. By 1967 he had routed all armed resistance to his regime, apart from a few isolated pockets in the east of the country - among them one Laurent Kabila.

Thus, with the help of the military Mobutu was able to assume power and consolidate it. He loved military titles and declared himself marshal. However, it would be wrong to view him simply as a military dictator. The military forces were organised in separate units, each with its own command, and poorly equipped with arms and munitions. Already in the 1980s, just ten percent of the army was deemed ready for combat. Thus, it was not surprising that the army's performance during the 1987 and

1988 invasions of Shaba (Katanga) left much to be desired. The soldiers applied themselves to plundering and then deserted. In the first invasion the regime was saved by Moroccan troops and in the second by Belgian and French forces. Ten years later, not even the "elite" units amounted to much. The disintegration of the army followed that of the administration.

Mobutu treated military leaders as he did politicians and senior officials. He did not choose them for their professional abilities, but their loyalty, whether genuine or presumed. He accorded them privileges, and withdrew them later. Transfers did not follow any predictable pattern. Soldiers were underpaid or even unpaid. In the 1990s, the presidential guard demonstrated for back pay on several occasions. As a result, soldiers became mercenaries, extorting from civilians what the state denied them. "Paying soldier tax," was people's term for paying to pass a military checkpoint.

However, until its final weeks the regime was still able to rely on these mercenaries to subject an unarmed population. Even though Mobutu no longer had the means to impose his will, he still had enough to prevent anyone else from taking power. Even toward the end, his soldiers were always able to keep democrats in check - but not other soldiers. The other soldiers entered Congo from neighbouring states that did not hesitate to pursue in Congo their political and economic goals by force of arms.

Afro-militarism: one country pillaging another

After the end of the cold war, the "dinosaurs" - the dictators of postcolonial Africa - lost the accommodating support of the West. As long as they were allies in the global confrontation, the West turned a blind eye to their inability or lack of will to ensure progress in their countries. With the confrontation over, the West had no need for these allies. Its benevolence and assistance was henceforth directed towards the representatives of a "new Africanism": new leaders with new programmes. What did this new Africanism want? It wanted "grassroots democracy," without political parties, but with strong leaders. It drew its inspiration from traditional values. Food, education and health were more important than the division of powers, the independence of the judiciary and the freedom of expression and association. The right to survival took precedence over civil rights. Old leaders - from Sekou Touré to Mobutu - also used similar slogans to justify their regimes. Yet, the new dictators differed from the old in their economic programmes: less dependence on foreign aid, better anti-inflationary policies, better fiscal and administrative systems, support for small businesses, less state regulation - in brief, a freer, better performing economy in a state as unfree as before. However, compared to the old school dictators, donor states - especially the United States, as well as the World Bank and the IMF - found these programmatic differences attractive. Tired of supporting the hopeless economies of their old

compromised allies, they focused their sympathies on the new "shakers and movers of events in Africa":¹ Museveni (Uganda), Zenawi (Ethiopia), Aferwerki (Eritrea), Kagamé (Rwanda) and Garang (Sudan). Until 1998, this list included Laurent Kabila, himself, and also Mbeki (South Africa). The latter, a convinced and practising democrat, hardly represents this ideal type - unlike several other political, even if not quite new, actors such as Dos Santos (Angola) and Buyoya (Burundi), who fit it perfectly. All of them gained power by military means, and have continued to use it. Zenawi and Aferwerki took their very poor countries to war for which the only rational explanation is the attempt to divert people's attention from internal problems. None of the other rulers is in complete control of his country, all of which suffer from armed uprisings and civil wars. Nor have they hesitated to export these wars; indeed, this is sometimes the intention. Museveni has publicly declared that wars are sometimes needed to stimulate the economy. Mobutu could not have waged war for thirty-two years without some economic development.² Kasini, a Ugandan general, used similar reasoning when he agreed Uganda's military intervention in Congo could cost a billion shillings a day, but pointed out that the soldiers also have to be remunerated when confined to barracks in Uganda.³ Similar statements only confirm the actions of the new leaders in the field: the "new Africanism" is Afro-militarism.

It is true that the "dinosaurs" failed in matters of development. By governing through patronage and corruption they ruined, to different degrees, the economies of their respective countries. But they were not bloodthirsty. Their armies were small, just big enough to keep internal opposition under control. To render coups d'état difficult, they intentionally split up command structures, a step that also rendered them incapable of military intervention abroad. For the "new Africanists," military force was incomparably more important both internally and externally. Their non-military power base is weak. Their chances of gaining democratic legitimacy are uncertain, and in Rwanda and Burundi⁴ non-existent. For this reason, they need a strong and well-motivated army to

¹ The Weekly Review (Nairobi), 23 May 1997.

² The Monitor (Kampala), 17 September 1998.

³ Ibid.

⁴ A detailed discussion of Burundi goes beyond the bounds of this article. Suffice to say that the fates of Rwanda and Burundi are closely linked, and that any development in one of the countries influences the other. After Burundi's independence, the Tutsi monarchy survived until 1966; it was followed by several Tutsi-dominated military dictatorships. In 1972, a Hutu revolt was ruthlessly crushed; the repression took the form of genocide, with between 200,000 and 250,000 victims. In 1993, a Hutu president was elected, and assassinated shortly afterwards by Tutsi troops. His successor, also Hutu, was killed with the president of Rwanda in 1994 when the latter's plane was shot down. Buyoya, a former military dictator and an unsuccessful candidate in the 1993 presidential elections, took power again with the support of the exclusively Tutsi army. A civil war of varying intensity followed. In 1998, the largest Hutu party agreed to share power with Buyoya, while other Hutu parties continued their armed struggle from bases in Congo. The violent end of the first freely elected Hutu-

support the regime. When the army becomes too expensive for the resources of the country, and the IMF and the World Bank recommend demobilisation, it is eminently rational to put it to work across the border. Instead of trying to force former fighters into an internal labour market in which they have little chance of competing, and running the risk of fuelling potential discontent against the regime, it is preferable to make them pay their way fighting abroad, which can be financed through pillage.

The Congo became the favourite place for neighbouring countries to try their luck in civil wars - at the expense of the Congolese. Angolans, Ugandans, Rwandans and Burundians have exported their domestic conflicts to the Congo. It is perfectly possible to finance military adventures whose origins lie elsewhere, and even turn them to profit, by looting Congolese resources. Under the regime of the "dinosaur" Mobutu, the Congo never knew sustainable development. By contrast, the Afro-militarism of neighbouring countries, in the guise of "new Africanism", risks perpetuating wars in the Wallenstein mode, creating in the process a sustainable system of pillage.

For thirty years, international relations between postcolonial African states were characterised by respect for colonial borders. Although these borders, with few exceptions, ignored ethnic and linguistic realities, African leaders of the independence generation were unanimous in recognising that, in view of the enormous cultural diversity of most African states, it would be futile to try to create new homogeneous nations by changing them. In consequence, they accepted the territorial states as *faits accomplis* and encouraged their populations to consider themselves as a nation founded on common citizenship.

This consensus was recognised in international law by the Addis Ababa Charter. It has been threatened several times by attempted secessions by Katanga, Biafra, Cabinda and Southern Sudan, and the ethnic irredentism of Somalia. But none of these efforts to redraw existing borders met with success. The only successful case was the reversal of a postcolonial annexation: after a long war, Ethiopia was obliged to grant independence to Eritrea - within its colonial borders. In their current conflict, the two states base their cases on - a tragic irony - border treaties dating back to the colonial era. In all other conflicts, the majority of African states strictly observed the orthodoxy of respecting state borders, and abstained from meddling in one another's internal conflicts. For a long time this policy spared the continent wars between states.

Since 1990, respect for the peace ordained by the Addis Ababa Charter has eroded in Central Africa. Even before then, several governments backed rebel movements in neighbouring countries by allowing them to launch operations from their territory: Uganda supported the Southern Sudanese, and Sudan and Mobutu's Zaire opposition to the Ugandan government. In addition, Zaire allowed the Angolan UNITA and the secessionist movement of Cabinda (FLEC) to establish bases there.

dominated government in 1993 reinforced the conviction of many Rwandan Hutus that Rwandan Tutsis wanted to restore minority rule.

However, in the autumn of 1990, this practice of proxy wars assumed another quality. The several thousand soldiers of the *Rwandan Patriotic Front (RPF)* who attacked northern Rwanda were not local insurgents, but part of the Ugandan army under the command of a former Ugandan deputy minister of defence – and after his death the head of military intelligence in Uganda. Uganda at first denied supporting the invasion; but later, Museveni admitted and justified his sponsorship of it.⁵

In 1959, an uprising of Hutu farmers put an end to the long-standing domination of Rwanda by the Tutsi aristocratic caste. A referendum supervised by the UN abolished the monarchy. The new republic accepted that the farmers, the majority group would govern. An attempt to restore the Tutsi monarchy failed in 1963. Ten years later, some radical Hutus launched a pogrom against the Tutsis who, despite their loss of power, were still a flourishing minority thanks to their better education and their economic success. The events of 1959, 1963 and 1973 were followed by the expulsion or flight of Tutsis, around third of whom took refuge in neighbouring countries. Burundi, still under Tutsi minority rule, welcomed them as reinforcements for this minority. In Uganda, their treatment varied. At times they enjoyed de facto equality with Ugandan citizens and at other times when they had the status of barely tolerated aliens. Whether first, second or third generation, none were granted Ugandan nationality. At the same time, the Rwandan government, in violation of international law, prohibited them from returning to the land of their ancestors.

That said, the Tutsis of Uganda enjoyed a spectacular rise in influence when Museveni seized power: not only did they support him en masse, they also made up a considerable part of his force. Eventually, though, Museveni's sympathies for his fellow fighters counted less than Ugandans' resentment of a foreign minority. When his international sponsors pressured him to demobilise his civil war army, he relented – but in a way unintended by his backers: he allowed some 4,000 Tutsi soldiers discharged from his army to launch an invasion of Rwanda. This “demobilisation” offered a low-cost pay off in domestic politics – provided that it was successful. Realising that military failure would be a disastrous perspective, Museveni gave his support to the invasion.⁶

It was a military success. From the start, the soldiers of the RPF, trained in Uganda's wars, outfought the 7,500-strong Rwandan Army (RAF), which had never fought before. It took the intervention of Belgian, French and Zairian units to rein in the invaders. The Rwandan government, which had invested in development rather than military might, had no other choice but to hastily recruit new soldiers and form militias

⁵ Cf. the report, *ibid.*: “You remember the 4000 Rwandans who had been part of our Army who escaped...” (Museveni) said attracting laughter. ‘Yes, you can laugh..... but it wasn't planned.’ Museveni said his government adopted a dual position. He said Uganda pressed for negotiations between the warring factions while at the same time giving material support to the RPF.”

⁶ “We didn't want them defeated militarily and be forced to come back. ... such a defeat would have been disastrous.” *Ibid.*

to support the army. Yet, this did not affect the military superiority of the RPF. Militiamen showed little competence in combat, but great motivation in committing pogroms. Each defeat on the battlefield was followed by massacres of Tutsis within the country. The RPF strategy followed Museveni's successful example. Sure of its strength and of reinforcements and supplies from Uganda, the RPF constantly stated that it was ready to negotiate, while it carried on fighting.

This dual strategy was a brilliant success, above all because of the reaction of the international community, including that in Africa. Most states interested in the Rwandan situation chose to treat the war in this country as an internal conflict, ignoring the fact that part of a regular army of an African state - regardless of how it was recruited - had, with the backing of that state, invaded a neighbouring country. The reason for this decision was obvious: there are fewer constraints and it is less costly to settle an internal conflict than an interstate conflict. In addition, after the failure of international intervention in Somalia, most western countries did not wish to get involved in Africa. By threatening to cut off aid to the Rwandan government, they pushed it into negotiations with the RPF - while being careful not to exert similar pressure on the Ugandan government. The Rwandan government complied.

The Arusha Peace Agreement, the "compromise" the government found itself forced to accept in 1993, was a barely concealed capitulation: an all-party coalition government and an army made up in equal parts of the old Rwandan army and the RPF. It did not take particular foresight to know who would benefit most from this fusion of the two armed forces.

What followed had been sufficiently described and analysed. A part of the Rwandan government and radical Hutu organisations were not ready to share, let alone give up, power. Unable to offer serious military resistance, they planned the genocide of the Tutsi minority in the country. After the assassination of President Habyarimana, they put their plan into effect with a cruelty and obsession and on a scale that allows us to justifiably label it an African Holocaust. The UN troops stationed in Rwanda to supervise the implementation of the Arusha Peace Agreement, had no mandate to intervene. After the assassination of the Rwandan prime minister, a moderate Hutu, and the ten Belgian UN soldiers charged with her protection, the Security Council decided not to increase the strength of its "peacekeeping" force; instead it reduced it. Those who remained could do nothing but watch the rest of the massacres.

However, the genocide could not prevent the military defeat of the government army. Its soldiers and the militiamen, mediocre fighters, but vicious murderers, fled to neighbouring countries, particularly Zaire - with no less than two million Hutu civilians on their heels: the unprecedented massacres were followed by a flight equally unprecedented in Africa. The RPF easily seized control of the entire country. The perpetrators of the genocide failed to achieve their goal. Hundreds of thousands of Ugandan and Burundian Tutsis returned to the country of their ancestors, providing the government, a purely military force until then, with a demographic base. Nonetheless,

this base, and thus the new regime, was still a minority. Some Hutus were included in the government, but did not represent the views of the majority of their community, and were denied any real influence on government decisions. Under the shadow of the African Holocaust, however, the new regime was, for a long time, spared all external criticism, African and Western. And it took advantage of the situation.

Two years after its victory, the regime's main concern was the huge concentration of Hutu refugees in North and South Kivu, the two Zairian provinces bordering Rwanda. The refugees included entire units of the *Rwandan Armed Forces (FAR)*, the army of the previous regime, as well as Hutu militias, especially the largest and cruellest of them, the *Interahamwe*. The Zairian army had not objected to their crossing the border; indeed, it was in no position to do so. It contented itself with disarming them in a friendly and very superficial way. The fears of the new Rwandan regime that the previous one could rearm itself in Kivu and launch a war of revenge, or even resume the genocide, were not unfounded. Therefore, it decided to take preventive action.

Zaire's policy towards the phenomenon of an armed and vengeful refugee movement was not lacking in ambivalence. On the one hand, Mobutu, boycotted by former backers after he succeeded in paralysing the democratisation movement in his country, basked in his new international importance and the flows of international financial aid occasioned by the tragedy of the Rwandan refugees. On the other hand, he was fully aware of the socio-economic problems caused by the presence of millions of refugees in the two densely populated provinces of Kivu. The interim parliament in Kinshasa exhorted him to deal with the issue. He initially called for the - if necessary involuntary - repatriation of refugees, a call that was rejected by the western powers. Then he suggested stationing a force of international troops in Kivu to separate the opposing forces and prevent a potential war. This suggestion was welcomed, and from summer 1996 a general staff under Canadian command tried hard to prepare for a peace force. But the new war had already started.

This war was astonishingly similar to the preceding one. Paul Kagamé, vice president of Rwanda, and, as head of the RPF, the real power in the country assumed the role of Museveni, while that of the Tutsis of Uganda was assigned to the Tutsis of Zaire, the Banyamulenge. Unlike the first refugees or expellees from their country of origin, the majority of the latter were immigrants whose nationality status had been unclear for decades. Because their legal insecurity is a key problem in the current conflicts, it is necessary to examine it more closely. Migration from Rwanda (and Burundi) into the eastern Congo was already taking place in the colonial era, if not earlier. At first, it was only a seasonal migration of Tutsi pastoralists with their cattle to the pastures of the high plateaus of South Kivu. This was legalised by Belgian authorities in 1921. However, when the migrants, originally semi-nomadic, started settling in growing numbers around the hamlet of Mulenge, the local population became increasingly discontented with the influx of those who identified themselves initially as Banyarwanda (people of Rwanda) and subsequently, at the suggestion of

intellectuals in their ranks, Banyamulenge (people of Mulenge). The Banyamulenge, however, were joined by other, more numerous, groups of immigrants. After World War I, seasonal workers and cattle herders from Burundi settled in the plains of South Kivu. As part of two migration plans, the Belgian authorities settled some Rwandans, both Tutsis and Hutus, in two regions in North Kivu. In 1940, they created a separate chieftaincy for those migrants. This chieftaincy was not abolished until 1967, after many years of protests by the local population claiming their rights to ownership of the land. In 1959, after the Hutu revolution in Rwanda, there was an influx of Tutsi refugees into North Kivu. After the massacres of 1972-73 in Burundi, it was the Hutus' turn to seek refuge in South Kivu. The immigrants from Rwanda and Burundi brought their conflicts with them, and their presence created new ones - with the local population. Finally, the mass flight of Rwandan Hutus in 1996 triggered complicated triangular conflicts.

The legal status of the immigrants and refugees in Congo, then Zaire and then Congo again, underwent several modifications. What did not change was the principle of *jus sanguinis* and the rejection of dual nationality - as, incidentally, in Rwanda. In 1992, Congolese nationality was granted collectively to the members of the tribes then resident in the territory of the Free State. At that time, Rwanda and Burundi were German territories. In 1923, a decision of the League of Nations prohibited turning citizens of a mandate territory into colonial subjects. The Congolese constitution adopted in 1964 confirmed the right to nationality of all descendants of the tribes that resided in Congo in 1908, reserving to all other persons only individual naturalisation. However, in 1970 Mobutu decided on a remarkable extension of the right to nationality: any person of Rwandan and Burundian origin residing in Congo before 30 June 1960, the date of Congo's independence - whether early immigrants or Tutsi refugees of 1959 - was entitled to Congolese nationality. However, this liberalisation was ephemeral. Following protests by native Congolese, the cut-off date for the right to nationality was reset to 1 January 1950. All identification documents issued after 1970 were withdrawn. The 1981 nationality law was even more restrictive: it set 1 August 1985 (sic) as the cut-off date. This law was confirmed by the National Sovereign Conference after the start of the democratisation process.

In brief: a conflict over the integration of immigrants in Kivu has been simmering for decades. Indeed, the democratic assemblies that voted in the 1960s and 1980s for more restrictive regulations than those imposed, at least temporarily, by the dictator, reflect the attitudes of native Kivus. The latter feared that naturalising immigrants might trigger new waves of immigration from neighbouring countries, and that Kivu, a region already densely-populated, might become the destination of Rwanda's and Burundi's population overspill, eventually giving these countries hegemony in the region. Considering that the population of Kivu represents around the quarter of the total population of Congo, any Congolese political power must take account of its opinions - which is, after all, a power more democratic than any dictator's.

This Congolese dilemma was an invitation to the new Rwandan regime to instrumentalise it for its own ends. The Tutsis of Zaire in 1996, immigrants and refugees, embittered by the revocation of their acquired rights, maltreated by a corrupt administration, threatened by armed and vengeful Hutu refugees, and bolstered by a common Banyamulenge identity, sought the assistance of their cousins now in power in Kigali - and found it, given that this appeal overlapped perfectly with the interests of those cousins.

A few thousand Zairian Banyamulenge youth received military training in Rwanda. All the elements necessary for the Rwandan Patriotic Front (FPR) to continue its war against the Rwandan Armed Forces (FAR) and the Interahamwe on Zairian soil in the guise of an inter-Zairian conflict were present. The Banyamulenge fighters spoke the same language and wore the same uniforms as the Rwandan soldiers. This made it so easy to deploy large numbers of Rwandan troops and deny it at the same time. The purpose of the Banyamulenge revolt soon became obvious. Its first targets were not Zairian army bases, but Hutu refugee camps close to the border. Half a million refugees were forced to return to Rwanda, which provided the international community with a pretext to declare that it was no longer necessary to send a peacekeeping force to the area, shortly before such a force was to be deployed.

It was not until about half of Kivu had been conquered that the Alliance of Democratic Forces for the Liberation of Congo (ADFL) under the leadership of Laurent Kabila, a veteran Congolese nationalist who led a guerrilla war against Mobutu in eastern Katanga from the 1960s to the 1980s, proclaimed a political programme for the revolt. This programme was simple: "Mobutu has to go." It found an echo throughout the country. Thousands of unemployed youth and deserters from the Zairian army volunteered. Nevertheless, until his victorious entry into Kinshasa, Kabila remained, first and foremost, "the local front man for what was essentially a foreign legion,"⁷ the hard core of which was made up of Ugandan and Rwandan troops. The former sought to cut the supply lines of subversive movements that ran from Sudan through Zaire to northern and eastern Uganda, while the latter's mission was to annihilate, once and for all, the rest of the Rwandan Armed Forces and Hutu militias. Showing no mercy whatsoever, they pursued not only the armed and presumably genocidal Hutus, but also unarmed refugees, women and children. Driven into the forests with little chance of survival, the refugees were systematically deprived of any humanitarian aid. Soon, at the sites of the refugee camps we could find nothing but mass graves. A United Nations Commission was forced to abandon its fact-finding mission; but by then it had irrefutable proof of systematic massacres of civilians.⁸ The

⁷ Richard Cornwell and Jakkie Potgieter, A large peace of Africa, in: African Security Review 7(1998), p. 74.

⁸ Cf. Report of the *Équipe d'enquête du Secrétaire général sur les violations graves des droits de l'homme et du droit international humanitaire en République démocratique du Congo*, 10.7.1998.

war of Rwanda's FPR against the Congo was not just a measure to prevent the return of those responsible for the genocide: it was a war of revenge.

The defenders of the last patch of the Mobutu regime were a foreign legion of sorts. While Zairian soldiers, poorly equipped and unpaid, plundered one city after the other before they deserted, Hutu soldiers and militias were struggling for their lives. Troops of the Angolan UNITA also fought fiercely to safeguard their rear base camps in Congo, provoking intervention by the Angolan army. This intervention settled the war. When Angolan government troops occupied the Lower Congo and the port of Matadi, Mobutu's fate was sealed.

There was no lack of diplomatic initiatives to reach a last-minute compromise. Kabila treated them the same way Museveni and Kagame did on their path to power: he agreed to negotiate while continuing his armed struggle until he achieved victory. The international community dealt with the conflict in Congo as it dealt with the conflict in Rwanda in 1990-1994: it chose the easiest way out by classifying it as an internal affair of Congo. As the entire country sank into war, the West did nothing but watch.

The open militarisation of the intra-African relations

From the time of his victory, Kabila sought to Congolise⁹ himself. Conquering a country with the help of a foreign legion is one thing; governing with its support alone is another. Troops speaking Kinyarwanda, Kiswahili and English in a metropolis such as Kinshasa whose inhabitants speak Kikongo, Lingala and French are soon perceived as an occupation force. Kabila's attempt to apply Museveni's and Kagame's recipe - no political parties, elections postponed indefinitely, restrictions on political freedoms - proved very unpopular in a country where the democratic movement succeeded in progressively wringing liberal concessions out of Mobutu. As the key posts in his administration were held by Congolese Tutsis, suspected of being Kigali's men,¹⁰ Kabila had difficulty avoiding the impression that he was the puppet of his allies. Attempts to broaden his support, especially in Katanga, his native region, were taken badly by his allies, who accused him of ingratitude towards those who brought him to power. Rumours of plots began to circulate. At that point, on 27 July 1998, Kabila decided to ask the Rwandan and Ugandan soldiers to return to their countries of origin.

The response came six days later. In Goma and in Bukavu, some regiments made up mostly of Banyamulenge mutinied, and were immediately supported by Foreign

⁹ Cf. Theodor Hanf, *Herrscher, Söldner, Demokraten: Vom Kongo zum Zaire und zurück*, in: *Frankfurter Allgemeine Zeitung*, 14 June 1997, p. 11.

¹⁰ Specifically, the minister of foreign affairs, Karaha, and the minister of the presidency, Bugera.

Minister Karaha, himself a Munyamulenge. The Kigali government denied any involvement. However, the rebellion was remarkably well organised. On 7 August, the rebels landed at the air base of Kitona and a few days later occupied the ports of Muanda and Matadi, cutting off the supply lines to the capital. On 13 August, the rebels took over the power plant of Inga, which supplies Kinshasa. At the same time, rebel troops from the east moved rapidly on Kisangani.

On 17 August, the rebels formed a political organisation called the Congolese Gathering for Democracy (RCD).

Kabila accused Rwanda and Uganda of aggression against the Congo, and accused "the Tutsis" of aspiring to hegemony in Central Africa. In Kinshasa, his statement provoked mobs to hunt down and kill Tutsis or those suspected of being Tutsis. Obviously, these pogroms did not alter Kabila's military situation, which worsened from day to day. At this point, he called on member states of the Southern African Development Community (SADC) to save the Congo, a Community member, from foreign aggression. The SADC Defence Committee, headed by Robert Mugabe, president of Zimbabwe, decided on 18 August to intervene militarily. Despite the protests of South Africa, which wanted the SADC to remain neutral, Angolan and Zimbabwean troops arrived in Kinshasa three days later and prevented the rebels, who were already at the airport, from seizing the city. By the end of the month, the supply goods and electricity was restored. The surprise attack with the aim of toppling Kabila quickly had failed.

On the other hand, his opponents succeeded in occupying the entire eastern part of the country. Kisangani fell to the Ugandan army. In the northeast, a new rebel group emerged: the Movement for the Liberation of Congo (MLC), led and financed by Bembe,¹¹ a businessman. In September, his progress was stopped by an expeditionary corps from Chad with Sudanese air support. At the beginning of November 1998, the Congo appeared to be militarily divided.

In less than three months, the country witnessed a remarkable reversal of alliances. Uganda, Rwanda and the Banyamulenge were aligned with the sympathisers of Mobutu, whom they had recently helped to overthrow. The remnants of the Rwandan Armed Forces (FAR) and the Hutu militias sided with Kabila. UNITA, two years previously a loyal Mobutu ally, joined the new rebels. But what was unchanged were the old enmities: Tutsis against Hutus, UNITA against the Angolan government, and Uganda against its Sudanese-backed rebels. It was only the Congolese allies of these opponents who changed. The Rwandan, Angolan and Ugandan civil wars were now pursued on Congolese territory. The novelty was Kabila's alliance with states that had no obvious interest in Congolese affairs. There was much speculation about the states' motives for intervening.¹² The most plausible explanation was their deter-

¹¹ Bembe's father was then a minister in Kabila's government.

¹² Mugabe wanted to compare favourably with Mandela; members of his family had economic interests in Congo; Nujoma wanted to get even with Museveni, who had prevented his

mination to oppose Rwando-Ugandan hegemony in Congo - and the usefulness of a military expedition to divert their peoples' attention from domestic problems. Be that as it may, the fact remains that from 1998 Rwanda and Uganda were not the only powers operating in Congo.

From the erosion of alliances to the outline of a peace settlement

The fear of permanent militarisation of interstate relations at the heart of Africa was the behind the many efforts to reach a negotiated settlement of the conflicts in Congo. For a long time, these efforts had little to show. Protagonists clung tenaciously to their positions. Laurent Kabila spoke not of rebellion, but only of Rwandan and Ugandan aggression, and he demanded that these countries withdraw their troops. For Rwanda and Uganda, no cease-fire was conceivable without negotiations between Kabila and the rebel organisations. Until November 1998, Rwanda denied any military presence in Congo. Kagame eventually admitted it in a meeting with Mandela, and justified it on the grounds of security. The rigidity of the two positions was nourished by the respective hopes of military victory - both unrealistic. Kabila counted on his allies recapturing the east of the country. However, the latter never seriously envisaged a serious commitment in view of the foreseeable difficulties they would experience with their sophisticated weaponry - armoured vehicles and aircraft - especially during rain season. Beyond shielding the regime from foreign attack, they had no vital interest in Congo.

In early 1999, Angola withdrew part of its troops to deal with a new insurrection by UNITA. In Zimbabwe, Namibia and Chad, there was growing criticism of the military adventure in Congo.¹³ The Chadian contingent suffered huge losses. In brief: Kabila's allies had the strength and the political determination to save him from defeat, but were not so committed that they would conquer the east of the country for his benefit.

The rebels themselves were in no better position than Kabila. Their own forces were not able to effectively control the regions they occupied. An analysis of their disagreements, faction-fighting and different forms of dependence on neighbouring states goes beyond the scope of this article. None of their organisations was able to win popular support. Forced recruitment caused many youths to stop attending school and seek refuge in the forests. The reputation of the rebel soldiers was even worse

election as president of the OAU; Chad, with Qaddafi's encouragement, was interested in the role of regional policeman; etc.

¹³ In Namibia, which had sent no less than a quarter of its armed forces, a new opposition party campaigned against involvement in Congo.

than that of the government troops, which was poor enough. Whereas freedom of the press and of expression was limited in the territory under Kabila's control, it was non-existent in the rebel areas.

When Rwanda and Uganda, sponsoring states of the rebel movements, finally admitted their presence in Congo, they justified it on the grounds of security. These were not unfounded. Nearly a third of Uganda was controlled by non-Museveni forces. By exporting the war to Congo, Rwanda succeeded in stopping the attacks of its Hutu opponents, which were still frequent before 1998. Nonetheless, their operations stretched their lines up to 700 km from their borders, where they were confronted not only by the opponents of their regimes, but also by resistance from the local population. The occupying forces reacted to the Maji-Maji¹⁴ attacks with great brutality against the civilian population, giving rise to a vicious circle of guerrilla attacks, repression and renewed guerrilla attacks. Irritations arose between the Ugandans and the Rwandans. The Ugandans accused the Rwandans of arrogance and of colonialist goals, while the Rwandans accused the Ugandans of being mainly interested in exploiting the wealth of Congo. In the summer of 1999, there were violent clashes between the occupying troops in Kisangani.

In short, at that time, neither Laurent Kabila nor his henceforth divided opponents had any hope of military victory. The time for negotiations had finally arrived. The governments of Congo, Angola, Zimbabwe, Namibia, Rwanda and Uganda signed the Lusaka Accord,¹⁵ followed by the rebel organisations. This accord called for a cease-fire, a request for the UN to send peacekeeping forces under Chapter VII of the Charter, a timetable for the withdrawal of foreign troops, the disarmament of the different "armed groups" and a national dialogue with the assistance of the OAU. In August 1999, the Security Council voted to dispatch military observers¹⁶ and in November the *United Nations Organisation Mission to the Congo (UNOMC)*,¹⁷ which it increased to 5,537 soldiers in February 2000.¹⁸ The UNOMC mandate was limited to monitoring the cease-fire.¹⁹ However, this was not respected.²⁰ In March 2000, fighting raged in Kasai and northern Katanga. In Kisangani, renewed fighting between Ugandans and Rwandans resulted in the defeat of the former. The Security Council

¹⁴ "Maji" means water. Many traditional warriors believe that taking a magic potion can turn bullets into water.

¹⁵ Cf. Ligue Nationale pour les Elections Libres et Transparentes (Ed.), *Accord de Lusaka pour un cessez-le-feu en République Démocratique du Congo et Modalités de sa mise en œuvre*, Kinshasa 1999.

¹⁶ S/RES/1258.

¹⁷ S/RES/1273 AND 1279.

¹⁸ S/RES/1291.

¹⁹ The UNOMC was not authorized to use arms, except for self-defence.

²⁰ S/RES/1304.

called upon the two states to withdraw their troops from Congo.²¹ Kabila, hoping for better times, distanced himself from the Lusaka Accord and did all in his power to delay the "national dialogue." Since his opponents were unable to carry out large-scale offensives, a war of attrition broke out along the battle front. All the parties to the conflict seemed "determined to persist with their military adventurism precisely because they have so far failed to accomplish their objectives."²²

On January 16, 2001, Laurent Kabila was assassinated²³. The army proclaimed as president the commander of the territorial forces: Joseph Kabila, 31 years old and Laurent Kabila's adopted son. The rebels and the democratic opposition in the Congo rejected this choice. The former were afraid that he would stick to his father's intransigent policies, and the democrats objected to a dynastic succession. Even well-disposed observers wondered whether a young man who grew up in East Africa with a better command of Kiswahili and English than French, a brief military training and no political and diplomatic experience at all was up to the task. The young president surprised everybody, both critics and observers. Joseph Kabila quickly improved his French and proved himself a flexible politician, yet firm on questions of fundamental importance to the Congo.

He declared that he supported the Lusaka Accord, a national dialogue and the deployment of the UNOMC. The blue helmets arrived in March 2000 and disengagement along the front lines started. In August, the Namibian troops departed. Uganda withdrew ten of its battalions, leaving one in Bunia and two in Ruwenzori. Rwandan troops withdrew from Congo, leaving behind the DRC army, which was composed essentially of Banyamulenge - which facilitated quick and barely monitored reinforcement by Rwandan soldiers,²⁴ and indirect Rwandan control of the eastern Congo. As a sign of good will, Kabila decided to demobilise 3000 Rwandan Hutus and put them at the disposal of the UNOMC.²⁵

²¹ S/RES/1403.

²² International Crisis Group, *The Scramble for the Congo: Anatomy of an ugly war*, Brussels 2000.

²³ The identity of the assassins and their motives are still uncertain. Hypotheses include the following: (a) some soldiers were outraged because by an order of Kabila's to finish off wounded soldiers; (b) child soldiers ("kadogos") from Kivu; (c) a murder commissioned by Rwanda; (d) a plot of Lebanese traders who were furious about Kabila's intention to grant the diamond trade monopoly to an Israeli enterprise; (e) an operation by the Lebanese Hizbullah to prevent money laundry intended to benefit Osama bin Laden (*sic*).

²⁴ That was also the case in June, 2001. Cf. Amnesty International, *Rapport sur le Congo*, 10 June 2001.

²⁵ The Congolese foreign affairs minister pointed out that his government was able to demobilize only the Hutus in his army, but not those operating in territories controlled by rebels.

He lifted the ban on political parties imposed by his father. Paul Garreton, a UN observer, attested a marked improvement in human rights under the new administration. At the first meeting of national dialogue on October 2001 in Addis Ababa, Joseph Kabila proposed holding free elections under the supervision of an independent electoral commission as soon as possible. These elections would take place only five years later. The long negotiations and interim arrangements that preceded these elections are analysed elsewhere in this book. If the path to peace was chosen because the adversaries ran out of steam, the credit for the possibility of democratic peace belongs to Joseph Kabila.

This democratic peace, however, was not yet certain. It was thrown into doubt by the threat of the renewed war in the eastern part of the country - and by the collective memory of its populations. Hence, it is worthwhile recalling what has shaped this memory.

Memory of terror in the occupied regions

For a decade and a half, human rights organisations have worked in the Congo with great care and courage. Through the years they dealt with all sorts of obstacles: arbitrary arrest, abuse by policemen and soldiers, and questionable judicial procedures, in particular before military courts. But what took place in the occupied areas of the country was of a completely different order of magnitude, as shown in a Human Rights Watch report.²⁶ This report is based on an inquiry conducted in March 2000 and confirmed by subsequent investigations.²⁷ In the region controlled at the time by the DRC-Goma, researchers documented cases "of murder, rape, and pillage carried out by all of the armed groups now fighting in the region... The Rwandans back the RDC-Goma and exercise considerable influence over its political and military decisions." The armed opposition was then made up of the Congolese Maji-Maji²⁸ as well as the Rwandan Hutu groups.²⁹

²⁶ <http://www.hrw.org/reports/2000/drc/DRC005-01.htm>

²⁷ Cf. IRIN, Integrated Regional Information Networks of the UN Office for the Coordination of Humanitarian Affairs, <http://reliefweb.int/IRIN/archive/drc.phtml>

²⁸ Originally traditional warriors, the modern Maji-Maji served as soldiers under Mobutu and Kabila.

²⁹ HRW refuses to call these groups "Interahamwe": "Although Rwandan authorities and many others speak of the group as though it were made up exclusively of persons guilty of genocide, it is impossible to determine how many of the present-day Interahamwe were part of the force in 1994. Some are certainly former soldiers of the Rwandan army (Forces

The civilian population was subject to extortion by all armed groups, all of which accused them of assisting the enemy. The following pattern was repeated again and again: "RDC soldiers and Hutu combatants treated unarmed civilians as proxies for their armed opponents and targeted them for indiscriminate attack, as well as engaging in rape, pillage, and destruction of property." The forms of systematic sexual violence resembled those in the war in Bosnia. "Rape and other forms of sexual violence have become widespread as the war in eastern Congo has grown increasingly bitter...Groups of ten or more men sometimes gang rape one woman. Assailants sometimes take women hostage to be used as sex slaves...survivors of attacks said that rape has been used systematically against their communities." No attempt was ever made to bring those responsible for assassination and rape, let alone theft and pillage, to justice, even when committed by soldiers in uniform. Those who dared to criticise these acts, especially if they mentioned the DRC or the Rwandan army by name, exposed themselves to retaliation. People in charge of youth, women's and human rights organisations³⁰ and other civil society institutions³¹ were arrested without any legal procedure. Their gatherings were prohibited. In March 2000, an anonymous call for a strike against the Rwandan army - the "Ghost Town Action" - was largely followed in Bukavu, Goma and smaller towns: shops, markets, schools and government offices remained empty. Afterwards, many intellectuals, doctors and NGO activists were arrested and some of them tortured. Most Congolese and international journalists were threatened; and the only radio station in South Kivu was closed.

The main targets of the occupying authorities were the churches. Ubiquitous at the grass-roots level and thus well-informed, the churches were advocates for the victimised population. The Anglican bishop, head of the Church of the Christ in Congo, was forbidden to leave Bukavu. The Catholic archbishop of Bukavu, who had the courage to denounce foreign exploitation of Congolese resources, was accused of inciting racial hatred and placed under house arrest in Butembo. The Catholic Church responded by closing its schools, followed by the Protestant and Kimbanguist Churches. Later, repression against the churches increased; many priests and pastors were murdered and many presbyteries looted.

In view of these facts reported by Human Rights Watch, it would not be surprising at all if the rebel movements in Congo, as allies of Rwanda, tried to delay free elections as long as possible.

Armées Rwandaises) and of the original Interahamwe militias, while others are former civilians with no previous military experience."

³⁰ Cf.: Héritiers de la Justice, Commission Justice et Paix.

³¹ E.g. the secretary of the civil society coordination bureau, detained in Kigali.

The pillage of Congo's resources

The soldiers of warring parties - like those of Mobutu before them - had long learned to live according to Wallenstein's dictum: by requisition and pillage. However, the plundering of Congo's resources by the Rwandan and Ugandan occupying forces was of a totally different economic dimension. This was documented in a report by a UN expert panel established by the Secretary General of the United Nations, Kofi Annan,³² and submitted in April 2001. This report established a causal relation between the exploitation of natural resources and the long period of conflict in Congo. "The conflict... became a question of access to five key mineral resources: coltan, diamonds, copper, cobalt and gold.

The only losers in this huge business are the Congolese people." The chairperson of the group of experts, the former Ivorian minister, Safiatu Ba-N'Daw, considered the acts of pillage and blackmail and the formation of criminal cartels "as a serious security problem in the region." The report blamed mainly Rwanda, Uganda and Burundi and groups allied to these countries. Exploitation became more important than military success, especially for Uganda. Although it has withdrawn most of its troops, it has maintained them in regions rich in resources. Museveni's younger brother, General Salim Saleh, was at the centre of the illegal exploitation in the zones controlled by Uganda and its allies. But even ordinary officials and soldiers profited from back-handers to such an extent that Uganda was afraid of the potential discontent among soldiers deprived of this income when they returned home permanently.³³ In Rwanda, government interests played a more important role. The regime's strongmen "were at the head of the implicated banks and the Rwanda Metals, Grands Lacs Metals and Tristar companies. They maintained "strict group discipline, which allowed efficient exploitation of the Congolese resources." Rwanda profited mainly from coltan.³⁴ But it also exploited gold mines in its zone. In 1998 alone, Rwanda, a country with no gold reserves to speak of, exported two and a half tonnes of gold to Belgium.

In short: the report of the UN expert panel confirmed that Afro-militarism was above all a huge exploitation racket. In 2000, Thomas Scheen concluded pertinently: "War can continue because it is more lucrative than peace. And there is no end to the misery of the population."³⁵ Years later the war ended; whether this is also true of illegal exploitation is another matter - not to mention the misery.

³² Cf. <http://perso.wanadoo.fr/dan.cdm/dem/rec0501> and Frankfurter Rundschau, 18 April 2001.

³³ The Ugandan minister of foreign affairs questioned the credibility of the report of the panel of experts and established a Ugandan fact-finding commission.

³⁴ Coltan (short for columbite-tantalite) comprises niobium and tantalum. It is used in the aviation industry, in cell phones and in computers.

³⁵ Frankfurter Allgemeine Zeitung, 30 June 2000.

Geography, geo-economics and geopolitics: Reflections on the Congo and the concept of the “Great Lakes”

One may view the Congo as a geographical entity around a huge river and its tributaries. But its borders were not drawn according to geographical criteria. They brought together all the remaining white spaces on European maps of late nineteenth-century Africa because an influential group of greedy entrepreneurs hoped to make their fortunes there. The worth of their spoils did not become apparent until later. Ten years ago, the poor neighbours on the other side of the ridge separating the Congo and Nile basins decided to join in the pillage and even to monopolise it. Once again, economic motives determined the pattern of politics, and again justified by geography: in Rwandan and Ugandan terminology, the country of the “Great River” is included in the concept of the “Great Lakes.” In Kigali it is claimed that the colonial frontiers are the cause of conflict. However, the only disputed Congo border is that in the east. Yet this is the one border that was drawn with scrupulous respect for the territories of different ethnic groups.³⁶ The problems in the eastern Congo were not caused by the borders, but by migrations across them. The problems of migration cannot be settled by redrawing the borders. The call for a new Berlin Conference³⁷ is nothing but an expression of a desire for annexation. This desire was clearly articulated in November 2000 by Augustin Lyamurenge, a former Rwandan minister.³⁸ He maintained that pre-colonial Rwanda was a country in the throes of geographic expansion. At the time, Rwandans in search of new lands conquered northern Kivu and part of Buganda. Colonisation confined Rwanda to a space too small for its fast-growing population. It was inevitable that Rwanda would eventually revisit the border question. Rwanda also needed access to the sea.³⁹

The minister’s reading of history is wrong. The Rwandan expansion into Kivu was stopped by warriors of the kingdom of Bashi at the Battles of Ijwi 1885-94, before the German colonial administration was established. How relevant is the demographic argument? Kivu was almost as densely populated as Rwanda and, thus, not at all suitable if the object of annexation was to provide land for surplus Rwandans - unless the native population was to be expelled. It is more likely that Rwanda’s aims in Kivu were motivated by economics rather than demography, by the absence of resources rather than the absence of space.

³⁶ Borders Agreement of 1910 between the Kingdom of Belgium and the German Empire.

³⁷ Made by the Rwandan head of state, Bizimungu.

³⁸ To a group of German university students accompanying Minister Joseph Fischer on a visit to Kigali.

³⁹ He did not reply to the question of whether he was thinking of Mombasa, Dar es-Salam or Matadi.

The concept of a "Great Lakes" region that includes at least part of Congo is closely related to the view that the Congo was doomed to dismemberment in any case. Yet it is difficult to find Congolese who shared this view. Regardless of their political affiliation, Congolese politicians value the unity of their country, aware that its provinces are economically complementary and that none of its regions has any interest in separating from the others. The perception of a Congo that is breaking apart is a useful tool for those who wish to profit from its dismemberment.

As long as it is able to protect itself from forces seeking these profits, the Congo is perfectly capable of existing as it is. Currently, it is a very different country from what it was when Mobutu seized power and when Laurent Kabila launched his long struggle. After 50 years of independence the balance is not entirely negative. Instead of just a few dozen university graduates, there are now tens of thousands. The Congolese of today are well-informed, free of illusions and hostile to any ideology. As the Mobutu dictatorship waned, a strong civil society started to emerge and now consists of thousands of non-governmental organisations. The churches, most of whose personnel were foreign missionaries at the time of independence, are run by Congolese. This civil society did not have the advantage of developing without suffering in a free society, but it did manage to hold its own against dictatorship. The democratic movement grew over the course of two decades. Though it did not succeed in toppling the dictatorship by non-violent means, it laid the foundations of a remarkable freedom of expression. As far as the average Congolese citizen is concerned, the outlook for democracy is good,⁴⁰ provided that the international community succeeds in protecting it against Afro-militarists.

⁴⁰ Cf. Beatrice Schlee's contribution in this volume.

The long political transition in the DRC (1990-2006)

Positive Aspects and Vicissitudes

PAMPHILE MABIALA MANTUBA-NGOMA

Introduction

The political transition process in the Democratic Republic of Congo began when President Mobutu, recognising that the end of the Cold War and perestroika would have repercussions for his country and life, started a countrywide tour of the Congo in January and February 1990 to consult with the people with the aim of launching a debate on the perception of the Congolese people regarding institutional functioning, leaders' quality, profile and ethics, the abuse of power, and especially the flagrant violations of human rights.

All the criticism people had vis-à-vis the regime were formulated in a memorandum addressed to the head of state on 9 March 1990, during Zaire's Bishops Conference.¹ Another memorandum, written by the ministry of foreign affairs was sent to him on 22 March 1990, analysing the regime, and suggesting necessary curative reforms.

Drawing valuable lessons from these popular consultations, Mobutu delivered a speech on 24 April 1990 in which he announced political reform measures:

¹ C.E.Z, *Mémoire des évêques au chef de l'Etat. De la situation du pays et du fonctionnement des institutions nationales*, 9 March 1990.

abandoning the leading role of the PMR (Popular Movement of the Revolution), the state's only party; separating the party from the state; rehabilitating the separation of the executive, legislative and judicial powers; and returning to trade union and political pluralism. However, only three political parties would be allowed so as to spare the country the mess of a multiparty system as in the 1960s, or so he said.

The announcement of this political openness gave people hope. In his speech of 3 May 1990 to the Legislative Council (parliament), President Mobutu announced that the transition would only last two years and lead to the organisation of presidential elections in December 1991 and legislative elections in 1992.² On the same occasion, he started to obstruct the democratisation of the political life, demonstrating that he was the master of the game, would set the rules and channel the process. In this speech, he ended recreation by sending back "priests and pastors to churches and temples, and students to classes." He also banned demonstrations and political meetings, and recommended that opponents to engage in "consultations over a cup of tea, lemonade or any other drink, preferably alcohol-free."³

Facing this obstruction, the common short-term goal of the political opposition was the departure of President Mobutu, who was considered as the obstacle to the democratisation process. Therefore, it was necessary to call for a multiparty system and organise the national conference in order to reach a national consensus and put in place a government of national unity; a government responsible for organising local, municipal, legislative and presidential elections.⁴

Nevertheless, the political transition lasted for nearly 16 years, strewn with political consultations, political and social violence, and wars. There were three phases under three heads of state: the phase of liberation from the dictatorship of Mobutu Sese Seko (24 April 1990 - 17 May 1997), the phase of the country's alienation and balkanisation, de facto under Laurent-Désiré Kabila (17 May 1997 - 16 January 2001), and the phase of reconciliation and the state's rebirth under Joseph Kabila (since January 2001). The country changed its name from Zaïre, back to the Democratic Republic of Congo on 17 May 1997.

The transition process was conceived as an effort of moving from a dictatorial order to a democratic one. However, this change proved to be like a long walk, a long, tumultuous stroll⁵, "an adventure incessantly renewed", or even a "long tunnel",⁶ a

² Gbabendu Engunduka, A. and Efolo Ngobaasu, E., *Volonté de changement au Zaïre*. Vol. 2, Paris, L'Harmattan, 1991, pp. 72-76.

³ Soudan, François, „Zaïre : la récréation est-elle finie ?“, Jeune-Afrique, (28 mai 1990), pp. 16-20.

⁴ Gbabendu Engunduka, A. and Efolo Ngobaasu, E., Op. Cit., p.175 - 180.

⁵ Afana Désiré, *La balade démocratique au Zaïre. Sept ans de transition tumultueuse (1990-1997)*. Kinshasa, HIPOC, 1998.

⁶ N'Gbanda Nzambo-ko-Atumba H., *La transition au Zaïre. Le long tunnel*. Kinshasa, NORAF, 1995.

period of transition difficult to get over, one lived as pathos according to Sampassa: "the period called 'Transition' is the most painful one in our history".⁷

The Congo's political transition surprised more than one observer by its duration, vicissitudes, positive acquisitions, complexity, the involvement of both internal and external factors, and in particular its harmful consequences for social peace, the security of persons and goods, the stability of institutions, the integrity of territory, and the people's quality of life. This transition was a period of multiple crises, an anomic situation that gave researchers a lot to analyse.

The approach adopted in this study consists of understanding the transition as a change of complex facets and motivations, and variable stakes over time. During the Sovereign National Conference, this transition was comprehended as the founding act of democracy, the war of aggression as a breakdown in the democratic process, and the inter-Congolese dialogue as the will for peace and a new start in the country.

The nature of the process of transition

The specificity of the political transition in Congo lies firstly in its abnormal duration and in the initiatives of its actors.

The length of the transition

Can the long march of the transition process be explained by the period of autocracy, which mechanisms of constraint with strategies of utilitarian consensus, political practices that still thwart the will for change? Did the period of transition last because of a false definition or a false perception of democracy? Was the advent of a democratic process a source of delight or disillusionment; a moment of political stability or structural instability; a moment of respect for or violation of human rights; a moment of deepening conflict, and identity drift or the promotion of the culture of peace? Finally, did the long march towards a democratic order go hand in hand with the marginalisation of certain social categories, such as women and youth?

⁷ Sampassa Kaweta Milombe, G. M., *Conscience et politique au Congo/Zaire. De l'engagement aux responsabilités*. Paris, L'Harmattan, 2003, p. 137.

In order to understand the length of the Congolese political transition, several theoretical approaches are possible: the chaos theory, the leadership theory and the global action theory.

According to the theory of chaos,⁸ we can explain the length and complexity of the transition by the state's decline. The chaotic state broke down and became a fiction because it failed to assume its classical legal characteristics. Such a situation favours predation,⁹ promoting the privatisation and criminalisation of the state and its economy.¹⁰ This not only led to the pauperisation of the population, but also to its disillusionment and disengagement, which rendered the territorial control by the official authorities purely nominal. The state's collapse was favoured by a clique of plutocrats; that is to say, all those who had the means of coercion and monopolised the national wealth to conduct international trade on their own behalf.¹¹

The second approach is the leadership theory, which postulates that the explanation of the delay in transition can be explained by the incapacity of the Congolese elite to take the initiative. Its proof is the imitation, even if a poor imitation, of authoritarian colonial power. Mobutu took as his inspiration the pharaonic model of the Belgium's King Leopold II.¹² The regimes that succeeded Mobutu took the latter as their example of legality. We were witnessing a recycling of elites. Indeed, the Congolese political class has not changed much since the independence. Some leaders were collaborators of both President Mobutu and President Laurent-Désiré Kabila, and today they are collaborators of President Joseph Kabila too. It comes as no surprise then that the co-fighters of the fathers of independence are today, with their sons, grandsons and wives, hold positions within the institutions of the transition, thus giving the impression that these institutions belong to a clique. The will of the old order to perpetuate itself is a major obstacle to change.

From this point of view, the democratic transition suffers from the virus of authoritarian power and clientalism. Mobutu's model of governance continued to heavily influence the thinking of the Congolese leaders, and the mentality and behaviour of the Congolese people¹³. The supporters of this approach hold that Congolese political

⁸ Gleick, James, *La théorie du chaos. Vers une nouvelle science*. Paris, Albin Michel, 1989, p. 131.

⁹ Mabi Mulumba, *Les dérives d'une gestion prédatrice. Le cas du Zaïre devenu République Démocratique du Congo*. Kinshasa, CEDI, 2001.

¹⁰ Mbembe, Achille, „Du gouvernement indirect“, *Politique Africaine*, 73 (mars 1999), pp. 103-121.

¹¹ Reyntjens, Filip, *La guerre des Grands Lacs. Alliances mouvantes et conflits extraterritoriaux en Afrique Centrale*. Paris, L'Harmattan, 1999, pp. 234-235.

¹² Gérard, Jo, *Le Pharaon des Belges : Léopold II*. Bruxelles, J.M. Collet, 1984.

¹³ Loka ne Kongo, „La responsabilité de la classe politique dans le prolongement de la transition démocratique en R.D.C“. *Elites et démocratie en République Démocratique du Congo*. Under the supervision of Sabakinu Kivilu. Kinshasa, PUK, 2001, pp. 97-104.

leaders did not care about satisfying people's expectations; they were incapable of ensuring public service, of protecting people and goods, and of promoting any general well-being whatsoever.¹⁴ The succession of leaders to different posts did not stop the bankruptcy of the state and did not alleviate the suffering and the pauperisation of the population, as long as the old survivors and the new leaders do not seem to learn any lessons from the political catastrophes of Mobutu's regime.

Finally, we can try to explain the vicissitudes of the transition by the global action theory. The process of transition began in the international context of the perestroika, the fall of the Berlin wall, and therefore the end of the cold war. The Congo, one of the strategic pillars of the South Atlantic¹⁵ and as such seen as a barrier to communist expansion in Central Africa, found itself suddenly abandoned by its international patrons because it was no longer on the front line. The West abandoned President Mobutu's regime politically and economically at the beginning of the democratisation process, suspending its bilateral and multilateral cooperation.¹⁶ President Laurent-Désiré Kabila, whose accession to power was greeted with global relief, incurred the same ostracism as his predecessor. As a matter of fact, multinational firms considered him ungrateful and stoked the crisis by supporting the war against his regime in order to illicitly exploit the country's strategic resources, trading them on the global market with the help of regional actors.¹⁷

In this context, the globalisation of the economy - an economic neo-Darwinism based on the idea of opening up to world trade and encouraging the flow of goods, services, capital, information and market thinking - could not benefit the Congolese people in any way.

The pernicious side of this approach is that it favours a paranoid mentality, a scapegoat attitude that absolves the Congolese people from all responsibility for the country's multidimensional stagnation. According to it, we relied too much on the international community and let ourselves be tossed about by any gust of wind coming from outside the country.

Mumbanza mwa Bawele, „Evolution historique des élites congolaises, véritable obstacle à la démocratie“, *Elites et démocratie*, pp. 61-89. Wamba dia Wamba Ernest, „The failure of an African political leadership“, ZNet, (July 18, 2003), pp. 1-6.

¹⁴ Tala-Ngai, Fernand, *R.D.C de l'an 2001 : déclin ou déclin ?* Kinshasa, Analyses Sociales, 2001.

¹⁵ Höpker, Wolfgang, *Süd-Atlantik. Machtvakuum der Weltpolitik*. Herford, Deutsches Marine-Institut, Mittler, 1983, pp. 61 - 75.

¹⁶ Marysse, Stefaan et Reyntjens, Filip (dir.), *L'Afrique des Grands Lacs. Annuaire 2000-2001*. Paris, L'Harmattan, 2001, pp. 375-378.

¹⁷ Conseil de Sécurité, *Rapport du Groupe d'experts sur l'exploitation illégale des ressources naturelles et autres richesses de la République Démocratique du Congo*. S/2001/357, pp. 1-62.

The actors of the process of transition

Political transition was not the responsibility of any one individual, but of the whole Congolese society, which had to undergo profound changes, for better and for worse. Several actors speeded up or slowed down the process at one stage or another. All the political and social forces participated in this change.

The political participation of the ruling elite and the opposition forces during the first stage of transition was based on a misunderstanding. For the dictatorial power, democracy was not an inalienable right of the people, but rather a liberal gesture by the established regime. From this point of view, the political transition implied a process of metamorphosis of the regime, a process of political transformation that paved the way from an autocratic order to a pluralistic one by introducing political reforms capable of converting the regime with the aim of ending the crisis of political legitimacy. For opposition leaders, however, the transition should have been realised by revolution; in other words, by a complete break with the old order and replacing it with a democratic one.

Given these opposing views, the transition gave rise to a conspiracy theory that the actors involved were looking for a way to destroy each other. The political scene was dominated by a binary logic, by the polarisation between the president's sphere of influence and the forces of the opposition. President Mobutu's political family was made up of the MPR, which had devolved into a private fiefdom, and of all satellite parties, which were regarded as parties in it for the money, not only because they were Mobutu's political creatures, but also because they were "breastfed by the dictator".¹⁸ The government encouraged the proliferation of political parties with the aim of ridiculing the change in progress, or even of undermining real democratisation. The opposition parties were described as "the forces of change" sharing a common platform with political societies and civil society organisations, successively known as the "Sacred Union of the Opposition" (SUO), "Sacred Union of the Radical Opposition" and "Sacred Union of the Radical Opposition and its Allies" (SUROA).

In spite of the polarisation, we witnessed a continuous phenomenon of political assimilation or absorption, owing to political leaders' inconstancy, unreliability, corruption, fickleness and opportunism. Their interchangeability, signified by the graduation of opposition's elite towards the president's sphere of influence, was described as "political wandering" or "political migration", in effect a betrayal of the

¹⁸ Kamwiziku Wozol'Apangi, „La négation d'autrui dans le langage populaire : procès de la démocratie de la faim au Zaïre”, *La tolérance politique*. Sous la direction de Mabilia Mantuba et al., Kinshasa, IFEP, 1996, pp. 151-165.

people's struggle. This attitude proved that the leaders' own interests were more important to them than the public interest.¹⁹

Mobutu's regime treated radical opponents who refused to be co-opted very violently. The police entered the home of Etienne Tshisekedi, leader of the radical opposition, several times. President Laurent-Désiré Kabila banished him to his hometown. The home of another UDPS leader, at the time chairman of the Sacred Union, Frédéric Kibassa Maliba, was bombed on the night of 13-14 August 1992, an incident that killed his son. Christophe Lutundula suffered a similar attack in December 1992.

When Etienne Tshisekedi was elected by the National Conference to succeed Nguz Karl i Bond, a Katanga native, as prime minister, the latter's party, the Federalist and Independent Republican Union (FIRU), led by Gabriel Kyungu wa Kumwanza, the provincial governor and former member of the FIRU directorate, started an ethno-regional purge on 15 August 1992 in which "native Katangans" hunted down Kasai nationals, forcing them to abandon their property and take refuge in Kasai. This operation took several lives.²⁰

Since the beginning, students took a very active part in the process of the transition, publicly demonstrating their desire for freedom. The government, the political opposition, the churches, civil society: everybody wanted to win the support of the students in order to accomplish certain political objectives aiming at either thwarting or supporting change. To initiate the process of change, students at the University of Lubumbashi attacked their Ngbandi colleagues, from the same ethnic group as President Mobutu, armed until then by the regime for surveillance and tracking of the rest of the university community. The government's violent repression of 10-11 May 1990 became known internationally as "the student massacre".²¹

This event led to the suspension of bilateral and multilateral aid and the isolation of Mobutu's regime.

On 8 April 1991 the students of the capital dismissed the offer of Mulumba Lukoji's government to hold a national conference and the following day led a group of onlookers and unemployed waving with olive branches and banners, screaming: "This is the people's victory. The people must achieve ultimate victory. Mobutu must go ...". This demonstration was put down with a great deal of violence.

The last student demonstrations took place in several cities on 2-4 June 2004 troops of Jules Mutebushi and Laurent Nkundabatware seized the city of Bukavu and

¹⁹ Loka-ne-Kongo, *Lutte de libération et piège de l'illusion... Multipartisme intégral et dérivé de l'opposition au Zaïre*. Kinshasa, P.U.C., 2001.

²⁰ Kangomba Lulamba, Jean-Claude, *L'enfer kasaïen de Kolwezi. Autopsie d'une épuration ethnique*. Louvain-la-Neuve, Actuel, 2000.

²¹ Gbabendu Eugunduka A. and Efolo Ngobaasu E., *op. cit.*, pp. 80-81.

sought to force United Nations Observation Mission in Congo (UNOMC) to fulfil its mandate efficiently and the government to defend the territory effectively.

The period of the transition allowed state workers and civil servants to claim more and more rights, but unfortunately their situation worsened from year to year. To dramatise their poverty, they christened the courtyard ministry of public affairs, where they met and publicise their grievances, "Golgotha Square". They even symbolically placed the dictator, Mobutu, source of their misery, in a coffin.

The transition also facilitated the shift from a single trade union (National Union of Workers in Zaire) to a pluralistic trade unionism. Gradually, as more trade unions were founded, the number of strikes multiplied. Workers were no longer intimidated by employers and became aware of their rights provided for in the international human rights agreements and in the constitution. Workers either had to take part in anti-government demonstrations resistance manifestations, or put up with the "dead cities" decided by the political opposition. They were major victims of the democratisation process. In effect, the mutiny followed by the pillaging of Kinshasa on 23-24 September, of Kitwit on 26 September and of Lubumbashi, Kisangani, Kananga and other in October 1991; of Mbandaka on 12-13 October, of Kisangani on 21 December, of Goma on 22-23 December and of Butembo on 29 December 1992; and finally, the rebellion and pillage in Kinshasa between 28 and 31 January 1993. For employers this meant the loss of capital and tools of production and for workers the beginning of unemployment and disillusionment.²²

The participation of the army in the democratisation process was ambiguous: it was both an obstacle to and a victim of the process. In fact, although the armed forces, the police, Civil Guard and security services were declared apolitical on 24 April 1990, Mobutu continued to use all of them to thwart the process by often bloody repression of political demonstrations and the intimidation and harassment of opponents. Within the army, the troops' conditions of operation and their training and fitness continued to worsen. The indifference of the public authorities towards solving the army's problems began to affect morale, especially after all external military assistance was suspended.

During the transition, the army suffered from political favouritism, interference by politicians in the army's decisions - recruitment, allocations, transfers, promotions, etc. - and attempts by politicians and some civilians to encourage troops to commit acts that contradicted military duty and discipline, such as civilians' attempts to involve troops in plots, in settling old scores, in calumnious denunciations, in irregular removals, in claiming debts and in illicit customs clearance of merchandise.²³ The armed forces also triggered mutinies that lead to the pillaging of 1991 and 1993.

²² C.E.Z., „Le processus de démocratisation au Zaïre“: *Obstacles majeurs et voies de solution*. Kinshasa, Secrétariat Général de la CEZ, 1996, pp. 71.

²³ Général de Corps d'Armée Mahele Lieko Bokungu (Chef d'Etat Major Général), *Déclaration de Politique Générale des Forces Armées Zaïroises à la Conférence Nationale Souveraine, le 29 mai 1992, au Palais du Peuple*. Kinshasa, 1992, p. 18.

When the forces of the AFDL entered Kinshasa in 1997, the Zairian army showed no resistance in order to facilitate the dictator's fall and prevent a bloodbath. The collaboration of the military command with the AFDL forces was tantamount to suicide for the army and a source of deep humiliation for the Congolese people.²⁴ In fact, after the capitulation, the army was disbanded; the officers and troops were detained, if not killed. Many were able to save themselves only by going into exile, and ended up as part of one or other rebel force the next year.

The churches played an important role in awakening the conscience of the people and in providing a moral compass in the process of transition. They gave voice to people's aspirations and concerns in pastoral letters, bishops' declarations addressed to Catholic Christians and to people of good will, memorandums addressed to the head of state and in priests' and pastors' dominical letters to the faithful.

The object of the letters was to free the Congolese from fear, anxiety and uncertainty, thus pushing them to actively participate at the process and to take control of their own destiny, despite the continuous regression of socio-economic life and outbreaks of violence, both typical of transition.²⁵

The bishops call for an urgent National Conference to serve as a roundtable gathering not only for politicians, but also for representatives of all the strata of the population and the different currents of thought and public opinion in order to initiate a true transition.²⁶

From the opening of the National Conference in August 1991 the political participation of churches was ecumenical. Representatives of the Catholic, Orthodox, Protestant and Kimbanguist churches, and later on even one from the Islamic Community, elaborated a common message to support the democratisation process and called for national reconciliation.²⁷

As of September 1991, the chairman of the National Conference was Mgr. Laurent Monsengwo Pasinya, Archbishop of Kisangani and president of Zaire's National Bishops Conference.

After the work of the National Conference was suspended by Prime Minister Nguz Karl i Bond on 19 January 1992, an ecumenical march of Christians was organised in Kinshasa for 16 February 1992; it was vigorously suppressed by the army, resulting in

²⁴ Ngbanda Nzambo-te-Akumba, H., *Ainsi sonne le glas ! Les derniers jours du Maréchal Mobutu*. Mayenne, Gideppe, 1998, pp. 161-342.

²⁵ „Libérés de toute peur, au service de la Nation“, Message des évêques du Zaïre aux chrétiens catholiques et aux hommes de bonne volonté. 22 septembre 1990“, *Zaïre-Afrique*, 247-248 (1990), pp. 345-348.

²⁶ „Libérer la démocratie“, Déclaration des évêques du Zaïre aux chrétiens catholiques et aux hommes de bonne volonté, 23 février 1991, *Zaïre-Afrique*, 255 (1991), pp. 213-218.

²⁷ „Message des églises catholique, orthodoxe, protestante et kimbanguiste, 8 août 1991“, *Documentation et Information Africaines*, (9 août 1991), pp. 555-557.

nine dead and some fifty injured.²⁸ This event led to the resumption of the work of the conference on 6 April 1992.

After the war of aggression that started on 2 August 1998 plunged the country into turmoil, the religious denominations of the Democratic Republic of Congo - the Catholic Church, the Orthodox Church and the Islamic Community - in collaboration with the AACC (the All Africa Conference of Churches), convened a national consultation in Kinshasa from 24 February until 11 March 2000.

Representatives of public institutions, political parties, armed opposition, youth associations, women organisations, traditional authorities, trade unions, non-governmental organisations, employers and the diaspora participated in this conference. The objectives of the meeting were to identify the obstacles to national cohesion, peace and inter-Congolese dialogue and to make proposals for national reconciliation.²⁹

After the Global and Inclusive Agreement of Pretoria was signed on 17 December 2002, certain institutions of the transition were entrusted to the men of the church. Mgr. Marini Bodo, chairman of the Church of Christ in Congo became chairman of the Senate, Abbot Apollinaire Malu Malu chairman of the Independent Electoral Commission and Mgr. Kuye Ndondo chairman of the Truth and Reconciliation Commission.

Despite that, the Catholic Church continued to harshly criticise the behaviour of political actors. The message of the Permanent Committee of Bishops of the Democratic Republic of Congo of 14 February 2004 was accompanied by a Memorandum addressed to the Secretary-General of the United Nations. While hailing the progress of the transition and wishing it all success, its main purpose was to alert public opinion to grey zones and express disquiet about tardiness and political calculations that were undermining the transition.³⁰

Civil society prospered thanks to the disintegration of the state, and the suspension of multilateral and bilateral aid. Consequently, non-governmental organisations appeared as brokers of development, ambitious to resolve people's underlying problems.

The dawning of the associative movement, profiting from the new liberties made possible by the democratisation process, was a sign of political openness. In the associative blossoming and vitality animators, often unemployed, formed a new breed of social and development entrepreneurs. non-governmental organisations time and effort in local development initiatives, in training small farmers, women and youth, in defending human rights and in civil, political and voter education.

²⁸ Jewsiewicki, Bogumił et al., „Du témoignage à l'histoire, des victimes aux martyrs : la naissance de la démocratie à Kinshasa”, *Cahiers d'Etudes Africaines*, XXXV (1995), pp. 209-235.

²⁹ Masiala ma Solo (dir.), *Actes de la Consultation Nationale*, Kinshasa, du 24 février au 11 mars 2000. Kinshasa, Enfance et Paix, 2000.

³⁰ Conférence Episcopale Nationale du Congo, *Pour l'amour du Congo, je ne me tairai point* (cf. Is. 62,1). Kinshasa, Secrétariat Général de la CENCO, 2004.

Congolese civil society was very active throughout the whole democratisation process. It often mobilised the population and participated in all the political forums. The largest part of this social body aligned itself with the radical opposition in the struggle for democracy. Within civil society, one must mention the important role played by women not only to defend their social status, but also to raise their quota in the different state institutions.

The media also played a very important role in the struggle for political change in Congo. The liberalisation of the media on 24 April 1990 allowed for new newspapers - up to then, there were just two newspapers in Kinshasa (Elima and Salongo), one in Lubumbashi (Mjumbe), one in Kisangani (Boyoma) and a few private radio and television stations.

The press has accompanied the process of the transition since its emergence. "Umoja" was one of the first new newspapers to be published. Its name encapsulates a political program that calls upon the masses to put aside any fear of the dictatorship and unite to vigorously and relentlessly oppose the obstacles placed in the path to freedom and dignity.³¹ The newspaper "La Conscience" aimed at enhancing the conscientiousness of the political actors in order to convert them by promoting moral values. The political debate, therefore, found fertile ground in the newspapers that took the names of the programs of struggle, such as "Le Phare," "Le Potentiel," "La Référence," "Le Soft," "La Semaine," Elima, "Le Palmarès," "La Tempête des Tropiques," "L'Ouragan," "la Rafale," "L'Intrus," "l'Apostrophe," "Le Maximum," "La Libération," "L'Étincelle," "Forum des As," "La Flèche," "La Cité Africaine," "Numerica," "Demain le Congo," and "La Voix de Dieu." In addition to the magazine "Congo-Afrique," known for its lucid political and social analyses, other missionary magazines such as "Renaître," "Afrique Espoir," and "Afrique d'Espérance" were created not only to denounce the dictatorship and its practices, and promote morality in political mores and the common life, but also, and mainly, to advocate the rebirth of the Congolese society by changing mentalities and restore people's hopes. Political caricature and satire also found a place in media publications that appeared unexpectedly, such as "Crognon," "Pot Pourri" and "Pilipili".

The Mobutu regime viewed this expression of the freedom of thought as an affront, and frequently proceeded to violently repress news agencies and imprison journalists. "Imprimeries du Zaïre", the printing house of the Elima (free press) Group was blown up in October 1991; "Terra Nova", which prints the newspapers of the free press in Kinshasa, was blown up in the night of 7-8 November 1992. The headquarters of the newspaper "Le Potentiel" met the same fate in the night of 26-27 December 1992.³²

³¹ Ngoma Binda, „Les médias et la lutte pour le changement politique au Congo“, *Plaidoyer pour un journalisme civique et de développement*. Sous la direction de Jean-Marie Mutamba Makombo. Kinshasa, IFEP, 1998, pp. 79-100.

³² C.E.Z., *Le processus de démocratisation au Zaïre : obstacles majeurs et voies de solution*. Kinshasa, 1996, p. 71.

Despite the bombing of printing houses, arrests and death threats, journalists continued to show civic courage and perseverance by denouncing the wrongdoings of the dictatorship, so much so that the dictator had to flee the capital and take refuge in Kawele, his native village until his rattled nerves could recover.

As years went by, several radio and television stations were established; and they currently compete with the N.R.T.C (National Radio and Television of Congo), offering new horizons of expression and political participation to political actors and all Congolese citizens. Secular private radio and television channels include: Antenne A, Canal Kin TV, RTKM, Raga TV, Raga FM, RTGA, CMB, CEBS, DR TV, Horizon 33, CCTV and Radio Okapi - a channel of the United Nations Observation Mission in Congo (UNOMC) that was used as a link between the fractions of the country during the war - as well as 118 associative and community radios. Religious channels also occupy a great deal of media space, contributing not only to promoting political conscientiousness, but also to promoting peace: ATV, Radio Elykia, SSM, RTK, RTMV, and RTP Radio Mandeleo among others.

It is also necessary to stress on the fact that newspapers are read rather than bought. Readers flock to points of sale to collect information without paying for the paper. Known as the "standing parliamentarians", they come for distraction and to discuss politics and other daily events. They have become brokers of political information that they manipulate, falsify and amplify as they please; and that they start rumours, the famous radio sidewalk. These information brokers channel media information into the informational informal. These citizens, often literate and qualified, but unemployed, always eagerly wait for the latest political news, standing and discussing all day long under trees surrounding the residence of the regime's opponent, Etienne Tshisekedi.³³

Initially, the Congolese at the grass-roots did not shun the political turbulence taking place in the country. It welcomed the openness of political spaces; and then put huge efforts into supporting the fight for the liberation from the dictatorship. The fact that the process did not reach its objectives rapidly and happily was a source of suffering and poverty for the people, who felt the absence of the state as a provider of public services and well-being; a state capable of defending individuals, goods and the integrity of the territory, and able to resolve questions of land and inter-ethnic coexistence. The Congolese population has learned to view its situation less dramatically, and to mock the selfish and opportunist behaviour of their leaders. In the course of the transition, people got rid of their fear and became very critical and demanding about the acts of its leaders; for them national unity was not up for negotiation. The absence of a state at the service of the nation created a climate of

³³ Kayembe Tchibamba-Malu, Aimé, „Dire la politique sur les places publiques à Kinshasa. Aspects d'une communication informelle", *Une théologie prophétique pour l'Afrique*. Sous la direction de Léonard Santedi et André Kabasele Mukenge; Kinshasa, F.C.K., 2004, pp. 163-179.

desertion and despair, so that the Congolese people put up no resistance to the interference of the A.D.F.L troops that put Laurent-Désiré Kabila in power. The latter could have fallen on 2 August 1998, when Rwandan troops would have attacked Kinshasa, had not the city's population organised a civil defence.

The international community was one of the imponderable factors in the process of transition. Through the mediation of the troika - the United States, France and Belgium - it played an ambiguous role that ensnared the democratic process, as N'gbanda notes:

"Today, in Zaire, we do not need to prove that the country marches to the drum of the troika of the USA, France and Belgium. A Zairian government is not credible unless it is first accredited in Paris, Brussels and Washington.

Yesterday, the troika applied pressure on president Mobutu to speed up the pace and quickly organise elections. It was because the West found, at that time, that the electoral base was hostile to Mobutu. Likewise, elections were a way to make him leave. Today, the same troika that punished him yesterday for holding back the democratisation process is putting pressure on President Mobutu not to rush the organisation of elections. Reason: road and communication infrastructures and the social and economic situation need to be redressed. But since when did infrastructural deterioration justify a sudden change in the attitude of Westerners? Who said that in a democracy elections can only take place when the infrastructure is functioning perfectly and there is no sign of hardship or social problems?"³⁴

The international community supported the opposition in its efforts to stand up to Mobutu, to weaken and destabilise him and turn him into a historical monument. It not only backed Laurent-Désiré Kabila's rise to power, but also contributed to Mobutu's loss of power by supporting groups financing rebel movements.

During the transition in Congo, the international community went from a policy of active neutrality to active interventionism. In fact, the Global and Inclusive Agreement provided for the creation of an International Committee to Accompany the Transition (CIAT). Its mission was to support the institutions of the transition and to guarantee the implementation of the terms of the Agreement. The committee was presided over by the special representative of the Secretary-General of the United Nations, William Swing, and included the ambassadors of Angola, Belgium, Canada, China, France, Russia, the United Kingdom, the United States, South Africa, Gabon, and Zambia, in addition to multilateral institutions, such as the European Union and the African Union. The CIAT provides effective supervision of the government.

As for the United Nations Observation Mission in Congo (UNOMC), its mandate under chapter VII was approved by resolution N° 1493 on 28 July 28 2003. The

³⁴ N'gbanda Nzambo -ko-Akumba, *La transition au Zaïre. Le long tunnel*. Kinshasa, NORAF, 1995, p. 340.

objective of this mission was neither to lead a war in Congo, nor to administrate the country. It was rather about helping the government of the transition in political and security questions; i.e., facilitating the transition, establishing the necessary technical and legal arsenal for the organisation of elections, securing the electoral process, disarming combatants, restructuring and integrating the army and restoring the authority of the state.

The Sovereign National Conference as a founding act of democracy

The national conference was instituted by the ordinance no 91/097 of 11 April 1991. According to the legislator, the missions of this conference were as follows: to discuss all the questions of national interest in order to determine the fundamental options of *the Third Republic*, to write a draft constitution to be put to popular referendum, to determine the provisions of the electoral law and set an electoral calendar. On all those questions, the conference had the final say. It was also to promote reconciliation among all the people of Zaire and to avoiding needlessly becoming a popular tribunal or a court for settling old scores.³⁵

Nonetheless, "the people in conference" indicated, thus, the will of people to exercise power over themselves. During the plenary session on 5 May 1992, the participants made a series of statements about the deep, multifaceted and persistent crisis the country had for many years, the pauperisation of the population, fading and changing moral and spiritual values, the depreciation of the national currency, the headlong decline in national production, the spread of negative qualities such as arbitrariness, corruption, nepotism, tribalism, the dislocation of the health system, the collapse of the educational system, the confiscation of individual and collective liberties, the systematic embezzlement of public property, the despoliation of private property, and anarchy. As a matter of fact, they revealed the total incapacity of the existing institutions to find solutions for the tragic situation afflicting the country.

That said, they passed a binding resolution to fully analyse the causes of this failure in order to find, in a spirit of dialogue and reconciliation, efficient solutions to this challenge and lay the foundations of the rule of law, so as to guarantee, in turn, the integral and harmonious development of the people. This will was translated in the sole article of the Act № 1/CNS/92, of 5 May 1992, with the following terms: "The national conference is sovereign. Its decisions are imperative, enforceable and can be used as evidence against everyone."³⁶ On these grounds, the SNC became an

³⁵ N'gbanda Nzambo-te-Atumba, H., *La transition au Zaïre. Le long tunnel*. Kinshasa, NORAF, 1995, p. 379-380.

³⁶ *Ibid.*, p. 384.

exceptional authority entitled to treat all the issues of national life. Its decisions should be respected by all citizens and implemented by each as it concerns him. In other words, the SNC decided on the organisation of the future of the country. Subscribing to the Sovereignty Act meant - for both individuals and groups - a mutual guarantee that no one would obstruct the decisions of the SNC or consider himself above it or not affected by the options it raised.³⁷

This Act was viewed by the existing authorities as a civil coup d'état. From then on, we started to move from a restricted sovereignty to a complete one. The speeches produced by the presidential and the opposition circles throughout the conference necessarily contained duplicity, or even hypocrisy.³⁸

The Sovereign National Conference took up its work on 7 August 1991; 3,000 delegates took part; it lasted for 485 days and was closed on 6 December 1992.

The two fundamental moments of the conference were the declarations of general policies and the work in commissions.

The declarations of general policies were "a promise given to the people." Actually, the different political and social forces - political leaders, judges, civil servants, militaries, intellectuals, teachers, doctors, artists, trade unionists, business leaders, traditional chiefs, merchants and farmers - all had an opportunity to express frankly, publicly, freely and officially what they thought of the country's history, and especially of the decadent political regime. All speakers were unanimous in their generally negative assessment of the post-independence years and Mobutu's regime. These declarations constituted, for the Congolese people, a suitable occasion to reread their history, to denounce the abuses and offences of the dictatorial regime and to demystify the head of state. It was also a moment of affirmation of the national conscience and the will to live together, rejecting all forms of secession and tribalism.

The work in commissions allowed a thorough rereading of the national history, the definition of the new orientation of history, the formulation of some fundamental principles concerning the conception, the organisation and the exercise of power, the responsibility of the people as the true holders of power, federalism, the parliamentary option, the establishment of the rule of law and democracy founded on the profound sense of human dignity, the sacred respect of fundamental rights and liberties, individual and collective, the ethical foundation of the state administration, and the restoration of the legitimacy and the promotion of the national institutions.

There were so many negative accounts that the results of some commission work gave the image of a Congolese society similar to a plague. Some commissions were a real source of political tension rather than national reconciliation - the Commission of the illicitly acquired properties, the Commission of assassinations, The political Com-

³⁷ C.E.Z., *Le processus de démocratisation au Zaïre. Obstacles majeurs et voies de solution*. Kinshasa, Secrétariat Général de la C.E.Z., 1996, p. 52.

³⁸ Yoka, Lye Mudaba, *Kinshasa, signes de vie*. Paris, L'Harmattan, 1999, pp. 93-95.

mission, the Commission of ethics, etc. - because they discussed sensitive issues related to nationality, land ownership, movable and immovable property, and because they identified the state predators and the forms of abuse of power, the practices of corruption and the violations of human, civil and political rights, in short, all the forms of privatisation and criminalisation in the State.

As we said above, democratic change in Congo was initially the result of external pressure on the internal situation. It was relevant political development triggered by the "contagion of ideas".³⁹

As in Benin and Congo-Brazzaville, the "national conference" was organised under the aegis of a catholic prelate. Congo-Kinshasa was unique in that the "sovereign national conference," run by Mgr Laurent Monsengwo Pasinya, went on for more than a year. It was suspended, and its resumption caused the death of many Christians on 16 February 1992. Whereas in other countries, despite the acerbic criticism against the regime, the heads of state implemented the conclusions of the conference, in Congo they went unheeded.

The years that followed this conference were marked by a tense political climate due not only to the ousting of the government of Etienne Tshisekedi as a result of the SNC, but also, and especially, due to the 1994 Rwandan genocide and the massive influx of Rwandan refugees into eastern Congo. It was from this part of the country that an inter-Rwandan war started in 1996, a war that helped in overthrowing Mobutu's regime.

The wars "for democracy" and the rupture of the democratic process (1996- 2002)

From 1996, the Democratic Republic of Congo was embroiled in a war of aggression launched in the name of establishing a democratic order in the country. There were two phases: the war of liberation (1996 - 1997), and the war of occupation (1998 - 2002).

³⁹ Sperber Dan, *La contagion des idées. Théorie naturaliste de la culture*. Paris, Odile Jacob, 1996.

The war of liberation (1996 - 1997)

The long duration of the transition generated disillusionment among people about the democratisation process, as it gave the impression of going nowhere. It was also used as a pretext for triggering the so-called war of liberation by the troops of the ADFL (Alliance of the Democratic Forces for the Liberation of Congo), a regional coalition made up of rebel Congolese forces and regular troops from Rwanda, Uganda, Burundi, Zambia, Ethiopia, Angola and Zimbabwe. Their spokesperson, Laurent-Désiré Kabila, was the person who defeated Mobutu on 17 May 1997.⁴⁰

Kabila's declaration in Lubumbashi that he had seized power - he was only the ADFL's spokesperson, representing Deogratias Bugera, the secretary general of the liberation movement - was considered by his sponsors as his first act of treason. For the Congolese people, though, it was a salutary step as it saved them from foreign domination. From that moment, his sponsors started to seek his elimination as they considered him an unreliable partner.

As a price for the war, Kabila's two sponsors - Paul Kagame for Rwanda and Yoweri Museveni for Uganda - negotiated special agreements with Laurent-Désiré Kabila. The latter made promises that were kept at first, but broken later. Many security cooperation agreements were signed between the Democratic Republic of Congo on the one hand and its neighbours, Uganda and Burundi, on the other. These agreements provided for the formation of a new army and police force by Ugandan and Rwandan officers. Furthermore, the new Congolese army (FAC) and the Rwandan army (APR) committed to fight together, on Congolese soil, against the Congolese civil resistance, the Mai-Mai peasant-soldiers and the old Rwandan army (FAR).

These security agreements were accompanied by political guarantees. In fact, Kabila appointed persons recommended by Rwanda to high-ranking posts in the government, army and administration, for instance Moïse Nyarugabo, President Kabila's personal secretary, Deogratias Bugera, who kept the strategic post of the ADFL's general secretary, and Bizima Karaha, who became minister of foreign affairs. Laurent-Désiré Kabila even went as far as appointing Rwandans to lead the Congolese army: General Masasu Nindaga, general chief of staff until 25 November 1997, was a member of the Rwandan army. Lieutenant Colonel James Kabarebe, appointed acting chief of staff on 1 December 1997, was former head of the presidential guard of the Rwandan president and is currently chief of staff of the Rwandan army.⁴¹

⁴⁰ Mabiála Mantuba-Ngoma, „La guerre d'agression du Congo-Kinshasa (1996-2001) : évolution, perceptions et perspectives”, *Les conséquences de la guerre de la R.D.C. en Afrique Centrale*, sous la direction de Sabakinu Kivilu, Kinshasa, PUK, 2002, pp. 9-27.

⁴¹ Braspenning, Thierry et Nashi, Emmanuel M.A., „Sommes-nous encore otage de l'accord de Lemerá”, Congo@yahoogroupes.fr., 2004, p. 1-16.

After the seizing of power, Kabila placed the country under martial law. The constitution was abolished and replaced by an autocratic decree, and the activities of the political parties were banned. Only the ADFL was allowed to operate. The joy at being liberated from the dictatorship was quickly forgotten.

The regime of Laurent-Désiré Kabila's was basically Maoist. He emphasized the role of farmers and the attachment of the new leaders to their people. He insisted that leaders should serve their people wholeheartedly, never become remote from them, and defend their interests constantly. The ADFL soon appeared to be a dictatorial and oppressive party that granted freedom only to those in power and to its members.⁴²

Noticing, on the one hand, people's suspicions of a party that proceeded to alienate the sovereignty of the state by stipulating, in Article 23 of its statute, that the ADFL, whose founders were both Congolese and foreigners, was the owner of movables and immovable property, the natural and mining resources and the country's soil and the ground under the soil and, on the other hand, that the arrogant, repressive and predatory behaviour of those foreign actors resembled the colonisers of bitter memory, President Kabila distanced himself from his friends who, in his own words, constituted "a conglomerate of adventurers and opportunists," a club of friends and people who know one another, who sympathise with one another, and who abuse power to get richer and suppress others.⁴³

The war of occupation (1998- 2002)

When President Kabila decided to repatriate the foreign troops of his Rwandan, Ugandan and Burundian sponsors, a war of occupation broke out on 2 August 1998, initially under the leadership of the Congolese Gathering for Democracy (RCD), a party created in Goma on 1 August 1998 as a cover for Rwanda's intervention in Congo; the Rwandan president, who had helped Kabila seize power, was unhappy with Kabila's ingratitude. The declared objective of the Congolese Gathering for Democracy was to end Kabila's seizure of power and his inability to govern. It sought to end all dictatorship, to promote the democratisation process and the national reconstruction, enhance the social well-being of the Congolese people and boost peace and security at the national, sub-regional and continental levels.⁴⁴

⁴² Châtelet, François et al., *Histoire des idées politiques*. Paris, P.U.F., 1982, p. 222.

⁴³ Mabila, Mantuba-Ngoma, „Elites, culture capitaliste et ordre politique“, *Elites et démocratie en République Démocratique du Congo*. Sous la direction de Sabakinu Kivilu. Kinshasa, PUK, 2000, p. 175.

⁴⁴ RCD, *Protocole d'accord*, Goma, le 1er août 1998.

The Ugandan President, Yoweri Museveni, also decided to punish Kabila by supporting the Movement for the Liberation of Congo; a politico-military movement formed in Kinshasa by Jean-Pierre Bemba in 1998. The objective of this movement was to make all Congolese tribes, minorities, and ethnic groups feel that Congo is a state that arranges and protects the life of citizens. The movement's ambition was to fight for the freedom and development of the Congolese people: freedom to live, freedom to choose, freedom to reject humiliation, arbitrary arrest, rape, assassination and massacre, and freedom to build a better world.⁴⁵

Congo's second war was described as "the first regional war in Central Africa," or the "First African War". It was different from the liberation war in which all foreign troops had a common goal and an inter-force coordination. In the second war, however, foreign troops were divided into two rival coalitions: the coalition of Congo, and the rebel coalition. The coalition of Congo was the government coalition, comprised of the Congolese Armed Forces (CAF) and backed by the troops invited by the Congolese government which came from countries friendly towards the Kinshasa regime, such as Angola, Namibia and Zimbabwe.

The rebel coalition, on the other hand, was made of troops of aggression drawn from the regular armies of Uganda, Rwanda, and Burundi and supporting the rebel troops of the Congolese Gathering for Democracy (RCD) and of the Movement for the Liberation of Congo (MLC).

It is symptomatic to notice that - in the Democratic Republic of Congo, just as in any other country - the intervening parties in the war of Congo were all members of the same regional organisation called "SADC" (Southern Africa Development Community), and that both Congo and its neighbouring aggressors were members of the ECGLC (Economic Community of the Countries of the Great Lakes).

This first regional war in Central Africa was equally important because of the quasi-indifference of the classic western sponsors who adopted an attitude of "active neutrality," leaving activity to unofficial and multinational circuits.

It is also worth noticing that it was for the very first time in Africa that two foreign armies fought one another, for economic and hegemonic reasons, in neighbouring territory they had occupied.

This war is a good illustration of Clausewitz's insight: "War is a conflict of great interests settled by blood, and this alone distinguishes it from other conflicts".⁴⁶ It was conducted as a "new scramble," comparable to the rush of western countries to the African continent on the eve and, in particular, after the Berlin Conference. Every European power, interested in colonial occupation, sought to effectively take possession of a fraction of the continent to exploit on its own. The economic designs of

⁴⁵ Bemba, Jean-Pierre, *Le choix de la liberté*. Gbadolite, Vénus, 2001.

⁴⁶ Fontaine, André, *Histoire de la Guerre Froide. I. De la Révolution d'octobre à la Guerre de Corée*. Paris, Fayard, 1965, p. 7.

both the countries allied with the loyalist forces, and the sponsors of the rebellion, are not to be understood as simple enjoyment of the spoils of the war. It was rather about the will to grab a piece of the cake. Consequently, the period from 1998 to 2002 saw the balkanisation of the country: one part occupied by the government in Kinshasa, another by the MLC, and a third by the RCD.

The war left 3,500,000 dead and 600,000 displaced people and refugees. It led to the pillage of natural and mining resources, the spread of sexually transmitted diseases, the proliferation of small-bore arms, and the exacerbation of identity, ethnic and land conflicts. The territories occupied by rebel forces witnessed flagrant violations of human rights, numerous war crimes and crimes against humanity, and never enjoyed good governance, the rule of law or democracy, but rather harsh and autocratic power.

Another immediate consequence of the war was the coup d'état that led to the assassination of President Laurent-Désiré Kabila on 16 January 2001 and enabled his son, Major General Joseph Kabila, to accede to power on 26 January 2001. The latter grew up in Dar es-Salam, Tanzania⁴⁷. He claimed different nationalities: sometimes Tanzanian, sometimes Rwandan (an authentic Tutsi on both maternal and paternal sides),⁴⁸ sometimes Congolese (a father originally came from the province of Katanga and a mother from Maniema) and sometimes mixed nationality (Rwandan on his maternal side and Congolese on his paternal side).⁴⁹ Those identities varied in accordance with the political stakes of the moment. Accordingly, he joined the list of the African head of states with controversial origins.

The inter-Congolese dialogue and the new political order

To end the war, a cease-fire accord was signed in Lusaka on 10 July 1999. This agreement stipulated the necessity of inter-Congolese political negotiations in order to establish the new political order. The result, after long and tough negotiations, was the

⁴⁷ Bemba, Jean-Pierre, *Le choix de la liberté. Gbadolite*, Vénus, 2001, p. 51.

⁴⁸ Scholl-Latour, Peter, *Afrikanische Totenklage. Der Ausverkauf des schwarzen Kontinents*, C. Bertelsmann, 2000, pp.264 and 277.

⁴⁹ „Kabila et ses secrets : femmes, argent, révolution...le portrait du Mzee“, *Jeune Afrique Intelligent*, 162 (March 1999), p. 52 - 57. N.B. Even his date of birth (June 5, 1972 according to the AFP and one year later according to Kabuya Lumuna), his place of birth (Mulenge in South Kivu according to the AFP and Hewa Bora II according to Kabuya Lumuna), his first name (Joseph or Hippolyte according to Kabuya), his last name (Kanambe? Kabange? Kabila? Mtwale? Kazembere?), and his mother's name (Is he the son of a Rwandan woman called Mbuguruye? Or a Congolese woman called Sifa?) are controversial.

“Global and Inclusive Accord on the Transition in the Democratic Republic of Congo” signed in Pretoria on 17 December 2002 to put an end to hostilities, set the goals, principles, duration, institutions of the transition and to distribute responsibilities among the government, the rebel movements, the political opposition and civil society so as to avoid any form of political exclusion and to promote national reconciliation and peace.

The benefits of the inter-Congolese dialogue

After the signing of the Pretoria Accord, the country once again had a constitution for the transition, promulgated on 4 April 2003. The government was made up of a president of the republic, 4 vice-presidents, 32 ministers and 25 vice-ministers. The National Assembly consisted of 500 members, and the Senate of 120 members, all designated during the inter-Congolese Dialogue.

The most important innovation of the Constitution is found in Chapter IV, which expresses the will to consolidate the democratic process in the form of five institutions to support democracy, namely:

1. The Independent Electoral Commission, in charge of guaranteeing the neutrality and impartiality of free, democratic and transparent elections;
2. The National Observatory of Human Rights, in charge of promoting and protecting human rights;
3. The High Authority of the Media, in charge of ensuring the neutrality of the media;
4. The Truth and Reconciliation Commission, in charge of consolidating national unity by means of true reconciliation between the Congolese;
5. The Commission of Ethics and the Fight against Corruption, in charge of promoting the implementation of the republican moral values.

All these institutions were supposed to enjoy freedom of action among themselves and vis-à-vis other institutions of the Republic, and each was a separate legal entity. They were presided over by representatives of civil society with the rank of minister.

The challenges of the transition's institutions

The institutions of the transition faced the following challenges: leadership capacities, effective reunification and pacification of the country, and the organisation of free, democratic elections within a given period.

The government of the transition functioned as though power were a zero-sum game. Each one sought to win not in conjunction with, but at the expense of the others. Political cohabitation, which requires a large dose of mutual trust, seemed to be the continuation of war through political means. The actor within the presidential sphere distrusted the one another and spent much more time quarrelling about leadership than leading constructive consultations to resolve the country's urgent and fundamental problems.

These antagonisms provided pretexts to torpedo or prolong the transition. Furthermore, the people in charge suggested that the members of the different institutions of the transition were not necessarily chosen on the basis of their moral integrity, their sense of political responsibility and their ability to render an account, but rather on basis of militancy, so much so that they were accused of amateurism and incompetence, and depending too much on the good will of the international community to solve the country's problems, forgetting that foreigners will never make peace for the Congolese and will never rebuild the country in their place.⁵⁰

In certain institutions, there was lot of trial and error, uncertainty and predatory behaviour that risks letting the country drift, putting the country's good progress at risk and slowing down the process. Leaders were accused of deliberately prolonging the transition, which, as people's social situation worsened dramatically, created the impression of trivialising people's lives through criminal negligence.⁵¹ In addition, leaders did not have faith in themselves; they did not have faith in each other, either. An efficient and effective leadership was lacking; a leadership that should normally exhibit the ability to tackle the crucial questions relating to the multifaceted crisis afflicting the country.

The second challenge was the effective reunification of the country by extending the state's authority on the whole territory. As the institutions were functioning and the cohabitation of players was characterised by the rhetoric of political reconciliation, one could notice significant progress in this process. But the reunification of the army, the police, and security forces and financial officials was not effective yet.⁵² In the two Kivu provinces and in the district of Ituri, neighbouring countries continued to arm militias

⁵⁰ Wamba dia Wamba, Ernest, "Congo: The Transition", *Znet*, (June 22, 2004), pp. 1-5.

⁵¹ CNENCO, *Pour l'amour du Congo. Je me tairai point*. Kinshasa, 2004, pp. 8-12.

⁵² Wamba dia Wamba, Ernest, "Prospects for Sustained Peace in the Democratic Republic of Congo," *Znet*, (August 20, 2003), pp. 1 - 7.

because warlords opted to maximise utility, not to stop the war but rather to continue it in order to defend their interests. Their arguments were based on primordial links, the ancient history of the area and the necessity of economic and cultural survival.

The largest Congolese ethnic group in the different institutions of the transition, the Kinyarwanda-speakers, were a source of peace and a threat to the success of the process. The process became a victim of the tyranny of this minority,⁵³ which suffered from a lot of verbal aggression and, even if living in Congo, had its heart in Rwanda. It prevaricated on the creation of a united army and frequently used blackmail that kept the country on the edge of war. Resistance to the appointment of a commander of a military region, the capture of the city of Bukavu by the troops of General Laurent Nkundabatware and Major Jules Mutebushi, and the suspension of the participation of eight deputies of the RCD in the National Assembly on the eve of the discussion of the nationality law were all proof that process of democratisation and peace were still marked by uncertainty.

The chance for peace resided, however, in people's determination to refuse all attempts to balkanise the country and all foreign hegemony.

The third challenge was the organisation of free, democratic and transparent elections.

Civil society, the churches, the opposition political parties and the international community put pressure on the institutions of the transition to organise elections by 30 June 2006 at the latest.

The elections and the end of the transition

Since 2005, the Congolese population has participated in several electoral operations. The enrolment of voters took place between June and December 2006. A total number of 25,021,703 voters were enrolled. The constitutional referendum was conducted on 18 and 19 December 2006. Voters showed up at 37,270 polling centres. The turnout was 61.97%. The majority of voters, 83.13%, voted "yes" and 16.69% voted "no". The first round of presidential and legislative elections took place on 30 July 2006. The voters showed up at 40,000 polling centres. The turnout was 70.45%. There were 33 candidates for the presidential elections, of which four were women, and 9,084 parliamentary candidates, of which 1396 were women. In the presidential elections, Joseph Kabila got 44.83% of votes and Jean-Pierre Bemba 20.03%. Antoine Gizenga came third with 13.6% of votes, Francois Joseph Nzanga Mobutu fourth with 4.77% and

⁵³ Louw, P., "Democracy," *Political Alternatives for Southern Africa. Principles and Perspectives*. Durban, Butterworths, 1983, p. 100.

Oscar Kashala fifth with 3.46%. 500 deputies were elected to the National Assembly, including 42 women. The publication of the results of the presidential elections on 20 August 2006 triggered military violence between the bodyguards of the two leading candidates, which continued until 22 August 2006. This situation of insecurity prevented the two candidates from campaigning in the second round of the presidential elections, which took place on 29 October 2006. Voters showed up at 5,045 polling centres. There were 13,347 candidates in the provincial elections. Voting was peaceful and disciplined throughout the country. The turnout was 65.36%. On 15 November 2006, the Independent Electoral Committee announced the provisional results of the presidential elections. Joseph Kabila was elected president with 58.05% of the votes over Jean-Pierre Bemba, who obtained 41.95%. The latter did not accept the results and contested them before the Supreme Court of Justice. On 27 November 2006, the latter confirmed the results published by the IEC and proclaimed Joseph Kabila democratically elected president.

Conclusion

The long period of the transition constituted a historical moment of catharsis. The Congolese population had the occasion to gain an exact impression of its leaders, to get to know them by their actions and to exclude them one after the other, and to reject demagogical and speculative speeches.

During this period, people learned that the independence of the country benefited the country's leaders, and that Congo's much praised wealth was only potential and myth. People became aware that they are a nation that really wants to live in peace with its neighbours, and freely inside its colonial borders, while remaining open to bilateral, multilateral, regional, continental and global cooperation.

Thanks to the transition and its vicissitudes, the international community understands that the Congolese people are maturing, proud to live in the region, capable of rejecting servitude and any internal and external act that might harm its well-being and destiny. It is a population that enjoys a very critical internal public opinion on which it must rely in order to deal with the affairs of the Democratic Republic of Congo.

The last elections were a test of the maturity of the Congolese people. They put an end to the crisis of the legitimacy of power in the country and to the long democratic transition.

The risks of interethnic coexistence in the East of the Democratic Republic of Congo

FERDINAND MUSHI MUGUMO

Introduction

Interethnic coexistence in the DRC in pre-election times is a mobilising factor for prominent groups, with one objective: representation. This competition revives the old demons of ethnic identity and gives new importance to trivial quarrels. Rancour and recriminations reappear, especially when they are nourished by political entrepreneurs (states, parties or individuals) seeking a semblance of popularity.

Analysing the interethnic coexistence in the East of the DRC in pre-election times involves several unknown factors, such wounds and recent social fractures, national and supranational intervention, the mobilisation of militias and countermilitias, and the mobilisation of political parties and civil society. All of this took place under the eyes of the international community, believed by some to be an accomplice and by others an obstruction, of a state (DRC) seeking to mask years of failure, and neighbouring countries willing to get involved in the process in order to satisfy their security and expansion projects (Rwanda, Burundi and Uganda).

This article highlights the challenges of interethnic coexistence in Kivu. It also explores the role of the main actors in calming things down and healing wounds, so that all communities in Kivu, especially along the great lakes, can live in peace and harmony and regain the capacity to collaborate and evolve together to improve their collective wellbeing.

First, it is important to examine the obstacles to this, the fundamental interests of the adversaries, and opportunist external elements. Second, we need to draw up the profile of the actors: their strengths, weaknesses and capacity to collaborate. This naturally leads us to the contextual analysis of the historical and current inertia and how it affects coexistence. Then we look at the strategies adopted by the different actors in the recent events. The analysis of their strategies leads an examination of the role of actors, both national and international, and how they can help to reduce tensions and promote the re-launching of peace and development in this region.

The issues

Amongst the local problems underlying the ethnic conflicts in South Kivu are the following four local issues: nationality, land, cattle and big livestock farms, and the corridors of power and representation. Besides these purely local challenges there are also international complications: Rwandan hegemonic expansionism that seeks to annex part or all of Kivu and to control national resources. The fact that some of these factors overlap often complicates approaches to solutions.

The nationality question

The ill-advised analyst, tackling the subject of interethnic coexistence in South Kivu, would certainly stress on the nationality question as the major challenge. As a matter of fact, the nationality question constitutes an important challenge that is already believed to be a catalyst of conflicts, especially in North Kivu during the first five years of the national independence. Since then, it keeps on re-emerging, nourishing debates, and heating up the bonds of coexistence between social groups.

Nationality is an important concern for a group of Congolese of Rwandan origin that is made up of three main sub-groups: the Tutsis of North Kivu, the Hutus, mostly located in North Kivu, and the Banyamulenge, numerically the least important ethnic of the three, mainly located in South Kivu.¹

¹ Since the liberation war, in which Laurent Désiré Kabila served the ambitions of Rwanda by forming an alliance with it and using its soldiers to take power in Kinshasa, in spite of their divergent interests (1996-7), the term Banyamulenge has been incorrectly and confusingly used to refer to these three categories.

These sub-groups have certain common traits. They all speak Kinyarwanda, have the same traditional and cultural values and claim to have close or distant ancestors in Rwanda and Burundi. The ideological motivation for the last two civil wars in the DRC, the liberation war of the AFDL (1996-7) and the new liberation war of the RCD (1998), was recognition of the rights of minorities.² The equivocation of the Congolese government and the incapacity of various assemblies, in particular the - so-called Sovereign - National Conference to deal satisfactorily with the question of nationality has kept it in the limelight for more than 40 years.

However, the question of nationality conceals more important factors. Despite the debates and incertitude about nationality, people of Rwandan origin have never, with the exception of periods of war, been systematically driven out of Congolese territory. The legendary hospitality of the DRC continued to embrace the influx of refugees fleeing the different Hutu-Tutsi and Tutsi-Hutu genocides of recent years.³

² For more information on the two wars, cf. P. Mathieu and J.C. Willame: "Conflits et guerres au Kivu et dans la region des grands lacs - Entre tensions locales et escalade régionale", Cahiers Africains, CEDAF, N° 39-40, L'Harmattan, Paris 1999. Cf. also "République démocratique du Congo: Chronique d'une politique d'un entre deux guerres octobre 1996-juillet 1998", Cahiers Africains, CEDAF, N° 35-36, L'Harmattan, Paris 1998.

³ Concerning these diverse migrations, see the OCPGAL publication: In recent decades, no people in the Great Lakes region have suffered as much as the people of Kivu, especially in the light of the hospitality they offered - both in the name of human solidarity and for reasons of human kindness - to their neighbours who faced conflicts and miseries of all kinds. - Already in 1937, the Belgium administration transferred thousands of people from Rwanda to the territory of Masisi in North Kivu to relieve overpopulation and famine. These immigrants and/or their descendants were involved in the Kanyarwanda War in Goma in 1960 and in the 1992 interethnic conflicts in Masisi and Walikale, encouraged by Marshal MOBUTU with the Machiavellian objective of curbing the economic progress of the Kivutians. - In 1959, waves of Tutsis from Rwanda invaded Kivu during the PAREMUHUTU revolution that toppled the Tutsi monarchy. These were part of those labelled in some media "Tutsis of Congolese origin," "Congolese of Tutsi origin," and even "Congolese of Rwandan origin." The Banyamulenge are part of this group, who were settled on the hills of Lemera, Katobu and Mulenge in South Kivu in 1959 according to the UNHCR. - In 1963 and 1965 more Rwandan refugees arrived in Kivu, fleeing the political purge that followed attempts to overthrow the government. They further exacerbated rapid population growth in the mountainous areas of Kivu, where subsistence agriculture is the main occupation. - In 1972, a humanitarian catastrophe of the selective genocide against the Hutu ethnic group took place in Burundi. The survivors of these killings poured into the already heavily populated hill region of Kivu. - At the end of the 1970s, part of the Ugandan population fled into the Beni, Butembo and Rutshuru regions to escape the liberation war against the dictator, Idi-Amin. - In the decade 1990-2000 Kivu experienced an unprecedented influx owing to the humanitarian tragedies in the region. In 1993, after the assassination of President Ndadaye, tens of thousands of Burundian refugees fled interethnic killings and settled in the plain of Ruzizi. In 1994, following the Rwandan genocide, more than two million Hutus fled in panic and disorder into the Kivu mountains through Turquoise Operation under the auspices of the international community, p. 3.

If the question of nationality was the most important factor causing tension in interethnic relations in the East of the Congo, it could have been easily resolved by gathering the social groups in different areas: "them" versus "us", i.e., the ethnicities originally identified by the term Kinyarwanda on the one hand and all the other ethnicities in Kivu on the other. During its first two years in power, the Mzee Laurent-Désiré Kabila regime could have intervened and employed its regulatory and normative powers unilaterally or through negotiation to settle all demands.

However, the problem did not disappear and would continue to threaten the coexistence of the groups. These conflicts also concealed other more tangible stakes: the possession and use of resources, the sale of rare resources to fund social promotion, external interests in territorial annexation, and the imperialistic desires of the different states or even the different international actors.⁴

Several authors have scientifically analysed aspects of these challenges, in particular the issues of land,⁵ cattle and livestock farming,⁶ modernisation, access to the corridors of power⁷ (competition over political leadership) and the exploiting of minerals like gold and coltan.⁸ Other interests include, according to civil society reports, exporting internal quarrels to neighbouring countries (Rwanda, Burundi and Uganda)⁹ and Rwandan imperialism to resurrect the mythical Tutsi Hema Empire and to find an outlet to its huge population, which the country could no longer sustain.

Rwandan expansionism did not exclude superpower imperialism (USA) that might be interested in the break-up of the Congo and the integration of the eastern part into a new formation embracing the Great Lakes and East Africa in exchange for control over

⁴ Cf. Thierry Braspenning and Emmanuel M.A. Nashi: La RDC entre les pressions externes et internes, *Revue Géopolitique Africaine* (Geopolitical African magazine), N°3, summer-July 2001.

⁵ P. Mathieu, Pierre Joseph Laurent and J.C. Willame: Démocratie, enjeux fonciers et pratiques locales en Afrique, *Cahiers Africains*, CEDAF, N° 39-40, L'Harmattan, Paris 1996.

⁶ Stanislas Bucyalimwe Mararo: *Pouvoirs, élevage bovin et laquestion foncière au Nord-Kivu*, F. Reyntjens & S. Marysse, *The Great Lakes Africa, Yearbook*, L'Harmattan, Paris 2002.

⁷ Mushi Mugumo Ferdinand, *Développement inégal et conflits dans CNONGD: Paix et résolution des conflits durant la transition démocratique au Zaïre*, Kinshasa 1996.

⁸ Stefaan Marysse: "Regress and War: The case of the DR Congo," presented at the 10th General Conference of EAID 19-21 September 2000 in the working group "Rise and Decline in the World-System."

⁹ Nikabure Isabelle, *Conflits : ses victimes et ses conséquences, cas du Rwanda dans CNONGD: Paix et résolution des conflits durant la transition démocratique au Zaïre*, Kinshasa 1996 and Collette Braeckman : *Terreur Africaine : Burundi, Rwanda, Zaïre : les racines de la violence*, Fayard, 1996.

strategic minerals in the eastern Congo (including oil, coltan, niobium and gold).¹⁰ So in addition to local challenges, we find significant international interest too!

The question of the land

The question of land is crucial in Kivu, particularly in the mountainous areas in the south and north. These are densely-populated zones where the land ownership system is dominated by traditional modes of access, largely controlled by the traditional chiefs under a form of medieval tenant farming in South-Kivu, notably among the Bashi.¹¹ Under this system, the traditional chief or intermediate nobles set land usage according to rank for individuals or persons who pay a tribute, while retaining the ownership of the land, no matter how many years the land has been cultivated by the beneficiary.¹² This mode of land management was consolidated by the survival of the traditional power at the level of the collective chieftaincies, and by the lack of control by the state and the local representative bodies over the acts of the traditional chiefs.

In consequence, acting unilaterally, some traditional chiefs have give up considerable sections of the communal land for the benefit of foreigners who personally think that they bought it, including old colonists with their plantations (cinchona, tea, coffee, etc.), nouveaux riches and immigrants, missions and church schools, and agro-industrial and mining enterprises. With the demographic explosion arable land has become scarce, forcing people to farm on high hills and around insalubrious swamps.

Bad farming methods led to the exhaustion of the soil and the decline of crops, especially in the Bashi region in South Kivu.¹³ In some parts of this area, peasants have on average less than 0.2 hectares to sustain their families. Unable to leave the land fallow, they farmed it each season each year.¹⁴ As a result, poverty and malnutrition are endemic.

¹⁰ Vangu Mambweni : les principaux enjeux de la guerre au Kivu : conflit supra ou inter-ethnique ? dans Facultés Catholiques de Kinshasa: Les Stratégies de Coexistence Inter-ethnique pour le développement du Zaïre, Afrique et développement, Kinshasa 1997.

¹¹ Mushi Mugumo Ferdinand, Pouvoirs coutumiers, op. cit.

¹² Despite the proclamations of the Bakajika law on the State's ownership of all the national unexploited lands in Kivu, particularly in the north and the south, few are the lands or the hills that do not belong to some traditional chiefs.

¹³ To read on the subject, P. Mathieu, Pierre Joseph Laurent and J.C. Willame: Démocratie, enjeux fonciers et pratiques locales en Afrique, Cahiers Africains, CEDAF, N° 39-40, L'Harmattan, Paris 1996.

¹⁴ Anti-Bwaki Committee.

In North Kivu, the land benefits from the regeneration caused by cyclic volcanic eruptions that periodically renew the fertility of the soil. However, this has whetted the appetite of agricultural investors who see themselves as members of the local bourgeoisie of Congo and Rwanda. Further reasons that made increased the importance of the land question for the communities living in the region include the transplantation of Rwandan immigrants orchestrated by the Belgium Congo during the 1930s and 1950s and clandestine infiltration following the wars that shook Rwanda and the region.

Land management created a divide between the small farmers subject to the traditional system of land usage and the big owners who bought and registered estates under the Bakajika law and through their access to power.¹⁵ As most of the latter were foreigners, they constituted a class of people with private means eager to keep these resources and exploiting them economically.

Cattle and the big farms

Cattle, too, are an object of dispute in both North and South Kivu. Their importance lies in the fact that they are a symbol of wealth in pastoralist society. Their market value represents a non-negligible source of property given the enormous demand for vitamins and animal protein in the big cities in Congo.¹⁶ The marketing of dairy products and beef meat is a major economic activity in North and South Kivu.

Two authors, Mbonyikebe Sebahire and Bucyalimwe Mararo, have analysed its importance. The former finds, for instance, that the marginalisation of the Banyamulenge by the Belgium colonists during the colonial period was the result of the control over livestock; the Banyamulenge sought refuge in the mountains to avoid competing with local livestock farmers. He also thinks that the conflict between the Banyamulenge and their neighbours, particularly the "Fuliru and the Vira," is rooted in the fact that the place of cattle and dairy products in the local economy the Banyamulenge a source of economic accumulation on which the lower middle class capitalised and gradually came to control the trade along the Uvira-Bukavu axis. The subsequent boom caused feelings of jealousy in other groups and strengthened the Banyamulenge's sense of identity.¹⁷ To deprive said community of their position, traditional Vira and Fuliru chiefs stir up ethnic feeling against them.

¹⁵ Willame, *op.cit.*

¹⁶ Bucyalimwe Mararo, *op. cit.*

¹⁷ Mbonyikebe Sebahire: *Les conflits interethniques dans leur contexte historique et socio-anthropologique*, dans CNONGD: *Paix et résolution des conflits durant la transition démocratique au Zaïre*, Kinshasa 1996, pp. 52, 53.

Bucyalimwe Macaro places cattle in the context of the new cash economy of North Kivu and establishes that it is the evolution of its exploitation in the form of big farms that generated the mobilisation of groups and the beginnings of the ethnic conflicts that have marked the history of North Kivu since 1960.¹⁸ The importance of livestock mobilised some individuals, who formed a class capable of using the resources of the state and the militias to protect their interests and pastures. At times this led them into conflicts with the growing number of dispossessed small farmers on the one hand and with traditional chiefs on the other. As big farmers were a majority among post-colonial Rwandan immigrants, they benefited from the largesse of the authority. As it was mostly local small farmers who were dispossessed by the Bakajika Law, the creation of national parks and the transfer of land to foreigners, the conflict over cattle acquired a strong ethnic facet.¹⁹

The corridors of power and representation

Another factor is the access to the corridors of power and representation. Since 1960, political competition made leaders of different ethnic factions grasp that power is a political resource that can be employed for the acquisition wealth and economic goods.²⁰ The one with power commands resource allocation, and can use it to favour sympathisers and muzzle other groups. This is important in that the various regimes in Congo often acted in an arbitrary manner, with no restrictions or controls on ruler.

Several authors have put forward policies and strategies of the "differentiated modernisation" to explain the development and the occurrence of ethnic phenomena. Crawford Young, for example, views it as the prevailing cause in most expressions of interethnic antagonism around the world since the 1960s.²¹ When social stratification favours some to the detriment of others, it necessarily engenders recourse to ethnicity and its political mobilisation. According to Carl Rosberg, "The very existence of a sovereign state tends to stir feelings of ethnicity and other sentiments because it introduces into society a new object of value for which people fight, giving rise to new frightening forces with which compromises must be made."²²

¹⁸ Bucyalimwe Mararo, op. cit.

¹⁹ Bucyalimwe, op. cit.

²⁰ Discussing the ethnic conflicts in Kivu, Sebahire believes that in reality they are a cover for struggles over wealth and power, op. cit. p. 52.

²¹ Crawford Young: *Ethnicity revisited: extensive course of political sociology*, UNILU, Lubumbashi 1976; and Crawford Young and Thomas Turner: *The Rise and Decline of the Zairian State*, University of Wisconsin Press, Madison 1984.

²² Robert Jackson and Carl Rosberg: *Personal Rule in Black Africa: Prince, Autocrat, Prophet, Tyrant*, University of California Press, Berkeley, 1982.

The fight for control of national or provincial power would then follow ethnic lines, knowing that whoever wins provincial power would be in direct liaison with Kinshasa and influence decision-making at the national level and decide on the allocation of resources at the local level.²³

The fight for the control of the corridors of power runs through the history of Kivu and explains its current dismemberment into three provinces. Kivu was divided into the three small provinces of Central Kivu, Maniema and North Kivu to satisfy the ambitions of local leaders who craved their own political regions. Some parts of North Kivu (such as the city of Goma and the territory of Masisi) had to align themselves with one or other camp. Therefore, the largest four ethnic groups in Kivu competed for provincial hegemony, i.e. the "Shi/Rega" in South Kivu, the "Yira (Nande)/Banyarwanda" in North Kivu and the "Kusu/Rega-Bembe" in Maniema.

Of these ethnic groups, the Regas are found in the South, in Maniema and in North Kivu, while the Banyarwandas are found in both North and South Kivu. This scattering is regarded by these groups as a factor undermining their power and influence. They would have preferred to remain gathered in a more or less autonomous group. The break-down into Regas of Pangi and Mwenga (Maniema and South Kivu) and Banyarwandas of North Kivu (Hutu - Tutsi) and of South Kivu (Banyamulenge) means a loss of weight and numerical power compared to other groups in the search for territory and representation. The search for reunification inspires the leadership ideology of these groups and drives them to lobby more strongly for representation at the national political level, with the aim of influencing developments at the regional or provincial level.

This lobbying bore fruit later because, despite the reunification of the small provinces in 1965, the leaders of the North and Maniema, skilled in the use of political power, convinced the Central Committee of the MPR in 1986 to allow them to establish as an experiment each of the three sub-regions of ancient Kivu as an autonomous province, thus entrenching regional control. This granted Kivu a triple representation at the local level and at the national level, where, however, it was unable to profit from the situation because of the extremely centralised system of political power, which deprived the people of control over their own leadership and future.

Representation at the national as well as the economic levels mainly benefited the non-natives, in particular Tutsi refugees in Congo since 1960, thanks to the presence of Bisengimana Rwema alongside Mobutu on the one hand and the Zairisation of the economy on the other. As a result of these measures, the biggest purchasers in Kivu were either Congolese from other provinces or pseudo-Congolese residents of Rwandan origin.²⁴

²³ Jean Claude Willame, *op. cit.*

²⁴ See Willame, *op. cit.*

This pattern was repeated in public service jobs, in the administration and in public enterprises.²⁵ Frustration peaked when after the reform of university education, several Rwandan students known to be refugees were granted easier access to higher and university education at ISP-Bukavu, Lubumbashi and Kinshasa at the expense of locals.

The frequent skirmishes between the students of the East (natives against the Rwandans) often fuelled the chronicles of events at the different campuses in the country. They were often about the flawed quota system for admission to universities, and the huge share granted to Rwandan refugees. These elements formed the object of recriminations that local representatives, delegates to the Sovereign National Conference, publicised to other participants, succeeding for the first time in expressing themselves on a phenomenon that had been lived with for too long.

The underlying anger was directed not at the communities with which the population has been living for a long time, but at Rwandan infiltrators and post-colonial immigrants who managed to place Rwandan nationals (for example, the Hutu in the North) and the other groups by manipulating their accumulated resources and political channels. Many calls were addressed to the Rwandan community to avoid identification in this group by denouncing the new infiltrators, i.e. the latest non-native arrivals. But the solidarity between persons with the same origins, the need for large numbers during election times, and the laxity of the state in civil status management and the issuing of identity cards - so-called citizen cards, administrative proof of citizenship), obscured the demagogic character of such interpellations.

Curiously, the struggle to gain control of national and regional power reached its peak when the Banyamulenge were instrumentalised by Laurent Désiré Kabila, himself an instrument of external powers, to gain power. He came to power with the help of foreign, mainly Rwandan, troops, and bears much of the responsibility for what has happened in Congo since then. In the name of liberation, entire populations were decimated and exiled; in the three provinces, properties were taken from their owners and granted to Rwandan or Banyamulenge purchasers.

From hills overlooking the Ruzizi plain large numbers of people who had never entered a city before flooded to settle in Bukavu and Uvira, Kinshasa and even Lubumbashi, with the aura of pseudo liberators. They became pillars of the new power dispensation, in the same way as the Banyarwandas of Tutsi origin had conquered the lands and institutions of North Kivu.²⁶ Members of their group included the minister of foreign affairs, Bizimana Karaha, the secretary general of the AFDL, Bugura Denis, and the chief of staff, James Kabarhebe. Likewise, Bisengimana Rwema was resuscitated by Laurent Désiré Kabila, this time in the plural.

²⁵ Mushi Mugumo, *Incidences ethniques sur la fonction publique au Kivu*, mémoire de licence, UNILU, Lubumbashi 1974.

²⁶ OCPAGL

Paradoxically, as political leader, within a short period of time, Laurent Désiré Kabila, the liberator, set new standards for rewarding friends, those who brought him to power and supported him, those who have their own ambitions by helping him. Local groups on the other hand felt betrayed, sold and crushed to have stupidly made their children get involved in a personal or manipulative adventure, an adventure in which politicians without a future joined foreign troops in raising arms against the fatherland.

The people of Kivu were hurt by this phenomenon and insulted by the arrogance and bulimia of the new liberators. This reaction sustained clandestine Mai Mai groups for a long time, before they became allies of Laurent Kabila, after his sudden turnabout at the end of July 1998 and called for the repatriation of the Rwandese expeditionary troops that had helped him come to power.

The neighbour's expansionism and the superpowers' imperialism

The thesis of Rwandan expansionism and international imperialism is a hypothesis that contributes to the strategy of the ethnic identity manipulation, in particular the instrumentalisation of the Banyamulenge in Kivu. Several researchers agree, saying that ethnic invention or reinvention serves the interests of the current regime in Rwanda rather than those of the group it sought to defend.²⁷

The Rwandan regime has instrumentalised the Banyamulenge in several ways. From the time some Tutsis were granted refuge at the time of independence (1959-60), this group, like all others in the Tutsi diaspora, served as a reservoir for the recruitment of troops for the Rwandan Patriotic Front and supported its military breakthrough and war efforts (1990). As soon as the war in Rwanda was over, they were exhorted to return to Rwanda to repopulate the country after the genocide and subsequent the Hutu exodus when the Tutsis took power (1994). At this time, many of them proudly tore up their Congolese identity cards in public as a sign that they were taking Rwandan nationality. This euphoria did not last long, as in Rwanda they were received as second-class citizens.

This group has since been used as spearhead, shield and legitimisation for Rwandan interference in Congo. They supplied the initial troops, helped Kabila to launch hostilities as part of the invasion of Congo (1996), bypassed or infiltrated

²⁷ On this subject, see Charles Ntampaka, *La sécurité comme motif d'intervention du Rwanda en République démocratique du Congo : prétexte ou réalité*, P. Mathieu et J.C. Willame: *Conflits et guerres au Kivu et dans la région des grands lacs (Entre tensions locales et escalade régionale)*, Cahiers Africains, CEDAF, No 39-40, L'L'Harmattan, Paris 1999, pp. 161-177.

refugee camps, resumed the war against Congo in alliance with the DRC (1998), sabotaged the integration efforts of the Congolese army after the global and inclusive accord (2003), sabotaged the true reunification of the Kivu army under loyal generals (Nabiolwa and Mbudja Mabe, March-April 2004), legitimised a parallel force composed largely of Rwandan troops in North Kivu and constituting an armed force within the armed force (Mutebutsi and Nkundabatware, May and June 2004).

Furthermore, it is suspected that the recent massacre of Banyamulenge in a refugee camp in Burundi (August 2004) sought to create a new alibi for interference so as to sabotage the peace process and the successful path of transition and to annex, this time once and for all, the provinces of Kivu or establish a republic there under the control of Rwandan troops.

Nonetheless, this instrumentalisation increasingly annoyed an important fringe of the Banyamulenge community, not only because of the large number of young men killed and the economic destruction,²⁸ but also because of the fact that some of their chiefs are aware that this action is rather more profitable to non-Banyamulenge Tutsis. They are fed up by the fact that, despite their sacrifices, Rwanda views the Banyamulenges as subjects ready to do the dirty work of destabilising Congo on its behalf, without giving anything in return. Far from encouraging the integration of the Banyamulenges into the large Congolese family, these various tensions are driving them further away. The Banyamulenges grasp the fact that each death of a Munyamulenge²⁹ is Rwanda's gain, and many of them are seeking a rapprochement with their neighbours.

Over and above this, it is notorious that Rwanda invaded Congo not in order to secure the Banyamulenges, but rather to secure its own frontiers, prevent the possibility of Hutu groups reorganising and reduce their numerical majority through camp massacres, attacking train convoys, etc....³⁰ Recent events confirm that had it not been for the opposition, or embarrassed reservations of the international community and the categorical rejection of the country's dismemberment by the whole Congolese population, Rwanda would have already annexed the provinces of North and South Kivu, or established and maintained an authority it could easily manipulate.

The Banyamulenges also served as a Trojan horse for Rwanda's cash extraction in Kivu and the covetousness of multinational mining companies seeking to operate around the great lakes of the Rift Valley. The book published by civil society observers in Kivu chronicles Rwanda's gradual creation of an administrative structure that relied on the Banyamulenges and the Tutsis during the war to take everything that of any

²⁸ During the events of May 2004, when Nkundabatware troops invaded the city of Bukavu, most Banyamulenge leaders publicly disputed the participation of Banyamulenge and expressed solidarity with this movement.

²⁹ As Dominique Steiner noted, „les Banyamulenge risquent à l'issue de la guerre de n'avoir de place ni au Rwanda, ni au Congo“, quoted by Ntampaka, op. cit. p. 176.

³⁰ OCPAL

market or pecuniary value, including dues, taxes and mines, for the benefit of Rwanda³¹ and Rwandan notables.

Stefaan Maryse studied the coltan trade and shows that most of the returns accrued abroad, with a small portion going to local accomplices. Vangu Mambweni criticises the fact that the main goal of the war in the Great Lakes region in the 1990s was the re-colonisation of Africa, the destruction of the black soul, the abusive confiscation of mining, vegetable and animal wealth and the redrawing of the geo-political map.³²

Similarly, Claude Willame, in refusing to give credence to the argument of American imperialism, actually confirms what he wants to negate. He writes, "While being careful not to add grist to the mill of those who consider any intrusion by the United States in Central Africa as an Anglo-Saxon conspiracy against the interests of Belgium and France in the region, it is incumbent to recognise that Washington is not totally ignorant of the 'Banyamulenge rebellion' and the accession to power of L.D Kabila. It is known today that the Kivu operations of autumn 1996 were financed and prepared, and even organised and led by American specialists and some North American private interests.³³" Willame lists in this regard, a number of activists who are at the origin of the international imperialism thesis. It is about control over strategic or precious minerals thought to be available in large quantities in the east of the country, such as coltan, niobium, gold and oil.³⁴

³¹ OCPAL

³² Vangu Mambweni, *op. cit.*

³³ Willame, *op. cit.*

³⁴ Conscious of the fact that the Banyamulenges were a Trojan horse for external imperialism in the east, civil society members felt it necessary to guide their respective communities in order to avoid genocidal retribution that would create an excuse for a third war. This is how, contrary to the propaganda in the international press on this matter, the population of South Kivu treated their Banyamulenge neighbours well during the events so as to not to give any possible excuse. But Mutebutsi and Nkundabatware remain a thorn in any future evolution of relations between the populations of the East. This attitude of civil society even led Commandant Masanzu, a Munyamulenge who led the FARDC troops to the plateaus of Minembwe, to use Okapi radio to contradict the allegations of Laurent Nkundabatware, declaring that he was not defending the Banyamulenge cause, but advocating his own cause, because Nkundabatware's schemes incited the hatred of the local native populations towards the Banyamulenge, and he warned the true Banyamulenge from following Mutebutsi and Nkundabatware.

The actors

Interethnic coexistence in the east of Kivu cannot be seen in isolation. One can spot the presence of different levels of actors nationally and internationally. Ethnically speaking, there are two levels of actors: (i) native Kivutians and Congolese from other provinces and (ii) native Congolese and the immigrants mainly of Rwandan origin. This analysis will focus only on clear ethnic groups.

At the national, unemotional level, one ought to mention civil society within the overall framework of the state. But at civil society level, we should emphasise the importance of the Catholic Church and human rights organisations. At the international level, the largest presence is the UNOMC, humanitarian NGOs and the offices of international institutions.

Concerning the crystallisation of ethnic groups in South Kivu, the position is as follows: the Viras and the Fulirus occupy most of the Uvira territory. This territory also contains Mulenge Hill. The Bashi occupy the territories of Kabare and Walungu; they constitute the majority in the city of Bukavu and are present in large numbers in Uvira. The Bahavus occupy the territories of Idjwi (island) and Kalehe. The Regas reside in the territories of Shabunda and Mwenga; due to immigration, their presence in big cities, especially Bukavu, is also growing. As for the Bembes, they live mainly in the territories of Fizi and Mwenga.

The homogeneity and the cordial relations between of the groups spare the territories of South Kivu a dangerous explosive situation: every ethnic group possesses its own territory or cohabits with a kinship group. Thus, the Bembes and the Regas are cousins; the Bashi and the Bahavus are also closely related, and the Fulirus and the Viras have been living together for a long period of time. The electoral mobilisation would not create major conflicts that cannot be settled by local leaders and civil society. Only the minority group of the Banyamulenges and some Banyarwandas, still settled in Bukavu, can subsist on their own. Hence any conflicts would be limited to two locations: the city of Bukavu and the agglomeration of Uvira.

The case of North Kivu is more complicated. North Kivu province is populated by different ethnic groups, including the Nyangas, the Hundes, the Peres, the Kumus and the Banyarwandas. However, some of these groups have become marginalised and minoritised (Kumus, Hundes) to such extent that some no longer hesitate to treat them as "endangered tribes," whether due to the extermination they have undergone, or to intermarriage. Taking economic and numerical importance into account, there are three main groups: the Nande-yiras, who occupy the majority of Luberro, Beni and Rutshuru and are found in large numbers in Goma, the Hutus from Masisi and Rutshuru, and the Tutsis in Goma and Masisi.

The fact that the last two groups (Hutu-Tutsi) are increasingly identified as the same group has triggered a division into two camps: the Nandes lead the other ancient

native groups, and the Tutsis lead the settled Hutus and recent Tutsi and Hutu immigrants.³⁵

It is important to draw attention to the fact that the exacerbation of ethnic conflicts has resulted in an escalation in North and South Kivu between the natives and the populations of Rwandan origin, mainly because of the clandestine migrants and the waves of refugees that have boosted the numbers of their ex-compatriots and in particular because of their privileged economic and political position under Mobutu.

What initially constituted a protest against the usurpation of political and economic power by clandestine immigrants and refugees became a running sore in the side of the political authority that failed to deal with the problem in time. These groups have been important supporters of the Rwandan Patriotic Army and have mobilised other less motivated groups to follow them.³⁶

In short, it is the momentum of events, the inflow and outflow of masses of refugees (Tutsis in 1993, Hutus in 1994), the Rwandan war and the AFDL war, that fuelled the feelings of fear and the eager search for reunification of all groups in a whole that is politically important.³⁷

³⁵ The Banyarwandas of North Kivu are not Banyamulenges, and are offended by the simplification of this issue in the international media and international community that increasingly designates all the people of Rwandan origin as residents of Congo, i.e. all the people settled in the province and sharing common cultural and geographical Rwandan roots and speaking the same language, Kinyarwanda. Historians and sociologists such as Willame distinguishes several waves of settlement in the region: (i) the autochthonous Hutus (also called Banyabwisha of the Bwisha regions near Rutshuru) that settled in the 19th century; (ii) the migrants of 1937-1956 transplanted by the colonial authority; and (iii) the refugees escaping the violence in Rwanda since the eve of independence eve in 1959 to the present day. This last category includes the influxes of 1989-90, 1993 and 1994.

³⁶ In fact, several publications prove that the Rwandophone groups who considered themselves as "Congolese" by right sought, during the 70's and 80's, to distinguish themselves from other Rwandophones of recent immigration, in order to avoid being doomed with the same condemnation and being marginalised like the other Congolese in the Kivu provinces; this is how appeared the "Banyamulenge" identity and the "Banyabwisha" identity and the unification movements like MAGRIVI. Even in 1994, it was difficult to reconcile the Hutus and the Tutsis in North Kivu.

³⁷ We notice that the Hutu-Tutsi rapprochement in North Kivu is opportunist; for war got the Tutsis gain power through the AFDL. Nevertheless, such an alliance remains incongruous as long as the Hutus and Tutsis continue to fight in Rwanda and the Tutsis continue to pursue the Interahamwe who, in Kivu, are Hutus.

Positioning strategies

In the light of native Kivutians, recent interethnic antagonisms have gone beyond the limits of the legitimate competition for posts and positions. It is now a struggle for the survival of Kivu as an entity and integral part of the Democratic Republic of Congo. Rwanda's recurrent attempts at invasion, occupation and annexation call for strategies of every group as follows: self-restraint in the face of provocation, the call for international arbitration and for condemnation in international media, civil society activism, the formation and support of militias and private armies, the call for the state protection and the creation and support of political parties.

Self-restraint

Since the period of negotiations and conquest of power by the AFDL coalition, the populations of Kivu have distinguished themselves by their abnegation so as to give the political negotiations a chance to succeed.³⁸ Despite the yoke of a hated party, the Congolese Gathering for Democracy (RCD), and the Rwandan military, the local leaders exhorted the population to stay calm and show self-restraint, so as not to provide fresh grounds for the invasion. Despite the killings, provocations and humiliations, they put up with everything, wishing that a state capable of defending them would rise from these ashes. Likewise, without being represented by legitimate leaders of their own, the different ethnic groups accepted this situation so as not to further undermine the hazy transition at the political level. Even when their homes were occupied by Tutsis and others, they disregarded it, hoping that peace and elections would return to grant each what he is entitled to.

The call for international arbitration

The incurred exactions are being exposed by the international media with the aim of proving this good will. Therefore, the present national NGOs and civil activists have discussed in the written, electronic and digital media all the facts and the wrongdoing. The media calls for people to realise what is really happening and raises the aware-

³⁸ We are talking here about the different negotiations that having led to the Global and Inclusive Accord in effect in the DRC since the beginning of 2002.

ness of international public opinion. This trend often leads to the disclosure of the truth and sheds light on mutual demonisation.

The activism of civil society

The two strategies mentioned above require a network of vectors connected to the rest of the world. In this respect, All Kivu communities regard Kivu civil society as their only beacon of hope since the rise of Kabila's regime. From conference to conference, in conciliations, participations in negotiations and pacifications, Kivu civil society has supported the communities and tried to mobilise international public opinion about the potential danger of Kivu vanishing. It remained the only social component capable of galvanising the collective effort, helping people to keep hope and faith in a better future and guaranteeing survival under foreign occupation where the state had failed.³⁹

Militias and armies

Each of the various competing groups tried to turn itself into a self-defence group. This moved war masters and chiefs to the limelight of the political scene. Various groups were established with the goals of securing group self-defence and of influencing the anticipated negotiations. Thus, on the one hand we had the Ngilima, the Maï Maï, the former Simbas and the Congolese army and on the other the "Mugundi 40" and the troops of Masanzu, Mutebutsi, Nkudabatware, the RCD and the Rwandan state.

However, instead of security, these groups, whether legitimated or not, sowed fear in all communities, even the ones they were supposed to protect. This led civil society worldwide and the local population to plead for an increased presence of UNOMC forces on the ground, with a mandate to use force only to protect groups and against the troublemakers that might emerge from some camps. They got the international

³⁹ „Face à l'avalanche des problèmes encore aggravés par l'occupation et la prise en otage de la région par les forces étrangères et les groupes politiques opportunistes congolais hâtivement regroupées par les diverses invasions (RCD, AFDL), la survie des populations du Kivu et le maintien de leur cohésion constituent presque un miracle. Cette survie, elles la doivent au dynamisme et à la clairvoyance de la société civile organisée qui ont aidée les habitants du Sud et Nord Kivu à développer des mécanismes propres de survie et de résistance" See Baudouin Hamuli Kabarhuza, Ferdinand Mushi Mugumo and Nobert Yamba Yamba Shuku: *La société civile congolaise: Etat des lieux et perspectives*, Colophon, 2003, p. 56.

community more involved in defending Congolese territorial integrity and safeguarding peace and human rights.

The interpellation of the Congolese State

The interpellation of the Congolese state does not bear fruit unless it generates a commitment from the international community. The events in Kivu give the impression that the Congolese state abandoned its responsibilities and waited for the international community to take the lead and assume the duty of securing the physical integrity of any Congolese and the territorial integrity of the state.

Instead of fulfilling its mission, undertaking its responsibilities, and working hard to preserve internal sovereignty, the Congolese state is better at complaining and adopting similar to those of civil society in order to exert pressure on the international community. Naturally, this attitude reflects its inability, complicity and compromise in the face of events in Kivu.

The creation and support of political parties

The ethnic configuration also involves the strategy of enrolling local and national leadership in well-established political parties. To highlight the opportunism of these alignments, one need only to ask the question "Who best defends the people's aspirations for peace or security?" At the moment, there are four political alignments around the following parties: the PPRD, the RCD, the DCF/RCD Nyamwisi wing and the UDPS. The other groups are not easy to define, nor do they have a solid base.

Although a young party, the PPRD attracted people in Kivu because as the party of the young president it offers hopes of peace and national reunification after the withdrawal of the Rwandan troops. Its popularity is based on its leadership of the transition and its disavowal of the AFDL and its RCD, which should have a favourable impact on the future of Kivu. As long as the PPRD keeps its distance from Rwanda and proves to be effective in bringing peace, this party will keep the support of the people. However, any suspicions of external connections or any compromise may lead to significant and sudden reversals and repositioning. Incidentally, the suspicion of collusion and compromise are often a sign, above all when local representatives occupy positions in the power structures of the transition.

The one-party rule of the RCD, effectively in charge in the two provinces of North and South Kivu since 1998, has been challenged by newcomers. The RCD can cer-

tainly win several seats in North Kivu and among Kinyarwanda-speaking Banyamulenges in the South. But it is unlikely to mobilise elsewhere! If the RCD does attract support among the Banyawishas in North Kivu, this will again be a point of dispute that divides this group from the rest of the Congolese.

As for the DFC/RCD Nyamwisi, its influence undoubtedly extends over the Nande territory, as the numerical majority of this group, the wealth of its traders and a well-maintained militia spared the majority of the population the horrors of pillage during the two wars of aggression, which has earned it the population's tacit gratitude.⁴⁰

The different militias in Kivu tried to assume the guise of political parties and show an interest in current civil concerns. But the transformation of an army into a political party is never simple. Despite the impressive number of the sympathisers grateful for the militias' resistance, particularly the Maï Maï, the sympathisers ought either to force the militias to reorient or confiscate their power, because it is difficult to effect the transformation from detonating powder to reassuring words.

The Congolese state and the hazards of interethnic coexistence

Since the national reconciliation government was formed, it has gradually, clumsily and unsystematically got down to resolving conflicts believed to be mainly responsible for war and to restoring peace. Nevertheless, the problem facing peace in the DRC is the fact that there is neither victor nor vanquished and, hence, neither truth nor lie. There is total confusion about the internal and external causes that triggered the civil conflicts. Regardless who tells it, part of history is glossed over when it comes to the betrayal of the fatherland, the internal complicities, the silence of major players, the millions of deaths and the compensation expected by people who suffered in Kivu.

Instead of radicalising its demands and talking with pride, since the Lusaka and Sun City Accords the Congolese government has abandoned all reparation claims and done nothing. In its legalistic approach to the phenomenon of interethnic coexistence, the government sees no internal cleavage, emphasising nothing but the principle of the inviolability of its boundaries. Its approach to the phenomenon remains institutional and legalistic rather than sociological and political. The economic substructures of crises are better ignored.

⁴⁰ Naturally, in the game of alliances, the DCF/RCD Nyamwisi had to align or compromise with either the MLC or the PPRD. Thus, owing to its numerical strength and Nande-Yira loyalty, its internal organization and increasingly close alliance with its base in North Kivu, the party is the deciding factor among the various competing factions.

Of the efforts to ensure the peaceful ethnic coexistence, we can mention the Lusaka and Sun City Accords. They focused primarily on (i) integrating the RCD into government in some sort of cohabitation in accordance with the stipulations of the Global and Inclusive Accord that was neither war nor peace, (ii) demobilising child soldiers and militias and reintegrating them into civilian life, and (iii) integrating all former warring parties into the same army. These three political elements are still being pursued, but have been poorly managed so far.

It is worth mentioning the inclusive citizenship that applies to all groups who lived in Congo before independence, the preparation of new legislation on nationality and elections, the preparation and organisational planning of the conference of Great Lakes countries and the call to revitalise the CEPGL and to reaffirm the policy of good neighbours.

A start was made on implementing these measures some time before the elections. By election day, most of these measures had not yet produced significant results. The measures are the result of international pressure, the idea of protecting the integrity of the national territory by, paradoxically, satisfying all the demands of the invaders and including and protecting recognised minorities, the same people who led the war, namely the Banyarwandas and the Banyamulenges, and not those in the process of disappearing, like the Bahundes.

By searching to satisfy the demands of Rwanda and the vision of the international community, these measures, as one might notice, are not directly concerned with resolving the internal problems arising from the recurrent civil conflicts in Kivu, particularly in the North, and do not deny the imperialistic aims that caused them.

While recognising their importance and their value in restoring peaceful cohabitation between the neighbouring countries, it should be noted that these approaches need to be refined and completed. Regulating the nationality question has its value, but it does not prevent Rwanda from continuing its operations in Congo as in a no man's land, as long as this country is highly protected. Moreover, the revival of the CEPGL will favour countries bordering the provinces of North and South and facilitate the creation of a free trade zone and the free circulation of people and goods.

This means that with the favourable attitude at all levels, the clandestine infiltrations never stopped and demarcation and nationality controls will be a nebulous problem that will burden the future of Kivu for a long time. The consolidation of the state would be an admirable step if it were accompanied by a combination of local representation and a good dose of technical organisation. But this is neither guaranteed nor sufficient!

What should be done?

The answer depends on the Congolese government and the international community. If we recognise the instrumentalisation of the phenomenal claim of the Banyamulenge, if we draw up a list of who has won and who has lost in this process, we would understand that the Banyamulege question is an ordinary phenomenon that would have never become so complicated in the absence of two major events: the underdevelopment and the enclosure of Kivu on the one hand and the outside interference and Rwandan imperialism with the tacit complicity of the leading actors in the international community and the decline of the Congolese state.

Thus, while pursuing the current policies, the Congolese state and the international community should combine their efforts in order to widen the economic base of Kivu, which is shrinking due to the scarcity, declining fertility, and mode of appropriation and management of the land. The management of lands, farms and livestock, traditional power and sources or capital accumulation should be addressed with the same urgency as the question of elections.

It is also important also to study the question of land reform and land management reform in North and South Kivu, the break-up and distribution of large farms and plantations to dispossessed peasants, the revision and abolition of the traditional chiefs' stranglehold over land, and the possible repossession or compulsory purchase for landless peasants of lands held by agribusinesses, the new settlers and national parks.

Beyond these essentially agrarian reform measures, it is worth mentioning that the opening up of Kivu by building and maintaining roads would improve mobility in the three provinces, facilitating the movement of people and goods, the optimal exploitation of resources and the normal functioning of the market for commodities. Consequently, roads would favour migration from all sides, mutual knowledge and the exploitation of available or unexploited space.

To transform the essentially agricultural foundation of the region's economy, it is important to attract agricultural and mining investment, as these industries are labour intensive. Investment in new industries should be equitably divided between Kivu and neighbouring countries. Increased investment and planning is also needed in social infrastructure, particularly schools, hospitals, energy sources and water.

Beyond these measures for the integrated development of Kivu, another important step is the development of the six most important villages and cities in Kivu: Beni, Bukavu, Butembo, Goma, Uvira and Katimuga to enable them to serve as poles of economic and political action. Supporting the growth and vitality of these poles can easily reduce tensions and increase exchanges between the groups.

The conception and realisation of these measures require the rebirth of a state with a strong army and a non-partisan territorial administration. To implement this vision,

the state must have good relations with the world's superpowers, and a concept to promote collaboration on the development of central Africa in general and the lakeside region in particular. General disarmament of all militias and the creation of military bases ready to curb neighbours' imperialistic impulses would support the maintenance of peace and extinguish suspicions among the peoples of Kivu.

The distinction between citizenship and nationality of origin, the free circulation of people and their goods, the protection of the fundamental liberties of all communities in the region, coupled with the development of social and administrative infrastructures can all help in the medium term to effectively restore peaceful coexistence between all the ethnicities that claim Congolese nationality, and speed up their integration in the large Congolese family, provided that everybody respects the law and avoids treason. The question of citizenship should not be confused with that of the nationality.

The question of Congolese nationality

PAMPHILE MABIALA MANTUBA-NGOMA

Introduction

The nationality debate is a very delicate subject, as the emotional reactions accompanying the topic since it was raised by the Sovereign National Conference in 1992 demonstrate.

It was highlighted in the aftermath of the Rwandan genocide of 1994, when thousands of Rwandans took refuge on Congolese territory. The presence of the latter triggered a confrontation in Kivu, and a crisis over land ownership and politics¹. Aware of this situation, the Supreme Council of the Republic, the Parliament of the Transition, set up a commission to examine this question. Its recommendations were submitted on 28 April 1995.²

At the beginning of the first war of aggression, called the "liberation war," the Episcopal Conference of Zaire called in its declaration of 29 October 1996 for urgent clarification of the law on Zairian nationality. The ambiguity in the current position was not only costing the country as a whole dearly, but contributed in particular to destabilising North and South Kivu. Indeed, on account of this legal imprecision some

¹ Reyntjens, Filip, *La guerre des Grands Lacs. Alliances mouvantes et conflits extraterritoriaux en Afrique Centrale*. Paris, L'Harmattan, 1990, pp. 11-51.

² Vangu Mambweni, *Guerres préméditées en Région des Grands Lacs Africains. Rôles et Tentacules du Tutsi Power International en République Démocratique du Congo*. Kinshasa, Médias pour la paix, 2000, pp. 141-175.

nationals were obliged to seek refuge abroad in the hope of finding a little more peace and security. The ethnicisation and the regionalisation of Zairian politics finally led to the destruction of the country and the negation of Zairian nationality.³

The question of the nationality of the Banyarwandans, Rwandan nationals living in Congo in their capacity as long-standing and recent refugees and occupation troops, is not only one of the motives for Rwandan aggression against the Congo, but also a headache for UNOMC (the United Nations Observation Mission in the Congo) and humanitarian organisations. Rwandan President Pasteur Bizimungu even declared that if the Banyamulenge Tutsis were obliged to leave the Congo, they will have to take the land with them.⁴ Such a declaration means that if they were ever denied Congolese nationality, they would not be able to live in Rwanda, which is already overpopulated; accordingly, the part they currently occupy would have to secede.

By walking out of the National Assembly on the eve of the discussion of the Nationality Law, eight rebel Banyamulenge deputies exerted psychological pressure that threatened to turn into war if the adopted law was to their disadvantage.

The nationality debate always gets bogged down not only because of the unwillingness of the political leaders of Great Lakes states, but also and in particular because of the ignorance as well as the manipulation and falsification of Congo's history by parties who want to use nationality for political gain and hegemonic, ideological and economic goals.

The nationality question is a source of political instability and a threat to territorial integrity and peace. Any effort to defuse it must first examine the territorial history of the Congo in order to enlighten both national and international opinion.

I shall attempt this in two steps. I will first tackle the territorial history of Congo, before moving on to Congolese legislation regarding nationality.

Territorial history of Congo

To understand the complexity of the nationality issue, it is useful to look at the initial occupation of the territories that now constitute the Democratic Republic of the Congo, then emphasise people's attachment to their land, and finally consider migration under the Belgian colonial power.

³ C.E.Z., „Non à la guerre, oui à la paix et la justice“, déclaration aux fidèles catholiques et aux hommes de bonne volonté, 29 octobre 1996, Documentation et Information Africaines, (30 octobre 1996), pp. 725-729.

⁴ Interview with Paul Kagame in: "The East African" Journal, 5-11 July 1999; cf. L'Avenir, 680 (23 July 1999), p. 3.

Occupation of territories

The Congo covers an area approximately the size of western Europe. A multitude of ethnic groups that can be grouped into about 13 cultural groups live in this territory. It is the cultural territory of southwest Kongo, Kwango and Kwilu Province. Then, we have the area of Mongo, which lies halfway between the regions of Bandundu, Equator, Maniema and Eastern Kasai. The area of Ngala covers the river branches of Mbandaka in Kisangani. In the northeast there is cultural area of the Ubangi, in the northeast that of the Uele and between Nyangwe and Kisangani in the east of Congo that of the Maniema. The Luba's territory covers much of Katanga Province and the two Kasai provinces, while Lunda extends along the southern border of Katanga to Bandundu.

The pygmies - known as Batwa, Batswa or Bambuti - were the first inhabitants of the country, followed by the Bantu and last the Sudanese Nilotics and nilo-Hamitiques. The Ngbandi and Ngbaka, Alur and Kakwa and Mongo moved from north to south, whereas the Kongo as well as the Cokwe and Lunda moved from south to north, the Kuba from west to east and the Luba and Nande from east to west. The rivers facilitated long-distance trade and the exchange of knowledge and cultural practices.⁹

The attachment to the land

People living in the Congolese territories have a shared history of memories of joy and sorrow and have always been proud of belonging to their ancestors' land and ready to defend it against external aggressors: that is patriotism. Our ancestors expressed in song¹ their faith in their country, their love for their territories and their loyalty to the ancestral land.⁵

Migration under the Belgian colonial regime in Congo (1885-1960)

To understand the migration patterns during the colonial era, it is necessary to note not only the principles underlying the creation of the modern state of Congo, but also

⁵ MABIALA, Mantuba - Ngoma, „Patriotisme et paix en RDC“. *Démocratie et Paix en RDC*. Sous la direction de Sabakinu Kivilu, Kinshasa, PUK, 1999, p. 103.

the dynamics of borders, public policy on migration and the transplantation of the Banyarwandas to the Belgian Congo.

The principles underlying the establishment of the Congolese state

Within its colonial borders, the Congo was formed according to two principles: deconstruction and construction. It would not have been possible to fix the colonial borders without following the principle of deconstruction. Borders were drawn through ethnic groups, who were divided between two or three different states. Some ethnic groups had to change their nationality in the course of colonial history and others had three different African nationalities, e.g. the Lunda, who today live in Angola, Zambia and the Democratic Republic of the Congo.

Colonisation was an exercise in political construction, i.e. grouping together people who historically had nothing in common, by merging several smaller states and several economic and cultural areas. Maybe is it for this reason that the national anthem refers to the Congolese people as "united by fate;" i.e., by the chance history of a people in a state built at the will of imperial powers.

Dynamics of colonial boundaries

The Berlin conference from November 1884 to February 1885 divided Africa not into countries, but into spheres of influence. Each sphere extended its power from the coast into the interior until it encountered another sphere. Border negotiations continued throughout the colonial period until 1959. As a result some former Congolese compatriots became aliens. The Congolese of Brazzaville across from Dongo have not been compatriots since 1891, the Zambians in the north of Sakania since 1894, those of Rwanda between the lakes and the 29th and 30th parallels and those of the enclave of Lado in Sudan since 1910, and the people of Angola near Dilolo since 1927.

The territory exchanged for the above brought new compatriots from South Bandundu and South Kasai in 1891 and people along the borders with the present Central African Republic and Sudan.

It should be noted that the agreement signed between Belgium and Germany on 14 May 1910 permanently drew the boundary between the Belgian Congo and Ruanda by moving it from the 30th to the 29th parallel. It stipulated, among other things, that the border that divides the waters of Lake Kivu shall not be considered a as a border

for the collection of customs. However, this clause shall not affect the respective colonial authorities' right to police surveillance of the waters under their sovereignty.

Moreover, "natives living in a radius of 10 km north of Lake Kivu and west of the border described above would, for a period of 6 months from the day the border is drawn, be able to move with their movable property and their herds to the German territory. Those who exercised this option were allowed to harvest their crops that were ripe at the time of their departure."⁶

According to this provision, there were Banyarwanda people living on a 10 km strip of land west of the Lake Kivu between Goma and Rutshuru before and during the Congo Free State.⁷

Finally, it should be noted that in 1960 the DRC bordered on nine African countries: Angola, Zambia, Tanzania, Burundi, Rwanda, Uganda, Sudan, the Central African Republic and Congo. It was therefore responsible for political and social affairs along 8000 km of common borders, including 2000 km with Angola. The distribution of immigrants during the post-colonial period by district of residence shows that the districts of the former Kivu Province, which became later on the autonomous provinces of North Kivu, South Kivu and Maniema; did not host the highest number of foreigners.⁸

Colonial policy on African migration

The colonial regime adopted a series of measures to regulate the recruitment (soldiers, porters and labourers), transportation and migration of populations.

According to the provisions of the decree of 2 May 1910, natives of the Congo and neighbouring colonies that resided in Congo were divided and distributed into chieftaincies, the limits of which were determined by the district commissioner in conformity with custom. The natives were subject to the tribal authority in the location they were in on the day the borders of these chieftaincies were drawn. Natives from neighbouring colonies were subject to the tribal authority where they settle down.

⁶ BROWNLIE, Ian, *African Boundaries. A legal and Diplomatic Encyclopaedia*. London, C. Hurst & Co, 1979, pp. 676-679.

⁷ VERVLOET VERVLOET, G., „Aux sources du Nil : dans la région des volcans, du lac Albert-Edouard et du Ruwenzori”, *Bulletin de la Société Royale Belge de Géographie*, IV et V (1909), which distinguishes eight different ethnic groups in North Kivu: Bahamba, Bahima, Bahutu (associated with the Watuzi) Baliok, Bambuba, Wakondjo (or Wanande) and Walega

⁸ SABAKINU KIVILU, Jacob, „Les populations réfugiées dans l'Ouest de la République Démocratique du Congo”, *Exilés, Réfugiés, déplacés en Afrique Centrale et Orientale. Sous la direction de André Guichaou*. Paris, l'Harmattan, 2004, p. 569.

Natives were allowed to move from one tribal authority to another if they possessed a transfer license.⁹

Recruitment operations included a series of actions ranging from simple hiring facilities to official invitations to communities to work for companies. Legislation regulating recruitment in accordance with the provisions of Article 31 of the decree of 16 March 1922 allowed recruiters to hire natives without an employment contract, either for work more than 25 km away from their homes or involving a daily river shuttle between the village and the company.¹⁰

Militiamen were recruited under the law governing the "Public Force." Porters were also subject to special administrative measures, especially when they had to cross sparsely populated areas or areas under tenuous control of the colonial power.

Workers were classified depending on the distance between their residence and their place of work: local workers, people working up to 25 km away, and people working 25 km to 100 km away from their place of residence.

Regulations introduced by the decree of 15 September 1889 authorised the General Government of the Congo Free State to expel from Congo "any individual, living or present in the territory of the state who jeopardises by his conduct public order or the security of the state."¹¹

Several Congolese were transported from their province of origin after being accused of jeopardising state security by inciting the population to revolt, mutiny, religious conversion, etc.

The colonial authority also took measures to transfer some populations to other district for various reasons: unhealthy places of residence, admission to administrative training facilities, commercial profitability, scientific interests and overpopulation.¹²

⁹ B.O., 1910, pp. 456-471.

¹⁰ RUKATSI HAKIZA, Boniface, *L'intégration des immigrés du Zaïre. Cas des personnes originaires du Rwanda*. Kinshasa, Etat et Société, 2004, pp. 52-63.

¹¹ *Bulletin Officiel de l'E.I.C.*, 1889, p. 175.

¹² Décret du 2 mai 1910, Cfr. B.O., 1910, T.1, p. 470.

Rwandan transplantation to Belgian Congo

After the defeat of the Germans in the First World War, Ruanda-Urundi became a mandate territory of the League of Nations under Belgian administration. Article 1 of the law of 21 August 1925 regulating the government of Ruanda-Urundi stated that "the territory of Ruanda-Urundi is treated for administrative purposes as part of the colony of the Belgian-Congo, with which it forms a vice-government." Article 5 states that "the rights of Congolese acknowledged by the laws of the Belgian-Congo are, in accordance with the distinctions they establish, extended to nationals of Ruanda-Urundi."¹³ The mandatory authority should justify its governance of the country, in particular in the case of actions that violate the mandatory spirit.

Under the decree of 26 July 1926, natives of Ruanda-Urundi and neighbouring colonies were not allowed to leave the latter an exit permit. However, the governor of the territory could, under conditions determined by him, exempt from this obligation natives of bordering territories as he saw fit. If at the time of leaving the country, the worker has a contract to work outside Ruanda-Urundi, he should have the governor's¹⁴ approval for this contract.

Starting in the 1920s, hundreds of Ruanda-Urundi's nationals immigrated to neighbouring countries such as Uganda and Tanganyika to find work and, above all, to escape from the onerous Belgian administration: forced labour, taxes, etc... or even to escape shortages and famine.

Due to the overpopulation in Ruanda-Urundi, it was impossible for people to feed themselves and their livestock. It was estimated that there were 145,000 too many families (of 925,000, or 15% of the population) and 450,000 too many cattle (of 965,000 or 46.6%). For fear of famine, the authority decided to deal with this surplus through emigration. Fostering immigration in Kivu was not only a sound and correct management measure but above all a humanitarian act, a duty required by Belgium's guardianship to ensure the development of certain uninhabited areas of Kivu.¹⁵

The Belgian colonial authority wanted to offer the Banyarwandas, who realised their precarious situation, unoccupied fertile land in areas with geographical conditions like or very similar to those of their native country.

Apart from these ecological reasons for the choice of transplantation sites, there were also historical reasons related to the patterns of mobility of the populations.

Former Kings (Bami) of Ruanda had tried to expand their kingdom by resorting to conquest when the internal situation of the country permitted it. According to oral

¹³ B.O., 1925, p. 443.

¹⁴ B.O., 1926, pp. 723-729.

¹⁵ Spitaels, R., „Transplantation de Banyaruanda dans le Kivu-Nord“, *Problèmes d'Afrique Centrale*, 20(1953), p. 110.

traditions, Runganzu II Ndori made incursions into Gishari. Around 1885, Kigeri IV Rwabugiri occupied the Karumoza, Gishari, a part of Mokoto, and Muvunyi (Masisi), Idjwi Island (kalehe) and parts of the modern-day region of Kabare. These conquests were not successful without a struggle, and control of territory moved back and forth. Nevertheless, the Tutsis often won and strengthened their hold in, for example, the region east of Rutshuru, which they populated and was considered, before the boundaries of the occupied territories were set in May 1910, as a region occupied by Banyarwanda, as Spitaels¹⁶ confirmed, but with the territory of Congo Free State.

To solve the problem of overcrowding in the trusteeship¹⁷ territory, in 1927, the Belgian colonial administration decided to transfer families from Ruanda-Urundi to the Kivu region; and proposed setting aside a territory of 1,250,000 ha (12,500 km²) for them.

The colonial administration approved the idea of definitive immigration, but Ruandans were not quite ready to immigrate permanently. Thus, the governments were forced to move a number of them by force. To ensure the effective collaboration of indigenous leaders of Ruanda in this operation, the Belgian administration tried to convince them of their personal advantages from the emigration of some of their subjects.

In 1936, Mutara III Rudahigwa of Ruanda visited the area that would host immigrants' families. Finally in 1937, the IMB (Immigration Mission of Banyarwanda) was launched and one officer was appointed in Gishari with the sole function of managing immigration issues. Banyarwanda immigrants were exempted from colonial taxes, tribal taxes, forced labour, etc., for two years. Spitaels, District Commissioner and Chairman of the IMB, explained the objectives and clarified the nature of this permanent emigration:

"Upon their arrival, the Banyarwanda people were registered; they received new identity documents based on those issued in Ruanda. An immigrant, who is not satisfied with his fate or regrets his decision, is free to return home. Our entire organisation is purely voluntary with no constraints or intervention in the territory of origin. We can even say that the exodus has taken place in spite of the indigenous authorities in Ruanda, who consider - as is only normal - the departure of subjects as a loss of human capital as they form the basis of their personal resources."¹⁸

Some immigrants returned to Ruanda, but this not many. Transplanted people maintained close contact with family and friends back in Ruanda. Parents of new

¹⁶ Ibid., p. 110.

¹⁷ Conseil Colonial, Examen du projet de décret portant création du Comité National du Kivu, art. 3, B.O., 1928, p. 85.

¹⁸ Spitaels, R, op. cit., pp. 113-114.

immigrants would ask for land near them. Some of Banyarwanda would work for colonists in the region and farm plots granted them by the latter.

M. Laurentie, a French delegate in the 1948 "United Nations mission visiting" Ruanda-Urundi declared, after having examined the facts, that he "would be glad to recommend that Belgium to organise the emigration of part of the population of Ruanda-Urundi to Belgian Congo."¹⁹

Between 1937 and 1945, 23,211 people were transplanted and between 1949 and 1951 9,337 families, i.e. about 41,700 persons. They were settled in Gishari, Mokoto, and Bwito in the Masisi and Rutshuru districts.

Government delegates of Ruanda-Urundi, Tanganyika and Uganda held a conference in 1954 in Kampala to discuss problems caused by the emigration of Ruanda-Urundi's populations to British East Africa. The conference reported as follows:

*"We know that every year a large number of natives of Ruanda-Urundi visit Uganda and Tanganyika Territory to work for cotton growers and other employers in Uganda. In Uganda alone, their number is estimated at around 70,000, of which 50,000 return to their homeland once their employment contract ends. Nearly 20,000 have settled permanently in the country. The same applied to Tanganyika Territory, though on a smaller scale. This situation raised a number of problems that can not be effectively solved without the active cooperation of the Belgian and British authorities. For this reason, meetings like than in Kampala, are held periodically. It is the fourth in a series of conferences, the first of which took place in 1948. This is the second in Uganda."*²⁰

The evolution of legislation on nationality (1892-2004)

The first text mentioning nationality is the decree of 27 December 1892. Article 1 stipulates:

"Congolese nationality is acquired by birth in the territory, by Congolese parents, by naturalisation, by the presumption of the law and by option."

Article 2 states that naturalisation is individual not collective. Article 3 states:

"A foreigner, who has reached the age of twenty-one and seeks naturalisation must address his request to the Sovereign King or officials appointed by him for this purpose."

¹⁹ Ibid., p. 116.

²⁰ „Emigration dans l'Est Africain Britannique des indigènes du Ruanda-Urundi", *Revue Coloniale Belge*, X, 223(15-1-1954), p. 65.

When the Congo was annexed by Belgium in 1908, Belgium specified in the Colonial Charter the fate of Congolese who became Belgian subjects:

"They do not have all of the rights of metropolitan Belgians, but being Belgians they enjoy full civil and public rights. They are refused only political rights."²¹

Concerning Ruanda-Urundi nationals living in the Congo, Belgian legislation states:

"They are not Belgian, Congolese or foreigners. They are nationals of Ruanda-Urundi and preserve their distinct nationality."²²

Article 1 of the Legislative Ordinance № 25/554 of 6 November 1959 on the right and eligibility to vote stipulates:

"Nationals of Ruanda-Urundi are voters and can be elected as members of the district, village, municipal and provincial councils under the same conditions as metropolitan or Congolese Belgians, provided that they have been living in the Belgian Congo for ten years by the deadline for the voters rolls for the submission of their candidacy forms, as the case may be."²³

Resolution № 2 of the Political Round Table of Brussels, held in February 1960 defines the human heritage transmitted to Congo by Belgium and stipulates:

"From 30 June of this year, the Congo in its present borders will be considered to be an independent state and the inhabitants of this state, as determined by law, will have the nationality of the same. They can move and settle freely in the territory of this state and to engage in trade without hindrance."

Resolution № 11 of the same political round table adds:

"The right to vote is granted to Congolese, to men who have a Congolese mother and to nationals of Ruanda-Urundi who have lived in the Congo for at least ten years. The minimum voting age is 21 years."

The law of 23 March 1960 on legislative and provincial elections in the Congo stipulates:

"To vote for the Chamber of Representatives, these conditions must be fulfilled: Congolese nationality or a Congolese mother, or a national of Ruanda-Urundi who has lived in the Congo for at least ten years, at least 21 years of age; these conditions must be fulfilled at the time of the closing of the voters rolls."

Concerning eligibility conditions, Article 10 of this law states that:

²¹ Heyse, Th., *Notes de Droit Public et Commentaires de la Charte Coloniale*. Vol. II, Fascicule. XIV, (1955), p. 458.

²² *Ibid.*, p. 449..

²³ B.O, 1959, p. 2863.

"Congolese nationals or people with a Congolese mother who are at least 25 years old and have lived in Congo for at least 5 years are eligible to be members of the Chamber of Representatives."²⁴

The fundamental law of 19 May 1960 does not contain any provisions on Congolese nationality.

The law of 17 June 1960 on civil liberties stipulates in Article 2, that:

"All inhabitants of Congo are free and equal in dignity and rights; however, the enjoyment of political rights is reserved for the Congolese unless there is an exception under the law."

The Constitution of the Democratic Republic of Congo of 1 August 1964, known as the Constitution of Luluabourg, contains two articles that deal with nationality. Article 6 lays down the principle of unity and exclusivity of Congolese nationality.

"There is a Congolese nationality.

It is attributed on 30 June to any person who is a descendant or has been a member of a tribe or part of a tribe established on Congolese territory before 18 October 1908.

However, those individuals referred to in paragraph 2 of this article, who have a foreign nationality when the Constitution enters into force will acquire Congolese nationality only if they request it a formal declaration as determined by national law and if, pursuant to this declaration, they relinquish their foreign nationality.

They should make the declaration within 12 months from the date of the entry into force of the Constitution if they are at least 21 years of age at that time; if they are not 21 years old, they will have to make a statement within a period of 12 months from the date on which they reach this age."²⁵

Article 7 states that the Congolese nationality is acquired by parentage, naturalisation, option or legal presumption, under the conditions set by a national organic law. The same law lays down the conditions for loss of Congolese nationality. All Congolese who voluntarily acquire the nationality of another state lose Congolese nationality. Any Congolese who has both the Congolese nationality and another nationality at the age of 21 years loses Congolese nationality unless he declares that he wants to keep Congolese nationality as prescribed by national law.

The reference date for nationality is not 30 June 1960, but 18 October 1908, when the Congo was annexed by Belgium, because on that date Congo ceased to be the personal property of King Leopold II and a legal fiction and became a colony.

The decree of 18 September 1965 abrogated the decree of 27 December 1892 and applied the Constitution of 1964, which stipulated four ways in which persons were not

²⁴ Moniteur Congolais, n° 13 du 28 mars 1960, p. 868.

²⁵ Article 6 of the Constitution of August 1964.

considered Congolese under previous laws could acquire nationality: parentage, naturalisation, option and legal presumption.

Article 46 of the Constitution of 1967 stipulates that nationality will be regulated by the law. It maintained the principle that Congolese nationality was created on 30 June 1960.

The single article of ordinance № 71/020 of 26 March 1971 on recognising the Congolese nationality of people from Ruanda-Urundi stipulates the following:

"Natives of Ruanda-Urundi living in the Congo on 30 June 1960 are assumed to have acquired Congolese nationality at the aforesaid date."²⁶

This law automatically and collectively extends Congolese nationality to the transplanted nationals Ruanda-Burundi the Rwandan refugees of 1959 without requiring them as a preliminary to renounce their Rwandan nationality as their immigration was not definitive. According to this law, the Rwandans concerned lost their Rwandan nationality under Article 19 of the law of 28 September 1963 regulating Rwandan nationality:

"Rwanda does not allow dual nationality. Therefore, any Rwandan who acquires a foreign nationality automatically loses Rwandan nationality."

We should point out that naturalisation could have been based on Article 34 of the Convention on Refugees of 1951. It stipulates:

Contracting states will facilitate as far as possible the naturalisation of refugees. In particular they try to speed up the naturalisation procedure and reduce as far as possible the taxes and fees for this procedure."²⁷

The organic law № 72/002 of 5 January 1972 on Congolese nationality states in Article 1:

There is a Zairian nationality. In accordance with Article 5 of the Constitution of 30 June 1960, Zairians are those with an ancestor who is or was a member of a tribe that was established within Zaire's borders in its frontiers of 15 November 1908, as modified by subsequent conventions"²⁸.

In Article 15, this law grants Congolese nationality to Ruanda-Urundian nationals settled in Kivu Province before 1 January 1950:

Natives of Ruanda-Urundi who were settled in Kivu Province before 1 January 1950 and have continued to live in the Republic of Zaire since then and until this law enters into force will have acquired Zairian nationality on 30 June 1960."²⁹

²⁶ Moniteur Congolais, n° 9 du 1^{er} mai 1971.

²⁷ Article 34 of the Convention of 1951.

²⁸ Journal Officiel, n° 1 du 1^{er} janvier 1972.

²⁹ Ibid.

This law is more rational than the one of 1971 because it limits naturalisation to those who were transplanted. It also puts an end to the violation of international norms that allowed the refugees to return to their country of origin whenever they felt that conditions allowed it.

Article 4 of Law № 81/002 of 29 June 1981 on Congolese nationality is as follows:

According to Article 11 of the Constitution, every person with an ancestor who on June 30, 1960, is or was a member of a tribe that was established within Zaire's borders in its frontiers of 1 August 1885, as modified by subsequent conventions, is Zairian.

This law accepts the principle of the uniqueness and exclusivity of Congolese nationality.

"Zairian nationality is lost as a result of the acquisition of a foreign nationality or through disgrace." (Art. 26)

"Each Zairian who voluntarily acquires a foreign nationality loses his status as a Zairian citizen on the date of acquisition of that nationality."

This law institutes small and large scale naturalisation, recognises the right of a mother to pass on Congolese nationality and the automatic loss of nationality by choice when a Congolese woman marries a foreigner. It insists that Congolese nationality must be requested individually, except in the case of acquisition of territory in accordance with Article 109, para 3 of the Constitution.³⁰

The adoption of this law called into question the rights acquired by the nationals of Rwanda and Burundi and led the Banyarwandas of Tutsi origin to call themselves "Banyamulenge" in the 1980s in order to distinguish the transplanted Tutsis from all later waves of refugees. Unfortunately, both "old" (1959) and "new" (1994) refugees claim the name.³¹

In 1982, Mobutu cancelled the citizenship cards issued to natives of Rwanda pursuant to the 1972 law. In 1983, the minister of justice issued a series of orders calling upon immigrants to proceed with their naturalisation. The Sovereign National Conference reaffirmed the controversial 1981 law on nationality, which increased the desperation of citizens of Rwanda and Burundi living in Congo.

Article 12 of the Draft Constitution of the Sovereign National Conference contains the following provisions on nationality:

"Congolese nationality is unique and exclusive."

³⁰ KAPETA, Nzovu Ilunga, „La question de la nationalité et les perspectives de paix en RDC“, *Démocratie et Paix en RDC*. Sous la direction de Sabakinu Kivilu, Kinshasa, PUK, 1999, p. 123.

³¹ WILLAME, Jean - Claude, *Banyarwanda et Banyamulenge, violence ethnique et gestion de l'identité au Kivu*, Paris, L'Harmattan, 1997.

According to Article 11 of June 30, 1960 Constitution, all people with an ancestor who is or was a member of a tribe that was settled within the borders of the Federal Republic of the Congo in its frontiers of 1 August 1885, as modified by subsequent conventions, are Congolese.

*A federal law sets regulated the acquisition and loss of Congolese nationality.*³²

In 1995, the High Council of the Republic set up a commission to study the issue of nationality. The report of this commission, chaired by Vangu Mambweni, was adopted by the High Council of the Republic. Its proposals radicalised options in the law of 1981 and stirred tensions by excluding the Tutsi community. In particular, the report called for the unconditional repatriation of all Rwandan and Burundian refugees and the cancellation by the ministry of the interior of the appointments of immigrants and refugees in the areas of Rutshuru, Masisi and Walikale and the annulment by the president of the Republic of the appointments of Rwandan and Burundian immigrants and refugees at all levels of government employment and diplomatic representation and the annulment of all deeds of sale or acquisition or distribution of landed or immovable property for the benefit of immigrants and transplanted persons who fraudulently acquired the Congolese nationality.³³

In November 1997, Etienne Tshisekedi, the leader of the opposition, noting the presence of foreigners in the institutions of the Alliance of Democratic Forces for the Liberation of Congo (ADFL), urged foreign nationals, including those who had individually acquired Congolese nationality, to immediately relinquish public political, military, administrative and parastatal functions reserved exclusively to nationals in every country in the world.³⁴

Decree № 197 of 29 January 1999 amended and completed Law № 81/002 of 29 June 1981 on Congolese nationality. It adopted terminology to reflect the country's change of name. The general principle adopted in this text is that of the uniqueness and exclusivity of Congolese nationality. In fact, Congolese nationality cannot be combined with any other nationality (Article 1). Nationality is defined as the tie bonding the individual to the state. The individual is defined according to a main community called a tribe. Thus,

*"any person with an ancestor who on 30 June 1960 is or was a member of a tribe that was settled within the borders of the Democratic Republic of Congo in its frontiers of 1 August 1885, as modified by subsequent conventions, is Congolese."*³⁵

Article 13 places prohibitions on all Congolese who obtained their nationality by acquisition. They may not be civil servants or be elected representatives; the highest

³² Projet de Constitution de la République Fédérale du Congo. Kinshasa, CNS, 1992.

³³ Vangu Mambweni, op. cit., pp. 141-175.

³⁴ La Référence Plus, n° 1127 of 7 November 1997.

³⁵ Decree № 197 of 20 January 1999, Art 4.

rank in the army or national police force they may attain is warrant officer class 1; they highest position they can attain in the civil service is Office Attaché class 1.

Another leading principle enshrined in the text is the explicit expression of the desire to become Congolese. In certain cases defined by law, Congolese nationality could be individually acquired by option or by adoption.

This law deeply affected intercommunity relations in Kivu, because it retroactively abrogated previous texts that granted Congolese nationality to natives of Rwanda and Burundi living on the Congolese territory since 30 June 1960.

The decree of 29 January 1999 on nationality has been questioned by the Lusaka Accord on the Ceasefire in the Democratic Republic of Congo of 10 July 1999, Article III, para 16, which states:

The Parties reaffirm that all ethnic groups and nationalities whose people and territory constituted what became the Congo (now the DRC) upon independence must enjoy equal rights and protection under the law as citizens.³⁶

It is a legitimate question whether the matter of nationality should be left to the sole discretion of the state or whether it may be determined by an international meeting. In the situation of the de facto balkanisation that the state was witnessing, the attributes of sovereignty were a difficult question. We must emphasise instead that the text introduced three unfortunate innovations: it talks of nationality in the plural not the singular, and it links ethnic groups to nationality on the one hand and the people to territory on the other.

In the spirit of national reconciliation, the resolution ICD/CPR/03 of the Inter-Congolese Dialogue on the nationality question adopted in full the provisions of the Lusaka Accord. It is this resolution that was the basis for the provision of Article 14, para 1 of the Constitution of the Transition on April 2003:

"All ethnic groups and nationalities whose people and territory constituted what became the Congo (now the DRC) upon independence must enjoy equal rights and protection under the law as citizens.

Congolese nationality is unique and exclusive. It cannot be held concurrently with another nationality.

An organic law sets the conditions for recognition, acquisition, loss and recovery of Congolese nationality.³⁷

Article 1 of Law № 04/24 of 12 November 2004 on nationality provides that Congolese nationality is unique and exclusive. It may not be held concurrently with another nationality. This law, in Articles 4, 5 and 6, gives specific expression to the constitutional provisions, in that it states that Congolese nationality is originally given to

³⁶ Lusaka Accord for a Ceasefire in the Democratic Republic of the Congo, 10 July 1999.

³⁷ The Constitution of the Transition of the Democratic Republic of Congo 14 April 2003.

the child at birth. This recognition is based on two elements that bind the individual to the Democratic Republic of the Congo: namely his affiliation via one or both Congolese parents (*jus sanguinis*), his membership of ethnic groups and nationalities whose people and territory constituted what became the Congo (now the Democratic Republic of Congo) at independence (*jus sanguinis* and *jus soli*); or his birth in the Democratic Republic of Congo (*jus soli*).

Conclusion

The question of nationality is related to the political history of the Congo, which accounts for its complexity. The consequences of overcrowding in Rwanda and Burundi further complicated it, as did inter-ethnic violence in these two countries, as exhibited in the tyranny of the Hutu majority or the Tutsi minority in power, and the lack of social conviviality or even the narrow-minded behaviour towards the world and towards the hegemony of their nationals living in Congo.

This issue becomes more complicated due to the gap between the rhetoric of politicians and their individual situation, more hybrid positions. In fact, many of them have two or three nationalities. They live in a conflict of loyalty to the several states they belong to.

However, it is important to know that dual nationality is not given where the state is disrespected and where population mobility is not controlled. To act otherwise would give rise to national and international crimes. Nationality cannot be gained by violence, especially when the claimants are characterised by arrogance pillage and crime in the state that has granted them refuge.

Despite this, it would be desirable for the Congolese state to confirm the definitive integration of the transplanted who arrived in Congo before 1960 and their descendants and recognise the Congolese nationality of all those who were once granted it under earlier Congolese laws. This would force them to abide by Congolese law and put an end to cases of shifting and fluid identities.

It would also be reasonable for a child born of a union between a foreign and a Congolese national to enjoy dual nationality in the same way as all children born of Congolese parents living abroad.

On the political front, we need a strong army capable of dissuading neighbours of actually defending the integrity of the territory, and an immigration police that is well-equipped, well-paid and able to effectively monitor migratory movements along the border. Indeed, stability and peace in Congo depend on the proper management of identities in a multicultural state through an efficient and responsible leadership.

On the diplomatic front, we should have the courage to discuss the issue of unification between Rwanda, Burundi and Congo to form the "United States of Central Africa." Hutu intellectuals in particular support it. Moreover, Hutus and Tutsis, if left to their own devices, will keep on indulging in hatred and following their instincts. Creating a viable political and economic group and reducing the degree of doubt will improve the possibility of lasting peace in the region.

Political negotiations and the peace process in the DRC

JEAN BERCHMANS LABANA LASAY'ABAR

Introduction

Since 2 August 1998, the Democratic Republic of Congo has been the victim of a war of aggression and occupation, led by the coalition of troops from Rwanda, Uganda and Burundi in blatant violation of the fundamental principles of the Charters of the United Nations Organisation and of the African Union.

Therefore, the peace and security that the people of the world together need for their country's development were totally disrupted. It must be noted that this war had political, economic, social and cultural repercussions on the Congolese people.¹

In order to put an end to this devastating war and to the atrocities committed against the civilian population, the African leaders, collectively and individually, exerted real efforts to re-establish peace in the Democratic Republic of Congo.

It is within this framework that the central organ of the OAU for the prevention, management and settlement of conflicts met in Ouagadougou (Burkina Faso) on 17

¹ See the reports of the UN expert panel on the pillage of wealth of the Democratic Republic of Congo.

and 18 December 1998 to examine the development of this war and its potential consequences on peace, security and stability in the Great Lakes Region.²

The peace process in the Democratic Republic of Congo began in 1999. It has witnessed long and difficult negotiations: from Lusaka, among the belligerents, through Zambia (appointed as a mediatory country), to the inter-Congolese political negotiations, under the supervision of the facilitator Sir Ketumile Masire.

This came in addition to the bilateral negotiations between the Democratic Republic of Congo and Rwanda on the one hand and between the Democratic Republic of Congo and Uganda on the other.

The object of this work is to evaluate, within the approach of the international relations, these negotiations and the agreements signed in order to establish peace in the Democratic Republic of Congo.

Our study will deal with three points:

The first point examines the peace summits in the Democratic Republic of Congo.

The second point will analyse the peace process drawn up by the Lusaka Agreement.

The third point will focus on the political aspects linked to the inter-Congolese Dialogue.

The peace summits for the Democratic Republic of Congo.

The Lusaka negotiations were preceded by many meetings between heads of state, ministers of foreign affairs and ministers of defence, with the participation of the regional (OAU and SADC) and global (United Nations) institutions.

A chronological table (Table 1) of these meetings assesses the efforts of African leaders to find a peaceful solution to the conflict in the Democratic Republic of Congo.

The table shows that the meetings on the conflict in the Democratic Republic of Congo enabled the African community to appreciate the necessity of finding a quick solution to avoid catastrophic consequences, not only for the sub-region, but for all of Africa.

It is in that context that the mediator, President, Frederick Chiluba of Zambia convened the Lusaka negotiations.

² For more information, see Central organ/MEC/AHG/3 (IV), Addis-Adeba, 4 December 1998, p. 1.

Lusaka's peace process³

By this process, we mean the different meetings that took place (Lusaka I, II, III and IV) between the protagonists of the aggression war in the Democratic Republic of Congo, in order to find a compromise to end the war.

The mediator used the unique text that was handed to him at the OAU Summit in Ouagadougou on 17-18 December 1998 to ask the belligerents to meet in Lusaka in order to initiate the negotiations for a ceasefire agreement in the Democratic Republic of Congo and about the modalities of its execution.

The participants at the Lusaka negotiations were:

1. The belligerent states (Burundi, Uganda, the Democratic Republic of Congo and Rwanda);
2. The allies of the Democratic Republic of Congo (Angola, Namibia and Zimbabwe);
3. The observers (Zambia, UNO, OAU and SADC)

The object of these conferences was to examine the ceasefire agreement and the modalities of putting an end to hostilities.

After long and difficult negotiations, the following results were agreed:

1. to sign the ceasefire agreement in the Democratic Republic of Congo.⁴
2. to stop hostilities among the belligerents;
3. to apply the second stage of the United Nations' Observation Mission in the Democratic Republic of Congo (UNOMC);
4. to begin applying the third stage of the UNOMC.

³ I personally participated in the negotiations of Lusaka I and II as a diplomatic advisor of the minister of foreign affairs, and as an expert for the government of the Democratic Republic of Congo.

⁴ Signature took place on two dates: - on 10 July 1999, in Lusaka, by the Heads of state and government; - on 13 August 1999 by the rebels.

The inter-Congolese political negotiations: from Gaborone to Pretoria

Approved by the Ceasefire Agreement under Chapter V of Annex A, the inter-Congolese Dialogue was the appropriate setting for the Congolese people's dialogue at that critical moment.

This was not the first time that the Democratic Republic of Congo experienced this process. The different meetings since the independence that brought the country some periods of calm were a reference point or sorts.⁵

On inter-Congolese Dialogue, the president, Major General Joseph Kabila, stressed the following: "*the Democratic Republic of Congo cannot afford any more errors*".⁶

The signatories of the Lusaka Agreement placed the Dialogue's meeting under the aegis of a neutral facilitator chosen for his moral authority, international credibility and experience.⁷

On 14 December 1999, the OAU suggested Sir Ketumile Masire, former president of the Republic of Botswana, as facilitator of the inter-Congolese Dialogue. Sir Ketumile accepted the offer on 28 December 1999.

As facilitator, his mission was as follows:

- to make all useful contacts in order to organise the political inter-Congolese negotiations, taking the necessary security measures for the participants;
- to organise, in accordance with the Congolese parties, the consultations with the opposition's main organisations and groups and with the main representatives of the national stakeholders; and
- to lead the debates in accordance with the calendar of negotiations.

It appears that the role of facilitator was not only important, but also ambiguous.

Conceptually speaking, the role of a facilitator should deal only with process, not with the content.⁸ Thus, there was confusion about the roles of facilitator and medi-

⁵ Since 1960, the Democratic Republic of Congo has, at critical moments of its history, held: the political Round Table in Brussels, the Tananarive Conference, the Coquilhatville Conference, the Lovanium Conclave and the Sovereign National Conference.

⁶ In the address to the nation of His Excellency, Major General Joseph KABILA, President of the Democratic Republic of Congo, on the occasion of his nomination, Kinshasa, 26 January 2001.

⁷ Read Annex A, Chapter V, point 5.3 of the Ceasefire Agreement in the Democratic Republic of Congo.

⁸ Read FROMONT, Jacques, *Syllabus du Cours de Pratique de Négociation internationale*, Genève, CASIN, 2001.

ator, a source of differing opinions among the participants of the inter-Congolese Dialogue.

According to the theory of negotiations, a facilitator's role is essentially to provide logistics and favourable conditions (location, schedule, transportation, accommodation, etc.) that will allow the Congolese to converse with each other in order to find solutions to their problems. A mediator's role, on the other hand, consists of dealing with the material to assist negotiation. He must host and lead the negotiations.

In the light of the above, Sir Ketumile Masire played a double role of mediator and facilitator during the inter-Congolese Dialogue. This led to difficulties that stalled the start of the political inter-Congolese negotiations.

The failure of the preparatory meeting scheduled on 3 June 2000, in Cotonou, Benin, was due to the confusion caused by Sir Ketumile Masire's ambiguous role in the inter-Congolese Dialogue.

Despite these difficulties, the political inter-Congolese negotiations were launched at the Gaborone pre-dialogue meeting.

Gaborone; Pre-Dialogue, 20 -25 August 2001

The Gaborone meeting was convened and presided by Facilitator Sit Ketumile Masire in accordance with the Ceasefire Agreement in the Democratic Republic of Congo and the Declaration of the main principles signed by the Congolese parties in Lusaka (Zambia), on May 4, 2001.

The Congolese parties' representatives, namely the Government of the Democratic Republic of Congo, the Liberation Movement of Congo (LMC), the Congolese Gathering for Democracy (CGD), the opposition and civil society stakeholders, met from 20-25 August 2001 in Gaborone to prepare the inter-Congolese Dialogue.

The object of the meeting was to examine the following points:

- the number of participants and the level of participation;
- the inter-Congolese Dialogue's agenda;
- the interior regulation and the Dialogue's organisation;
- the location and date of the Dialogue.

At this stage, the decisions were made collectively and by consensus.

The examination of the agenda's important points⁹ was the main topic of divergence among the participants.

However, after long consultations and discussions, and taking account of the participants' expectations, the participants agreed on the necessities of administration,

⁹ See "Le communiqué final des travaux du Pré-dialogue," in *L'Avenir*, 27 August 2001.

organisation, decision-making and the principles and operating regulations of the Dialogue.

They agreed to set up an administrative structure (with the plenum as supreme decision-making body), the Facilitator's Office (to provide technical assistance to the organs of inter-Congolese Dialogue) and five commissions of inter-Congolese Dialogue to examine the following points:

1. Politics and Constitution
2. Defence and Security
3. Economy and Finance
4. Society and Culture
5. National reconciliation

The plenum or its commissions had to constitute ad hoc examination committees devoted to specific aspects of divergence.

The main result was a National Pact. There was some difficulty in applying this document as well as many more points of divergence. These were referred to the Addis-Abeba meeting.

Addis-Abeba:

Failure of the first attempt to hold the inter-Congolese Dialogue from 15-19 October 2001

The meeting was attended by the different participants at the inter-Congolese Dialogue.

The goal was to examine the agenda as drawn up in Gaborone and to determine a location for the inter-Congolese Dialogue.

The failure was a result of the withdrawal of the government of Kinshasa from the Dialogue's work.

Regarding this failure, Emeric ROGIER noted that "(...) *the reduction in the number of delegates, i.e. 50 per group instead of the original 60, the decision to incorporate the military representatives of the Mayi-Mayi in the inter-Congolese dialogue; the religious confessions, the traditional chiefs, the other armed groups, and the political opposition*"¹⁰ are the elements that marked the work of this meeting and provoked heated debates that dominated the meeting.

¹⁰ ROGIER, Emeric, *The intercongelese Dialogue : A critical overview*, in *Challenges of peace implementation. The UN Mission in the Democratic Republic of the Congo*, Pretoria, Institute for Security Studies, 2004, p. 29.

It was decided to postpone the work of the inter-Congolese Dialogue to South Africa.

Sun City:

The inter-Congolese Dialogue, 25 February-19 April 2002

Under pressure from the belligerents and the international Community (UN, European Union, etc.), the inter-Congolese Dialogue's participants negotiated signing an agreement for the political management of the inter-Congolese Dialogue in the post-conflict period.

The goals of this meeting were:

- national reconciliation,
- drawing up the rules to manage the transition,
- to establish a national army.

During these negotiations, the divergence of opinion on the army's management (training troops), on appointing officers in the army and the national police, on the members of the Supreme Court and superior judges and the question of the prime minister's legitimacy will cause the Sun City negotiations to grind to a halt.

The result was the signing of a partial and exclusive agreement between the government of Kinshasa, the LMC of Jean-Pierre BEMBA and the RCD/N of Mbusa NYAMUISI.

It was decided to appoint a commission in to draft the Constitution of the Transition.

This Agreement triggered negative reactions because of its exclusive nature. In fact, RCD/Goma and the political wing of the UDPS, lead by Etienne Tshisekedi did not get what they wanted. Numerous participants have denounced an agreement forced on the country from outside.

Matadi:

July 2003

The famous commission to draft the Constitution of the Transition decided to meet in Matadi, a port city in Lower-Congo Province in the Democratic Republic of Congo.

The participants were members of the commission set up by the signatories of the Sun City Agreement with additional Congolese personalities representing active forces with an interest the country's future.

The commission's mission was to draft a Constitution of the Transition for the Democratic Republic of Congo.

The result was a failure, after a long and useless political song and dance. The prime minister, Jean-Pierre Bemba, who was to form a government of Transition, never took office due to the lack of consensus on the text of the Constitution of the Transition in the Democratic Republic of Congo.

Pretoria:

Bilateral negotiations between the Democratic Republic of Congo and Rwanda, 30 July-1 August 2002

The negotiations on the peace agreement between the Democratic Republic of Congo and Rwanda were organised under pressure from the UN, the European Union, the African Union and countries in the region.

Four years to the day from the start of the by the coalition of troops from Rwanda, Uganda and Burundi against the Democratic Republic of Congo, Presidents Joseph Kabila and Paul Kagame, after tough negotiations, agreed on the immediate withdrawal of Rwandan troops and signed an agreement on 1 August 2002.

Rwanda had ten days from the signing of the Agreement to present a withdrawal plan for its troops. President Joseph Kabila was recommended to extend the interior political agreement within the framework of the peace process.

In a statement after the signing of the agreement, Belgium declared that "*this agreement is an important stage in resolving the conflict in the Great Lakes region.*"¹¹

US determination to end the war in the Democratic Republic of Congo was probably behind the change of attitude of the arrogant Rwandan president.

Luanda:

Bilateral Agreement Uganda - Democratic Republic of Congo, 15 August 2002

In the presence of Angolan witnesses, the Congolese and Ugandan ministers, Katumba Mwanke and James Wapakhabulo, respectively, signed a Bilateral Agreement.

The three main points of this agreement are:

- the unconditional and immediate withdrawal of the UDFP;¹²
- the resumption of cooperation between the Democratic Republic of Congo and Uganda;
- the normalisation of diplomatic relations between the two countries.

¹¹ Cf. Palmarès, 31 July 2002.

¹² No schedule of the Ugandan army's withdrawal was ever published. The absence of a new, structured and integrated national army will make the application of this bilateral agreement difficult for the Democratic Republic of Congo.

In light of the situation in Bunia, the Kuanda Agreement was simply a declaration of intent.

Kinshasa:

Summit of the allies of the Democratic Republic of Congo, 25 October 2002

President Joseph Kabila received his Angolan, Namibian and Zimbabwean counterparts to examine the modes of withdrawal of the allied troops in the Democratic Republic of Congo.

A final communiqué ending to the presence of the allied troops in the Democratic Republic of Congo was signed.

As of that date, the allies began the progressive withdrawal of their troops from Congolese territory.

We must note here that the meeting in Kinshasa triggered the resumption of the inter-Congolese political negotiations to seek a definitive solution to the internal problems and start the transition to democracy at the end of these negotiations.

Pretoria II:

The closing of the inter-Congolese dialogue, 17 December 2002

The inter-Congolese political negotiations resumed in Pretoria on 24 January 2003 in the presence of all participants under the mediation of Mr. Mustapha Niasse, Special Envoy of the UN Secretary General, and Mr. Sydney Mufamadi, South African minister of foreign affairs.

Two committees were established, the first to tackle constitutional issues and the second military and safety questions.

The questions related to the integrated and structured army were at the root of the disagreement between the CGD and the government. The CGD wanted to merging three existing armies: the army of Kinshasa (FAC), that of the CGD/Goma and LMC, and the army of the CGD/N and other Mai-Mais.

The government stood by the Sun City Agreement. In other words, from its point of view, there should not be any more negotiations on the points already discussed; the talks should only be about the pending questions.

These negotiations by a small group of participants sought a power-sharing agreement based on the 1+4 model, that is to say, a government under a president, Joseph Kabila, and four vice-presidents.

The result was a failure and the negotiations were suspended. The inter-Congolese Dialogue was resumed on 15 November, among polemics about the so-called model.

President Thabo Mbeki and Mediator Mustapha Niasse did all in their power to bring the negotiations to a conclusion with an agreement on a transitional constitution.

After the adoption of the Constitution of the Transition and the signing of the Global and Inclusive Accord¹³ by the participants, Facilitator Ketumile MASIRE summoned the plenum on 17 December 2002. The Constitution of the Transition¹⁴ and the Global and Inclusive Agreement can be considered as the final act of the inter-Congolese political negotiations.

Conclusion

On the basis of this empirical analysis we can identify three categories of negotiations in the peace process in the Democratic Republic of Congo.

Firstly, we have the negotiations to restore peace in the Democratic Republic of Congo.

These meetings can be divided in two periods. The peace summits from Victoria Falls I (August 1998) to Ouagadougou (December 1998) allowed the African leaders to get involved in the peace process in the Democratic Republic of Congo. These were followed by the Lusaka peace process (Lusaka I-IV). The negotiations culminated in the signing the Ceasefire Agreement in the Democratic Republic of Congo on 10 July 1999 and the adoption of the modes of application. Starting from this agreement, the international community became more significantly involved through the United Nations' Mission of Observation in the Democratic Republic of Congo (UNMOC)

Then, we have the inter-Congolese political negotiations.

These started in Gaborone (August 2001) and ended with Pretoria II (December 2002). However, the negotiations were not a real success because of the conflict of interests among the protagonists.

¹³ Read BONSO, Jérôme, *Constitution de la Transition et Accord Global et Inclusif*, Kinshasa, Editions LINELIT, avril 2004.

¹⁴ President Kabila promulgated the Constitution on 4 April 2003. The division of powers is a modern concept in political literature. Originating in America, it has only recently spread to Africa, but very insufficiently because it is still not very well understood by the people, whose support is needed if leaders are to apply it. This concept has already started to take off in some countries.

These negotiations first led to the “1+4” model. This structure was a mechanism to share power between the president and four vice-presidents as a way to prevent conflicts.¹⁵ Its main elements areas follows:

- a president, head of the executive;
- a vice-president coordinating the economy, human rights, social affairs, sports and leisure, communication, press, culture and arts;
- a vice-president in charge of the Portfolio, Justice, institutional Reform, Mines, Hydrocarbon, Energy and public Functions;
- a vice-president, coordinator of the Finance and Budget, Small and Medium-sized Firms, Agriculture, Fishing, Transports, Telecommunication Sets and Public Work;
- a vice-president in charge of internal affairs, national defence, planning and reconstruction, trade, work and social foresightedness, environment and nature conversation.

Concerning the distribution of other responsibilities, the Global and Inclusive Agreement on the Transition in the Democratic Republic of Congo, in its annexes I, II and V, sets out the method for distributing posts among the participants that signed the aforementioned agreement.

Finally, we can mention the negotiations between the Democratic Republic of Congo and the aggressor states.

It is, primarily, a question of negotiations between the Democratic Republic of Congo and Rwanda (July-August 2002). This Agreement created a favourable climate for the pursuit of the inter-Congolese negotiations.

Secondly, there is the agreement between the Democratic Republic of Congo and Uganda (August 2002), which helped improve security in the region of Bunia.

To avoid further conflict, the states in question should emphasise partnership, co-operation and dialogue. These assets will facilitate the joint management of peace in the post-conflict period.

¹⁵ The division of power is a modern concept in the political literature. It originated in America. it has only recently spread to Africa, but very insufficiently because it is still not very well understood by the people, whose support is needed if leaders are to apply it. This concept has already started to take off in some countries.

The demographic reality in the post-conflict Congo

LÉON DE SAINT MOULIN

Introduction

The conflicts that disrupted life of the Congo for tens of years have deeply weakened its administrative apparatus. The last census was conducted in 1984. Hence, estimates of the population are based on partial or indirect observations and in particular projections. However, as we shall demonstrate, our discussion is not limited to guesses.

After presenting population estimates by territory, we shall look at the urban network of the country and analyse its role in the context of national evolution. Accordingly, the analysis will provide some indications about the socio-cultural characteristics of the population of each region. Two maps will help to provide a framework for our data, that of the administrative organisation and that of the urban population.

What is the population of the country by territory?

The first characteristic of the population of the DRC is its rapid growth despite the crises; i.e., of Aids and war. The reality is perceptible in the huge number of children in most regions. The demographic relationships revealed by the 1984 census are still relevant, despite variations in absolute figures by region.

All population estimates of the DRC assume a general growth rate of 3% per year. Based on the figure of 30,729,443 inhabitants in June 1984, a figure that was not questioned, the population increased by 80% in 20 years to 55.5 million inhabitants in June 2004. In its recent reports, the World Bank speaks of 52.4 million inhabitants in Congo in 2001; its assumption of a 3.3% growth rate gives 57.3 million inhabitants in 2004.¹

The United Nations Fund for Population Activities (UNFPA) estimated the population at 50.1 million inhabitants in 1999; its assumption of a 2.6% growth rate gives 58.4 million in 2004.²

In the following pages, we present the estimations step by step. The projection of the national population was made by a five-year cohort study and through the integration of projections made separately for each of the eight provinces of 1984 - at the time the two Kivus and Maniema were still a single region. The projections by province were made in accordance with the Coale and Demeny North model life tables, based on the demographic characteristics of the 1984 census, on hypotheses of mortality and fertility explained in the literature, and on migratory movements. This resulted in an annual national growth of 3.23% from 1984 to 1999.³

Within each province, the projection was made by district on the basis of an exponential growth rate determined according to the retrospective evolution in the recorded figures of 1938, 1948, 1958, 1970 and 1984 and according to other historical information to ensure that the adopted rates reflect the totality of the expected population for the entire province in 1999.⁴

The projection of the population of territories was made in the same way, making sure that the adopted rates per territory lead in 1999 to the totality of the expected population for the entire district they are found in.

As to the current projections, the recorded growth rates are slightly lower than those used for the projection made in 1992, for two reasons.

The first reason is that some indicators show a slowdown in growth. Generally speaking, the expectations concerning all the provinces pointed to a slowdown in

¹ THE WORLD BANK, *African Development Indicators 2003*, Washington, 2003, p. 5.

² The State of World Population 1999: 6 billion: A time for choices, New York, 1999, p. 70.

³ S. NGONDO a Pitshandenge, L. de SAINT MOULIN et B. TAMBASHE Oleko, *Perspectives démographiques du Zaïre 1984-1999 et Population d'âge électoral en 1993 et 1994*, Kinshasa, CEPAS, 1992.

⁴ To determine the retrospective growth rates, we established population figures for different dates within the given limitations. Cf. L. de SAINT MOULIN, *Essai d'histoire de la population du Zaïre*, dans *Zaïre-Afrique*, 27 (1987) n° 217, p. 389-407, and *La population du Congo pendant la seconde guerre mondiale*, in *Le Congo durant la seconde guerre mondiale. Recueil d'études*, Bruxelles, Académie Royale des Sciences d'Outre-Mer, 1983, p. 15-50.

growth after a dozen years. One of the reasons was the decline in the average age of marriage due to the pursuit of further studies. The deterioration of sanitary conditions was another. More specifically, the halt of investments in centres such as Kolwezi, in Katanga and Gbadolite in the province of Equator acted as a brake on the expansion they triggered in the seventies.

Furthermore, there are mathematical reasons for a reduction in growth rates, compared with previous expectations. According to Jensen's theorem and Young's law of inequality, the sum of exponential projections of the components of a whole is, in fact, always higher than (or equal to) the projection of the total of that whole based on the average rate weighted, especially if the period of projection is more extended.⁵ In order to keep a constant global growth rate, it was necessary then to reduce for a period of 20 years (1984 to 2004) the 10-year growth rates adopted for districts and cities and above all for territories, as elections were expected in 1994.

⁵ Cf. S. NGONDO et al., *op. cit.*, p. 15.

Administrative Map of the D.R.C

By Léon de SAINT Moulin
in collaboration with Jean-Luc KALOMBO



The Democratic Republic of Congo comprises 11 provinces, the names of which are written in the largest capital letters.

Apart from the two Kivus, Maniema and Kinshasa, the provinces are subdivided into districts, the names of which are written in smaller bold capital letters.

The names of towns other than Kinshasa are written in small capitals.

The names of territories are capitalised with lower case.

Population estimates by territory in 2004

| Code | Territories | Pop 1984 | Growth rate | Pop 2004 | Growth rate by district |
|------|-------------------|-----------|-------------|-----------|-------------------------|
| 100 | KINSHASA | 2 664 309 | 5.150 | 7 273 947 | 5.150 |
| 21 | MATADI | 138 798 | 2.900 | 245 862 | 2.750 |
| 220 | BOMA | 94 984 | 3.000 | 171 552 | |
| 224 | Moanda | 102 633 | 2.700 | 174 862 | |
| 22 | Dt Boma | 197 617 | | 346 414 | |
| 231 | Lukula | 183 709 | 3.270 | 349 634 | |
| 232 | Seke-Banza | 122 782 | 3.300 | 235 040 | |
| 233 | Tshela | 244 900 | 2.030 | 366 055 | |
| 23 | Bas-Congo | 551 391 | | 950 729 | |
| 241 | Luozi | 140 825 | 2.250 | 219 759 | |
| 242 | Mbanza- Ngungu | 386 121 | 2.400 | 620 473 | |
| 243 | Songololo | 197 675 | 2.130 | 301 313 | |
| 24 | Cataractes | 724 621 | | 1 141 545 | 2.300 |
| 251 | Kasangulu | 92 956 | 3.930 | 200 954 | |
| 252 | Kimvula | 54 899 | 1.800 | 78 437 | |
| 253 | Madimba | 234 291 | 1.300 | 303 350 | |
| 25 | Lukaya | 382 146 | | 582 350 | 2.130 |
| 2 | BAS-CONGO | 1 994 573 | | 3 267 290 | 2.500 |

Population estimates by territory in 2004

| Code | Territories | Pop 1984 | Growth rate | Pop 2004 | Growth rate by district |
|------|---------------|-----------|-------------|-----------|-------------------------|
| 31 | BANDUNDU | 63 642 | 3.100 | 117 197 | 3.100 |
| 32 | KIKWIT | 149 296 | 3.450 | 294 210 | 3.450 |
| 331 | Feshi | 114 839 | 1.600 | 157 748 | |
| 332 | Kahemba | 92 597 | 1.400 | 122 280 | |
| 333 | Kasongo-Lunda | 278 346 | 2.950 | 497 865 | |
| 334 | Kenge | 268 960 | 1.850 | 388 068 | |
| 335 | Popokabaka | 99 583 | 2.600 | 166 392 | |
| 33 | Kwango | 854 325 | | 1 332 354 | 2.250 |
| 341 | Bagata | 214 231 | 2.900 | 379 481 | |
| 342 | Bulungu | 555 124 | 2.250 | 866 276 | |
| 343 | Gungu | 291 310 | 2.200 | 450 167 | |
| 344 | Idiofa | 477 458 | 2.500 | 782 371 | |
| 345 | Masi-Manimba | 428 962 | 2.200 | 662 883 | |
| 34 | Kwilu | 1 967 085 | | 3 141 177 | 2.370 |
| 351 | Inongo | 150 788 | 3.350 | 291 458 | |
| 352 | Kiri | 85 640 | 2.700 | 145 910 | |
| 353 | Kutu | 232 528 | 3.250 | 440 835 | |
| 354 | Oshwe | 85 590 | 3.150 | 159 150 | |
| 35 | Mai-Ndombe | 554 546 | | 1 037 354 | 3.200 |
| 361 | Bolobo | 44 856 | 2.600 | 74 949 | |
| 362 | Kwamouth | 32 241 | 2.700 | 54 931 | |
| 363 | Mushie | 60 452 | 2.850 | 106 047 | |
| 364 | Yumbi | 43 298 | 2.590 | 72 205 | |
| 36 | Plateaux | 180 847 | | 308 132 | 2.700 |
| 3 | BANDUNDU | 3 796 741 | | 6 230 425 | 2.550 |
| 41 | MBANDAKA | 137 291 | 3.300 | 262 814 | 3.300 |
| 42 | GBADOLITE | 27 063 | 2.300 | 42 647 | 2.300 |
| 43 | ZONGO | 18 366 | 2.150 | 28 105 | 2.150 |
| 441 | Basankusu | 84 484 | 2.530 | 139 249 | |
| 442 | Bikoro | 119 993 | 2.800 | 208 458 | |
| 443 | Bolomba | 98 246 | 2.730 | 168 368 | |

Population estimates by territory in 2004

| Code | Territories | Pop 1984 | Growth rate | Pop 2004 | Growth rate by district |
|------|--------------|-----------|-------------|-----------|-------------------------|
| 444 | Bomongo | 35 760 | 2.750 | 61 523 | |
| 445 | Ingenda | 90 255 | 2.300 | 142 228 | |
| 446 | Lukolela | 45 824 | 2.850 | 80 386 | |
| 447 | Mankanza | 23 445 | 2.750 | 40 335 | |
| 44 | Equator | 498 007 | | 840 547 | 2.650 |
| 451 | Bongandanga | 149 605 | 2.120 | 227 595 | |
| 452 | Bumba | 359 490 | 3.120 | 664 576 | |
| 453 | Lisala | 214 404 | 3.220 | 404 120 | |
| 45 | Mongala | 723 499 | | 1 296 291 | 2.950 |
| 461 | Bosobolo | 119 627 | 2.000 | 177 759 | |
| 462 | Businga | 203 243 | 2.800 | 353 084 | |
| 463 | Mobayi- | 65 505 | 3.380 | 127 352 | |
| 464 | Mbongo | | | | |
| 46 | Yakoma | 112 436 | 3.000 | 203 072 | |
| 471 | North Ubangi | 500 811 | | 861 267 | 2.750 |
| 472 | Budjala | 221 932 | 2.300 | 349 730 | |
| 573 | Gemena | 439 079 | 3.243 | 831 295 | |
| 474 | Kungu | 220 854 | 2.900 | 391 213 | |
| 47 | Libenge | 122 012 | 1.200 | 154 886 | |
| 481 | South Ubangi | 1 003 877 | | 1 727 123 | 2.750 |
| 482 | Befale | 69 718 | 2.600 | 116 491 | |
| 483 | Boende | 157 760 | 2.400 | 253 511 | |
| 484 | Bokungu | 140 875 | 2.500 | 230 840 | |
| 485 | Djolu | 11 806 | 2.660 | 189 012 | |
| 486 | Ikela | 137 746 | 2.100 | 208 734 | |
| 48 | Monkoto | 47 566 | 2.600 | 79 477 | |
| 4 | Tshuapa | 665 471 | | 1 078 066 | 2.450 |
| | EQUATOR | 3 574 385 | | 6 136 860 | 2.750 |
| 51 | | | | | |
| 521 | KISANGANI | 317 581 | 3.900 | 682 599 | 3.900 |
| 522 | Aketi | 93 434 | 0.900 | 111 771 | |
| 523 | Ango | 48 862 | 0.090 | 49 749 | |
| | Bambesa | 99 419 | 0.740 | 115 215 | |

Population estimates by territory in 2004

| Code | Territories | Pop 1984 | Growth rate | Pop 2004 | Growth rate by district |
|------|---------------|-----------|-------------|-----------|-------------------------|
| 524 | Bondo | 116 538 | 0.090 | 118 654 | |
| 525 | Buta | 74 972 | 1.110 | 93 493 | |
| 526 | Poko | 112 233 | 0.130 | 115 187 | |
| 52 | Bas-Uele | 545 458 | | 604 069 | 0.510 |
| 531 | Dungu | 122 499 | 0.180 | 126 985 | |
| 532 | Faradjie | 158 258 | 1.650 | 219 540 | |
| 533 | Niangara | 60 138 | 0.390 | 65 007 | |
| 534 | Rungu | 215 679 | 1.380 | 283 696 | |
| 535 | Wamba | 227 268 | 1.630 | 314 034 | |
| 536 | Watsa | 109 269 | 1.330 | 142 317 | |
| 53 | Haut-Uele | 893 111 | | 1 151 579 | 1.280 |
| 541 | Aru | 396 062 | 3.450 | 780 500 | |
| 542 | Djugu | 551 137 | 3.150 | 1 024 812 | |
| 543 | Irumu | 295 107 | 3.250 | 559 475 | |
| 544 | Mahagi | 422 919 | 3.330 | 814 303 | |
| 545 | Mambasa | 84 031 | 2.200 | 129 855 | |
| 54 | Lturi | 1 749 256 | | 3 308 945 | 3.240 |
| 551 | Bafwasende | 59 646 | 0.930 | 71 777 | |
| 552 | Banalia | 91 226 | 1.470 | 122 144 | |
| 553 | Basoko | 116 871 | 1.095 | 145 312 | |
| 554 | Lsangi | 245 548 | 1.640 | 339 961 | |
| 555 | Opala | 110 411 | 0.430 | 120 304 | |
| 556 | Ubundu | 119 637 | 1.600 | 164 339 | |
| 557 | Yahuma | 65 927 | 1.450 | 87 923 | |
| 55 | Tshopo | 809 266 | | 1 051 761 | 1.320 |
| 5 | Eastern Prov. | 4 314 672 | | 6 798 952 | 2.300 |
| 60 | City of Kindu | 66 812 | 3.600 | 135 534 | 3.600 |
| 611 | Kabambare | 112 580 | 1.800 | 160 848 | |
| 612 | Kailo (Kindu) | 82 352 | 2.200 | 127 260 | |
| 613 | kasongo | 246 959 | 2.100 | 374 231 | |
| 614 | Kibomo | 56 017 | 1.850 | 80 824 | |

Population estimates by territory in 2004

| Code | Territories | Pop 1984 | Growth rate | Pop 2004 | Growth rate by district |
|------|------------------|-----------|-------------|-----------|-------------------------|
| 615 | Lubutu | 52 907 | 2.400 | 85 018 | |
| 616 | Pangi | 171 600 | 2.600 | 286 724 | |
| 617 | Punia | 60 448 | 1.600 | 83 034 | |
| 6 | MANIEMA | 849 675 | | 1 333 474 | 2.300 |
| 70 | Goma | 77 908 | 6.000 | 249 862 | 6.000 |
| 71 | BENI | 44 141 | 3.100 | 81 286 | 3.100 |
| 72 | BUTEMBO | 73 312 | 4.150 | 165 333 | 4.150 |
| 731 | Beni | 560 069 | 3.910 | 1 206 114 | |
| 732 | Lubero | 546 515 | 3.810 | 1 154 479 | |
| 733 | Masisi | 478 450 | 3.700 | 989 491 | |
| 734 | Nyirgongo | 37 151 | 3.400 | 73 678 | |
| 735 | Rutshuru | 479 064 | 2.710 | 817 802 | |
| 736 | Walikale | 137 065 | 4.000 | 300 326 | |
| 7 | NORTH KIVU | 2 434 275 | | 5 038 371 | 3.700 |
| 80 | BUKAVU | 167 950 | 5.300 | 471 789 | 5.300 |
| 811 | Fizi | 204 843 | 3.665 | 420 789 | |
| 812 | Ldjwi | 92 247 | 3.860 | 196 752 | |
| 813 | Kabare | 340 597 | 3.000 | 615 156 | |
| 814 | Kalehe | 226 811 | 3.450 | 446 966 | |
| 815 | Mwenga | 215 895 | 3.350 | 417 304 | |
| 816 | Shabunda | 173 948 | 2.450 | 282 266 | |
| 817 | Uvira | 320 022 | 4.170 | 724 491 | |
| 818 | Walungu | 365 675 | 3.170 | 682 596 | |
| 8 | SOUTH KIVU | 2 107 988 | | 4 258 108 | 3.600 |
| 91 | LUBUMBASHI | 564 830 | 4.189 | 1 238 380 | |
| 92 | LIKASI | 213 862 | 2.740 | 367 219 | |
| 930 | Ville de Kolwezi | 220 706 | 3.700 | 456 446 | 3.700 |
| 933 | Lubudi | 99 607 | 1.600 | 136 825 | |
| 934 | Mutshatsha | 95 809 | 1.400 | 126 522 | |
| 93 | Dt de Kolwezi | 416 122 | | 719 192 | 1.132 |

Population estimates by territory in 2004

| Code | Territories | Pop 1984 | Growth rate | Pop 2004 | Growth rate by district |
|------|---------------|-----------|-------------|-----------|-------------------------|
| 941 | Kambove | 123 366 | 4.810 | 315 682 | |
| 942 | Ksenga | 105 887 | 3.910 | 228 029 | |
| 943 | Kipushi | 88 492 | 3.000 | 159 826 | |
| 944 | Mitwaba | 79 052 | 3.500 | 157 297 | |
| 945 | Pweto | 131 765 | 3.210 | 247 877 | |
| 946 | Sakania | 84 363 | 4.315 | 196 375 | |
| 94 | Haut-Katanga | 612 925 | | 1 305 086 | 3.850 |
| 951 | Bukama | 217 480 | 3.820 | 459 397 | |
| 952 | Kabongo | 179 480 | 3.110 | 331 155 | |
| 953 | Kamina | 171 008 | 1.835 | 246 013 | |
| 954 | Kaniama | 80 850 | 4.300 | 187 658 | |
| 955 | Malemba-Nkulu | 242 629 | 4.000 | 531 630 | |
| 95 | Ht-Lomami | 891 021 | 0.090 | 1 755 853 | 3.450 |
| 961 | Diolo | 161 174 | 1.485 | 164 100 | |
| 962 | Kapanga | 82 844 | 1.530 | 111 250 | |
| 963 | Sandoa | 114 081 | | 154 561 | |
| 96 | Lualaba | 358 099 | | 429 911 | 1.132 |
| 971 | Kabalo | 98 788 | 3.630 | 201 565 | |
| 972 | Kalemie | 180 164 | 3.300 | 344 885 | |
| 973 | Kongoto | 184 633 | 3.720 | 383 318 | |
| 974 | Manono | 171 453 | 2.530 | 282 595 | |
| 975 | Moba | 213 230 | 3.060 | 389 629 | |
| 976 | Nyunzu | 74 227 | 3.100 | 136 690 | |
| 97 | Tanganyika | 922 495 | | 1 738 681 | 3.220 |
| 9 | KATANGA | 3 979 354 | | 7 599 922 | 3.300 |
| 100 | MBUJI-MAYA | 486 235 | 4.680 | 1 213 726 | |
| 101 | MWENE-DITU | 94 560 | 3.000 | 170 786 | |
| 1021 | Kabinda | 188 112 | 3.100 | 346 410 | |
| 1022 | Kamiji | 21 811 | 3.200 | 40 951 | |
| 1023 | Lubao | 136 463 | 3.270 | 259 716 | |
| 1024 | Mwene-Ditu | 170 677 | 3.625 | 347 909 | |

Population estimates by territory in 2004

| Code | Territories | Pop 1984 | Growth rate | Pop 2004 | Growth rate by district |
|------|--------------------|------------|-------------|------------|-------------------------|
| 1025 | Ngandajika | 227 801 | 3.660 | 467 498 | |
| 102 | Dt Kabinda | 744 864 | | 1 462 484 | 3.430 |
| 1031 | Katako-Kombe | 169 955 | 3.330 | 327 237 | |
| 1032 | Kole | 84 808 | 3.030 | 154067 | |
| 1033 | Lodia | 258 568 | 3.250 | 490203 | |
| 1034 | Lomela | 76 056 | 3.230 | 143 632 | |
| 1035 | Lubefu | 77 438 | 3.100 | 142 603 | |
| 1036 | Lusambo | 58 366 | 2.640 | 98 286 | |
| 103 | Sankuru | 725 191 | | 1 356 029 | 3.180 |
| 1041 | Kabeya-Kamwanga | 63 575 | 2.800 | 110 446 | |
| 1042 | Katanda | 127 120 | 2.800 | 220 839 | |
| 1043 | Lupatapata | 86 960 | 2.800 | 151 071 | |
| 1044 | Miabi | 125 085 | 2.880 | 220 711 | |
| 1045 | Tshilenge | 191 635 | 3.050 | 349 490 | |
| 104 | Dt Tshilenge | 594 375 | | 1 052 557 | 2.900 |
| 10 | EASTERN KAS. | 2 645 225 | | | 3.500 |
| 110 | KANANGA | 298 693 | 4.200 | 680 110 | |
| 111 | TSHIKAPA | 116 016 | 5.000 | 307 825 | |
| 1121 | Dekese | 56 695 | 2.200 | 87 612 | |
| 1122 | Ilebo | 167 258 | 2.100 | 253 456 | |
| 1123 | Kamonia (Tshikapa) | 414 241 | 3.765 | 867 503 | |
| 1124 | Luebo | 111 133 | 2.100 | 168 406 | |
| 1125 | Mweka | 231 440 | 1.200 | 293 798 | |
| 112 | Kasai | 980 767 | | 1 670 774 | 2.700 |
| 1131 | Demba | 187 593 | 2.200 | 289 891 | |
| 1132 | Dibaya | 178 573 | 0.800 | 209 424 | |
| 1133 | Dimbelenge | 139 748 | 1.300 | 180 940 | |
| 1134 | Kazumba | 266 863 | 1.310 | 346 206 | |
| 1135 | Luiza | 226 993 | 2.340 | 360 513 | |
| 113 | Lulua | 999 770 | | 1 386 974 | 1.650 |
| 11 | WESTERN KAS. | 2 395 246 | | 4 045 683 | 2.600 |
| | TOTAL DRC | 30 729 443 | | 57 238 613 | 3.15890 |

The administrative map allows us to localise the different territories and their provinces. The latter is also summarised in the following table. Accordingly, we find that during the last twenty years the contrast between densely populated zones, which also have the fastest growth, and less densely populated regions has widened. The population of Kinshasa, the two Kivus, Eastern Kasai, and Katanga grew faster than that of Western Kasai and the Eastern Province, and even faster than that of Bas-Congo, Bandundu and the Equator, which, like Maniema, are regions of emigration.

Population comparison: 1984 and 2004

| Provinces | Pop 1984 | Growth rate | Pop 1984 | % 1984 | % 2004 |
|--------------------|-------------------|-------------------|-------------------|-------------|-------------|
| KINSHASA | 2 664 309 | 5.15 | 7 273 947 | 8.7 | 12.7 |
| NORTH-KIVU | 2 434 275 | 3.70 | 5 034 366 | 7.9 | 8.8 |
| SOUTH-KIVU | 2 107 988 | 3.60 | 4 276 252 | 6.9 | 7.5 |
| EASTERN KASAI | 2 645 225 | 3.50 | 5 263 439 | 8.6 | 9.2 |
| KATANGA | 3 979 354 | 3.30 | 7 617 615 | 12.9 | 13.3 |
| <i>UNDER-TOTAL</i> | <i>13 831 151</i> | | <i>29 465 618</i> | <i>45.0</i> | <i>51.5</i> |
| EQUATOR | 3 574 385 | 2.75 | 6 149 474 | 11.6 | 10.7 |
| WESTERN KASAI | 2 395 246 | 2.60 | 4 002 187 | 7.8 | 7.0 |
| BANDUNDU | 3 769 741 | 2.55 | 6 237 705 | 12.3 | 10.9 |
| BAS-CONGO | 1 994 573 | 2.50 | 3 268 340 | 6.5 | 5.7 |
| EASTERN PROV. | 4 314 672 | 2.30 | 6 799 241 | 14.0 | 11.9 |
| MANIEMA | 849 675 | 2.30 | 1 338 954 | 2.8 | 2.3 |
| <i>UNDER-TOTAL</i> | <i>13 323 907</i> | <i>21 646 426</i> | <i>21 646 426</i> | <i>55.0</i> | <i>48.5</i> |
| TOTAL DRC | 30 729 443 | | 57 261 518 | 100.0 | 100.0 |

In general, we find that the trend towards urbanisation has strengthened, and that more revenues and social equipment are concentrated in them. In particular, the influx of refugees from Rwanda in 1994, despite being largely decimated in what has been called the second genocide, also contributed raising population density in North and South Kivu, and to a lesser degree in the Eastern Province. Indicators of the socio-cultural characteristics of the population will be presented after the figures of the urban population.

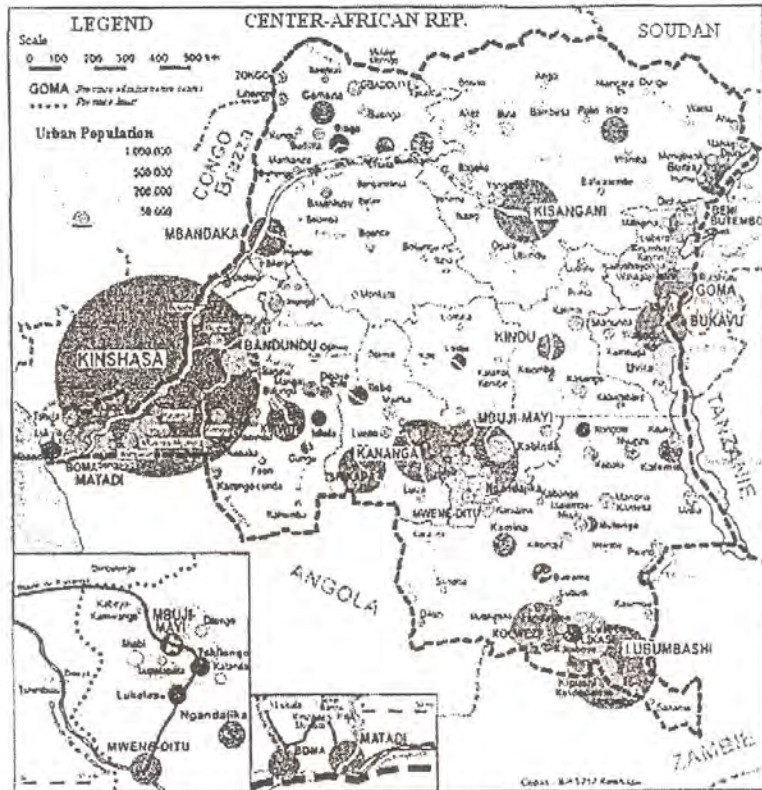
The urban network of the DRC

The population estimates of Congolese cities are a very delicate issue because the migration influx is particularly high there and because the population fluctuates considerably. A second, well-established characteristic of population development in the DRC is its progressive urbanisation; the phenomenon of urban growth is well documented. The suggested figures are not merely conjecture; in November 2001 a serious census was taken of the population in Lubumbashi. In addition to indirect information based on aerial and satellite pictures or urban expansion, growth rates based on the analysis of the demographic characteristics of the official census of 1984 and projections of past data provide a foundation for the proposed estimates. The growth of Kinshasa, illustrated by several satellite images and some partial inquiries, is particularly well documented.

The growth rates adopted for the estimates of 2004 were drawn up for a seminar organised by the ministry of urbanism and planning in 2001. They were presented in a paper at the Department of African Studies at the Catholic University of Louvain on 15 March 2002.⁶ The work focused less on the population of each city than on the resulting map, which provides an overview of the urban network of the DRC.

⁶ Growth of Kinshasa and transformations of the urban network of the Democratic Republic of Congo since independence, in *Acts of the African Chair 2002*, Tervuren - Louvain-la-Neuve, 2005 (forthcoming).

MAP OF CITIES AND CENTRES IN THE D.R.C. IN 2004



Cities and centres are represented by circles, the surface area of which was calculated to reflect their population as a proportion of the population of the country in relation to the area of the country. A circle representing a city with 10% of the total population of the country corresponds to a surface area of 234.500 km².

The names of cities (21) are written in capitals. The other centres are those chosen to represent an area in the scientific census of 1984: Inkisi and Kintanu, Basoko and Bandu, Kikondja and Kipamba. In Eastern Kasai, Kabeya-Kamwanga is also called Kenankuna and Bakwa-Kalonji is also used for Lukalaba.

Names written in bold are those of centres with at least 50,000 inhabitants.

The demographic reality in the post-conflict Congo

In the following table, we include the names of the 21 officially recognised cities. Cities in bold have a population greater than 100,000 inhabitants in 2004; cities in bold and italics have a population of 50,000-100,000 inhabitants (always for same date). The following data is ordered by territory.

| Population of cities and towns in | | | | | | |
|-----------------------------------|---------|-----------|-----------|-----------|-----------|-------------------|
| KINSHASA | 1958 | 1970 | 1975 | 1984 | 2004 | Growth rate 84-04 |
| KINSHASA | 389,547 | 1,142,761 | 1,679,091 | 2,664,309 | 7,273,947 | 5.15 |

| Population of cities and towns in | | | | | | |
|------------------------------------|----------------|----------------|----------------|----------------|----------------|-------------------|
| BAS-CONGO | 1958 | 1970 | 1975 | 1984 | 2004 | Growth rate 84-04 |
| MARADI | 57,392 | 110,436 | 139,084 | 138,798 | 245,862 | 2.90 |
| BOMA | 30,292 | 61,054 | 93,363 | 94,984 | 171,552 | 3.00 |
| Moanda | | | 15,085 | 40,400 | 74,397 | 3.10 |
| Tshela | | | 13,124 | 20,140 | 37,088 | 3.10 |
| Seke-Banza | | | | 3,143 | 5,150 | 2.50 |
| Kinzaio-Mvueté | | | 2,269 | 9,337 | 15,300 | 2.50 |
| Inga | | | 11,644 | 6,002 | 8,919 | 2.00 |
| Lukula | | | 13,293 | 16,403 | 26,878 | 2.50 |
| Mbanza-Ngungu | 14,579 | | 82,784 | 44,782 | 82,476 | 3.10 |
| Songololo | | | 5,093 | 6,222 | 10,601 | 2.70 |
| Kimpese | | | 9,528 | 24,948 | 45,942 | 3.10 |
| Luozi | | | 7,925 | 6,927 | 11,651 | 2.50 |
| <i>Inkisi-Kintanu</i> ⁷ | <i>(8,159)</i> | <i>26,143</i> | <i>34,462</i> | <i>37,034</i> | <i>66,887</i> | 3.00 |
| Kasangulu | | | 10,217 | 14,519 | 26,223 | 3.00 |
| TOTAL | 110,422 | 253,471 | 437,871 | 463,639 | 828,615 | |

⁷ Kintanu alone had 8.159 inhabitants in 1958, 10.284 in 1970, 20.159 in 1975 and 18.484 in 1984.

Population of cities and towns in

| BANDUNDU | 1958 | 1970 | 1975 | 1984 | 2004 | Growth rate 84-04 |
|---------------|---------------|----------------|----------------|----------------|----------------|----------------------|
| BANDUNDU | 10,918 | 40,000 | 56,250 | 63,642 | 117,197 | 3.10 |
| KIKWIT | 14,530 | 111,960 | 127,606 | 149,296 | 294,210 | 3.45 |
| Inongo | 3,700 | 14,432 | 24,241 | 21,596 | 39,769 | 3.10 |
| Kiri | | | 6,892 | 6,858 | 12,148 | 2.90 |
| Oshwe | | | 7,365 | 10,192 | 18,796 | 3.10 |
| Kutu | 5,039 | 10,026 | 10,216 | 17,584 | 32,381 | 3.10 |
| Nioki | | | 13,262 | 21,909 | 35,900 | 2.50 |
| Mushie | 4,487 | 13,732 | 17,680 | 17,584 | 35,428 | 3.50 |
| Bolobo | 9,003 | 10,256 | 15,693 | 15,041 | 27,166 | 3.00 |
| Bulungu | | 14,658 | 22,038 | 26,030 | 47,013 | 3.00 |
| Masi-Manimba | | 12,000 | 17,444 | 14,639 | 26,440 | 3.00 |
| Bagata | | | 10,356 | 9,077 | 16,394 | 3.00 |
| <i>Idiofa</i> | | | <i>12,202</i> | <i>27,565</i> | <i>50,761</i> | <i>3.10</i> |
| Mangaï | 6,797 | 15,232 | 18,480 | 19,984 | 36,801 | 3.10 |
| Dibaya-Lubue | 3,640 | 7,879 | 12,029 | 17,577 | 32,368 | 3.10 |
| Gungu | | | 6,550 | 10,998 | 19,864 | 3.00 |
| Kenge | | 14,351 | 27,875 | 19,860 | 36,572 | 3.10 |
| Feshi | | | 3,732 | 4,010 | 6,571 | 2.50 |
| Kahemba | | | 6,356 | 10,522 | 15,635 | 2.00 |
| Kasongo-Lunda | | | 7,000 | 10,838 | 19,566 | 3.00 |
| Popokabaka | | | 5,551 | 6,022 | 10,876 | 3.00 |
| TOTAL | 58,114 | 264,526 | 428,800 | 501,040 | 931,830 | |

The demographic reality in the post-conflict Congo

| Population of cities and towns in | | | | | | |
|-----------------------------------|---------------|---------------|---------------|---------------|---------------|-------------------|
| EQUATOR | 1958 | 1970 | 1975 | 1984 | 2004 | Growth rate 84-04 |
| Mabandaka | 45,845 | 107,910 | 139,739 | 137,291 | 262,814 | 3.30 |
| Gbadolite | | | 8,382 | 27,063 | 42,647 | 2.30 |
| Zongo | | | 14,231 | 18,366 | 28,105 | 2.15 |
| Basankusu | 4,014 | 10,708 | 9,431 | 13,157 | 23,763 | 3.00 |
| Bolomba | | | | 2,473 | 3,675 | 2.00 |
| Ingende | | | | 2,298 | 3,415 | 2.00 |
| Bikoro | | | 2,351 | 4,146 | 6,161 | 2.00 |
| Lukolela | 651 | | 7,142 | 8,859 | 13,164 | 2.00 |
| Mankanza | | | 9,128 | 10,419 | 15,482 | 2.00 |
| Bomongo | | | | 2,783 | 4,135 | 2.00 |
| Gemena | 13,156 | 37,261 | 48,695 | 63,052 | 113,879 | 3.00 |
| Budjala | | | 3,680 | 10,174 | 18,375 | 3.00 |
| Kungu | | | | 3,703 | 6,688 | 3.00 |
| Libenge | 5,361 | 12,000 | 14,961 | 14,516 | 21,570 | 2.00 |
| Mobayi-Mbongo | | | | 3,149 | 4,679 | 2.00 |
| Yakoma | | | 2,449 | 6,817 | 10,130 | 2.00 |
| Businga | 4,717 | 10,987 | 14,203 | 15,459 | 27,921 | 3.00 |
| Bosobolo | | | | 7,829 | 11,633 | 2.00 |
| <i>Lisala</i> | <i>8,810</i> | <i>28,652</i> | <i>28,236</i> | <i>37,565</i> | <i>67,847</i> | <i>3.00</i> |
| <i>Binga</i> | | | | <i>32,181</i> | <i>55,906</i> | <i>2.80</i> |
| <i>Bumba</i> | <i>10,447</i> | <i>34,705</i> | <i>55,592</i> | <i>51,197</i> | <i>89,289</i> | <i>2.82</i> |
| Bongandanga | | | 3,630 | 2,208 | 3,281 | 2.00 |
| Boende | 4,081 | 12,758 | 11,156 | 17,220 | 29,339 | 2.70 |
| Befale | | | | 1,889 | 3,218 | 2.70 |
| Ikela | 1,691 | | 6,182 | 8,183 | 13,150 | 2.40 |
| Bokungu | | | | 4,211 | 6,767 | 2.40 |
| Monkoto | | | | 5,026 | 7,468 | 2.00 |
| TOTAL | 98,773 | 254,981 | 379,188 | 511,234 | 894,501 | |

| Population of cities and towns in | | | | | | |
|-----------------------------------|---------|---------|---------|---------|-----------|-------------------|
| EASTERN PROVINCE | 1958 | 1970 | 1975 | 1984 | 2004 | Growth rate 84-04 |
| KISANGANI | 109,607 | 229,596 | 291,888 | 317,581 | 682,599 | 3.90 |
| Bafwasende | | | | 8,611 | 12,795 | 2.00 |
| Ubundu | 4,267 | 6,276 | 8,273 | 7,915 | 11,761 | 2.00 |
| Opala | | | | 9,243 | 13,735 | 2.00 |
| Isangi | | | | 6,752 | 10,033 | 2.00 |
| Yangambi | 16,292 | 22,632 | 27,062 | 21,884 | 35,859 | 2.50 |
| Yahuma | | | | 2,884 | 4,285 | 2.00 |
| Basoko+Bandu | 5,338 | 9,099 | 11,254 | 26,920 | 44,112 | 2.50 |
| Buta | 11,531 | 19,753 | 26,779 | 28,133 | 46,642 | 2.56 |
| Aketi | 14,342 | | 20,869 | 21,656 | 35,486 | 2.50 |
| Bondo | | | 2,469 | 10,964 | 16,292 | 2.00 |
| Ango | | | | 4,976 | 7,394 | 2.00 |
| Bambesa | 3,906 | | | 8,881 | 13,197 | 2.00 |
| Poko | 1,934 | | 7,000 | 6,455 | 9,592 | 2.00 |
| Isiro | 14,703 | 49,279 | 58,862 | 78,268 | 147,524 | 3.22 |
| Niangara | | 9,165 | 14,699 | 8,017 | 11,913 | 2.00 |
| Dungu | | | | 15,967 | 23,726 | 2.00 |
| Watsa | 5,651 | 21,298 | 23,748 | 15,120 | 27,308 | 3.00 |
| Wamba | | 9,116 | 13,956 | 10,678 | 15,867 | 2.00 |
| Irumu | | | | 5,592 | 9,163 | 2.50 |
| Bunia | 11,382 | 28,842 | 29,675 | 59,598 | 230,625 | 7.00 |
| Djugu | | | 3,310 | 13,243 | 23,918 | 3.00 |
| Mongbwalu | 3,587 | | 9,743 | 14,493 | 26,176 | 3.00 |
| Mahagi | | | 4,817 | 9,155 | 16,535 | 3.00 |
| Aru | | | 6,683 | 14,556 | 26,290 | 3.00 |
| TOTAL | 202,540 | 405,056 | 561,087 | 727,542 | 1,502,827 | |

| Population of cities and towns in | | | | | | |
|-----------------------------------|---------|---------|---------|---------|---------|-------------------|
| MANIEMA | 1958 | 1970 | 1975 | 1984 | 2004 | Growth rate 84-04 |
| KINDU | 19,934 | 42,799 | 54,152 | 66,812 | 135,534 | 3.60 |
| Kibombo | 5,992 | | 9,901 | 9,984 | 14,836 | 2.00 |
| Punia | 3,125 | | 4,982 | 10,707 | 15,910 | 2.00 |
| Lubutu | 1,994 | | 2,209 | 4,456 | 6,621 | 2.00 |
| Kalmia | | 20,000 | 27,042 | 27,087 | 41,776 | 2.19 |
| Kasongo | 9,822 | 37,780 | 25,606 | 27,140 | 47,149 | 2.80 |
| Kabambare | | | | 5,910 | 8,762 | 2.00 |
| TOTAL | 408,075 | 100,579 | 123,892 | 152,096 | 270,609 | |

The demographic reality in the post-conflict Congo

| Population of cities and towns in | | | | | | |
|-----------------------------------|---------------|---------------|----------------|----------------|----------------|-------------------|
| NORTH KIVU | 1958 | 1970 | 1975 | 1984 | 2004 | Growth rate 84-04 |
| GOMA | 10,353 | 48,643 | 53,247 | 77,908 | 249,862 | 6.20 |
| BENI | | 20,000 | 22,000 | 44,141 | 81,286 | 3.10 |
| BUTEMBO | 11,169 | 27,790 | 50,862 | 73,312 | 165,333 | 4.15 |
| Walikale | | | | 4,670 | 8,435 | 3.00 |
| Lubero | | | | 13,343 | 24,099 | 3.00 |
| Katwa | | | | 28,026 | 51,610 | 3.10 |
| Kanyabayong | | | | 17,160 | 25,499 | 2.00 |
| Kayna | | | | 16,343 | 29,517 | 3.00 |
| Kirumba | | | | 16,643 | 30,059 | 3.00 |
| Mangina | | | | 17,730 | 32,022 | 3.00 |
| Oicha | | | 10,000 | 23,386 | 43,065 | 3.10 |
| Rutshuru | | | | 25,933 | 47,756 | 3.10 |
| Masisi | | | | 3,066 | 5,538 | 3.00 |
| TOTAL | 21,522 | 96,433 | 136,109 | 361,661 | 794,081 | |

| Population of cities and towns in | | | | | | |
|-----------------------------------|---------------|----------------|----------------|----------------|----------------|-------------------|
| SOUTH KIVU | 1958 | 1970 | 1975 | 1984 | 2004 | Growth rate 84-04 |
| BUKAVU | 48,269 | 134,861 | 146,504 | 167,950 | 471,789 | 5.70 |
| Walungu | | | 5,000 | 6,895 | 12,453 | 3.00 |
| Uvira | 1,968 | 15,000 | 20,000 | 74,432 | 235,136 | 5.92 |
| Fizi | | | | 5,881 | 10,622 | 3.00 |
| Kamituga | | | 25,000 | 6,289 | 11,359 | 3.00 |
| Shabunda | | | 6,000 | 10,771 | 17,650 | 2.50 |
| Idjwi | | | | 2,150 | 3,883 | 3.00 |
| TOTAL | 50,237 | 149,861 | 202,504 | 274,368 | 762,891 | |

Population of cities and towns in

| KATANGA | 1958 | 1970 | 1975 | 1984 | 2004 | Growth rate 84-04 |
|-----------------------|----------------|----------------|------------------|------------------|------------------|-------------------|
| LUBUMBASHI | 168,775 | 318,000 | 480,875 | 564,830 | 1,283,380 | 4.19 |
| LIKASI | 69,814 | 146,394 | 185,328 | 213,862 | 367,219 | 2.74 |
| KOLWEZI | 52,203 | 81,598 | 143,287 | 220,706 | 456,446 | 3.70 |
| Mutshatsha | | | | 3,976 | 5,908 | 2.00 |
| Lubudi | 7,243 | 6,015 | 6,671 | 10,472 | 18,914 | 3.00 |
| Fungurume | | | 20,481 | 17,660 | 28,938 | 2.50 |
| Diolo | | | 14,048 | 9,509 | 15,582 | 2.50 |
| Sandoa | | | 13,706 | 5,829 | 8,662 | 2.00 |
| Kapanga | | | | 1,306 | 1,941 | 2.00 |
| Kamina | 17,639 | 56,646 | 85,318 | 62,789 | 115,626 | 3.10 |
| Kaniama | | | 14,170 | 25,106 | 46,233 | 3.10 |
| Kabongo | | | 7,249 | 7,620 | 12,486 | 2.50 |
| Malemba-Nkulu | | | 5,000 | 15,519 | 25,430 | 2.50 |
| <i>Mulongo</i> | | | <i>7,000</i> | <i>28,022</i> | <i>51,603</i> | <i>3.10</i> |
| Bukama | | | 5,978 | 33,100 | 60,954 | 3.10 |
| +Kibanda | | | | | | |
| Kipamba | | | 8,466 | 16,366 | 26,818 | 2.50 |
| +Kikondja | 33,025 | 62,370 | 80,253 | 73,528 | 92,971 | 1.18 |
| Kalemie | | | | | | |
| Kituku | | | | 20,820 | 38,340 | 3.10 |
| Moba | | | 8,000 | 25,463 | 46,890 | 3.10 |
| Ma nono | 13,931 | 44,536 | 47,261 | 32,055 | 47,632 | 2.00 |
| Kanteba | | | | 9,437 | 15,464 | 2.50 |
| Kabalo | 9,137 | 22,577 | 23,098 | 25,466 | 46,896 | 3.10 |
| <i>Kongolo</i> | <i>13,450</i> | <i>14,463</i> | <i>23,121</i> | <i>27,267</i> | <i>50,212</i> | <i>3.10</i> |
| Nyunzu | | 10,834 | 13,410 | 19,624 | 36,138 | 3.10 |
| Kipushi | 19,622 | 32,723 | 55,484 | 53,207 | 97,981 | 3.10 |
| Sakania | | | | 4,772 | 8,619 | 3.00 |
| Mokambo | | | 8,880 | 11,117 | 20,079 | 3.00 |
| Kasumbalesa (Balamba) | | | | 31,773 | 47,213 | 2.00 |
| Kasenga | | | 10,000 | 11,665 | 19,114 | 2.50 |
| Mitwaba | | | | 2,474 | 3,676 | 2.00 |
| Pweto | | | 10,472 | 12,248 | 22,121 | 3.00 |
| Kambove | 3,236 | 18,862 | 32,610 | 31,329 | 57,693 | 3.10 |
| Lwambo | | | 3,443 | 6,896 | 11,300 | 2.50 |
| TOTAL | 408,075 | 829,066 | 1,299,561 | 1,635,813 | 3,188,476 | |

| Population of cities and towns in | | | | | | |
|-----------------------------------|----------------|----------------|----------------|----------------|------------------|-------------------|
| EASTERN KASAI | 1958 | 1970 | 1975 | 1984 | 2004 | Growth rate 84-04 |
| MBUJI-MAYI | 39,829 | 256,154 | 283,219 | 486,235 | 1,213,726 | 4.68 |
| MWENE-DITU | 23,291 | 45,000 | 87,025 | 94,560 | 170,786 | 3.00 |
| Miabi | | | | 25,070 | 46,167 | 3.10 |
| Kenakuna (Kabeya-Kamwanga) | | | | 14,194 | 25,636 | 3.00 |
| Lupatapata | | | | 9,392 | 15,390 | 2.50 |
| Dilunga | | | | 12,122 | 19,863 | 2.50 |
| Katanda | | | | 14,842 | 24,320 | 2.50 |
| Tshilenge | | | 7,000 | 36,407 | 67,044 | 3.10 |
| <i>Bakwa-Kalonji (Lukalaba)</i> | | | | <i>39,094</i> | <i>58,092</i> | <i>2.00</i> |
| Lusambo | 8,934 | 9,855 | 14,686 | 17,405 | 28,520 | 2.50 |
| Kole | 1,204 | | | 2,479 | 4,062 | 2.50 |
| Lomela | 4,372 | | | 5,503 | 8,177 | 2.00 |
| Katako-Kombe | 2,957 | | 5,477 | 4,263 | 6,335 | 2.00 |
| Lubefu | 2,079 | | | 1,139 | 1,692 | 2.00 |
| <i>Lodja</i> | <i>6,528</i> | | | <i>28,671</i> | <i>52,798</i> | <i>3.10</i> |
| Luputa | | | | 19,273 | 31,581 | 2.50 |
| Ngandajika | 18,502 | 30,000 | 35,000 | 64,878 | 120,170 | 3.13 |
| <i>Kabinda</i> | <i>4,936</i> | <i>14,000</i> | <i>20,000</i> | <i>24,789</i> | <i>126,723</i> | <i>8.50</i> |
| Lubao | 3,221 | | | 13,331 | 21,844 | 2.50 |
| TOTAL | 115,853 | 355,009 | 452,407 | 913,647 | 2,042,926 | |

Population of cities and towns in

| WESTERN KASAI | 1958 | 1970 | 1975 | 1984 | 2004 | Growth rate 84-04 |
|---------------|---------------|---------------|---------------|---------------|---------------|-------------------|
| KANANGA | 107,341 | 300,000 | 316,770 | 298,693 | 720,362 | 4.50 |
| TSHIKAPA | 14,531 | 30,000 | 40,000 | 116,016 | 366,503 | 5.92 |
| Dibaya | 5,100 | 10,000 | 2,420 | 2,327 | 3,458 | 2.00 |
| Tshimbulu | 4,883 | | 14,006 | 11,137 | 16,549 | 2.00 |
| Luiza | 2,658 | | 4,221 | 7,213 | 13,027 | 3.00 |
| Kazumba | | | 2,270 | 2,361 | 3,508 | 2.00 |
| Demba | 5,571 | | | 11,239 | 18,416 | 2.50 |
| Dimbelenge | 573 | | | 2,192 | 3,257 | 2.00 |
| Luebo | 3,634 | 16,319 | 29,082 | 17,664 | 26,248 | 2.00 |
| <i>Ilebo</i> | <i>11,282</i> | <i>24,119</i> | <i>48,596</i> | <i>53,877</i> | <i>67,721</i> | <i>1.15</i> |
| Mweka | 17,578 | 18,641 | 16,415 | 25,490 | 46,940 | 3.10 |
| Dekese | 303 | | | 1,862 | 2,767 | 2.00 |
| TOTAL | 173,454 | 399,079 | 473,780 | 550,071 | 1,288,756 | |
| OVERALL TOTAL | 1,669,404 | 4,250,822 | 6,174,290 | 8,755,420 | 19,779,458 | |

The map of cities, drawn on this basis and printed on the back of the signet insert map, is dominated by Kinshasa, with its seven million inhabitants. Two other cities, *Lubumbashi* and *Mbuji-Mayi*, have more than one million inhabitants. The population of the metropolitan areas of these cities is some 20 million inhabitants. The cities of *Kananga* and *Kisangani* each have more than 500,000 inhabitants, followed by *Bukavu*, *Kolwezi*, *Likasi*, *Tshikapa*, *Kikwit*, *Mbandaka*, *Goma*, *Matadi*, *Uviram* and *Bunia*. Together, these 15 cities with a population of greater than 200,000 inhabitants have a total population of 14.3 million inhabitants.

Ten more centres have more than 100,000 inhabitants, and are located all provinces except South Kivu and Western Kasai: *Boma* in Bas-Congo, *Bandundu* in Bandundu, *Gemena* in Equator, *Isiro* in the Eastern Province, *Kindu* in Maniema, *Butembo* in North Kivu, *Kamina* in Katanga, *Mwenw-Ditu*, *Ngandajika* and *Kabinda* in Eastern Kasai. Their total population amounts to 1.3 million inhabitants.

In addition to these 25 centres of more than 100,000 inhabitants, there are 19 with a population of more than 50,000 inhabitants, 100 with 10,000 to 50,000 inhabitants. The other 35 on the list of cities have a population of less than 10,000 inhabitants. The following table lists the cities by size and gives their average annual growth rate during the last 20 years. Since these rates increase in accordance with the size of the urban centres, they show that the inequality of post-conflict Congolese continues to widen.

| Size of cities in 2004 | N° | Pop. 1984 | Pop. 2004 | Growth rate 84-04 |
|----------------------------------|-----|-----------|------------|-------------------|
| More than 1 million inhabitants | 3 | 3,715,374 | 9,771,053 | 4.95 |
| 200,000 to 1 million inhabitants | 12 | 1,838,101 | 4,583,425 | 4.67 |
| From 100 to 200,000 inhabitants | 10 | 687,086 | 1,384,324 | 3.56 |
| From 50 to 100,000 inhabitants | 19 | 747,393 | 277,517 | 2.72 |
| From 10 to 50,000 inhabitants | 100 | 1,507,753 | 567,256 | 2.70 |
| Less than 10,000 inhabitants | 35 | 125,683 | 195,882 | 2.24 |
| The totality of cities | 179 | 8,755,420 | 19,779,458 | 4.16 |

There is a striking contrast between the northeast and the southwest of the DRC, which helps to understand the recurrent conflicts in the east of the country. There is a particularly strong belt of urbanisation along the side of Katanga and through Bas-Congo, Kwilu and Kasaiia. It corresponds to what is called "the national road." It is striking that this corresponds closely with the percentage of Catholics by diocese, reflecting the axis of particularly strong penetration of Christianity.⁸ An explanation for this is that Christianity spread and was most welcomed where the development of new activities called for a new form of training and opened new networks of relations.

This axis is only partially linked to colonisation and modernisation. Its roots also lie in what Jan Vansina has called the "great kingdoms of the savanna," from the kingdom of Kongo to the Luba Empire, including the states of the Yaka, Pende, Bakuba and Lunda.

There were also some kingdoms in the north of the country, but they were part of a "Sudanese" network, stretching from the Nile Valley to West Africa, and now made up of a series of states. The possibility of development has always existed, and between 1917 and 1933 various attempts were made to develop the Eastern Province and Kivu-Maniema autonomously from Kinshasa. However, the central authority stopped the initiatives of the governors who tried to use the funds of chieftaincies to finance the promotion of agriculture and population.⁹ Today, the network of cities in the area is less dense than it is in the south and the cities smaller and not really proper regional metropolises.

Here we see a sharp contrast. If we draw a line approximately from Mbandaka to Lalemie, the Province of the Equator, the Eastern Province and the three provinces of

⁸ Cfr L. of SAINT MOULIN, *Données statistiques de la Mission en Afrique : Perspectives d'avenir*, in *Revue Africaine des Sciences de la Mission* 1 (1994) n° 1, pp. 226-230.

⁹ Cfr B. JEWSIEWICKI, *Histoire économique d'une ville coloniale. Kisangani : 1877-1960*, dans *Les Cahiers du CEDAF* (1978/5), p. 4-5, and J.L. VELLUT, *Notes de cours 1978-1979 sur L'âge „classique“ du système colonial belge : esquisse pour une histoire sociale (1910-1940)*, Université Catholique de Louvain, p. 13.

Maniema, North Kivu and South Kivu will be to the northeast of the line and the Bas-Congo, the Bandundu, the two Kasai and the Katanga to the southwest. The two groups cover practically the same area: 49.6% of the country in the north and 50.4% in the south. But the south has a far larger population: 58.8% of the total vs. 41.2% in the north. By urban population the contrast even greater: only 22% in the north and 78% in the South.

This phenomenon is important and must be taken seriously. Among the final state secondary-school examinations in 2001, only 20% of the 189,936 finalists published in the prizewinner lists came from the northern provinces and 80% from the south. Already in 1984 the breakdown of gross domestic product (GDP) by province showed that that 32% was generated to the north of our imaginary line¹⁰ and 68% to the south.

There is a problem in the northeast of the DRC, as already noted in 1968 after the revolt of mercenaries, not unlike the situation in the northeast of Brazil. The inhabitants of the north and the east have reason to feel neglected and marginalised in national life. It is good then to see that a new urban axis is emerging in the densely populated zone in the east of the country, running from Lake Tanganyika to the borders of Sudan. There are about 20 centres between Uvira and Aru, five of which have more than 100,000 inhabitants. The population of this region is evidently trying to organise itself better around its activities. However, infrastructure and communication is too weak to provide a coherent and vigorous structural network for the whole. This is a question of national policy, calling for a constructive reflection. Opening the eastern frontiers to international movements is undoubtedly a condition for the development of the northeast region.

Conclusion

The conflicts that have been divided the country since 1998 have generated a strong national awareness among the people of the DRC. The analysis that we have presented highlights the importance of linking this national awareness to the aspirations of the regional population. The solutions of the problems people are facing depend, to a great extent, on decisions taken at the national level. Recurrent conflicts show that the current conditions of exercising power at the national level do not satisfactorily answer the aspirations of the population and are therefore a source of instability.

¹⁰ Cfr. L. de SAINT MOULIN, *La répartition par région du Produit Intérieur Brut du Zaïre de 1957 à 1984*, dans *Zaïre-Afrique* (octobre 1987) n° 218, p. 451-477, and the coloured map in Ch. LEONARD, *Profils de l'économie du Zaïre 1955-1987*, Kinshasa, 1987, p. 98.

The whites of South Africa suddenly realised one day that their attitude vis-à-vis the blacks was a disaster and they had the chance to find a Nelson Mandela who also understood that their fate was intimately linked. South Africa thus avoided an explosion and pursued its development despite all its tensions.

We hope that the reflections developed here will enable those involved in the decision-making process at the national political level to see that it is in their best interest to abandon the current logic of power-sharing between the dominant groups and to enter willingly into a more democratic dispensation, guaranteeing to each person the possibility of making his voice heard and participating in managing the problems that concern him

The educational system in the Democratic Republic of Congo - challenges and stakes

MARTIN EKWA BIS ISAL

Introduction

In 1960, when the republic of Congo gained independence, the established education system, like the other sectors of the national life, made rapid progress.

The country had many advantages to prepare for a promising future: the common borders with nine countries and an exit to the sea, great facilities for trade, one of the largest forest systems in the world, areas of arable land, considerable mineral mines (gold, diamond, copper, tin, manganese, cobalt, iron, etc.), hydroelectric power (37% of the African continent, of which 16% at Inga alone) river crossings, and a large and young population.

Political and economic choices, social turbulences, looting, destruction of the infrastructure and the means of production, the interruption of international cooperation, rampant corruption, civil war and invasions lead to the disintegration of all sectors of national life, including education.

After years of confrontation, the Democratic Republic of Congo is reuniting slowly. Republican institutions were set up despite the inevitable hesitations. The Congolese are aware of the necessity to put an end to this disruption. In the edu-

cational field, many studies and reflections helped to highlight the major problems and emphasise what actions should be taken.

The current study describes how the educational system works and identifies the challenges and objectives. Focusing on the post-colonial period, the study is comprised of four parts: the colonial educational legacy in the Democratic Republic of Congo, the golden age of the education in Congo, the decline of the educational system and the possible ways out of the crisis.

The colonial educational legacy in the DRC

In order to show the evolution, we should point out that education in Congo is not a phenomenon related to the colonisation. Since ancient times, and well before the existence of the typical western school, education ensured the coherence and progress of the African society in general and Congolese society in particular. This education, known as "traditional," was characterised by its skilful method. First, the child was introduced to wisdom by "gestures". He had to learn to dance births and deaths, sowings and harvests, hunting and fishing. It was only after his spirit was enlightened that they would explain to him the meaning of the gestures his physical and social spirit became used to. Then comes the time of proverbs and legends narrated under the shade of trees; and, finally, for adolescents in some societies, the time for great initiations.

These months of moral and physical exercises in isolated areas, adding to the formation of minds and characters, are intended to give birth to real men, custodians of rituals and secrets of the community and responsible for each of its members.

The traditional education, a common responsibility of the clan, taught to every child and adapted to the concrete reality, ensured the survival of the society, maintained its balance and evolution, and helped it discover new perspectives.

In 1878, the western educational system was introduced. The first school was established by Protestant¹ missionaries at Palabala in Congo. In 1880, two Catholic schools were founded; one in the east on Lake Tanganyika, and the other in the west in Boma on the lower Congo. There were 40 students.

¹ Masiala ma Solo, *Le système universitaire congolais. Répertoire des établissements de l'enseignement supérieur et universitaire (publics et privés)*, Kinshasa, Ministère de l'Éducation Nationale, p. 161.

Imported from abroad, the new educational system provoked a shock in society with irreversible repercussions on the old system, and strongly affected men and women.

However, for many years, the population instinctively mistrusted this western system. Therefore, efforts were necessary to bring children, especially girls, to school to keep them there and take them back sometimes by force after their endless escapes. Besides hesitation, it was crucial to overcome many difficulties: infrastructure, means of transportation, teaching staff, medium of instruction, books, etc.

The educational situation in Congo changed radically after the 1940-45 War. The enrolment rate increased from 12% in the period 1930-1934 to 37% between 1950 and 1954 with an annual increase of 6%. By 1951, the results were impressive: 971,866 students of all categories went to school. The quality of education was improving and almost reached the standard of Belgium.² At the end of 1956, of a population of 3,040,000 children aged 5-14, 1,700,000 were enrolled in primary school, and the rate of primary school attendance rate reached 56%. The annual growth percentage increased from 6% to 10%, and the Belgian colony ranked first in the world, in terms of annual growth percentage in primary education enrolments.

That is why, in 1960, the educational map of Leopoldville, Kasai and Katanga provinces showed the establishment of many schools. And for a country with 14,864,903 inhabitants, 1,773,340 young men and women went to school, 829 of which were studying at universities in Kinshasa and Lubumbashi. All those children, except for a few, had illiterate parents. However, despite the progress in the primary education, this huge country with great potential had only a handful of university graduates.

Skilled staff able to promote and lead the country towards the desired development was missing. Therefore, it was necessary to train workers, quickly and in large numbers. In order to make the educational system capable of assuming such a mission, it needed to be reformed.

The golden age of education in Congo

In 1961, under the auspices of the UNESCO, a conference held at Addis-Ababa, decided, on the following twenty years and in all African countries, to generalise primary education, and to proportionally enhance secondary education whether general or technical, in order to effectively promote Higher education.

² Encyclopédie du Congo-Belge, Tome III, éd. Bieleveld-Bruxelles, p. 769.

Immediately, Congo started its race to educate and train mid- and upper-level staff. In February of the same year, a commission for education reform was established. Its work led to the division of secondary education into two parts: a cycle of orientation on the one hand, and four years of training covering specialised sections, on the other.

It was also decided to impose French as a sole medium of instruction in primary education, to extend education at the secondary level, to teach girls and boys equally, and to be open to African cultural realities.

To carry out the reform, "a national emergency program" was set up: thousands of classes of the orientation cycle were started immediately, inspectors recruited and internships for teachers were organised.³

The role of Catholic and Protestant schools, where 90% of the students were enrolled, was decisive. Moreover, the opening of Higher Educational Institutes (HEI), for training qualified teachers for all classes of the orientation cycle, was another decisive and promising step.

The Catholic Educational Bureau launched the creation of these HEI in Kinshasa in 1961, in Boma (the Institute was transferred to Mbanza-Ngungu in 1963), in Bukavu in 1965, in Kikwit and Lubumbashi in 1966 and in Bunia and Mbuji-Mayi in 1968.⁴

If, on the pedagogic level, the educational policy focused on training the intermediate and higher staff the country needed, as well as on strengthening the administrative structures of educational inputs and content, legally and structurally speaking, the colonial teaching with its components of official, congregational, subsidised and corporate schools would become networks within the national educational system.

The new legal structure of education was included in 1964 in the Luluabourg Constitution (Kananga now) that replaced the Fundamental Law of 1960. Education was conceived and organised as a national service where private initiatives would be used and where the usual educational authorities would collaborate.

The principles underlying this national educational system - democracy, pluralism, entrepreneurship, nationalism - led to the recognition of four educational networks organised or approved by the state (official, Catholic, Kimbanguist and Protestant) as components of the national education system.

These four networks had to abide by the requirement of applying a single national curriculum, common to all schools, as well as an administrative and pedagogic

³ Garry Fullerton, *L'UNESCO au Congo*, 1964, p. 14.

⁴ Verheust Th., *Les études supérieures en République Démocratique du Congo*, Kinshasa, BEC 1970, p. 53.

control of schools by the state, in addition to official exams at the end of the secondary studies.

Since then, successive constitutions have maintained the national education option, by virtue of which the state normally shoulders the responsibility for the educational system. This option ended the competition between schools and educational war imported from Belgium.

The different networks of the national educational system benefited from the plurality of entrepreneurial initiatives and external aids. The bilateral and multilateral assistance constituted a priceless support in terms of infrastructure, qualified personnel and scholarships.

According to UNESCO projections, the Congo should have been able to eliminate illiteracy by the end of the millennium. In 20 years, the country was able to form intellectual elite sufficient for its development. It included engineers, doctors, lawyers and teachers at all university faculties. The Congo managed to take control of its entire educational system, from primary to higher educational levels.

The decline and of the educational system

During the 1980s, all these efforts and achievements collapsed due to Zairianisation. The educational system, like the economy, was demolished by a poorly studied, misapplied nationalisation.

The number of students enrolled in primary schooling reached 1,579,432 in 1957, 3,292,020 students in 1972-1973 and 4,356,515 in 1987-1988. At that time, on average 75.2% of children aged 6 to 11 attended primary school: 88.1% of boys and 62.2% of girls.

In 1978-1979, the enrolment rate reached a peak average of 86.5%: 95.8% for boys and 77.1% for girls.

The number of secondary education students totalled 324,966 in 1972-1973 and 1,066,351 in 1987-1988. An average of 22.8% of young people aged 12 to 17 were enrolled in secondary school, 30.8% of boys and 14.7% of girls. In 1978-1979, this average was at 24.5%, but even lower for girls (13.0%) than for boys (36.1%). It was estimated that in 1995-1996, it had decreased to 15%; the gap between boys and girls was 10%.

At university level, there were 8,177 students in 1967. In 1989-1990, the number was almost 90,000, with 15 to 20% of them girls. Nowadays, more than 158,000 students attend the state-run institutions of higher education and universities.

Notwithstanding the concerted efforts made in the first two decades following independence, the proportion of the school-aged population in school has been declining since the late 80s. The rate of admission to the first year of primary cycle decreased from 34% in 1978-1979 to 22.5% in 1995 and 17% in 2001. It also varied by province and area of residence (urban or rural). In urban areas, it amounted to 33% versus 10% in rural areas.⁵ At the provincial level, the growth rate in the provinces of Bandundu, South Kivu, the two Kasais and Kinshasa city exceeded 100% for boys. In North Kivu, the admission to the first year of primary schooling remained low, even if we take into consideration children above 9 years.

It is necessary to note the cases of Maniema, of the eastern Province and of Lower Congo, where the net rates of admission for girls in the first year are higher than those for boys. At Maniema, this rate reached 156% for girls.⁶

On the level of financing, the budget allocated for education in Congo did not reach 3.5% of the current expenses before 1946. After that, it rose quickly and in 1958 exceeded 15% of the ordinary budget.

However, as a whole, the share allocated for education in the state budget fell considerably after independence: 30% in 1960, 19% in 1970, 16.8% in 1983, 0.5% in 1994 and 0.8% in 1996. Education spending accounted for barely 1% of GDP, compared to the average in the developing countries 5%.

From 1980 to 1988, the share allocated to education decreased from 24.2% to 9.6% of the state's current expenses. And since then, the proportion of these expenses actually paid out has decreased further.

The small amount of money reserved for education and the humiliating remuneration proposed for teachers obliged parents to take responsibility for teachers' salaries, school maintenance and frequently the tough negotiations with school boards and teachers' associations.

The living conditions of teachers are precarious. This precariousness explains the absence of any motivation on the part of staff, the lack of interest in education and the rush towards the private sector, not to mention the rapid spread of corruption and the drop-out rate in the teaching profession. This makes the situation even more difficult, especially in rural regions. In secondary education and at university level, where the average age of professors is 52 years, the job does not even attract young people.

The supervision of teachers is no longer a major concern. At the primary and secondary education levels for example, there were fewer than 550 inspectors for the 11,830 schools in the national educational system, that is to say an inspector per

⁵ UNICEF, Enquête nationale sur la situation des enfants et des femmes MICS2/2001. Volume II, Rapport d'analyse, Kinshasa, juillet 2002.

⁶ Idem.

230 classes. In view of the lack of training and motivation, inspectors eventually abandoned educational supervision and turned towards financial and administrative jobs. It seems that the student is no more the centre of the training process. The criteria of control are based on whether the teachers are abiding by the administrative and pedagogic procedures.

Moreover, the insufficient and timeworn infrastructures and their unequal distribution among the provinces made it impossible for Congo to meet the demand for schooling. According to the estimates of 1994, in order to ensure the schooling of all 6 to 11 years old in the year 2000, 305,900 classrooms for 30 students each were needed; at the time, this meant that 195,875 additional classrooms were needed and the recruitment of 24,484 teachers per year. Thus, there was a huge gap between actual educational services and the increasing social demands due to population growth.

The Congolese population went up from 4.6 million in 1914 to 10.3 million in 1940, 22.5 million in 1975 and 30.7 million in 1984. It was estimated at 42.4 million in 1994, 51 million in 2000, 52.5 million in 2001, 55 million in 2002 and 57 million in 2003. Population growth of 3.1% per year implied a similar trend for the number of people requiring schooling. Every year the issue of schooling for young people arises.

It seems that schooling needs reached 38% in 1984, 40.2% in 1984, and 29.5% in 1955.⁷ Currently, it is estimated at about 30%.

The growth of the school-aged population was not followed by an equivalent development in the infrastructures. In a sector that is directly managed by the public authorities, most schools, universities and institutes of higher education date from at least before 1980. Modest efforts have been made to expand them or build new ones. However, private education (primary, secondary, vocational, higher and undergraduate) witnessed a remarkable increase particularly in cities, but it still needs to develop its infrastructure. Not all provinces were in the same situation; in higher education in particular imbalances between them are notorious.

The Kinshasa City contains about 28% of all educational establishments, followed by the province of Katanga (11%). Maniema has only nine schools (3%).

In general, those infrastructures are not only insufficient, but also inappropriate. The number of holders of a state diploma that grants access to higher education has been increasing every year. Consequently, on the one hand a big part of the youth had no access to higher and university education, and, on the other, finding a place in the post-secondary educational system was almost impossible.

⁷ Ngondo et al., *La population du Zaïre à la veille des élections de 1993 et 1994*, Zaïre-Afrique, 263, Kinshasa.

From 1967 to 2003, 1,603,727 finalists out of 3,094,216 obtained a state diploma (52%).

In 1989, the socio-economic situation was not as bad as today and the average over-saturation amounted to 113%. In 1991, the infrastructure offered 28,483 places for 69,830 students. In 1988-1989, the rate of over-saturation was 173% in universities, 98% in the higher technical institutes and 68% in higher educational institutes.

Access to education, to quality education, became therefore an illusion for many young Congolese. Unaccredited private education played an important additional role. In particular, it helped to absorb excess demand for higher and university education. Yet we must ensure the improvement of authorised schools and see that they are consistent in terms of curricula and viable in terms of infrastructure.

Curricula of all levels (primary, secondary, vocational, higher and undergraduate) were drawn up many years ago, yet, few efforts have been made to implement the proposed reform. Since 2003, the curricula of higher and undergraduate education have been changed in order to satisfy the needs of the country. But it was obvious that the academic formation was not suitable for the social and political realities, for the economic needs in the country, for the global technical evolution, and for the labour market demands.

Corruption is one of the factors that aggravate poverty at schools and universities. It is at the same time a cause and a consequence. It is certainly difficult to set measurable indicators of this corruption. Nevertheless, there is no doubt that it is one of the biggest problems of the Congolese educational system. So what is the consequence of this plague? The country has many secondary school graduates, but few who with useful skills. In fact, many of them have a poor command of written and spoken French, the official medium of instruction. A lot of them have neither the scientific abilities nor the moral qualities needed to respond to the real expectations of the country.

Solutions to ameliorate the educational system

The decline in the educational system is obvious. Despite of the undeniable drop in the level of studies, the Democratic Republic of Congo has *many comforting elements that, if well supervised and motivated, can help improve the situation*. The lack of motivation and ideals for the youth is the greatest disaster that could occur to a country. It is up to the state to instil motivation and idealistic spirit into the youth, who should be the main concern of politicians, in accordance with government policy. On this major issue for the running of the country, and many others, declarations should, be put into action without any delay.

Today, where do we stand? From 1967 to 2003, 3,093,216 pupils received the state diploma awarded upon finishing secondary school. If we take into account the last two years only, we find that 220,030 students finished secondary school in 2001-2002 and 236,493 in 2003. These students should have been able to find a place in universities and higher education schools but unfortunately could not get a place. As for university and higher education graduates, they are left, armed with their diplomas, to the fictitious, hypothetical and inexistent job-market.

Currently, the country has enough trained citizens. They should be integrated where they can be useful. In fact, the millions of dollars spent on the construction of new schools, without providing solutions for graduates who cannot find a place to use their knowledge, do not benefit either the families or the state. Perhaps funds allocated by international institutions appease the conscience of donators. But they do not seem to help the country's recovery. To avoid being unproductive, international aid should be used to enhance the country's efforts that, with a lot of determination, could overhaul its educational system in less than 20 years. The current political difficulties remind us of the handkerchief game in which the player who has it has to chase and catch another.

Moreover, the Higher Educational Institutes (HEI), created in order to satisfy the country's needs in teaching at the lower grades of the secondary cycle, were not of such a great help. By deviating from the purposes for which they were established without achieving them and focusing excessively on universities, they failed in their mission. But it is necessary to reinvigorate them quickly and to transform some of them into institutes that train primary school teachers, so as to guarantee the latter a good career and an appropriate salary.

Other HEIs that, complementary to universities, aim to produce B.A graduates, should become a large-scale specialisation schools for post-secondary teaching. Depending on the availability of human and financial resources (which should be found) and in the light of the massive number of national establishments with educational goals, we can build one per province. These schools must have highly qualified professional personnel with international reputation. This staff should meet the specific requirements for the large-scale specialisation schools, i.e. to teach senior secondary classes and prepare them for higher education and university studies worthy of the name.

These considerations will remain a delusion if the budget allocated to education continues to suffer from a chronic precariousness as it depends on international aid. *No country can finance its educational system with a never-ending international aid applied sparingly to the most visible elements of the system.* Paying attention to the quality of the national education starts in elementary schools then continues to high schools and culminates in universities and research centres.

There are numerous reasons for the decline of the educational system. Insufficient funding for education is the main reason. There is also the fetishism of the

diploma that is supposed to give its holder access to the world of illustrious women and men. Young people need to understand that the object of studies is not social glamour but to usefully and humbly serve the country. The Congo is in need for trained women and men. The proper use of school products and the rigour of the formation itself are prerequisites.

In order to end the current crisis, the Congo, with the support of UNDP, developed a national plan in 1996 for the reconstruction of its educational system. This plan determined the phases and priorities of execution. It consisted of really taking into consideration partnership as a way of school management and improving the living conditions of teachers whose abnegation has somehow managed to keep the educational system functioning. Nonetheless, funding is still not secure. In 2001, the government adopted the action plan for the socio-cultural sectors, "the multi-sectoral project for emergency, reconstruction, and rehabilitation" (2002-2005), which included provisions for the field of education.

But before this, major reforms and innovations were proposed by the Sovereign National Conference long before this programme, about a decade ago, to ameliorate the conditions of schools.

It suggested a new educational project with ten main options:

- education is the top priority
- education for all
- educational partnership, especially with the various educational networks
- professionalisation of education
- teaching of moral, spiritual and civil values
- integration of cultural values
- decentralisation of management
- permanent education
- equity in education
- physical education and sport⁸

This project was planned for a democratic society based on:

- ethical values of freedom, equality, responsibility and justice
- modernity values including efficiency, profitability, competitiveness, rational organisation
- knowledge values: knowledge that produces know-how and intellectual rigour, criticism and self-criticism as well as creativity.⁹

⁸ Etats généraux de l'éducation, Projet du nouveau système éducatif, 1996.

After the National Conference, the general status of education was defined as a partnership in 1996: it requires the collaboration of those who are concerned with teaching young people and specifies the role of each stakeholder. If well interpreted, it will allow all of the educational partners to participate in reinvigorating the sector.

The government owns the public schools it sets up; it is responsible for the national policy in terms of education for all sectors: public education, non-subsidised private education, accredited or unaccredited. It must supervise the elaboration of strategies needed for the proper functioning of the educational partnership and initiate reforms in the educational system. It must also make sure that education is available for both young and adults, and guarantee free and compulsory basic education. The state's partners, particularly parents of pupils, want the state to play a greater role in controlling and managing schools. They also expect to know exactly where they stand from a legal point of view, in the education of their children.

Parents choose the kind of education they want for their children, and register them. They play a role in the school management and they must pay the educational fees, especially at secondary, higher and university levels.

Religious denominations as well as other institutions are essential in the educational system. According to surveys financed by the UNDP, in the provinces of Bandundu, Lower Congo and Kinshasa city religious confessions are more efficient in the classic official education than newly established NGOs.

The NGOs play a crucial role in the functional education and literacy. Concerning literacy programmes in the three provinces, it is worth noting that the percentage of the state was responsible for only 23% of the literacy programmes, whereas NGOs, religious denominations and other movements accounted for 77%, a total of 111 out of 144.

Teachers play a crucial role in the survival of the educational system. In spite of hardships they endure because of their insufficient salary, they still practice their profession.

Certainly, the motives of those who advocate private schooling are not always philanthropic. In fact, private schools depend more on the parents rather than on their supporters. This situation can be accepted and tolerated in major cities, but it is unbearable in smaller towns and in rural areas where the income of parents is insufficient. But the entrepreneurial initiatives of advocates of private schooling can absorb the masses of pupils who may not have access to public schools.

Bilateral and multilateral aid seems to be recovering after being sharply reduced on the suspension of structural cooperation in the 1990s due to serious incidents at the University of Lubumbashi. For the past ten years, it has consisted mainly of specific humanitarian actions, such as providing desks, pens and text books or

⁹ Conférence Nationale Souveraine, Charte de l'éducation.

restoring some schools. It is now needed in preparing an appropriate structured programme for the educational sector in accordance with the government's policy. All major works for reforming education (rehabilitation of infrastructure, teacher training, and improvement of management) cannot be achieved without external support. In fact, cooperation with the IMF and the IBRD has been restored and the "Multi-sectoral Project for Emergency, Rehabilitation and Reconstruction Project" is being financed by donors (European Union, Belgium, Canada, China, Germany; IDA, Kuwaiti funds, USAID, etc.) and some credits may to be allocated to the educational sector. It is possible that the inclusion of Congo in the Heavily-Indebted Poor Countries Initiative and the cancellation of a part of its substantial international debt will revive previous praiseworthy initiatives and lay the foundation for new financial policies to ameliorate the educational system.

The educational system should be managed in the same way a business is run, but in a spirit of ethics, justice, and solidarity, and on the basis of a decentralised participatory regime that makes all partners in the system aware of their responsibilities, particularly in terms of organising and financing education. For this purpose, efforts should be exerted at all levels to ensure that the educational system is properly planned, organised, managed and evaluated.

Furthermore, it is time to clarify the situation of state-controlled schools.

Among the measures taken by the Sovereign National Conference and still waiting to be implemented that do not require large funding are those concerning the handing back of arbitrarily expropriated schools. More than a decade after the recommendation of the National Conference justice has still not been done.

Schools, high schools, colleges, universities, institutes of higher education that are part of the national education were never a "gift". Some of the expropriated schools were given back. *Retrocession* was by an agreement that transferred part of the national education to a network of *registered schools*. This procedure is a trick to get around the constitution and violates the Fundamental Law. Indeed, all constitutions of the country have upheld, invariably, items pertaining to *the freedom of education and national education*. These articles date from different periods and different political contexts, but none of them use either the term agreement or the term registered schools, in the sense that the state owns these schools assigned to others, *its louts*.

We understand those establishing a new school should negotiate and sign an agreement with the state, but there is no justification for the state to appropriate schools that are part of the national educational system; it is against the constitutional principles of freedom of education and of national education.

Lastly, books used to praise military bravery. Today, the Democratic Republic of Congo is more innovative. It proposes as role models for young trainees their peers who have succeeded because of hard work and perseverance.

Between 2001 and 2003, 6,439 young people, both girls and boys, got excellent results in their school leaving examinations, achieving an average of at least 65%. It is hoped that they will be guided well by their educators and continue their post-secondary studies with the same success so that they can become role models for those who come after them.

To single them out, the Social Fund of the Republic, chaired by the president of the Republic, did not award them medals, which adults are fond of, but gave each an award for excellence. In a world that emphasises solidarity, where cultural differences are promoted along with the respect for authenticity, what values should be enshrined in the future leaders of the nation? Social justice, equality and freedom (of nations and individuals); as well as solidarity and co-responsibility, the preservation of public welfare for future generations, peace desired by all. And also the values of happiness, the ability to build relations, respect for persons, and pay attention to quality of life!¹⁰. Teaching young people values should aim at those that preserve them in the future.

Conclusion

A country that does not take the education of its citizens to heart, especially its youth, its most precious resource for the future, hinders its course towards progress. This education should be complete, rigorous, and open to values. It should target not only the acquisition of science or knowledge and know-how, but also, and above all, the know-how necessary for the qualitative transformation of the society.

Certainly, hit by a crisis, the schools and universities of the Democratic Republic of Congo cannot hide their flaws and imperfections. After years of recurring conflicts, after years of hesitant state management, that is no surprise. What is surprising is that even the best products of those schools and universities are not used in a rational, productive, profitable manner for the population as a whole.

In a huge country where the majority of the people are illiterate and need training in public hygiene, agricultural production, infrastructure rehabilitation and maintenance, even the less brilliant products of these schools and universities are a precious human resource.

It is paradoxical to see that the public authorities responsible for education do not give consideration to how they may benefit from this labour force.

¹⁰ O.I.E.C. éducation aux valeurs pour les sociétés de l'an 2000, 1982.

Being aware of this paradox at all levels of the political and administrative hierarchy will give back to schools the reason for their existence. Only when decision-makers become aware of the importance and utility of the school product in a country trying to stand on its feet will the journey towards progress begin.

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The economy of the Democratic Republic of Congo in the post-conflict phase

DIDIER DE FAILLY

At the dawn of African independences, we could reasonably think that Sub-Saharan Africa rested on three giants: Nigeria, Congo-Kinshasa and South Africa. At the time, we heard a lot not only about Congolese copper, Congolese cobalt and Congolese diamonds, but also about Congolese artists and musicians, Congolese sportsmen, Congolese mechanical engineers, Congolese intellectuals, etc. And then the Democratic Republic of Congo went down into the abyss and dropped out of the agendas. But forty years later, by dint of interminable "transitions," this country has returned to the agenda and many, inside the country and outside, wish to see the light at the end of the tunnel. Nevertheless, to determine what the economy of this country could be in the wake of a long period of economic disorder and armed conflicts requires an examination and analysis of this past in order to define what must be corrected.

In 1959, the Belgian Congo was world's largest producer of cobalt (5,996 tonnes, i.e. 39% of world production) and of industrial diamonds (66% of world production) and fifth largest producer of copper (282,094 tonnes, i.e. 9% of world production)¹. In the same year, its cotton production peaked: 179,660 tonnes of cotton seeds, i.e. 59,280 tonnes of cotton fibre, of which 52,790 tonnes of which were exported. This kind of

¹ The contribution of M. VAN MEERHAGE, Professor at the University of Ghent, „*Caractéristiques de l'Economie*“, dans ACADEMIE ROYALE DES SCIENCES D'OUTRE-MER, *Livre Blanc*, tome I, Bruxelles, 1962 (pp. 467-482)) offers a succinct but adequate review of the state of economy in the Belgium Congo at the end of the colonial period.

farming was practised by 100,000 families over an area of 368,382 hectares. At the time, the Congo was one of the biggest cotton producers in Africa, after Egypt and the French West Africa (FWA), and the second largest producer of palm oil in Africa, with 400,000 tonnes.² Exports of agricultural products accounted for more than 45% of overall exports.³ Taking per capita income of industrial and agricultural workers as 100 in 1950, it had risen to 204 in 1958, "which is, in view of the 21% rise in the cost of living in the same period, equal to a 69% increase in the real purchasing power."⁴ But, "at present, real per capita income in the DRC is equivalent to a quarter of what it was in 1960."⁵ The cruel paradox between the immense potential wealth of the Congo and the dire poverty of its people has been mentioned so often that it is trite to do so again. One should have the courage though to ask oneself frankly: What happened?

Zairianisation⁶ was initially conceived as a path to integrate Congolese small businesses into the industrial and commercial affairs, the majority of which were effectively held up to then by foreign interests and personnel. The idea was to

² Comparable figures for 1975; cotton fibre: 16.290 tonnes; palm oil: 175.000 tonnes.

³ In 1958 (excluding wood and textile fibre): 36%; in 1959: 35%. Source: Ministerie van Afrikaanse Zaken (Ministry of African Affairs); Directi voor Economische Studies (Department of Economic Studies); *De economische toestand van Belgisch Congo en van Ruanda-Urundi in 1959, Brussels, 1960*. Information kindly provided by Professor Eric Tollens, Catholic University of Louvain.

⁴ PEEMANS, J.-Ph., Diffusion of economic progress and convergence of prices. The case of Belgium-Congo 1900-1960, Louvain, Nauwelaerts, 1968, quoted by DRACHOUSSOFF Vladimir, *Le Développement rural en Afrique Centrale 1908-1960/1962 - Synthèse et réflexions*, Vol. I, Bruxelles, Fondation Roi Baudouin, 1991, p. 97.

⁵ FONDS MONÉTAIRE INTERNATIONAL, *République Démocratique du Congo - Document de point de décision dans le cadre de l'initiative renforcée en faveur des pays pauvres très endettés (PPTE)*, doc. EBS/03/103 (F), 14 juillet 2003, p. 22.

⁶ Policy announced by President Mobutu on 30 November 1973. It calls for transferring to nationals the ownership of enterprises held by foreigners, especially in the sectors of agricultures, trade and transportation: around 300 nationals ("barons" of the party and government officials) corner the largest enterprises, while notables spread throughout the country retain a large number of smaller enterprises. The damage suffered by the economy of the country was so severe that Mobutu had to proclaim on 30 December 1974 a "radicalisation" that effectively consisted of the state reselling these "Zairianised" enterprises; but this radicalisation was immediately circumvented by the "purchasers." This made Mobutu proclaim, in November 1975, a "retrocession" of at least 60% of ownership rights to the previous owners, with the balance remaining in a portfolio held by the Congolese State. Heavy polarisation also started to appear between a very small number of very rich families and the mass of population, which gradually sank into misery and even, as pointed out above, into "vagrancy," living "day-to-day." See LEMARCHAND René, *Historical Setting*, in MEDITZ, Sandra M. and MERILL, Tim (Eds.), *Zaire, a Country Study*, Washington D.C., Federal Research Division, Area Handbook Series, Library of Congress, 1994⁴, pp. 53-55 + glossary (pp. 365-368).

encourage the establishment of a middle class, something that would have been extremely healthy in a young country. At the time, civil servants working at the ministry of economics were sent to Morocco, Tunisia and other countries that adopted a policy of association between foreign and local businesses and returned with precious observations. However, this tendency was thwarted by pressure applied by the notables positioning themselves in the one-party state and establishing their predatory positions. The result was an exercise in ripping apart the economic tissue on a national scale, which was felt *even more strongly in the interior of the country than is in the big cities*. Portuguese merchants in the west, Indo-Pakistanis in the east and Greeks in the north-east (Ituri) were obliged to withdraw, before there were enough Congolese merchants to replace them. The great majority of Congolese "purchasers" simply "harvested" the trading funds of all those merchants as soon as they could. Shops, canteens and other outlets, often attached to small enterprises (oil factories, etc.), ceased to receive regular supplies. The same applied to the exchange of products with the interior: the supply of manufactured goods to the interior declined sharply and, parallel to this, the flow of agricultural and forest products to urban consumers and export markets and processing industries located in big cities such as Kinshasa, Lubumbashi, Kisangani almost ceased. Agro-industrial producers who did not pull out became importers, practically with the blessing of the dictator since they helped him save a megalopolis like Kinshasa from an severe shortages and possibly even food riots. Importing food from South Africa, South America and Europe obviously involved fewer risks, but did not encourage productive investment in the country and the development of its immense agricultural and farming resources. Nevertheless, these importers were to suffer some twenty years later from the frenzied pillaging of 21-24 September 1991 and January 1993, when a large number of warehouses and cold storage rooms were systematically emptied. Likewise, we started to witness the slow and gradual destruction of the productive fabric of agriculture and forestry. Eventually, Unilever withdrew from a number of its agro-industrial operations (palm oil plantations of Kwilu at the end of the 1980s, palm oil plantations in the Equator and tea plantation in North-Kivu at the end of the 1990s), as did SIPEF (palm oil in the Equator, tea, cinchona and coffee in South-Kivu) and many others. As a result of the pillaging, Unilever sold MARSAVCO (margarine, soap and cosmetics company) to some Lebanese and gave up its commercial department (SEDEC, ACA, etc.).

As everybody knows, the Congo has several mining regions: gold in Urega and Ituri; diamonds in Kasai and, a recent discovery, in the Eastern Province; copper, cobalt, zinc and manganese in South-Katanga; cassiterite (tin) and accompanying minerals (wolfram/tungsten, colombo-tantalite, etc.) in Kivu and Maniema. Contrary to some persistent prejudices, copper production, for example, hit records after the colonial era, reaching 465,000 tonnes of wirebar copper (99% refined) towards the end

of the 1980s.⁷ But the collapse of Kolwezi mine in September 1990 tolled the death knell for the mining industry in Katanga because it had literally deprived the hub of Kamoto of its *raison d'être*. This hub was part of the industrial network which added value to mining products across the national territory thanks to the use of national production factors (human resources and electrical energy of Inga). Since that accident, the situation has worsened: currently, the mines of Katanga are only a shadow of their former selves even if some "juniors" try to continue.⁸

A closer look at the situation in the east of the country also reveals inexorable decline, the result of all sorts of damage civil war and other hostilities, government incompetence for decades. The cement factory at Katana/Mayuza, inaugurated in 1958, closed down for the first time in January, 1961, then definitively in 1967. The textile factory (mill and weaving) TEXKIVU in Bukavu closed down almost at the same time.⁹ The calamitous measures of "Zairianisation" and then "radicalisation," during the first half of the 1970s devitalised several palm oil plantations in the forest part west of Kivu; the lake and land transport networks of the national company SNCZ have been reduced to the most basic routes since the 1980s. Although, unlike other provinces in the country (Kinshasa, Bas-Congo, and in particular Katanga), South Kivu did not experience pillaging at the end of 1991 or in early 1993 on the same scale as in Kinshasa, its economy continued to collapse: the Kiliba sugar company (SUCKI, formerly the Belgium group of Baron Kronacker) closed down at the end of 1995; the Lac cotton plant in Uvira closed down at the end of 1996;¹⁰ the big industrial mining enterprise SOMINKI, created from the merger of nine mining enterprises in South Kivu and Maniema in 1976, went into liquidation on 29 March 1997.

Insecurity was certainly one of the causes of these dramatic developments (for cement and cotton plants, for example), but actually *the factor of insecurity is far from being the determining factor*. Much more decisive factors included the evolution of world consumption, markets and exchanges, where technological changes similarly played a decisive role. SOMINKI is a case in point: the statistics of production and personnel clearly reveal that this enterprise was losing ground for years. As a matter of

⁷ 1988: 465,000 tonnes; 1989: 440,600 tonnes; 1990: 355,500 tonnes; 1991: 291,500 tonnes; 1992: 146,000 tonnes; 1993: 80,000 tonnes (estimated).

⁸ Global Witness, *Ruée et Ruine : Le commerce dévastateur des ressources minières dans le sud du Katanga en République Démocratique du Congo*, Septembre 2004, 32 pp.

⁹ This small family-business enterprise milled and wove a very high-quality cotton-fiber, produced in the Ruzizi Plain, 60 km south of Bukavu; the enterprise provided jersey and denim cloth for overalls and jeans; tailoring workshops in Kavumu, 40 km north of Bukavu were a good example for the vertical integration in a particular industry, adding value using local agricultural resources, labour and energy.

¹⁰ Burundian army officers plundered the entire cotton harvest of 1996, valued at one million U.S. dollars as it lay ready for shipment to the UTEXAFRICA factory in Kinshasa via the port of Kalemie.

fact, this is not surprising at all because a mining enterprise, unlike an agricultural one, has to go for diversification before its deposits are depleted and it risks the possibility of vanishing. The halt of industrial mining in Kivu at the end of 1996 was the result of a whole series of factors, listed here in order of decreasing importance: first, the Belgian financial centres traditionally involved in this industry were starting to get tired of the setbacks and trials confronted in Congo for 40 years; this lassitude led them sometimes into assessment errors (for example, not realising in time the dividends that could have been generated by the exploitation of two coltan deposits belonging to this enterprise); then different technological developments in the world elicited important variations in the prices of several mining products (tin - but also copper and manganese in the case of Katanga); third, the different national and provincial governing classes were often incompetent and dishonest; fourth, the small stock enterprises listed on the Toronto and Vancouver stock exchanges were more speculative than really industrial,¹¹ which is why the 1982 liberalisation of the small-scale exploitation of precious metals - so much disparaged - is the least important of these explanatory factors.¹²

Whether in Ituri, Maniema, Kivu, Kasai or Shaba, as the mining industry vanished it left the place to an immense multitude of people engaged in a informal economic activities: foremen-prospectors-diggers, diggers, agents, small and medium negotiators, women truckers (called Hilux mamas, in reference to a widely used model of Toyota pick-up), women quartz grinders (called twanging mamas, from the verb "kutwanga", to grind), van drivers, employees in transportation agencies, air transportation companies,¹³ and trading posts, agents of the national government, administrative territories and provinces, diverse military personnel, etc. But most of these people earn little. This fact confirms one of our study's conclusions regarding the production of the primary sector in South Kivu.¹⁴

No matter how resourceful and *labour intensive* these informal modalities were, they still raised questions. It is true that in a number of mining sites (except in Katanga and maybe in Ituri) the quantity of ore is too small to justify the costs of an industrial facility, but it is also true that these craft methods are not able to collect all the useful

¹¹ „L'Afrique a prouvé depuis longtemps qu'en offrant à prix cassé ses richesses naturelles il est facile d'intéresser les investisseurs étrangers.“ STIGLITZ Joseph E., *La grande désillusion*, Paris, Fayard, 2002, p. 193.

¹² Didier de FAILLY, *Coltan : Pour comprendre*, in MARYSSE, St. et REYNTJENS, F., (Eds.), *L'Afrique des Grands Lacs - Annuaire 2000-2001*, Paris, L'Harmattan, 2001, pp. 279-306.

¹³ In particular old crates (Antonov A-28s and A-26s) sold by the Ukrainian army and bought by old risk-taking Russian pilots who founded cargo companies focused on small transportation agencies run by Congolese.

¹⁴ Didier de FAILLY, *L'Economie du sud Kivu 1990-2000: mutations profondes cachée par une panne*, in MARYSSE, St. And REYNT JENTS, F., (eds), *L'Afrique des Grands Lacs-Annuaire 1999-2000*, Paris, L'Harmattan, 2000, pp. 161-188.

ore and thus some of them are wasted. However, many of these sites could have been the object of a more performing semi-industrial exploitation, but now that they are exploited in this way and to this extent, it makes it unlikely that they can return to more rigorous methods. In fact, as the earth is so disturbed and undertunnelled, even the best geologists will never be able to reach the residues hidden under cubic metres of gravel in this environment, which means that much of the country's mining potential is being wasted. Is not coltan, gold and heterogenite enriching a handful of fathers today, before impoverishing the children of tomorrow? And does this wildcatting not reflect the country's state of decay and misery? Yet, for many of society's rejects, this is the ultimate resource in their daily struggle for survival.

But at the other end of the chain, from the point of view of the metallurgists settled in the north, the current situation is, on the contrary, almost ideal because on the one hand it allows them, without any risk, to supply their stable segments of clients by stocking up through agreements with traders who deal, for example, with Canadian, Russian, or Australian mines, and, on the other hand, to respond to unexpected demands by practising just-in-time stocking-up, i.e. stocking up really quickly to meet fluctuating needs through traders experienced in all the tricks of contracting in Central Africa. All that occurs under the watchful eyes of large enterprises that conclude that it is not necessary - or prudent they will say - to make major investments in geological studies (of about USD 30,000 to 40,000 for a surface of about 500km²) or in new industrial facilities in Central Africa.

Even when the price of coltan or of Katanga's heterogenite soars, we must realise that only a very small part of the income is divided between different Congolese mining industries, and that the informality of this activity deprives the state of important tax revenues.

Means of transportation have always been a major concern for the officials of the Congo Free State and then of the Belgian colony of Congo. Roads and railways were built very early for exporting agricultural and mining products. Of course, the transportation network in the south of the country relied to a large extent on the navigable section of the Kinshasa River, up to Kisangani, and on the navigable parts of all its tributaries. Sections in the east of the country were more disparate, sometimes combining river, narrow-gauge railways and tracks. The 446 km line between the CFL¹⁵ in Kabalo and the BCK¹⁶ in Kamina were built until the 1950s. Other projects were planned and systematically studied. It is not generally known that, for example, studies to avoid the Kisangani Wagenia Falls proposed digging a watercourse of 23km (with 3 locks) to avoid transshipment between Ubundu (formerly

¹⁵ Compagnie des Chemins de Fer du Congo superieur aux Grands Lacs Africains (Upper Congo-Great Lakes Railway), founded 4 January 1902.

¹⁶ Compagnie des Chemins de Fer du Bas-Congo au Katanga (Lower Congo-Katanga Railway), founded in 1906. The name never fulfilled its promise, as the railway stopped in Llebo (formerly Port Francqui) at the mouth of the Kasai River.

Ponthierville), downstream from Kindu, and Kisangani, which would have created a navigable stretch from Kinshasa to Kindu, terminus of the CFL railway. On the other hand, in the 1950s readers' letters to tourist magazines of the Belgian Congo complained about the chronically bad state of the Kisangani - Bukavu road. After 1960, the European Development Fund of the European Communities Commission devoted substantial resources to improve the road network (Matadi-Kinshasa, Kinshasa-Kikwit,) But it must be noted that the government of the independent state did not commit itself to really completing this network by establishing *interconnections between provinces*.¹⁷ There was talk in the 1970s about a rail link between Kinshasa and Ilebo so as to avoid two transshipments that considerably slowed the export of Katangan mining products via the national highway,¹⁸ but nothing was undertaken. Construction of the Kisangani-Bukavu road that started simultaneously in the east and the west of the country at the end of the 1950s was resumed, but work was delayed so much that this extremely important road linking the east and west of the country was still not finished when the 1996 war broke out. So whereas all the handbooks of Congolese geography mention the complementarity of the seasons and, thus, of agricultural products between the north and south of the country and to a lesser extent the complementarity of markets between east and west, with few exceptions this complementarity was not really exploited.

Reorientation of the tea market

When the world tea price plunged in 1976, what did the producers of tea in South Kivu do? (In general, South Kivu is known for tea and North Kivu for coffee.) Rather than continuing to take their tea to the auction market of Mombassa on the Indian Ocean, they transported their tea by barge to Goma, where it was sent on cargo airplanes, 30 tonnes a time, to Mjubi-Mayi (and the mining towns of Katanga via the Mwene-Ditu) and Kinshasa (and Brazzaville and even Luanda). This was much more profitable than selling the tea on the international market because this local market yielded 1 USD net per kg! - i.e. USD 1,500,000 net profit before taxes for the annual crop of about 1,500 tonnes.

¹⁷ Construction of the extension of the narrow-gauge rail road Vicicongo (Societe des Chemins de Fer Vicinaux du Congo: 685 km between Mungbere and Aketi) to link up (at 185 km) the old terminus of Aketi with the port of Bumba on the Congo River depended on the opening up of an iron mine that never took place.

¹⁸ The railway for direct export of mining products from Katanga, through Benguela in Angola (Benguela Railway) was shut down because of trouble in Angola.

However, the telecommunication system (telephone, telex) was completely neglected - local, inter-provincial and international networks - to an extent that gave rise to speculation whether the neglect was not done on purpose by the authorities in order to prevent provincial coalitions. Since the 1970s, the country has used satellite television transmission systems to broadcast from Kinshasa (and to a lesser extent from Lubumbashi) to a dozen of television antennas across the country. But the obvious technical possibility of linking telephone channels to analogue channels was never really enhanced.¹⁹

Even bank institutions did not encourage transfers, neither between the capital and the provinces, nor between the provinces themselves. If, in Kinshasa, banks played a role in creating bank money, at the local level, however, their few branches acted like simple cashiers. They were so slow that operators systematically avoided them during the inflation of the 1990s so as not to lose their funds. The cashier role these branches played locally was recently enhanced by their participation in the national and international fund transfer systems (Western Union and others) that use top-notch and relatively low-cost telecommunication technologies. This system is secure - which is why it supplanted yesterday's system of postal mandates - but it is extremely expensive, especially for small amounts.²⁰ This system also shed light on another important phenomenon that only a few Congolese economists will admit to: many Congolese families, even of modest income, have one or more members in the North sending them a "mandate" from time to time (in the past, it passed more discreetly in cash through travellers or church bursar offices). No matter how much this cashier role improved, the real problem of the banking system in the DRC was that banks never dispatched to provinces the expertise needed to examine potential files presented by local investors.²¹

In reality, this almost continuous degradation of the country's economic fabric created a multitude of quasi auto-sufficient enclaves across the country. Under these conditions, the most successful entrepreneurs were not producers, but transporters who passed merchandise from one enclave to the other: manioc from Kwilu to Kinshasa, beans from Sake (North Kivu) to Bukavu and smoked fish from Equator province to Kinshasa.

¹⁹ Anything that could contribute to the freedom of expression and to the formation of public opinion was systematically forbidden: universities and newspapers were muzzled and a single trade union was created under the thumb of the political authorities.

²⁰ USD 15 for local and USD 16 for the international transfer of USD 100.

²¹ Diverse programmes, like the BEDEPE (or the "SME" credit line of the Kivu-Zaire-CEE, for example, between 1989 and 1991) in the charge of the central bank in Kinshasa specifically to allocate credits for small enterprises have seldom, if ever, achieved their goals.

Providing South Kivu with beans from the North Kivu valley of Sake-Mweso

Bushi, in the hinterland of Bukavu in South Kivu, ran out of beans. So it was necessary to import beans from North Kivu. In the early days, businessmen, usually "Indians", used to buy dozens of tonnes at a time and transport them via the lake to Bukavu, where they sold them at wholesale prices. For the past few years, dozens or even hundreds of women have crossed the lake to Goma every week, stay for one or two days to negotiate the purchase of a few bags only, then return by boat to Bukavu with their merchandise. The proportion of fixed travel costs that has to be recovered in the sale price is of course higher than that under the first system. The final price to the consumer is necessarily higher, but hundreds of women make just enough to help their families get by, and a real fleet of boats flourishes on Lake Kivu (some of them are locally built; three have already sunk).

But production activity did not necessarily stop when the factories shut down! Some shrewd "buyers" found simple exploitation modalities, as the example of the Hombo-Chambuja oil palms plantation shows.

Hombo-Champuja oil palm Plantation

This plantation of about 200 hectares, established on an altitude slightly lower than 1,000 m to the west of the Kivu mountains, counted on the market for cooking palm oil among people living at high altitudes in a region lacking oil-producing plants. It was equipped with a complete oil factory, and sent its palm oil in bulk (in 200-litre casks). When "Zairianisation" took place, the plantation was transferred to a "purchaser" who lacked the necessary managing ability, both technical and financial. The latter thought it best to divide the palms up into groups of 50 feet each (that is to say, three lots per hectare, because every hectare of oil-producing palms measures 143 feet), and "rent" them to the neighbouring villagers for a period of one palm fruit harvest cycle. The harvested clusters are sold to female villagers, who extract oil from them using the "munyonga" process (kneading in a metal cask of cooked fruit that has been soaked in boiling water; nearly 15% of the oil is left in the fibre). These villagers sell the cans to other women, who carry them on their backs to the country market, sometimes 20 km away. Local buyers buy these cans and hand them to carriers on bikes (6 cans of 20 litres per bike, pushed by hand), who take them to vehicles waiting at the end of the road suitable for motor vehicles, which take them to a town market. From there, these oil cans are transported back up to the high-lying villages, poured into salvaged beer bottles (20 litres fill 27 bottles of 72 cl each), and the oil is finally sold to final consumers in very small doses (tomato purée boxes, locally called "koroboi").

When all is said and done, the quantity of oil that reaches the market is 20 or 30% less than this plantation's normal capacity, the price for consumers has clearly risen, several "state agents" have collected small taxes at different stages - practically for their own pocket - and the work is no longer provided by paid workers, but rather by a *great number of "self-employed" who undoubtedly outnumber the former workers, but who contribute very little added value and make just enough to get by.*

Other shifts include peasants working in the sugar business on the perimeter of the old irrigated *sugar cane* plantations of Kiliba (south of the Ruzizi Plain) started growing *irrigated rice* because once the sugar factory closed no one could would their sugar canes.²² This encouraged small entrepreneurs to set up small rice hulk peelers purchased at Dar-Es-Salam. Similar changes took place in Lower-Congo, Bandundu, Kasai and in Katanga.

We, therefore, note that production processes have continued, but *at the cost of shifting from formal to informal processes*, in which, instead of paid workers, a large number of self-employed each contribute a very small part of the added value, making just enough money to survive

For example, a big number of small soap factories and other small businesses have appeared, harming an already limited market. Dozens of craftsmen have tried to produce chalk. But as soon as communications and transportation are restored these small units of production will stand no chance against bigger units with economies of scale.

This informal economy currently benefits from a favourable a priori and sympathy capital even from backers of small and large funds; there is a lot of talk about micro-enterprise, mini-credits, etc. Certainly, we must salute the ability of people to develop countless small informal activities, but at the same time, we should realistically admit that in many cases this is "ersatz", poor-quality substitutes at all levels: sandals made out of old tires, flights sitting on wooden crates without any safety belts. Rare are the cases of small or small-scale productions that conform to international standards and that really could compete on a luxury market; there are a few in cabinetmaking, in marble work, in embroidery but far fewer in textile manufacturing, leather craft and food products, even though the raw materials are available.

This informality in the economy also makes it more difficult to collect corporate taxes and to control this collection.

Finally, there is a third group of enterprises, those that were able to remain, such as breweries, some cement factories, etc. BRALIMA, which belongs to the international Dutch brewer HEINEKEN, produced 125% of its average capacity when one million Rwandan refugees were present in Kivu between July 1994 and October 1996; to

²² This shift to the cultivation of rice is a long-term result of an investment of one million ecu that the FED's Kivu Program committed as seed money in 1988-1991 for irrigated rice production in the northern Ruzizi Plain around in Kiringye.

cope it had to transfer equipment from its brewery in Kisangani to the one in Kivu. But since then, this brewery has reduced its staff by 75% and production by 80% due to the difficulty of transporting its *beer and sodas* and collecting empty bottles. However, it is clear that this fall-off is due to business conditions, and that this brewing group with its strong presence in the Great Lakes region (Kitega, Bujumbura, Gisenyi, Bukavu, Kisangani) will certainly not give up, even if its Bukavu unit is working well below capacity.

In the non-private sector, the analysis reveals that the country has slowly transformed into a giant self-management laboratory. In one way, Mobutu, the "Enlightened Guide", has done his people a favour: he has forced it to first develop a number of stratagems for family survival (the famous Article 5),²³ then one for institutional survival. The budgets devoted to health and education progressively melted away, and different self-management formulas were set up, becoming more and more independent of the state's administrative control. Since 1992,²⁴ all teaching institutions in the Democratic Republic of Congo at the primary, secondary and tertiary education levels, whether part of the state network, the confessional networks or purely private, were solely self-funded.²⁵ The same goes for medical training. This has offered a tremendous field of practice for the self-managed institutions of the non-private sector. It was the case everywhere in this vast country! Of course, this was done at an appalling human cost, but still, we never could have imagined a better laboratory!²⁶ Let us hope that the welfare state inherited from colonial paternalism, which still weighs down the economic take-off of several African countries, is truly dead among "democratic" Congolese.

²³ A play on "Zairian" resourcefulness that parodies the style of this article of the Constitution: „En toute circonstance, le citoyen est tenu de trouver une solution par lui-même“ !

²⁴ The 1991-92 primary and secondary school year was the first no support in the whole country (except in private schools); since that year parents' associations have collected money to offer teachers a bonus (as distinct from their salary) for their teaching.

²⁵ In an economy that used to witness 3 and 4-digit inflation, the monthly salary increases were so small that teachers' salaries were derisory in terms of purchasing power. Teachers and professors have long considered these salaries as occasional contributions, too unpredictable and small to play a role in family budgeting.

²⁶ In 1992 and 1993, to avoid a general pillage of Bukavu's businesses by the military as happened in Kinshasa at the end of September 1991, civil society organised two important food collections to supply the families of soldiers in the garrisons of South Kivu - a sign of a rare capacity of management of the "*res publica*"? Thus, Bukavu was one of the few cities of the country that was not pillaged.

Planning the future

The numerous and often unfortunate events that the country has witnessed since the beginning of the 1990s are simply the expression of a major phenomenon in its history: *the end* - or shall we say *the total exhaustion?*- of the *colonial system*, which could have hobbled along in the guise of independence, but finally wasted away. All this was essentially political, but had deep economic consequences. What is taking place now since the establishment of the institutions of the Transition in 2003 is going through its *re-foundation*. So it is now a matter of really being aware that the colonial era is well and truly over, of profoundly converting outlooks, fighting nostalgia and building the people's attitudes on the grounds of new perspectives. It is not about patching up what was slowly declined or what at times was destroyed by bursts of violence, and not even about rebuilding from scratch an identical replica of what existed in the 1950s. Both natives and foreigners should change their conceptions. " *To enhance its economic (and political) future, the sub-continent should let go the stamp left by the colonial episode. It would be in its best interest not to encourage (with the help of foreign investments) the expansion of its gigantic coastal cities (which are becoming Calcutta-like slums) but, on the contrary, promote the growth of local areas, thereby revitalising rural zones. Tropical Africa could experience stable prosperity if it consumed its own products, while at the same time manufacturing industrial items. Contrary to what is sometimes proposed, the sub-continent would never reach prosperity by diving head first into the global economic stream, but by controlling its own market. Landowners and intensive-agriculture farmers should not work for the global market, but to satisfy their country's needs; they should use the products made in Africa that accessible rural centres offer them. All this means establishing protectionism that external donors should encourage instead of undermining.*"²⁷ However, it is true that most people living under these tropical skies spend more time reminiscing about the past than dreaming of future orientations To come up with a certain vision of a fresh future is precisely the goal of the second section of this article.

From the beginning we must rule out a false objection: the inability of the Congolese! There is no problem of a lack of ability, even if there is evidence, here and there, of incompetence; competence is something that can be acquired. Abroad, elsewhere in Africa or in the north, Congolese work in the academic world, in international organisations, in multinational firms or simply in workshops, and accomplish their job perfectly.

Reconsidering the development of the country with a fresh start does not mean either that it must automatically discard all the old views. Here is an example:

"The rise of the Congolese industry depends on solving three main problems:

²⁷ GOUROU, P., *L'Afrique tropicale - Nain ou géant agricole ?*, Paris, Flammarion, 1991, p. 218.

- *providing energy at a good price,*
- *training workers,*
- *extending career prospects."*

Who said this? General Governor Léo Pétillon did, during his speech to the Government Council on 18 June 1956.²⁸ We have really progressed since when it comes to training the workforce; but the extension of career prospects was thwarted by the breakdown of transportation, whether via rivers, roads or rails; and when it comes to electricity, we are way behind.

If it is true that wars and other troubles that took place in the last few years are not the only factors responsible for undermining many industrial or agro-industrial firms, the conclusion to draw is important: because there is not, therefore, any hope *that these "colonial" companies will be set up again or will reinvest.* The big companies with thousands of workers that house them in their own housing projects, hospitalise them in their own hospitals and clinics, teach their children in their own schools, provide all these institutions with free power that they produce themselves, transport people on roads that they built themselves, organise canteens that sell basic products at a "democratic" price, and deliver their personnel's mail and messages via radiophone, etc., that in addition, pay corporate taxes and comply almost daily with para-fiscal measures required by all sorts of authorities and more or less piratical administrative officials, without gaining anything in the way of public administration services in return, these companies are gone! And they shall never return! This period has passed Those who still long for it are nostalgic for a bygone age: this colonial paternalism is out of date Congolese public opinion should understand as soon as possible that this way of colonial exploitation is part of a historical era that started around 1830 with the presence of France in Maghreb and ended around 1960, or 1975 at the latest with the independence of the last important colonies, Angola and Mozambique. Continuing to cultivate this nostalgia can even distort the perception of the very positive evolutions already taking place. The following is an example, also taken from the economic reality in the east of the country:

PHARMAKINA: from south-north-south to south-south.

The case of PHARMAKINA is truly exemplary. Thirty years ago or so, this company belonged to the German pharmaceutical firm Boehringer-Mannheim, which had taken over the Bukavu treatment factory as well as ten or so other plantations once set up by Belgian and Italian colonists in South and North Kivu. In Germany, this pharmaceutical

²⁸ p. 35.

firm produced a range of drugs; its subsidiary company PHARMAKINA in Bukavu was specialised in the exploitation of *quinine*, a powerful anti-malarial alkaloid. As part of the recent wave of global mergers in the pharmaceutical sector, this German company was taken over by Roche, a Swiss pharmaceutical firm. The latter already had a range of four anti-malarial drugs on the market, produced in its laboratories from synthetic molecules; so it was not interested in keeping a firm operating far away in Africa and dealing with natural vegetable alkaloids, which means the very delicate managing of hundreds of hectares of plantations, etc. Therefore, it was willing to sell this section of Boehringer-Mannheim. Two PHARMAKINA European officials negotiated a management buyout. It must be mentioned that the PHARMAKINA was technically in a position to provide the complete chain of production of this anti-malarial drug on the spot in Bukavu from the bark of the *Cinchona legeriana* shrub to the 250 or 500mg tablets. But the parent company obliged it to process only a small part of the alkaloids to the final stage, i.e. tablet production in order to supply the local market; the larger part was to be sent as totaquina to the headquarters in Germany, where the production of quinine tablets was easily completed and sold on the global market. In other words, Boehringer-Mannheim in Germany kept to itself a very profitable, colonial type secure income, which was never denied by its managers; indeed, the contrary. Since the moment the plantations and the factory were acquired by these executives, they immediately put an end to the totaquina's detour via Germany and processed the whole of their alkaloid production to a finished product, were able to reduce prices without any risk, and improved their product's position in a global market covering Southern Africa, Western Africa, India, etc. *We are at the forefront of a very healthy transition that has eliminated a useless "parasitical" withdrawal of income by the North, and enabled us to establish south-south business relations.*

This example represents a fortunate case that is, unfortunately, a rare occurrence. In *most cases we have moved gradually from one extreme to the other*: today decisions taken regarding the gold mines in Kivu, for example, appear in the stock exchanges of Toronto and Vancouver, but could be taken by a shareholder living in New Zealand or Denmark. These listed mining companies known as "juniors" are involved in more or less troublesome illicit trafficking of diamonds, gold, cassiterite, coltan (colombo-tantalite) and heterogenite from Congo, and their diehard shareholders demand dividends without wanting to inquire about the relatively "savage" ways that agents of these "junior" companies use to "gain money". Those that suffer most from the pressure are the small traders, diggers, women and children. It is not easy to react appropriately to such a "globalised" context. It is clear that the current rise of ultra-liberalism in commerce and finance, supported by large multinational corporations and the intermediation of international organisations, is extremely dangerous for countries as fragile as the Democratic Republic of Congo. In particular this occurs utilises the venal appetites of a number of people who rule these depressed countries.

In terms of agricultural products and livestock, this country is in a very favourable situation, both because of its climate which allows plants to grow almost all year round

and because of its location *straddling the equator*, which enables it to benefit from the change of seasons between the north and the south and thus develop a single national market based on north-south and east-west complementarities, and vice versa. For example, the supplies of the textile industry could be stable throughout the year, without having to invest millions dollars in stockpiling of sufficient cotton fibre to cover the time between harvests. But if we could reduce stocks to the amount required for only six months' work, and then build up stocks again from the other part of the country, we obviously need much less capital. This economic strategy also applies to palm oil, corn, etc.

In CRAAL, Centre of Agro-Alimentary Research in Lubumbashi (on the road to Luano airport in Lubumbashi), the UNIDO (United Nations Industrial Development Organisation, in Vienna) conducted systematic studies for several years on the *processing of Congolese agricultural products*. One of the results showed that in Congo there are two - and only two - favourable locations for the production of tomato purée: Likasi (in Katanga, south of the equator) and Mutwanga (near Beni, north of the equator). If we look harder, we can find other examples, such as the *fruit processing*, dairy products, etc., all examples in which mountainous Kivu has a comparative advantage. Certainly, the delicious strawberry jam from Kivu cannot compete with the products on the shelves in Kinshasa produced by Materne in Belgium or Andros in France using strawberry pulp purchased in bulk from Hungary or Bulgaria. Nevertheless, Kivu challenges these countries of Central Europe to produce guava, Japanese plums or maracujas (passion fruit). Many scents, thanks to which David's jam and fruit juices can compete fairly with Goliath's jam! The example of dairy products is also very convincing because it shows that mountainous Kivu, located in the east of the country, and relatively self-sufficient (it produces simultaneously tea, milk and sugar; something that Lubumbashi and Kinshasa are unable to do), may therefore "export" to the West of the country that lacks its products.

At this point, the dilemma of transportation emerges naturally, starting with the problem concerning the Kisangani-Bukavu (Goma²⁹) road, the northwest axis. What would be the benefit of this road today? The important mining production from Kivu, Maniema, Ituri and the surroundings of Kisangani (gold, cassiterite, wolfram, coltan, niobium, diamonds, etc) are - and for most part always have been - sent directly to the ports on the Indian Ocean, unless their high monetary value permitted their exportation by air via Kinshasa. On the other hand, regular local supplies for Bukavu do not depend on palm oil and other products from Kisangani or gathered along this road.³⁰ Then again, what is the benefit? In fact, from an economic standpoint, the Kisangani-

²⁹ Or even ending at Lake Kivu somewhere between Bukavu and Goma (Kasheke was one proposal) to avoid creating any feeling of jealousy!

³⁰ It rather depends on access to areas beyond Kahuzi (manioc markets in Bulambika and the palm oil market in Chauja) and especially access to Mwenga-Kamituga-Kitutu (palm oil, rice, plantains, peanuts, etc).

Bukavu road should be the central artery of the country for two long-distance overlapping flows: first, the flow of Kinshasa's manufactured products to the east at good prices (tyres, paints, cosmetics, soaps, detergents, textiles and loincloth, stationery, different plastic objects, medicines, etc.) paid for with the local currency (thus avoiding the consumption of precious foreign currency); and, second, the return of the trucks to Kisangani carrying Kivu's agricultural products (market garden produce, potatoes, beans, meat and dairy products, fruit, tea, coffee, cotton, etc.) to Kinshasa. This exchange of complementary local products between the two groups was the realistic objective of this National Road 1 since the *"First Ten-Year Development Plan, 1950-1960, of the Belgian Congo."* This road could be a powerful sign of the country's unity, but it is difficult to convince decision-makers, both local and foreign: at the beginning of 1996, the European Development Fund of the European Union provided EUR 13.5 million (about USD 15 million at that time) in order to adequately fix the Bukavu-Mwenga-Kamituga road, i.e., the southwest axis, and double pave it. Currently, there are plans to spend USD 43 million to fix it until Mbuji-Mayi.

In brief, all this leads to a different conclusion, an opinion that between 1998 and 2000 was popular in the English economic press - and one should know that this press is very influential worldwide - *an opinion that says that the country is "unmanageable" (and once said that its institutions and infrastructures were "unreliable") and should therefore be divided into three new states according to the areas of attraction: Eastern Africa, Southern Africa and Atlantic Africa.* From an economic standpoint, this opinion is a true heresy. In addition, this division would have at least added two isolated states to the map of Africa: this does not seem at all the right policy to be followed now given the problems facing the African countries that do not direct or easy access to the sea. At the same time, the EU, within the framework of the Cotonou Agreement, is pressuring the ACP countries, including African countries of course, to create regional tariff and custom unions in order to unite markets which, due to the colonial heritage, are too subdivided and fragmented by multiple custom barriers (it is much easier to export timber from Cameroon to France than for EXFORKA, which previously operated in the province of western Kasai, to provide wooden railway sleepers to Cameroon). *At the dawn of the twenty-first century, it is important to think systematically about regional alliances, even in Africa.*

Some products just require good cross-border cooperation, to deal with e.g. agronomic qualities that are constraints. Thus, it is impossible to produce a good quality of cotton on one side of the Ruzizi River if on the other side this culture is neglected and therefore many diseases of this delicate plant can cause considerable decreases in production. This is the negative side; but the positive side in this case, for example, is the ease of supplying cotton to the COTEBU factory in Bujumbura, which is in chronic need of it: a "common market" of cotton from the Burundian and Congolese shores of the Ruzizi - and even from Maniema - would be much more beneficial for the development of this region than the small fraud activities known until 1996. But curiously, few people pay attention to this because there are few people who know that the Ruzizi's Plain cotton is one of the finest cottons in the world, second only

to Egyptian cotton and better than that of West Africa! US and even European subsidies for producers of cotton, and low world prices for Chinese cotton, have caused the enormous production of over one million tonnes of cotton-fibre in West Africa to stagnate. But the Centre for The Development of Enterprise (ACP-EU) in Brussels, with the help of the French Ministry of Foreign Affairs and the powerful French cotton company, DAGRIS S.A. (ex-FDCL), is currently helping West Africa to overcome this obstacle. The plan is to release in the global market, West African fair trade cotton products under the "Max Havelaar" label. Unfortunately, our Central African countries are totally absent when it comes to negotiations, though our cotton is the best and is almost "organic" already! But transporting by force the sheds of the "Cotton Lake" to Uvira, filled with the ginned cotton of the entire harvest of 1996 with a value of USD one million and giving it to COTEBU in Bujumbura is not the best way reach economic agreement between the countries of the Great Lakes region. On the contrary, it creates serious disputes! Yet, the local realities call for such regional agreements, as shown in another example. Rwanda and Burundi and also Uganda face the same difficulties the mountainous region of Kivu is facing in selling the production of their processed agricultural products: it is impossible to sell these products to Kenya given that the western part of the country has the same agricultural conditions (soils, climate, etc.), and that fruit processing is already well organised. By contrast, the markets of the cities of Kasai, Katanga and west of the DRC are far from saturated. The surplus market of processed fruit products - and even dairy products - of Rwanda, Burundi and Uganda must be sought in the west, not in the east! In August 2003, while visiting the Kigali fair we could not avoid being impressed by the variety and quality of processed products - fruit, honey, milk, etc - and by the multiplicity and dynamism of entrepreneurs, but also by the absence of customers! This means that such regional agreements must be drawn between countries sufficiently disciplined to inspire mutual trust and discourage any attempts by one country to control others.

There may be more ambitious plans that could really lead to a more prosperous future. First, *energy production*: "*The lack of access to energy services is one of the main factors that hinder economic and social development, hold back poverty reduction and hamper [economic] growth. The access to energy services is insufficient in many African countries, and particularly in sub-Saharan countries that depend a lot on biomass as a source of energy; energy insecurity is widespread. Providing access to appropriate energy services is one of the keys to achieving development goals, including the Millennium Goals.*"³¹ Currently, the Inga 1 and Inga 2 power plants in Bas-Congo together generate 1,775 MW, mainly supplying the Bas-Congo, Kinshasa and Katanga (at the end of the line THTCC, High Voltage Unbroken Current Inga-Kolwezi). But everyone is dissatisfied with the irregular supply of electricity, let alone that more than half of the national territory, including major cities like Kikwit, Kananga,

³¹ Commission Européenne, Direction générale du Développement, *L'Afrique et l'Union Européenne*, Luxembourg, Office des Publications officielles des Communautés Européennes, DE 117, mai 2003, p. 42.

Mbandakā, Kisangani, Butembo, Goma and Bukavu, are poorly supplied with electric power! But the remarkable rapids of Inga in Bas-Congo may also help to produce thousands of MW for export. Two projects already exist: the first, the Southern African Power Market Project (SAPMP), is the most advanced. It has already received funds from the IDA (International Development Association) through the World Bank (IDA № P069258; World Bank 3831-DRC and 3832-ZA), totalling USD 178 million USD. It is about to erect the Coordination Centre of the Southern African Power Pool (SAAP) in Harare, Zimbabwe in order to strengthen the provision of power through the line Inga-Kolwezi (Katanga); and to create a new power line in Zambia along the border with the DRC as well as to see if it is possible to create a Zambian-Tanzanian line. The second project, still just a wish, is the "Westcor" project, the West Energy Corridor, which offers to generate for the SAAP 4,500 mW to be sent to Angola, Namibia, Botswana and South Africa. But this presupposes the construction of Inga 3. These investments could generate for the DRC the income it needs to improve power service throughout the country, including the east. According to TRACTEBEL in Brussels, the valley of the Ruzizi River, an outlet of Lake Kivu, should produce 500 mW of electricity.³² It would be enough to erect several small dams, each capable of producing about 50 mW. This is perfectly possible.³³ Likewise, again according to TRACTEBEL, which conducted the pre-study, the construction of the Ruzizi III dam alone would generate 82 mW, which would straight away double the production of electricity by the Ruzizi.³⁴ When we consider the misery of electric distribution in Kigali - irregular and expensive - we feel that action should not be delayed. Yet, Rwanda alone absorbs half of the production of the Ruzizi II power station (48%, to be exact). The recent meeting of the SINELEC Board of Directors, held in South Africa, placed this issue on the top of its agenda. There is an obvious lack of electrical energy supply in Kivu and even in the neighbouring countries, such as Rwanda and Burundi, and, so it seems, in Uganda, too. These countries either have appropriate sites of relief but with too little water or sites with plenty of water but not enough slopes. We can continue the regional collaboration that was proposed to the European Investment Bank in Luxembourg concerning the Ruzizi II dam in the 1980s. Producing electricity in one country (in this case

³² Around 1 mW per meter difference in height between the lake surface at 1462 m in Bukavu and the arrival in Kamanyola, in the northern Ruzizi Plain, at around 975 m; i.e., almost 500 m. Currently, the Ruzizi River produces only around 70 mW when all the turbines are functioning (and usually one or another are not in operation on account of routine maintenance).

³³ The sides of the African Rift Valley slide a few centimetres each year, which makes it impossible to build a hydroelectric dam. Fortunately, the gorges of the Ruzizi River do not lie in the Rift Valley, which explains why its banks tend not to move, which allows for the construction of one or more hydroelectric dams.

³⁴ Besides the "Ruzizi III" project, several projects for hydroelectric production planned by the Democratic Republic of Congo in different locations of the gorges of the Ruzizi River a little above Kamanyola could produce approximately 220 MW.

the DRC), distributing it from another country (in this case Rwanda), and assigning control and billing to a third partner (in this case Burundi, but in Bukavu's offices, to close the loop!), and provide further power energy to the region (North and South Kivu, Rwanda; Burundi, southwestern Uganda and maybe even western Kenya³⁵). It is quite clear that sufficient quantities of electric energy become widely available in the cities and small rural settlements, many small entrepreneurs would grab this opportunity and settle there, which would give a major boost to the national economy.³⁶ In addition, it is important to understand that the countries of the Great Lakes *will never grow, whatever the external inputs in terms of human, financial and technical resources, as long as their electricity plants remain unable to provide good and steady current supply to their subscribers rather than keeping them permanently expecting a sudden power cut, because under these circumstances it is impossible to execute the most elementary of business plans.* Even a simple cassava mill in a popular area is not considered very profitable because it is unable to provide consistent services to customers due to the power cuts. Certainly, production facilities and even the transmission and the distribution of electricity are mostly outdated and are poorly dimensioned for current demand, but one should have the courage to denounce clearly and publicly the fact that, at least in the DRC, the National Electricity Company has practised a negative corporate culture for decades, a culture that systematically mystifies customers with often incoherent explanations.³⁷ Moreover, in Bukavu and Goma, from 1998 to 2003, this company served as a cash cow to pay a war annuity, and the people know it.

Furthermore, proper exploitation of *the methane gas* from Lake Kivu could generate an equivalent of about 220 trucks of fuel each year, a number that may appear ridiculous in Europe or Japan, but that represents 10 tonnes of fuel every 36 hours in Bukavu and Uvira, which is probably more than the current total fuel consumption. For technical reasons, mainly the difficulty of transporting this gas under high pressure (27.5 kg/cm²), it should be used close to vast pit of Lake Kivu, between the Rwandan and Congolese banks, to Goma. But there are conditions of a "gentlemen's agreement" to be respected: it is unjust that a country like Rwanda exploits this gas on its own. In fact, this intention was firmly and quite often affirmed, in advertise-

³⁵ This country has to pay a heavy bill for purchases of petroleum products to fuel the turbines of its thermal power stations. It is so expensive that this country is taking advantage of its position in a volcanic region to produce electricity based on geothermal energy; this is initially capital-intensive, but profitable in the long run.

³⁶ It is, for example, simply astonishing to note that in 2004 there is still no high-voltage power line running north-south through the Ruzizi Plain, and that Uvira still depends on power from the Ruzizi River supplied from Bujumbura, the capital of Burundi, a neighbour of the Democratic Republic of Congo! If the towns of the Ruzizi Plain had electric power, they could operate risk huskers, manioc mills, refrigeration plants, etc.

³⁷ Some even ask whether some of these cuts are not simply a for of blackmail or extortion to force customers to bribe electricians of the utility company to restore power.

ments in the international press. Besides, the nature of this gas, in a liquid phase under a layer of 275 m of water, would allow this country to exploit the huge amount of gas found on the Congolese side of the lake, which covers two thirds of the lake's surface.³⁸

Tourism should be a particularly important shared resource among these countries because the possibilities are truly enormous. It is obvious that for the time being and for a few years to come, "we should not dream the impossible." However, the Uvira-Kisangani-Bunia triangle objectively offers all possible and imaginable attractions: lakes, volcanoes, caves; snow, great rain forests; gorillas, lions, elephants, birds, butterflies, and extraordinary flowers, etc., while Kenya's parks are already being exploited.³⁹ If the northwest of Rwanda and the southwest of Uganda (Queen Elisabeth Park) are included, we would have an outstanding tourist potential: the landscape of the "Thousand Hills," the small mountain gorillas in Rwanda's Volcano Park, and Uganda's Bwindi Impenetrable Forest Park. *"Showing a great interest in safeguarding the great apes or the rain forest in a region where human beings are massacred, children are recruited as soldiers, women are raped, and where injured people lack basic healthcare, may seem inappropriate, if not provocative. However, the gradual, yet irreversible, disappearance of a fragile ecosystem in the eastern Democratic Republic of Congo (DRC) represents a threat and fear for the people of this country as well as for humanity as a whole. In addition, this loss may provoke the rise of new and even more serious conflicts. The ecosystem in the DRC is seen as an essential element of what is perceived to be the "second lung of the world" after the Amazon forest. If the country has five natural sites listed in the World Heritage of UNESCO - a precedent in Africa - that is because its natural asset is deemed exceptional by the international community. The profusion of rare and emblematic animals such as the bonobos, mountain gorillas, okapis and the white rhinoceros has no match but with the plants that constitute their habitat and their food. Some parts of the Congolese forest are among the last remaining witnesses of the equatorial rain forest."*⁴⁰ Nevertheless, the most important natural resources, in the domain of biodiversity (flora and fauna) and indirect tourism (including landscapes, etc.) are available in the east of the country, away from the capital Kinshasa!

Regarding the west of the country, would it be possible to draw economic agreements on, for example, *hydrocarbons*? Why do we not provide Moanda's refinery with

³⁸ The bathymetric map of the lake shows that the largest share of liquid methane gas reserves at the bottom of the lake lie in Congolese territory.

³⁹ Revenues from sight-seeing tourism in Kenya, around USD 300 million, slowly declined as a result of several bombings and acts of violence in recent years. The government tried to rectify the situation by encouraging tourism seminars and international congresses in the biggest hotels of the cities.

⁴⁰ Koichoro MATSUURA, *Pacifier la RDC, protéger ses patrimoines*; le Monde, Paris, 18 September 2004 (www.lemonde.fr/web/recherche_articleweb/...html).

the famous cracking tower it lacks so that it would be able to refine oil extracts offshore, not only off the Congolese coast, but also of the neighbouring coasts of Angola, Brazzaville, Equatorial Guinea, Gabon and Cameroon, that are sent to Norway because of their lead content that prevents its on-site refinement? The feasibility study of this project is available in the Ministry of Energy.

These are some of the potential economic agreements between the countries of the Great Lakes. The re-launching of the CEPGL is on the agenda, but I think that this agreement should be extended to include other regional countries such as Uganda and Tanzania, and perhaps Zambia. For obvious historical reasons, relations between Rwanda, Burundi and Congo need more time to heal. Involving third parties, might further complicate relations. INICA (Initiative for Central Africa) has been trying to do since last year. INICA was created by the OECD in Paris more or less on the model of the Sahel and West African Club.

Some sectors are still almost totally undeveloped in Central Africa, although they are making slow, but decisive progress beyond our borders. The first is the "*Clean Development Mechanism*" (CDM) established by workings the Kyoto Conference (UNFCCC: United Nations Framework Convention on Climate Change) and its follow-ups (already nine "Conferences of the Parties"). One of the two strategies consists of reducing the harmful effects of global warming - caused by the proliferation of greenhouse gases - not only by curbing the emissions of greenhouse gases, but also by increasing the possibilities of capture and fixation: we are talking about carbon sinks and more concretely the forestation or reforestation (defined by the Marrakesh Accords in 2001⁴¹); it would be a flexible mechanism to negotiate absorption certificates of carbon between developing and developed countries. That is because developing countries not only emit fewer greenhouse carbon gases; but, alternatively, they often have large areas where they can plant trees that soak up carbon, excessively produced by developed countries. The last Conference of the Parties, held in December 2003 in Milan (UNFCCC/CDP 9) specified "*not only the eligible activities according to MDP, but also the methods of carbon calculation, supervision rules, duration of related projects, certification process related to carbon and the consideration of the socio-economic and environmental issues*"(ibid.). Although the amounts in question at the beginning of this process are still quite modest, "*past experience suggests that the inclusion of an MDP component in projects aiming at perpetuating the management of rehabilitation activities, planting and agro-forestry*

⁴¹ The term "forestation" denotes direct human-induced conversion into forests of lands that have not been forested for more than 50 years, by planting, seeding and/or the human-induced promotion of natural seeding. The term "reforestation" denotes the same, but on lands that were once forested and subsequently deforested. During the first planting period (2008-2012) will focus on reforesting areas which were unforested on 31 December 1989. See ROBLEDO Carmenza, *Evolution des négociations sur les changements climatiques, in Actualités des Forêts Tropicales*, vol. 12, n° 1 (2004), Yokohama, Organisation Internationale des Bois Tropicaux (OIBT), pp. 18-19.

could improve their feasibility." The DRC proved 20 years ago, from the slopes of Bankana to the Bateke Plateau, that it is absolutely possible to afforest hundreds of hectares at very little cost.⁴² This is not eye-wash; it is regrettable that the DRC will not be aware of these dealings until it is already too late.

In a world that is beginning to be seriously concerned about the scarcity of *fresh water* in several continents, the incredible amount of fresh water in the Congo River basin⁴³ could pose a serious challenge in the coming decades: fresh water will be a major challenge for the twenty-first century. "*The biggest threat to the planet is nearly ignored by our media. Not only it is not fashionable, it also outdated. It is the increasing scarcity of water in the entire world - due to overpopulation and the inefficient management of water - as well as the consequences of global warming on the glaciers in the Himalayas.*"⁴⁴ This fabulous ability of the DRC and some of its neighbours to provide fresh water is also linked to the forest cover dealt with above. It is also a strong argument in the hands of its leaders: the day will come when the so-called developed continents will come knocking on the door of the states located in the Congo River basin to ask for fresh water.

Of course, many other efforts should be made: reviewing electricity and water rates, rethinking taxation, giving banks new roles to encourage the production of goods and services (and not only simply acting as cashier, or financing trade operations or campaigns to buy agricultural or mining products).⁴⁵

In many ways, *globalisation* constitutes a *threat* to these countries. Yet, it may also promote certain favourable evolutions in their long-term development. We do not have sufficient data to allow us to measure the impact of the widespread use of mobile phones,⁴⁶ which spread with astonishing speed.⁴⁷ This is a distinctive and important characteristic of the past few years, because it is no longer possible to keep people -

⁴² Credit should be given to JERKENS, a Belgian engineer who probably realized this before others.

⁴³ Rate of flow (thousands of m³/second): Congo: 40.6 (min. 40, max. 80). By comparison: Amazon: 150 (min. 70, max. 200); Rhine: 2.2 (min. 0.78, max. 9).

⁴⁴ LIEVEN Anatol, Preserver and destroyer, in London Review of Books, Vol. 25, No. 2, 23 January 2003, quoted by CALLAMARD Agnès and KENT Randolph, *Les ONG toujours en retard d'une catastrophe*, in *Le Monde Diplomatique*, n° 607, octobre 2004 (51^e année), p. 24.

⁴⁵ „L'un des premiers objectifs d'un bon système bancaire est de fournir à de bonnes conditions des crédits à des gens qui les rembourseront.", STIGLITZ Joseph E., *Op. cit.*, p. 60.

⁴⁶ At the end of the year 2002 (before the reunification of the country), just one company, VODACOM, the South African subsidiary of the cellular communications giant VODAPHONE, had already invested USD 94 million in the DRC.

⁴⁷ Although mobile phone users cannot necessarily make calls, they can all receive calls, so that news - whether correct or false rumours - can spread very quickly.

even the little people - in the dark as it was before. It is also becoming necessary to take account of developments at a professional level among experts observing what is happening in this country: in particular Transparency International on the correctness of infrastructural contracting, the panels of experts appointed by the United Nations Security Council on the pillaging of the resources of the DRC, the GRAMA group⁴⁸ of the University of Quebec in Montreal, which is investigating the mining sector, the EURCA (Europe Central Africa ") lobby in Brussels, which brings together some forty European solidarity organisations working with partners in Central Africa, the researchers of OXFAM/UK working on terms of world trade of certain commodities such as coffee, tea, bananas, cocoa and sugar.

To conclude, one final point should be emphasised: "*Historically, the middle classes have played a key role in building a society based on the rule of law and democratic values.*"⁴⁹ However, we can barely speak of middle classes in the DRC (except perhaps in provincial cities?) Yet, they are the ones who can weave the country's economic fabric by launching and running SMEs and ensuring they are protected by ensuring respect for democratic laws. Yet, as surprising as it may seem at first sight, there is a direct link between the development of a middle class across the country and the availability of electric power (assuming the operation of electric generators) in urban areas! If such power was not distributed in a reliable way, it would extremely be difficult to see a middle class of small producers take root and positively influence the organisation of the society! We refer to a strong argument underscored above. For, when it comes to economic development, everything is related.

⁴⁸ A group researching mining activities in Africa: <http://www.unities.uqam.ca/grama>

⁴⁹ STIGLITZ Joseph E, op. cit., p. 205.

The Constitution of the Transition - positive points and pitfalls

JEAN-MICHEL KUMBU KI NGIMBI

On 1 April 2003, in Sun City, South Africa, the plenary of the Inter-Congolese Dialogue adopted the Constitution of the Transition to establish democracy in the Democratic Republic of Congo. The new constitutional transitional text, a result of the constitutional Decree-Law 003 of 27 September 1997, put thus an end to the Kabila political regime after the collapse of the power of the latter, crystallised by the Constitutional Act of the Transition of 9 April 1994.

After more than 12 months had passed, the head of state promulgated the Constitution of the Transition on 4 April 2003, and it was published in the Official gazette on 5 April of the same year. Since then, the Constitution of the Transition sparked off many interpretations.

Ever since, it has become appropriate to break with this "politicism" to consider from a purely scientific and educational angle the idea of feeding the positive history of our country as well as participating in lightening the legal texts that govern us in order to let our countrymen know them better and put them into practice. The present study follows the path of a similar process that examines the positive points and the pitfalls of this constitution.

This process aims at better informing the reader about the norms and structures adopted by the constitutional text, but it does not aim to provoke its review or to propose other structures. What it does aim at is to allow the same reader to be better involved in our collaborative and historical task. This task lies in achieving successfully the new and much wanted political transition of our country. Thus, the political points

will be highlighted, applied and even proposed to be made perpetual in the definitive constitutional text that will be proposed by parliament and submitted to a referendum. As for the pitfalls, they will be avoided in this last text and prevented during the whole transition period, which is supposed to make the best out of the organisation of free, transparent and useful elections.

The adopted methodology in this work is to read the text of the constitution in order to choose the main positive points and the main pitfalls it contains according to our own assessment. For this purpose, we also read what other authors have written about the same issue. As for the outline of this study, it is very well presented. The work will include two main parts, each dealing in turn with the positive points and the pitfalls.

The positive points of the Constitution of the Transition

In this study we will be referring to the positive points as the mechanisms and prescriptions of this constitution which by their nature advance the process of democratisation in the country, consolidate the process of peace initiated by the signing of the Global Inclusive Accord on 17 December 2002 and allow the development of the DRC.

Here are some of these positive points:

- The principles and values are mentioned in the preamble to the constitution
- The democratic character of the organisation of the political power
- The institution of defence of the nation as a right and duty of each citizen
- The taking into consideration the issue of human rights' protection

The principles and values of the Constitution

The first positive point that we have noticed in the Constitution of the Transition is comprised in the principles and values, taken from the preamble to the constitutional transitional text. And if we are to support this strict constitution, it is mainly because the values and principles proclaimed by the texts of the study are pertinent and positive. In fact, once known and respected, these values and principles encourage the citizens to surpass themselves and get ahead with the constitution of the Congolese nation, which is to be, from then on a united, virtuous and thriving nation. These values and principles are included, as mentioned above, in the preamble to the Transitional

Constitution and which is, as is known, a part of the constitution.¹ That is why it is up to all the Congolese people, without any exceptions, to protect and respect them throughout all the DRC. Due to their political actions, the holders of power have to be the first, during the transition, to guarantee and protect these values and principles.

The values

The values proclaimed by the Constitution of the Transition are:

- every cultural and spiritual value rooted in the traditions of solidarity and justice is present in all the social and cultural constituents of the Congolese people;
- the conscience and cultural diversity of our people are not a source of antagonism, hatred or mutual rejection, but they are a factor of spiritual enrichment of the personality of the Congolese people;
- the concern to build a harmoniously integrated nation;
- the concern to consolidate a national unity in order to offer a true spirit to the state of Congo;
- the values of equality, justice, freedom, democratic tolerance and social solidarity as the foundation of an integrated, fraternal, thriving nation that is the master of its destiny in the eyes of history;
- the commitment to the principle of democracy and human rights as stipulated by the Universal Declaration of Human Rights on 1 December 1948, as well as by all the other international regional and universal instruments related to the same matter; and
- the determination to guarantee the freedom and the fundamental rights of the citizen and in particular those of women and children.

Some of these values appeared to be the commitments of the participants in the Inter-Congolese Dialogue, the political actors of the Transition, pledged to the Congolese people, a people that they are responsible for and that they must help to ensure their respect. These values are:

¹ Programme de Sensibilisation des Citoyens à la Justice, *Constitution de la Transition de la République Démocratique du Congo*, Kinshasa, Publications de la Fondation Konrad Adenauer, October 2003, pp. 5-6.

- the establishment of the rule of law;
- the commitment to make good use of the period of the Transition in order to establish, in peace and consensus, a new political order in the DRC, in particular, the democratic institution according to the new governance in the country;
- the commitment to build a national, restructured and integrated army;
- the fidelity to the pertinent resolutions of the Inter-Congolese Dialogue; and
- the fidelity to the Global and Inclusive Accord

The principles

The principles on which the Constitution of the Transition aspires to build the sustainable state of law in the DRC are:

- the political pluralism which means the acceptance of many institutions devoted and committed to the winning and peaceful preservation of political power, such as political parties. This principle means the negation of the political monolithic nature manifested in the institutions of a state party or only one party in the country;
- the separation of executive, legislative and judicial powers. This means that each of these political powers has its own task that is different from the others. None of them interferes in the tasks of the others, and nobody is allowed to abuse his position in power;
- the participation of citizens in the political power exercise by means of referendums and elections as well as through individual and collective petitions;
- the control of the rulers by the ruled through a petition signed by public authorities;²
- the transparent management of the guaranteed public affairs by ensuring the freedom of the press and information, by publishing government reports, the public announcement of parliamentary sessions and trials before courts and tribunals, by publishing notes concerning the situation of the central bank and those concerning the analytical reports of parliamentary sessions;
- the subordination of military authority to civil authority;
- the protection of people and their property;
- the full development of every Congolese citizen; and

² Article 31 de la Nouvelle Constitution de la Transition, in op.cit., p. 12.

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- the harmonious development of the national community.

Besides these principles of the rule of law, the Constitution of the Transition contains other principles governing the functioning of the peaceful transition in the DRC. These include:

- the principle of consensus, which means that all questions should be debated before taking any decision so as to seek the agreement of all parties;
- the principle of inclusiveness, which prohibits the exclusion of any social group or any political party from participating in power; and
- the principle of non-conflictualism, which dictates that conflict among political operators and different social groups must be avoided. In the case of conflict, it should be resolved peacefully, avoiding any exacerbation.

Finally, the last category of principles included in the Constitution of the Transition is the one that brings together the principles in which lies the peaceful character of the Transition. These principles are:

- the fair repartition, as much as possible, of the different responsibilities of the state amongst the components and entities of the Inter-Congolese Dialogue;
- the appropriate representation of the provinces and the different political entities; and
- the effective participation of women in particular at all the levels of responsibilities, taking into consideration, and as a criterion, their competence, credibility and integrity in the spirit of national reconciliation.

The democratic character of the organisation of the political power

The second positive point that we have detected in the Constitution of the Transition is the democratic character of the organisation of political power as it is.

General features

The organisation of the political power in the Constitution of the Transition respects the democratic principles stated in the Preamble: the separation of powers, the non-personalisation principle (or institutionalisation) and the sharing of the political power, the hierarchical system of the political organs of the power, a wise combination of the components and entities in the sharing of political responsibilities in order to avoid new conflicts and consolidate peace.

Consequently, the political space does not consecrate the pre-eminence of any component or entity in particular, nor does it consecrate that of any politician. None of the political leaders is irreplaceable in his mission, not even the head of state.³ Thus, only the components and entities are permanent. As for individuals, they can be replaced by others drawn from the respective components and entities.⁴ This means that we can talk about the establishment of a “componentocracy”/ “entitocracy” in the constitution.

In fact, we think that the problem of revising the constitution to create a post of coordinator for the executive is an unreal problem which risks delaying to no purpose the end of Transition. If the fellow citizens in the government are not efficient enough to resolve the different problems that arise in the nation, the best solution to this problem would certainly be to change them, according to the assessment of their components and entities, and not to change the institutions or the constitutional order. We think the time has come for our country to stop sacrificing the stability or at least the sustainability of the established institutional order to cover up the insufficiency that serves the ambitions of some people. We have to learn to sacrifice some mediocre political careers, or at least those that underperform, for the stability of reliable and democratic institutions, especially when the latter, despite long and careful negotiations, are still transitional.

The principle of power sharing

This principle should be also adopted in the new Constitution of the Transition. In fact, in this constitution, the president of the republic is the one who rules and governs. But the president rules the country alone, as for governing, he performs this task in collaboration with the government. The government includes the four vice-presidents, the ministers, the vice-ministers and the president himself. The latter does not define the policy of the nation applied by the ministers and vice-ministers because it is defined by the government⁵ as a whole.

As is easily noticed, the constituent assembly has taken significant precautions in order to prevent the total accumulation of power in the hands of the head of state. This step should have been taken before to prevent the concentration of powers that occurred under previous regimes. The presidents of these regimes, because of their powers, led the country to rebellion and to many civil wars. And thus the formula 1+4, which was wrongly rejected, had been included. This formula simply means that the

³ Article 66 de la Nouvelle Constitution précitée dans op.cit., p. 19.

⁴ See D. NZUZI PHUKUTA, *Grandes lignes de la Nouvelle Constitution de la Transition en RDC*, Kinshasa, Publications de la Fondation Konrad Adenauer, November 2003, pp. 11-12.

⁵ Articles 91 et 93 de la Nouvelle Constitution précitée, in Programme de Sensibilisation des Citoyens à la Justice, Nouvelle Constitution, op.cit., pp. 23-24.

executive⁶ is responsible for direction. The president of the republic, as head of government, is supported by four vice-presidents with whom he assures a necessary and exemplary leadership in the interests of national unity⁷ and dealing with all the questions related to the management of the government.⁸

This formula does not mean that the head of state has no power at all as some doctrinarians claim, even to the extent of saying that the president of the republic is politically "emasculated." This expression is nothing but provocative because the head of state remains the head of the government. The latter executes the laws and decrees of the president. These decrees, like all the other acts, cannot be countersigned by any minister or any other member of the government.⁹

This means that the Constitution of the Transition has instituted a president who is active enough, if he can or wants to be active, to really influence the daily management of the state, especially when there is no one to countersign his acts. For instance, in the recent nomination of the governors and vice-governors, certain components and entities declared that they proposed for presidential nominations other names than those proposed by the head of state. But since there is no counter-signature to the acts of the president, this means that he has the final word on any problem related to the government. Therefore, due to the absence of the counter-signature, the other members of the government who are not involved in the acts signed by the president (not even the four vice-presidents) have no say in the final decision of the head of state; the decision that involves only his will as expressed by his signature. Thus, once the nominations are done, the concerned persons can do nothing but move to the following process, that is, of negotiation, of political pressure or of judicial proceedings.

Furthermore, we agree that the formula 1+4 does not politically "emasculate" the head of state. On the contrary, it has affirmed his leadership in the executive, a leadership that is no longer exclusive but moderated by the presence of other people that assist him, each one in a specific field. He does not have greater personal power than he had on 4 April 2003. It creates a framework that is intended, in our humble opinion, to activate the Constitution of the Transition.

In fact, if the presence of vice-presidents did not have the simple role of surrounding the power on top of the executive, then a vice-president would not have come from

⁶ Professor MPONGO BOKAKO BAUOLINGA *Les spécificités de la Nouvelle Constitution : Etude comparative*, in Félicien MALANDA NSUMBU, *Constitution de la Transition de la République Démocratique du Congo : aspects juridiques, politiques, économiques et socioculturels*, Kinshasa, Publications de la Fondation Konrad Adenauer, décembre 2003, pp. 40, 41 et 43.

⁷ Article 80 de la Nouvelle Constitution aforementioned, in Programme de Sensibilisation des Citoyens à la Justice, op.cit., p. 21.

⁸ Article 81 de la Nouvelle Constitution aforementioned, in op.cit., p. 21.

⁹ Professor MPONGO BOKAKO BAUTOLINGA, p. 42.

the political family of the head of state, nor the would have appointed him. Thus, according to a good political orthodoxy, the formula 1+4 is to be changed into 1+3, because one of the vice-presidents (if not more) is of the same the same opinion as the president.

Consequently, we do not have to reconsider the formula 1+4, at least during the transition period. We cannot in fact want a powerful head of government who would be the only person in control, capable of subjecting us once again to the dictatorial nightmares of the past. Let everyone accomplish his own constitutional remits without exceeding his competence: the head of state is to coordinate the executive, besides his other remits as head of state, the Supreme Defence Council¹⁰ and the Supreme Council of the Magistracy,¹¹ and the vice-presidents are to accomplish their remits as well. As is known, each vice-president is responsible for a government committee, which is a group of ministers belonging to different components or entities. Each one of them deals with a specific national field:¹² the Political Committee, the Defence and Security Committee, the Financial and Economic Committee, the Committee of Reconstruction and Development and the Social and Cultural Committee.¹³ Thus, if a power holder is not competent or does not approve of the constitutional structure of the executive, then he would be allowed to resign or to return to his component or entity of power in case it was vacant. Similarly, a component or an entity can use the remits in order to make the necessary adjustments. This is the logic of the principle of power institutionalisation, and the same applies for the credibility of every component and entity in the run-up to the upcoming elections.

The separation of powers

One of the points that must be underpinned in the Constitution of the Transition is the separation of powers embodied by the existence of the three classical institutions of the state that function independently from one another, but do collaborate with one another with the assistance of the Supreme Council of Defence and with the five institutions in support of democracy.

The organic structure of the political power upheld by the constitution is hierarchical. First, there is a high political body of representation and sovereignty, which is the president of the republic as head of state. Then there is the political body of deliberation, orientation, normalisation and control which is represented by the

¹⁰ Articles 187 à 189 de la Nouvelle Constitution aforementioned, in Programme de Sensibilisation des Citoyens à la Justice, op.cit., pp. 43-44.

¹¹ Article 147, in op. cit., p. 37 and Article 76, in op. cit., p. 20.

¹² Article 86, in op. cit., p. 22.

¹³ D. Nzuzi Phukuta, op. cit., pp. 13-14.

bicameral Parliament, that one of its chambers (the Senate) holds the function of conciliation. Moreover, there is the body of enforcement and the daily management of the state (the government) that includes the president of the republic as head of state, the 4 vice-presidents, the ministers and the vice-presidents¹⁴.

Finally, there is the body of the military security of the Nation: the Supreme Council of Defence consisting of the president of the republic as the Supreme Commander of the armed forces, the 4 vice-presidents, the minister of defence, the minister of the interior, the minister of foreign affairs, as well as the chief of staff, the generals of the three forces: the army, the air force, the navy.¹⁵ But above all these bodies, there is a single organ of control and sanction which is the judiciary.¹⁶

The existence of institutions in support of democracy (ISD)

Besides the classical institutions adopted by Montesquieu in "the spirit of the law," five institutions in support of democracy are to be considered as real and significant positive points that must be upheld in the Constitution of the Transition. In fact, it appears that in many countries around the world, the existence of the three classical powers of Montesquieu in the state has ceased to be a way of protecting democracy, since politicians always manage to elude these classical bodies of power. That is why it is necessary to reinforce these bodies of power by establishing institutions that are in charge of supporting the democratic process.¹⁷ By the foundation of such institutions, the Constitution of the Transition would have the same level as other world institutions, and would be worthy, along with its authors, of homage.

In this transitional constitution, the institutions in support of democracy are considered to be, by doctrine, bodies of individual and collective protection as well as bodies of political and moral improvement.¹⁸ Professor MPONGO considers them to be the most essential characteristics of this constitution and believes them to be a guarantee of respect for human rights and civil liberties.¹⁹

¹⁴ Article 89 paragraph 1 of the Nouvelle Constitution aforementioned, in op. cit., p. 23.

¹⁵ Article 189 of the Nouvelle Constitution aforementioned, in op. cit., p. 43.

¹⁶ We have been inspired by D. Nzuzi Phukuta when writing these points, op. cit., p. 15.

¹⁷ In this subject we mention the comments of the Professor Monette at the International Seminar organised by the Delegation of Human Rights and Democracy of the inter-governmental Agency of the French-speaking world, on the role of institutions in support of democracy in the DRC, held in Kinshasa from 26-28 April 2004.

¹⁸ D. Nzuzi Phukuta, op. cit., p. 16

¹⁹ Professor MPONGO BOKAKO BAUTOLINGA, article p. 43.

The five institutions in support of democracy are mentioned in article 154 of the Constitution of the Transition, and their respective missions are mentioned in the following article.²⁰ These institutions are:

- the independent Electoral Commission, the mission of which is to guarantee neutrality and impartiality during the organisation of the free, transparent, democratic and useful elections;
- the High Authority of Media, in charge of ensuring the neutrality of the press and media;
- the national observer of human rights, in charge of promoting and protecting the fundamental rights and freedoms of the people;
- the Truth and Reconciliation Commission, which has the delicate mission to consolidate national unity through true reconciliation among the Congolese; and
- the Ethics Commission and the fight against corruption which has the noble job of encouraging the promotion and practice of moral and republican values.²¹

The institution of the defence of the nation as a right and duty of the citizen

Another penultimate positive point we have noted in the Constitution of the Transition is the elevation of the defence of the nation to the rank of sacred right and duty of each Congolese citizen. In fact, Article 3 of this constitution states that it is the right and sacred duty of every Congolese to defend the nation and the territorial integrity, and to prevent any individual or a group of individuals from taking the law by force or exercising it in a way that violates the constitution. Furthermore, nobody is allowed to abuse his position in power for personal gain or to make it easy for some institutions or public services to interfere in the functioning of other institutions or public services.

This constitutional provision is very important and by taking it up again here the Constitution of the Transition has failed to meet one of the crucial preoccupations of the population. In fact, this provision was mentioned in the Constitutional Act of the transition on 9 April 1994, but it was violated by the people who let the AFDL take power by force of arms and ride roughshod over the democratic and peaceful process constitutionally agreed upon. We believe that the resultant setbacks, especially after the arrival of the Rwandans among the liberators, made the Congolese people realise that the nation must be protected and that every Congolese citizen has the duty to prevent any person from ending the peaceful democratic process and anybody who

²⁰ Article 155 of the Nouvelle Constitution aforementioned, in Programme de Sensibilisation des Citoyens à la Justice op. cit., p. 39.

²¹ D. Nzuzi Phukuta, op. cit., p. 16.

tries to take power by force through a political and military adventure in the name of liberation. Thus, the rebels of 2 August 1998 suffered the consequences of liberation, and the attitude of the people who prevented them from realising the dream of the liberation that haunted Laurent NKUDA and Jules MUTEBUSI.

Let us move now to the last positive point of the Constitution of the Transition which is related to human rights.

Taking the protection of the human rights seriously

The Constitution of the Transition takes the issue of protecting human rights seriously. In fact, it dedicated all of its Chapter II to public freedoms and the rights and duties of the Congolese citizen (from Article 15 to Article 63). If we were to add the aforementioned Article 155 that deals with the different missions of the five institutions in support of democracy to these provisions this would take the number of articles dealing with human rights in the transitional constitution to 50 out of 250. This means, more or less, almost a quarter of the constitutional provisions²². Article 2²³ should be also added to these constitutional provisions. In this article, the Constitution of the Transition affirms its commitment to promoting and protecting human rights. The Constitution of the Transition states and emphasises that it will guarantee and protect the fundamental rights and freedoms of the people against any violation. We shall return to this issue below. Through these different provisions, the Constitution of the Transition activates normative mechanisms to protect and promote human rights, and enumerates them in order to crystallise them in the constitution.²⁴ Amongst the mechanisms mentioned in the constitution to protect human rights, we can even list the rights and freedoms. This list offers an important legal advantage in the protecting these freedoms.

In case of violation of these rights, the victim (of a violation) has recourse to the courts to denounce the guilty person and obtain not only the punishment of the latter but also damages from him for infringing rights recognized in the constitution. Furthermore, if the violation of these rights is considered to be a specific offence, then the perpetrator is to be brought to justice. As for the president of the republic²⁵, the violation of human rights constitutes a specific offence: it is an intentional violation of

²² Ibidem, p. 18. See also Kalele Ka-Bila, „Analyse critique des aspects socio-culturels de la Constitution de la Transition”, in Félicien Malanda Nsumbu, (direction), op.cit., p. 67.

²³ Voir Programme de Sensibilisation des Citoyens à la Justice, op.cit., p. 67.

²⁴ D.Nzuzi Phukuta, op.cit., p. 19.

²⁵ Article 141, in Programme de Sensibilisation des Citoyens à la Justice, op. cit., p.36.

the constitution, as long as the violated right is mentioned in the text of the constitution.²⁶

Among the mechanisms for promoting human rights, the Constitution of the Transition holds public authorities responsible, by virtue of Article 47,²⁷ to promote and secure for all citizens through teaching, education and information respect for the human rights and fundamental freedoms mentioned in the constitution. Similarly, the government is to include human rights in all the education programmes of the armed forces, the national police and the security services. At the same time, the Constitution of the Transition imposes on the public authorities an obligation to secure, teach and spread its ideas and those of the Universal Declaration of Human Rights, as well as those of all the regional and universal instruments related to human rights and ratified by the republic.²⁸

Some of the rights mentioned in the Constitution of the Transition and related to persons are taken from national and international instruments dealing with the same issue, but some rights are exclusive to the constitution. The rights taken from other instruments are those of the fundamental freedoms in the Articles 15 to 17 of the constitution, civil rights,²⁹ political rights,³⁰ and economic³¹ and social³² rights as well. As for the rights which are exclusive to the constitution, they have been introduced by the Constitution of the Transition to the legal arsenal of human rights in the Democratic Republic of Congo. They include the right to individual and collective³³ petition and the right to the legal aid at all levels of criminal proceedings.³⁴

Article 60 of the Constitution of the Transition³⁵ is one of the innovations of this constitution and is also related to human rights. This article is concerned with the rights of non-discrimination and mutual tolerance among ethnic groups, tribes and languages of the DRC. The article imposes on each and every Congolese the duty of preserving and reinforcing national solidarity. It also states that the Congolese should treat each other without any discrimination and maintain good relations in order to safeguard, promote and to reinforce national unity, respect and mutual tolerance.³⁶

²⁶ Article 142, in op. cit., p. 36.

²⁷ Article 144, in op. cit., p. 37.

²⁸ D. Nzuzi Phukuta, op. cit., pp. 19-20.

²⁹ See Programme de Sensibilisation des Citoyens à la Justice, op. cit., p. 16.

³⁰ Article 47, in op. cit., pp. 15-16. See also D. Nzuzi Phukuta, op. cit., pp. 21-22.

³¹ Articles 34, 32, 33, 26 and 18, in Programme de Sensibilisation des Citoyens à la Justice, op. cit., pp. 13, 12, 11, 10.

³² Article 10, op. cit., p. 8.

³³ Articles 40 and 42, op. cit., p. 39.

³⁴ Articles 46 and 47, op. cit., pp. 15-16.

³⁵ Article 1, in op. cit., p. 12.

³⁶ Article 21, in op. cit., pp. 10-11.

As for Article 44, it highlights in particular, some of the rights of the child. Just like women; children should be protected from prostitution, procuring, homosexuality, incest, paedophilia, sexual harassments and other sexual perversions. This right is considered a constitutional obligation of the state.³⁷

This concludes the part treatment of the positive points of the transitional constitution. Let us now turn to the pitfalls of the constitution that were mentioned in the introduction.

The pitfalls of the Constitution

In the framework of our present work, we mean by pitfalls the negative points included in the Constitution of the Transition that may cause a problem or create conflicts among the institutions of the republic or among the actors.

These pitfalls include:

- possible confusion about the relation between the Global and Inclusive Agreement and the Constitution;
- the head of state as the guarantor of the independence of the courts;
- some poor formulations in the constitution;
- the substitution of Congolese people by delegates to the Inter-Congolese dialogue;
- the exaggeration of the guarantee of inviolability of human rights;
- the poor formulation of Article 11 about a single political party; and
- The problem of Congolese nationality.

The possible confusion between the Global and Inclusive Agreement and the Constitution

Confusion between the Global and Inclusive Agreement and the Constitution of the Transition may occur because of the first article mentioned in the constitution. In fact, Article 1, Paragraph 1, stipulates that the constitution is based on the Global and Inclusive Agreement; and it decrees in its second paragraph that the source of power during the transition is constituted by the Agreement rather than by the constitution.

³⁷ Check op. cit., p. 18.

Thus, the constituent assembly believed it was necessary to mention the formulation of the constitution (opposable by everybody) based on the political agreement (opposable only by its signatories) was thought to suffice fully in ordinary times.

This is not a major criticism, since in the post-conflict period the precautions were not taken seriously. The additional reference to the Global and Inclusive Agreement is addressed to the politicians who signed the Agreement in order to gain power. But the problem here is the case of a conflict between an explicit provision of the constitution and one of the Agreement.³⁸

The head of state as guarantor of the independence of the courts

If the possible confusion that we have just discussed in the previous point is not a major criticism in the constitution, it is a completely different matter when it comes to the constitutional designation of the head of state as a guarantor of the independence of the courts. In addition, the transitional constitutional text states that the Supreme Council is only the assistant of the head of state in his task as a guarantor.³⁹

Instead, the Supreme Council should have been appointed guarantor of the independence of the courts, with the moral support of the head of state, if needed. As a matter of fact, if the Supreme Council of Magistracy is considered simply an assistant of the president of the republic in his function as guarantor of the independence of the courts, this means that it is deprived of its authority and that justice is left very vulnerable, given that the President is the Supreme Commander of the armed forces, the head of the state and the head of the government. This vulnerability would lead to an incapability to act in the case in which the President is sued, particularly before the Supreme Court of Justice, before which he is potentially answerable.

Some formulations in the constitution are written badly

We also reproach the Constitution of the Transition for some formulations that are badly written, like Article 152, which stipulates that "the composition, the organisation, and the functioning of the Supreme Court of Justice, as well as the other judicial institutions of the republic, are determined by an organic law."⁴⁰ This formulation was

³⁸ D. Nzuzi Phukuta, op. cit., pp. 22-27.

³⁹ Ibid., pp. 22-27.

⁴⁰ Maître KINKELA VI - KANSY, "Analyse critique des aspects juridiques de la Constitutions de la Transition", in Félicien MALANDA NSUMBU (direction), op.cit., p. 38.

judged, by doctrine, as "irreverent," and should have been replaced in its last part by: "as well as the privileges of the jurisdictions."⁴¹

In addition, there are other clauses in the constitution that are ambiguous or even contradictory. Article 76,⁴² for example, which was the subject of an interpretation by the Supreme Court of Justice, deals with president's powers of nomination and the exemption from the opinions of the vice-presidents and the government, concerning the nominations of governors and vice-governors of the provinces and of the central bank, the nominations of the members of the Supreme Council of the Magistracy, and the proxies of the public and parastatal institutions. There is also an Article 198 of the transitional provisions of the constitution that confers the power to nominate governors and vice-governors the power to nominate ambassadors on the Government of the Transition and establishes at the same time administrative organisms for the public enterprises and mixed economies.⁴³

Furthermore, Article 181⁴⁴ stipulates that the armed forces of the republic are subject to the civil authorities and are oddly placed it under the authority of the Supreme Command of the armed forces without defining the composition of this Supreme Command, who clearly differs from the Supreme Commander as a singular individual. The author should have simply mentioned that the armed forces are under the authority of the Supreme Commander, as he did with the National Police, which are under the authority of the minister of the interior.⁴⁵ In fact, the army has the constitutional mission to defend the integrity of the national territory against any aggression.⁴⁶ As for the president of the republic, he is the constitutional guarantor of this integrity,⁴⁷ At the same time, he is also the Supreme Commander of the armed forces.⁴⁸

Given that, according to the constitution,⁴⁹ in case of declaring war or a state of emergency or a state of emergency, the president must consult with the government before taking any action, the authors would have done better to place the armed forces under the minister of defence.

⁴¹ Article 147, of the Nouvelle Constitution aforementioned, in Programme de sensibilisation des Citoyens à la justice, p. 37

⁴² Ibid., p. 45.

⁴³ Maître KINKELA vi-KANSY, op. cit., p. 90.

⁴⁴ Check the programme to raise citizens' awareness of Justice, op. cit., pp. 20-21.

⁴⁵ Ibid., p. 45.

⁴⁶ Ibid., p. 43.

⁴⁷ Article 147, in op. cit., p. 42; "Analyse critique des aspects socio-culturels de la Constitutions de la Transition", p. 33.

⁴⁸ Article 178, in Programme de sensibilisation des Citoyens à la justice, op.cit., p. 42 ; see also in NZUZI PHUKUTA op. cit., p. 30.

⁴⁹ Article 68, in Programme de sensibilisation des Citoyens à la justice, op. cit., p. 19.

Substituting delegates to the inter-Congolese dialogue for Congolese people

The fact that the Constitution of the Transition starts with: "We, the delegates of the Components and Entities of the Inter-Congolese Dialogue..."; such a statement may be understood as substituting the delegates to the dialogue for the Congolese people. Some doctrines may interpret it wrongly, considering that as they are not elected by the people themselves, it opposes the signatories only and not to the whole people. Moreover, the constitution may have been drafted by an assembly with a limited number of members and it would invoke in its preamble the whole people, as the American constitution does.

The latter was drafted and signed by 39 representatives, one of whom was George Washington, but its preamble opens with: "We, the people of the United States ..." although it was only ratified a dozen years later.⁵⁰ Saying that the Constitution of the Transition can be opposed only by its signatories and not the whole people is an exaggeration of legal interpretation and we reject it. Knowing that the transitional constitution is promulgated by the head of state and then published in the official gazette without any social or political disapproval, means that it is opposable by all of us and no one is to ignore its existence or to take it for granted because it has become an integral part of Congolese law.

The exaggerated guarantee of the inviolability of human rights

The guarantee of the inviolability of fundamental rights and freedoms of the people mentioned in Article 2, paragraph 1, of the Constitution of the Transition is an exaggeration. According to Master KINELA VI-KANSY, this statement is simply a government lie.⁵¹

In fact, in all countries of the world, human rights are constantly being violated. In declaring that it would guarantee the inviolability of human rights, the Constitution of the Transition leads us to think that it anticipates that no violation may be committed. Moreover, in Article 2 the constitution appears to claim to control individual behaviour in order to prevent anyone from violating a law, an impossible undertaking.

⁵⁰ Article 72, in op. cit., p. 20.

⁵¹ Articles 73, 74, 134, 135, in op. cit., pp. 20, 34 and 35.

Our conclusion is that the formulation of Article 2 is fallacious.⁵² This article could have talked of "the guarantee to punish all violations of human rights," especially as the constitution does not mention how it would guarantee this inviolability⁵³.

The bad formulation of Article 11 about a single party

Master KINKELA is right in arguing that Article 11⁵⁴, Paragraph 5 of the Constitution of the Transition is badly written, considering that no one can create just one single party for the whole nation. Instead, our renowned lawyer considers that the paragraph should read: "no one can exploit his position in power in order to form a one party."⁵⁵

Thus, we should not confuse a political party which is considered unique in a specific part of the territory because of its unbeatable popularity with a political party (in the DRC) formed by the dominant power, which protects and finances it to the exclusion of all other parties.⁵⁶

The problem of Congolese nationality

Article 14 of the Constitution of the Transition stipulates that all the ethnic groups and nationalities that constitute what has become the independent Congo (currently the Democratic Republic of Congo) should enjoy equal rights and the protection of law because they are considered to be Congolese citizens.⁵⁷

The authors of this provision set a new base year for the acquisition of Congolese nationality. It is no longer 1885, now 1960⁵⁸ (this modification is consistent throughout the text). Congolese nationality is extended to all foreigners, regardless of nationalist, who have been residents of the DRC since 1960, because the article stipulates that "the ethnic groups and NATIONALITIES" that constitute what has become the independent Congo or the DRC. Yet, it would have been better if the constitution had left this matter to the discretion of Parliament.⁵⁹

⁵² Master KINKELA VI-KANSY, *op. cit.*, p. 82.

⁵³ *Ibid.*, p. 86.

⁵⁴ Check Programme de sensibilisation des Citoyens à la justice, *op. cit.*, p. 6.

⁵⁵ Maître KINKELA VI-KANSY, *op. cit.*, p. 86.

⁵⁶ Check Programme de sensibilisation des Citoyens à la justice, *op. cit.*, p. 8.

⁵⁷ Maître KINKELA VI-KANSY, *op. cit.*, p. 86.

⁵⁸ *Ibid.*, p. 9.

⁵⁹ Check Programme de sensibilisation des Citoyens à la justice, *op. cit.*, p. 9

Conclusion

This has not been an exhaustive treatment of all the positive points and pitfalls of our transitional constitutional text of 4 April 2003; we have just treated the points that drew our attention. Thus, there is still a wide field for further discussions and investigations.

What we can conclude from our research is that the constitutional transitional text has many major positive points and that the pitfalls are minor and insignificant. The conclusion of this study gives us the chance to emphasise one more time that the Constitution of the Transition (of April 4, 2003) is one that the DRC can be proud of.

We can also paraphrase Master Jean Jacques YOKA MAMPUNGA by saying that the limits of the constitutional text are fixed by its end. In fact, this constitution is a new type of mechanism in resolving the inner conflicts of the DRC. Some of the policies were essentially compromises between the antagonist forces that aimed to take over the state and subsequent elections.⁶⁰ This excuses the pitfalls of the constitution.

Some criticism of the constitution is insignificant, such as not mentioning the rights of authors in article 38,⁶¹ or establishing a right to practise art,⁶² even though the rights of authors is covered by Article 49, Paragraph 3.⁶³ Others criticise the formula 1+4 as inefficient. As for us, we think it is very useful, especially when it comes to power sharing.

Thus, we urge the people and especially the politicians to read and reread this constitution in order to understand it better and apply it flawlessly, avoiding its pitfalls, so as to avoid a review during the Transition or proposals for a structure such as the Executive Coordinator, especially as the duration of this Constitution is coming to an end.

This way, the transition will be peaceful and will end with free, transparent and useful elections at the end of this transitional period. Again, as we said in the introduction, the positive points tackled in here should be considered in the Constitution of the Third Republic. As for the pitfalls, they should be addressed. Indeed, we must not forget to consolidate democracy in our country and guarantee good governance that promotes the harmonious development of the nation and, consequently, benefits each and every one of us.

⁶⁰ Maître KINKELA VI-KANSY, *op. cit.*, p. 87.

⁶¹ Master J.J.YOKA MAMPUYA, the critical analysis of the political aspects of the constitution of the DRC, in Felicien MALANDA NSUMBU, *op. cit.*, pp. 47 and 60.

⁶² Check Programme de sensibilisation des Citoyens à la justice, *op. cit.*, pp. 13.

⁶³ Maître KINKELA VI-KANSY, *op. cit.*, p. 88. See Programme de sensibilisation des Citoyens à la justice, *op. cit.*, p. 16.

The Congolese judicial system - inventory and future perspectives

JOSEPH MVIOKI BABUTANA

Introduction

We expect from justice to uphold respect for the law, treat all parties before the courts equally and allow the injured parties, whether natural persons or legal entities, just compensation for any prejudice suffered. This mission cannot be fulfilled correctly unless the representatives of justice show proof of independence vis-à-vis not only the political authority, but also other social forces and are impartial regarding the persons and institutions in conflict.¹

In the Democratic Republic of Congo, this double guarantee, the basis of legal security, has been a delusion since the time of the Second Republic. In reality, because of numerous practices against the law, the perpetrators of which were proved guilty; Congolese justice has lost all credibility in the eyes of the public. The latter viewed the courts as a corrupted and an instrumentalised body, indulging in all sorts of

¹ KIFWABALA TEKILA ZAYA, L'indépendance de la justice réclamée par les magistrats, in *Les analyses juridiques*, n° 1, janvier-février-mars, Lubumbashi, 2004, p. 7.

"chicaneries, manoeuvres, and dishonourable acts that render trials precarious and truly abduct justice".²

But is public opinion completely right in making such a grave accusation against the whole body of the Congolese judicial authorities? Is there no exception to the general rule? In fact, supposing this accusation was valid, should the burden of responsibility be borne solely by the judges? As far as we are concerned, we think that the generalisation of this value judgment, which denies defendants the presumption of being innocent until proven guilty, should be treated with reserve, while exhorting the public at the same time to show more prudence. For this reason, our approach seeks to understand the deep reasons that drive Congolese judges to systematically violate the codes of ethics they should observe in the practice of their noble profession.

At a time when the Congo declares to the whole world its determination to accept again the rule of law, it is compelling for the judicial system to appear as a solid rampart in the face of arbitrariness and anarchy by getting rid of all the flaws that hinder its normal functioning. Indeed, justice is one of the important pillars in any modern state, let alone in a state that is under reconstruction, such as the Democratic Republic of Congo that, emerging from war, needs to restore the confidence of investors by re-establishing legal security, a guarantee of any socio-economic development.

Nevertheless, there can be no justice, nor real peace; and consequently, no possible development if the structures in charge of delivering this justice continue to function on the margin of a professional code of ethics and professional standards.

Our reflections will revolve around four main points, each including sub-headings. In the first point, we will review the different practices that tarnish the image of Congolese justice. These reprehensible and widely known practices oblige us to wonder about the passivity exhibited by the public authorities in the face of a phenomenon they must suppress severely; that will be the subject of the second point. The third identifies the causes of dysfunction in the Congolese judicial apparatus. The elements deriving from this diagnosis help us formulate, in a fourth point, some solutions.

² AKELE Adau, Pierre, Le rôle de l'Officier du Ministère public dans la bonne administration de la justice, in *Justice, Démocratie et Paix en République Démocratique du Congo*, Institut de Formation et d'Etudes politiques, (IFEP), Kinshasa, 2000, p. 67.

Justice for the defendant

Several reprehensible practices have developed in the functioning of the Congolese judicial system, giving rise to quasi-informal offices and jurisdictions. These different abuses, some of which will be touched on later, are seen in the daily activity of all the actors in the Congolese justice system: at the level of judges and prosecutors, registrars (of courts and tribunals), secretaries of public prosecutors offices, criminal investigation officers and inspectors, agents of the criminal investigation officer, etc.³

Our discussion is not going to be a matter of pointing fingers at one individual or another, but rather a frank and sincere presentation of the everyday management of the Congolese judicial system as a whole, i.e., courts and tribunals, public prosecutor's departments and auxiliaries.

Reproaches against public prosecutors or the public prosecutor's department

The law assigns to the Department of Public Prosecution missions that vary according to the matter:

- In matters of law enforcement, the Public Prosecution Department shall be in charge of investigating breaches of legislative acts and regulations committed throughout the national territory and find the perpetrators. It receives complaints and denunciations, performs all acts of investigation and refers cases to courts and tribunals.⁴
- In private matters, it shall assist the weak party. It can act to protect an injured person who could be unable to go to court or hire a defence lawyer, and open legal proceedings. These proceedings can be introduced before the Magistrates' Court either by an officer of the Public Prosecution Department or by an officer of the criminal investigation department general competence, specially appointed by the Competent Attorney General.⁵
- In any matter, the Public Prosecution Department shall fulfil the obligations of its function before the jurisdictions established within its territorial competence.

³ On the techniques of corruption developed by the clerks of the court, read MATADI NENGA GAMANDA, *La question du pouvoir judiciaire en République Démocratique du Congo, Contribution à une théorie de réforme*, Editions Droit et idées nouvelles, Kinshasa, 2001, pp. 184 - 193.

⁴ Article 7 of the Code d'Organisation et de Compétence Judiciaires.

⁵ Idem, Article 8.

According to Article 9 of the judicial organisation and competence, it attends all hearings, issues notices, intervenes through principal legal action and is obliged to give its opinion in the cases provided for by the law.

Moreover, the Public Prosecution Department is in charge of watching over the implementation of judgments and legislative acts and regulations, if necessary by force. It pursues the execution of this as long as the public order requires it.⁶

Finally, it is in charge of maintaining order within courts and tribunals, subject to the authority of the judge during the hearing.

We reproach Public Prosecutors for several practices *contra legem*. Here are some of them:

- They have definitively closed several cases by alleging that pursuit was inopportune, which is a ground for justifying the closing of cases, even those *involving grave acts worthy of being referred to a tribunal*. It is worth mentioning that similar closings often depend on paying the officer of the Public Prosecution Department fees known as "definitive closing fees", which are pocketed by the judge. These costs are evidently not statutory.
- Items of procedures such as convocations, invitations and summons are systematically sold and bought.
- *The transactional fines are collected without official receipts and deposited unlawfully*. Likewise, of a fine of US \$ 100, for example, an insignificant sum of \$10 would be paid to the Treasury against a note of receipt by the General Directorate of Administrative and State Revenues (DGRAD), and \$90 would go to the judge, who may or may not share it with the head of the prosecutor's office.
- *Bails deposited to secure an accused person's temporary release from custody* was not paid to the Treasury in full, nor refunded to the defendant at the end of the trial, as stipulated by the law.
- The judges sometimes collect virtual "fines" for minor civil cases. This is the case of the files put on record or mentioned in the records of minor civil cases. The judge makes use of most people's ignorance of the law.
- The judges impose inspection or investigation fees on the concerned parties, sometimes for the simple matter of removing a body, or a 10% "commission" on any debt settlement through the public prosecutor's office in any case, even a civil one.
- Clientelism and subjectivism prevail in any distribution of cases between chambers and between judges by the head of office; the so-called "juicy" cases are assigned to judges on the basis of tribal or sentimental affinity, and mainly

⁶ *Idem*, Article 6.

according to his aptitude to make them "profitable;" that is to say, using extortion to extract money from people in court. The funds collected this way are then given to the head of the office, who is responsible for sharing them out. This practice challenges the instructions of circular № 3/008IM/PGR/1970 of 16 May, 1970 related to the internal organisation of prosecutor's offices, which lays down criteria of competence for distributing cases between judges of the public prosecutor's office.

- The judges of the public prosecutor's office impose unlawful charges for the deposit of any complaint by the victim of any offence, in violation of the principle of the justice free of charge, which is supposed to be a public service paid for entirely by the state.
- Some judges sometimes open "pirate cases", which are not registered in the office directories and not controlled by the head of the office.
- To save a friend or a parent in danger, judges may negotiate with the head of the office to be given the case. We have also observed that after the preliminary investigation some cases are followed up by the officer of the criminal investigation department in order to be put in charge of the case.

Accusations filed against judges

We reproach judges, in their mission to establish law, for several reprehensible practices such as:

- Taking longer than the legal deadline of 8 days after closing debates or adjourning for further deliberations to announce judgment.⁷ The judges sometimes explain this widespread practice by the lack of office stationery (meaning duplicating papers) to draft judgments. In reality, some announcements are delayed for up to one year or even more, the time needed for the judges to wait for papers, of course, but also for tips or some inducement from the person charged.
- The absence of any legal basis for judges' rulings authorising persons charged to be remanded in custody or confirmation thereof.⁸
- The tendency to set up a preliminary inquiry on the substance of the matter in the council chamber, whereas the latter should be limited solely to assessing the conditions for remanding the person in custody. This practice often aims at

⁷ Code of Procédure pénale, Article 80.

⁸ Idem, Article 27.

finding necessary pretexts to eventually release the detainees concerned, i.e., those who offer consistent envelopes "of tips."

- The quasi systematic adjournment, for further deliberations, of financially interesting cases, particularly if payment is promised once in the council chamber.
- Suspension of judgments in criminal cases owing to financial promises or motivations made by the defendant, often outside the legal conditions of reprieve provided for in Article 42 of Book 1 of the penal code.
- Speculation concerning the level of damages to be announced in the judgment, a practice known as "the inducement of the judge", which is expected from the winning party or the party who feels that it is winning. The judge, who receives from the party who senses victory guarantees that he will find his reward in the damages he is to announce, will tend to fix them at a very high level.
- The judgments rendered after the interference of hierarchy, politico-administrative authorities, or the family members of the defendant. Some judgments are even censored by the presidents of jurisdictions before their announcement, in violation of the sacred principle of the independence of the judge.
- Obliging parties to pay expensive charges, that can reach USD 100, before performing on site inspections within the framework of an investigation or in order to convene a hearing, sometimes freezing a whole process when these charges, though not provided for by the law, are not settled or are delayed.
- Systematically making money out of supplementary judgments; in particular birth certificates have become a real source of trade for judges, especially those for persons of Congolese nationality living in Europe or born outside the range of their jurisdiction.

Reprehensible practices by registrars

- Imposing on charged persons fees of notification of trial proceedings: subpoenas, summons, etc. When the imposed fees are not paid or are insufficient, registrars often abstain from proceeding to notification, thus blocking the continuation of the investigation. Because of this, several cases are sent back to the general roll owing to some default.
- The voluntary loss or the theft of some case-related documents with the complicity of lawyers or parties, who share subsequent payments. Sometimes those instruments involve unique pieces of evidence.
- Obliging parties to pay inducement fees and to require that papers related to trial proceedings be typed in duplicate (subpoenas, orders, judgments, etc.)

Complaints filed against the secretaries of public prosecutor's offices

- Imposing on plaintiffs fees for opening case files to buy a folder or one duplicating paper. These fees amount sometimes to twenty-five US dollars, way far from the real cost of a folder or a duplicating paper! When the case files comes from the police side, accompanying a detained defendant, the family or the friends of the latter often hasten to pay similar fees driven by the psychological and emotional pressures.
- Obliging the investigating judges or the parties to provide the secretary of the public prosecutor's office with office stationery to type the proceedings of the trial or other documents, related to the case file: requests for information, requests for medical certificates, and petitions for hearings... The investigating judge has interest in paying these fees in case of non-payment by charged persons because they would be listed in the report to be addressed at the end of the month to the hierarchy on the number of the treated case files.
- The fact that some secretaries of public prosecutor's offices act as legal consultants for charged persons, ignoring procedures: they help them, for example, write letters asking for provisional release in exchange for a payment that can sometimes go up to one hundred US dollars.
- Imposing a motivation before typing and implementing any order granting provisional release or the withdrawal of the remand in custody, even one bearing the signature of the prosecutor.
- Paying to the secretary of the public prosecutor's office the so-called "storage" charges for the redemption of seized or consigned objects.
- The theft of seized objects or exhibits, or even complete files, with the aim of causing evidence to vanish, to induce payment from the interested and accomplice party. We have seen this same reproach used with registrars.

Reproach addressed the to officers and inspectors of the criminal investigation department

- The frequent payment of transactional fines without receipt or official note of collection; these fines end up in private pockets. When the case file reaches the public prosecutor's office, the destiny of all official reports drafted by the officers or inspectors of the criminal investigation department, the defendant finds himself compelled, for the second time, to pay the same fines to the judge and sometimes with no receipt here either.

In view of the gaps in the technical and judicial training of most criminal investigation officers, it is not rare to find them imposing fines even in purely civil disputes. In this regard, there is a serious de facto problem of qualification.

- The existence of a certain complicity or unlawful affinity between some criminal investigation officers and judges of the public prosecutor's office in the treatment and transmission of case files from the police to the Public Ministry Officer. This *intuitu personae* relation sometimes renders illusionary inspections of friends of the police by the judges of the public prosecutor's office.
- Illegal arrests and prolonged detentions beyond the legal deadline of police custody, which must not exceed 48 hours. During the inspection of friends carried out by the judges of the public prosecutor's office, which they are entitled to do, some criminal investigation officers manage beforehand, if they know the date of the inspection, to take prisoners out of their cell, pretending they have been arrested recently and they are still under investigation. The boldest go as far as to transfer their prisoners to neighbouring cells and bring them back after the visit of the judge. Sometimes, they even allow themselves to recapture prisoners released by the judge to hold them in irregular detention.

Derelictions of the head of the criminal investigation officers

The criminal investigation officers are civil servants in charge of notifying or executing the procedural acts emanating from the judges of the public prosecutor's office: convocations, summons, subpoenas, invitations, different requisitions, etc. Thus, their role is essential to ensure the office management of case files. Nevertheless, we hold against them the following grievances:

- Imposing charges for of notification to the Public Ministry Officer or the charged persons. In practice, any judge who consigns a given procedural act to a criminal investigation officer is supposed to provide him with the transportation fees, even if the distance to be covered does not necessitate the use of a vehicle.
- Several documents of proceedings consigned to them do not reach their destination either because of negligence, or because of insufficient transportation fees received from the judge or the plaintiff, or simply because of the insincerity of the agent. In this case, the criminal investigation officer notes on the document of the proceedings one of the following expressions: "unknown address, wrong address, change of address, travelling to this city or that foreign country, etc."

Any attempt by the judge to entrust the case file to another criminal investigation officer would be useless due to the great solidarity between the criminal investigation officers of the same office. This difficulty made the heads of some offices resort to the services of benevolent criminal investigation officers or daily labourers less familiarised

with the charged persons within sphere of jurisdiction, who were completely handled by the judges themselves because these agents, unknown to the administration, are not part of the administrative mechanism. This practice involves great risks for the agents because of their informal status; what might happen in case of assault against the person of the benevolent criminal investigation officer? The "employer" judge would be liable to disciplinary prosecution.

- Some criminal investigation officers abstain from returning to the judge non-notified documents of the proceedings, such as subpoenas, for the purposes of extortion or fraud.
- Negotiations of subpoenas with the addressees, in exchange for payment of a motivation, under the pretext that they are acting on behalf of the judge.

Troubling questions

Nobody ignores the so-called practices described above; they are open secrets, which no authority dares to suppress. As far as the charged persons are concerned, they regularly write several letters to the minister of justice and different officials of the legal authority and the public prosecutor's offices to denounce these "travesties of justice," but their complaints and lamentations have never led to any disciplinary actions against the incriminated agents.

In conformity with the status of the judges, each head of jurisdiction or public prosecutor's office has the right to report through an official report any disciplinary mistake committed by the judges under his authority and to report them to the minister of justice and to the Supreme Council of Magistracy⁹. He can even ask for the protective measure of deprivation of legal rights of the incriminated judge.

Concerning the criminal investigation officers, they work under the authority of the prosecutor before whom they take the oath and to whom they send all their official records and reports. So the prosecutor has real disciplinary power of control and supervision over the criminal investigation officers, even to the extent of final revocation of accreditation. The registrars, in their turn, exercise their functions under the supervision of a chief superintendent registrar who is supposed to provide a disciplinary control over them.

Given the strong hierarchisation that characterises the clerks of the court, we are entitled to ask questions concerning the reasons for plaguing and discrediting this sector with impunity. All authorities, regardless of their level, are perfectly aware of the

⁹ Ordonnance loi n° 88-056 du 29 septembre 1988 on the Statut des magistrats, Articles 40 to 56.

reprehensible acts undertaken by the clerks of the court. Let's take a look, for example, at what Mr. Mbiango Kekese, first President of the Supreme Court of Justice, said on the occasion of the beginning of the 2000 judicial year:

"Yes, for years, the charged people searched in vain for justice in palaces. Instead of it - the true justice - they often found counterfeits and caricatures of justice. Yes, for years, we the judges, the officers of the Public Ministry, the registrars and the bailiffs, the lawyers, the ministers and assistants of justice; we have almost banished the latter from its palaces and instead, we have organised, most often, all sorts of behaviour and traffic that parodies this justice."¹⁰

As for Mr. Ngele Masudi, the minister of justice, he stresses, amongst the causes of dysfunction in the Congolese justice: "the inefficiency of the institutional system of protection, mainly in matters of detention, rectification of unjust legal decisions; ... length and expense of procedures; impunity; privatisation of justice by means of corruption, embezzlement, and other prevarications worsening the judicial insecurity; etc."¹¹

Reading this severe criticism formulated by high authorities of magistracy and justice, we cannot but wonder about the measures of rectification and improvement undertaken by each of these authorities in order to break conclusively with a very dark past. Unfortunately, we find that all promised salvation changes are taking ages to come; the same perverted practices deplored during the Second Republic are committed by the same people who should lead us into a new era of judicial peace and security! So the disease is deeply rooted in the Congolese judicial system and calls for a profound and decisive diagnosis.

Any neutral observer must have several questions:

- Is corruption the only reason for the dysfunction of the Congolese justice? Are there other reasons?
- If corruption prevails, that means there are corrupters; why is it that we almost never hear anything about the latter?
- The Congolese judges are all well-educated people. Among them, we find fathers and mothers of respectable families. Some of them are highly regarded within their surroundings. Similarly, we find respectful criminal investigation officers, bailiffs of justice, etc. What are the reasons that systematically push these representatives of the justice system to violate the rules of the professional code

¹⁰ MBIANGO KEKESE, Bruni, Discours prononcé le 30 novembre 1999, in *Revue Pénale Congolaise*, Editions Droit et Société, Kinshasa, n° 1, janvier-juin 2004, p. 133.

¹¹ Preface of the work of Pierre AKELE ADAU, *Le Citoyen-Justicier, La Justice privée in the State of Law*, ODF Editions, Kinshasa, 2002, p. 5

of ethics that underpin the nobility of their profession? Do they not worry at all about protecting their reputation?

- Why do the several disciplinary committed mistakes remain unpunished?

In the following discussions, we are going to try to identify the causes of the persistent crisis plaguing our judicial apparatus, in the hope of finding some enlightening elements that can facilitate the search for an appropriate therapy.

The cause of dysfunction and disturbance of the Congolese judicial system

The diagnosis of public opinion and the criticism of some personalities at the political and legal levels shed light on corruption and collusion as main causes of the grave crisis that has long afflicted Congolese justice. It is true that corruption has strongly affected the Congolese judicial apparatus. The representatives of the justice system themselves recognise that. Mindful of refurbishing the image of their profession, the judges call for a dissection of the general state of justice, in which they would have the chance, on the one hand, to tackle decisively the different diseases attacking the judicial apparatus and, on the other hand, to draw some solutions aiming at revitalising this important sector of the national life.

Such an effort requires that the distinction be clearly established between causes and consequences. If Congolese justice is to be rehabilitated, we should treat the roots of diseases that are identified. It is the exercise that we are going to try to tackle in the following section. We will deal only with the causes that we deem to be the most important, without pretending that the discussion is exhaustive.

The abdication of the Congolese state in its role as an employer

Since the time of the Second Republic, the Congolese state has abdicated its role as an employer; the status of the judges who fix salary conditions and the diverse social advantages assigned to judges had value only on paper.

According to Article 16 of the ordinance-law № 88-056 of September 1988 tackling the status of judges, the initial salaries of each level are fixed by the president of the republic pursuant to the proposition of the president of the Judicial Council. Concerning the provisional judges, their initial salaries are determined by the president of the judicial Council; i.e., the minister of justice.

In principal, the salaries should increase annually by 2 to 4%, according to the performance of the interested party: good, very good or elite¹². A representation indemnity equal to 10% of the salary should, in principal, be settled to the heads of jurisdictions and offices.

Moreover, each judge should benefit from the following social advantages: family allowances for dependant children, healthcare, accommodation indemnity, vacation earnings, invalidity allowances, funeral fees and transportation fees.

A retirement pension equal to two third of the last annual salary must be allocated to judges who reached 60 years of age or whose career covers 30 years of uninterrupted service.¹³

In reality, there is no Congolese judge who does not benefit from all these advantages, the salaries settled to the judicial personnel exceed all the generally observed rules in the determination of an amount of salary. Under other skies, the salary is calculated in a way to grant the agent sufficient purchasing power, taking due account that the cost of living, the minimum needs of an average household, etc.

Furthermore, an agent's pay sheet should enumerate the constituent elements of remuneration. Concerning the Congolese judicial personnel, these elementary rules of the human resource management are not observed. Salaries are paid based on payment lists containing two columns: the name of the agent and the amount to be collected. The list mentions nothing related to social benefits and indemnities. Up to this day, the General Prosecutor has to be content with a salary of 9,000 Congolese Francs (equal to some 22 US dollars). The monthly salary of the President of the Peace Tribunal is 6,900 Congolese Francs, the equivalent of 18 US dollars.

These salaries, though modest, are paid with a delay of two to three months, sometimes even six to eight months. Since 2001 efforts have been made to avoid the accumulation of large amounts of arrears.

We equally have to deplore the fact that no social benefits are granted by the Congolese state to judicial personnel. In case of illness, hospitalisation, or even death, the charges are paid entirely by the judge himself or by his family. Often, judges turn to the generosity of friends or charged persons! The situation becomes even more dramatic when we know that the Congo still does not have national health care.

Even in cases of transfers, the state does not handle any of the fees of travelling; the transferred judge has to join his new post at his own expenses and must do so quickly.

The contribution of the transition signed and promulgated by the head of state on 1 April 2003 revived the hope of judges because it stipulated in Article 147 that from now

¹² Ordinance-loi n° 88-056 of 29 September on the Statut des magistrats, Article 17.

¹³ Idem, Articles 64-65.

on an organic law will fix their status and their remuneration. Nevertheless, the long-awaited draft organic law has still not been presented to the Council of Ministers for examination and, thus, not submitted to the Bureau of the National Assembly.

The informal privatisation of the functioning of detention centres and prisons

In all countries, the administration of justice has a cost. This cost is totally taken on by the state because justice is a public service. In Congo, the government has stopped assuming the charges related to the functioning of justice. Also, to ensure the functioning of jurisdictions and offices, the presidents, in collaboration (or complicity?) with the judges under their authority resort to the reprehensible practices described below. But do they have the choice?

A well-known proverb in the Congolese judicial milieu says, "*The judge lives on the case;*" this means that justice functions owing to the funds collected by the judges, in violation to their professional code of ethics. It is the charged persons then who pay the biggest share of the charges of the functioning of the judicial apparatus.

In their turn, the prisons are in exactly the same situation, to the extent that in a central prison inside the country, prisoners leave the prison each morning, without escort, to undertake lucrative activities: fishing, household work in the city, etc. In the evening, each returns to prison with the fruits of his day's work: river fish, cash, etc. An equitable division is granted by the prison director between guards and residents. This *modus vivendi*, that renders the sanction of deprivation of liberty meaningless, allows the prison director, guards and prisoners to meet their needs for food, buy medicines for the sick, etc. We have seen that despite the freedom they enjoy, the prisoners do not escape!

Given that jurisdictions and offices do not have an investment budget, each nominated judge finds himself compelled to buy his own movables: office or table, chairs, curtains, etc. During the pillages of 1991, 1993 and 1997, some palaces of justice were not spared. But the state did not replace the stolen movables and materials, nor did it proceed to rehabilitate the damaged buildings. Robbed judges had to equip themselves again at their own expense, getting nothing in return from the state.

The non respect of the budgetary law

The budget is the act in which the state's incomings and outgoings are provided for and authorised for the year to come. It is essentially comprised of the state's revenues and expenditures presented according to the principal of the budgetary balance. Under the terms of Article 10 of the law № 85-087 of 23 February 1983, as amended and

completed by the ordinance-law № 85-087 of September 1985 and the ordinance-law № 87-004 of 10 January 1987 on the financial law, each year, the ministries, the provincial governments, the auxiliary organisms of the state, as well as the public enterprises to be financed by the state budget draw up their budget projections and send them to the Budgetary Commission, which comprises the ministry of the budget, the ministry of finance, the ministry of planning, the ministry of economic affairs, the central bank and experts appointed by the Government. The role of the commission is to coordinate all budgetary projections from the different entities and services, assess them against the macro-economic realities and prepare a consolidated draft budget that the government submits, after debate and adoption, to parliament to be voted on and acquire the final form of the budgetary law.

As for implementing the budget, it is one of the essential missions of a government. Executing spending observes the following classical pattern; engagement, liquidation, scheduling and payment.

As mentioned above, courts, tribunals, offices and prisons are granted neither an operating nor an investment budget by the state. Nevertheless, the minister of justice prepares and submits to the Budgetary Commission the budget projections of the sector of justice. According to the budgetary plan, the judicial authority loses its character as an independent authority and is simply a mere service of the ministry of justice. Already overwhelmed by the multiple problems of his ministry, the minister pays little attention to the preoccupations of the judicial apparatus. In practice, he is content to report the year's budgetary projections.

We notice that control bodies, namely the Court of Accounts and the General Inspection of Finances, which should oversee the correct implementation of the budgetary law, are not operational. In effect, under the terms of Article 39 of the financial law, the execution of the budget calls for two types of control: a control "ex nunc" operated during the budgetary year by each hierarchical chief, and a control "ex post" operated at the end of the budgetary year; the latter can be political, jurisdictional or technical.

As we see, in the matter of budget, the Congo has legal and institutional mechanisms copied from the model of the European countries, but in practice, we are still very far from approaching the theoretical mode described by texts. This observation applies in fact to the majority of legal and statutory texts that are part of the Congolese legal order.

The subordination of the judiciary to the executive

We observe a real ascendance of the executive power over the judicial power. It is seen in certain features, namely: the nomination of judges by the minister of justice without requesting the opinion of the Supreme Council of Magistracy; the recruitments

and transfers they decide on without providing prior notice to the Supreme Council of Magistracy and on basis of criteria known by him only, thus paving the way for clientelism; the power of injunction they exercise not only over the General Prosecutor of the republic, but also over the prosecutors of the republic without referring to the General Prosecutor of the Republic. This is why, among the reasons for the non implementation of the decisions of justice, we list the interference of the minister of justice. In fact, the latter interprets the legal stipulations and defines these attributions in a way that suits him best, risking "forgetting that the decision of justice is rendered in the name of the Congolese people and executed in the name of the head of the state - the supreme judge has the value of a law regulating the action of two concerned parties; consequently, the suspension of its execution must proceed from a decision by the supreme judge acting in his capacity."¹⁴

The deficit of the democratic culture, dating back to the era of Mobutu's dictatorship, led to an abnormal reinforcement of the government's authority, creating, for its profit, disequilibrium between the three traditional authorities of a democratic state. In reality, the Congo suffered, and is still suffering, from a certain measure of dictatorship in the executive authority. In fact, ministers adopt regulations in matters that fall within the competence of parliament. This is, for example, the case of the Zairianisation measures (nationalisation of foreign enterprises) of 1973, which were the work of the executive, whereas they should have been the subject of a law discussed and voted on by parliament.

Even in budgetary matters, we find that the members of the executive authority enjoy particular privileges and lead a life by very different from that of the judges and the members of the National Assembly. In fact, there should be a certain equilibrium between the members of the three constitutional authorities of the state.

The absence of documentation and the bad conditions of archival conservation

To describe an offence or pronounce a judgment, the judge is obliged to refer to legal texts and regulations. This presupposes that he has access to the codes and official journals in which the new laws are put at the disposal of the public. It happens also that the judge resorts to a consultation of jurisprudence and a reading of doctrine references. Indeed, if we want the judge to render good decisions, he has to have access to a sufficient and updated documentation.

¹⁴ LUONGE KABINDA NGOY, Causes of the non implementation of the decisions of justice under the Congolese law. Remonstrance announced during the solemn hearing on the occasion of the beginning of the judicial year for the Cour Suprême de Justice le 30 novembre 1999, in *Bulletin des arrêts de la Cour Suprême de Justice*, Numéro spécial, p. 30.

Before independence, each jurisdiction had a large library that was regularly updated by the central administration. But since the Congo started to be governed by its own sons, the documentation left by the colonial authority was progressively carried on by the heads of jurisdictions, the judges and the persons appointed to consult the documentation of different libraries. And as the latter were being emptied, restocking and updating stopped. Even official journals stopped being distributed. The Courts and Tribunals of the province of western Kasai, for example, indicate that the last issue of the official journal they received dates back to the year 1986!

Facing this deficiency, the judges find themselves obliged to buy, out of their own meagre income, their own doctrine references, codes, and jurisprudence collections. Those, who could not do so, made sure to photocopy all the legal documents that fell into their hands. Some judges admit that the codes they use date back to the era when they were children, and that they often resort to their own notes. Accordingly, should it be a surprise to us that some worn out judges do not conform to the law; knowing that a judge is unable to stay up to date with the evolution of the legal texts in his own country, or of the content of the ratified treaties.

Concerning archives, one ought to deplore the bad conditions of their conservation. In principal, the management of archives must be ensured by an archivist registrar. Unfortunately, we notice that the conservation of archives takes place with no adherence to the consecrated norms in the matter. Also, it is often difficult, or even impossible, to pull a dossier we need from a shelf.

Furthermore, there do not appear to be any places appropriate for the conservation of archives. Almost everywhere, files are piled up on the floor and eaten away by termites and other insects. The few archives that still exist are those that escaped the successive pillages the country has experienced since 1991.

The absence of safeguarding measures of public property

Governments must run public goods and interests like "a good father." But in Congo, public edifices deteriorate and governors seem to be indifferent. Generally speaking, the political and administrative authorities adapt the framework of their work and that of the members of their cabinets, often leaving the administrative personnel to work in insalubrious, badly ventilated, badly equipped rooms lacking air conditioning, and sometimes in rooms without doors or locks.

As to the vehicles of the state, we see them circulating the whole day without taking into account the factors of depreciation or maintenance. They are often used to carry the family members of high political officials. Concerning big vehicles, it is not rare to see them transporting construction materials to working sites belonging to political leaders or military authorities. In fact, the offence of abusing public property has never been clearly punished by the Congolese legislator.

Concerning the successive pillages the country has witnessed, unfortunately they were the work of the same people to whom the state has assigned the great responsibility of ensuring the protection of persons and property; i.e., the members of the armed forces and the police. They were the initiators of the pillages of 1991, 1993 and 1997. Nothing was spared: industrial and commercial enterprises, public property (public edifices, public prosecutor's offices, courts, prisons, town halls, etc.) and residences of individuals. This culture of pillage greatly harmed the national economy and poses a permanent threat to some investments still present on Congolese soil.¹⁵

The goods pillaged in 1991 and 1993 were sold on a thoroughfare facing Kabila Camp (formerly Mobutu Camp). A market called "Kuwait" even specialised in this illicit trade. The former head of state, President Mobutu, chose to administer military looters. Therefore, no legal action could be instituted against the delinquents based on Articles 63 to 65 of the military criminal code punishing acts of pillage.

The insufficient number of jurisdictions and the lack of qualifications of the court personnel (registrars and bailiffs)

The Congo is a country the size of a sub-continent. The remoteness of some jurisdictions from the charged persons does not facilitate the notification of writs or the implementation of legal decisions. In fact, it is not only that the distances are sometimes very long, but also the condition of roads and the difficulty of finding transportation that explain, in some cases, the slowness of procedures and the non implementation of the legal decisions.

Thus, a province like the Equator that is comprised of 24 territories should, according to the law, have 24 Peace Tribunals, but there are only two: that of Bumba in the District of Mongala and that of Zongo. We equally notice that the facilities are clearly insufficient for the real needs of each province and are concentrated in the city of Kinshasa, in the main areas of provinces and in some localities in the interior of the country, such as Muene-Ditu, Likasi and Kolwezi, where some production economic units still function.

Another major obstacle ought to be mentioned. It is the lack of qualification of many registrars, who did not receive an adequate training. Accordingly, it is not rare to encounter a registrar who does not know how to prepare a hearing sheet or to correctly keep registers.

¹⁵ On the subject of the phenomenon of pillages, read lire AKELE Adau, Pierre, *Le droit est mort, vive le droit*, in *L'Etat de droit*, Revue de la Faculté de Droit, Numéro 1, 2^{ème} année, Université Protestante au Congo, Kinshasa, 1999, pp. 17-19.

Future perspectives

Actions to be undertaken by the Congolese state

The diagnosis detailed above deals only partially with the grave crisis afflicting the judicial sector. Nevertheless, it shows that the public authorities are responsible for the dysfunction of the Congolese judicial system because they deprive it of the means necessary for it to function. While making sure to condemn the so-called survival practices developed by the representatives of the judicial system, we have to recognise that owing to these practices, justice remains a mockery in many places in Congo. The grave problem is that of financing. Given that the Congolese state stopped providing the costs to pay for the functioning of justice several years ago, one might wonder about the advocated alternative situation!

During the reign of President Mobutu, the regime voluntarily sowed chaos in the legal system to render it malleable to its desires. The dignitaries of the time, aware of their responsibility for the deficit of the Zairian state, were afraid of a strong and independent justice that might subject them to accountability. The strategy then consisted of depriving courts and tribunals of any financing.

Today, the Congolese people expect the new authorities to rehabilitate the judicial apparatus in order to speed up the rule of law. It is not about promises, but rather about actions. If the institutions of the transition want to gain credibility, they must put their declared ambition of breaking with the negligence of the Second Republic into action.

The elements of the diagnosis we have proposed within the framework of this modest contribution allow us to suggest some horizons for solutions:

- 1- The noticeable amelioration of the conditions of salaries has absolute priority. Any reform of the judicial sector would be useless and illusionary if the salaries of judges were not raised. Ideally, there should be equivalence between the remuneration of the executive authority and the judicial authority.

Literatures teach us that the salary of a judge of the Supreme Court in the United States is close to that of the President of the United States. So why should we find in Congo that the salaries of the judges of the Supreme Court of Justice are not equivalent to those of the members of government?

The experience of Cambodia in fighting corruption in the Magistracy has proved its effectiveness. Raising the salaries of judges resulted in a decline in corruption.¹⁶

¹⁶ Cf. study conducted under the auspices of the United Nations, ref. E/CN.4/2002/118.

The state should also provide for the social welfare of the judges by effectively implementing all the social advantages provided for in Chapter V, of ordinance № 088-056 of 29 September 1988 on the status of judges.

The state should allocate sufficient credits to justice under the operating budget and the investment budget in order to cover all daily charges related to the administration of justice and rehabilitate the infrastructure. Steps must be taken to ensure that the credits included in the budget for the different jurisdictions are granted to them on time and reach them effectively.

- 2- The government must launch a debate on the question of the independence of the magistracy. The Supreme Council of Magistracy must recover all the prerogatives granted to it under the law and, at the same time, the minister of justice must stop acting as though the judicial apparatus were at his beck and call. Obviously, recruitment, promotions and career management must be regulated by the Supreme Council of Magistracy. Everyone wishes to see the separation of powers, cherished by all so-called democratic states, applied in the Democratic Republic of Congo.

We know that it will not be easy to surmount this obstacle. In fact, it is important to stress the fact that the executive authority has been the only effective authority for three decades; the legislative body has simply rubber-stamped the opinions of the head of state. The weakness of parliament, which must control and even censor the choices of the government, left the latter as the only true power in the Democratic Republic of Congo. We can say, with no fear of being contradicted, that the Congo has known *the dictatorship of the executive*. It is convenient then to fight this anti-value that has been deeply rooted in the minds of a large number of the Congolese political actors.

- 3- The status of the public minister should also be the subject of a debate. In effect, the judges of the public prosecutor's office are under the authority of the minister of justice. This means that the latter can give injunctions to the General Prosecutors to use their own legal powers of pursuit and investigation to mobilise public action. In principal, the minister does not have the right of veto to stop public action decided by the Public Prosecutor's Office.

In reality, the minister of justice has not had any difficulty pressuring the general prosecutors and obtaining the suspension of any legal proceedings. Sometimes, the minister directly addresses the prosecutors of the republic without having to refer to their head, the general prosecutor of the republic. Aware of his vulnerable position, a prosecutor who receives an injunction from the minister of justice cannot but implement it.

Therefore, to protect judges against any punitive measure by the minister of justice, the question of the security of tenure of judges must be regulated. Concerning the power of injunction granted to the minister of justice, we can subject it to a clearly defined procedure. For example: insisting that the minister

refer to the General Prosecutor of the Republic, which communicates to the competent prosecutor the order to get the public action going. We should define that the minister cannot, in any case, interfere in the course of an investigation: the public prosecutor's office alone should remain responsible for the procedure in question.

The ameliorations of salary and material conditions, as well as the independence recovered by the Magistracy, should be accompanied by a reinforcement of the system of sanctions, because the representatives of the judicial system have no more excuses to justify a dereliction of duty. Cleaning up habits does not happen from one day to the next, or without bumping into hurdles. Some judges will undoubtedly try to continue their easy ways by perpetuating the perverse practices described above. The recalcitrants must be removed from the judicial system by the disciplinary procedures provided for under the law,¹⁷ without neglecting to prosecute the corruptors. Indeed, without corruptors there would be no corrupted.

- 4- Consistent financial support must be accorded to the General Directorate of the Official Journal in order to publish a sufficient number of official journals that can cover all jurisdictions, offices, public services and even the general public. It is good to note that the Kingdom of Belgium has printed the Codes Larcier (Larcier legal codes), which contains the legal texts in effect in Congo, and made sure to deliver a complete collection to each judge.¹⁸
- 5- Concrete measures to protect public and private property must be undertaken by the Congolese Government in order to fight the culture of pillage. Given that all of the successive pillages the country has known were initiated by elements in the armed forces, it is necessary to reinforce discipline in the army, to severely sanction all attempts at pillage and to dismiss their perpetrators from the army. But taking into account the saying "there is no reasoning with a starving man," any effort to combat the culture of pillage would be in vain as long as soldiers' pay is not improved.

Furthermore, we observe irrational and abusive exploitation of public property by the representatives of the state at all levels. The trustees of the public authority,

¹⁷ We should avoid the error committed in 1998 by the head of the Congolese state when he decided, by virtue of decree № 144 of 6 November 1998, to dismiss 315 judges on different grounds: corruption, notorious incompetence, dubious morality and desertion. The decree in question was vague, imprecise and impersonal, making it impossible for the concerned judges to defend themselves as they could not answer the grievances against them. In addition, none of them was asked to defend himself. These judges should have been rehabilitated.

¹⁸ The collection is comprised of six volumes: Droit civil et judiciaire ; Droit pénal ; Droit commercial et économique ; Droit du travail et de la sécurité sociale ; Droit fiscal ; Droit public et administratif.

who should be guarantors of public property and money, often indulge in different acts of abuse of property they should protect. Therefore, the offence of the abuse of public goods, a crime still absent in Congo, should be introduced into the penal code.

Similarly, to combat the culture of pillage, we should think about organising awareness-raising campaigns throughout the country to teach citizens not only to respect public property, but also to respect of private property, too. Civil society actors would be usefully engaged in this work of civic education. Likewise, schools would be favourable places to teach children, at an early age, the meaning of respect for public and private property.

The fight against corruption led several Anglo-Saxon countries to draw up an inventory of property and assets falling within the functions of public civil servants. The Senegal followed this example in 1981 by adopting a law repressing corruption and unfounded enrichment. Other countries, like Burkina Faso and Ghana, launched investigations on suspicion of unlawful enrichment.¹⁹ Why does the Democratic Republic of Congo not engage in a similar exercise?²⁰

- 6- Within the framework of introducing justice to the population, the Congolese government must follow a programme of establishing Peace Tribunals in the interior of the country. This measure would end the dualism that still characterises the judicial system inherited from the colonial era. Until this project materialises, the customary tribunals must continue to function as a palliative solution.

Expected contribution of the international community

The crisis undermining the Congolese judicial system touches all other sectors of national life. By depriving the entities to be funded by the state's budget of all financing (operating and investment budget), and by paying its civil servants derisory salaries,

¹⁹ SARASSORO, Hyacinthe Cabogo, La corruption et l'enrichissement sans cause en Afrique aujourd'hui, in *La justice en Afrique*, Afrique contemporaine, Direction de la documentation française, Paris, 1990, pp. 195-206.

²⁰ Professor MABI Mulumba, President of the Court of Accounts, who a few years ago published a book on the predatory management of the Deuxième République, pointed to risky management of public finances by some leading Congolese officials. Read MABI Mulumba, *Les dérives d'une gestion prédatrice, le cas du Zaïre devenu République Démocratique du Congo*, Centre de recherches pédagogiques, Kinshasa, 1998 ; Gestion des finances publiques et territoriale de développement, in *Journal Le Potentiel*, n° 3154 du mardi 22 juin 2004, p. 7.

the Congolese state has been the architect of the disorganisation and delinquency of all public institutions, and of the advanced state of decay of several buildings, totally depreciated materials and equipment, practically inexistent archives, etc. The constant pauperisation of the personnel working in the public sector is behind the development of survival strategies that have led to the informal privatisation of the public administration.²¹

Today, we have to talk about a true restoration of the state. All the sectors of the national life need a shock therapy that cannot, unfortunately, come from the Congolese government alone. In effect, if we take into consideration the capacity of mobilising resources at the national level to finance development actions, we discover that the Congolese government does not dispose of the political means. Thus, 53% of the budget approved by the National Assembly for 2004 had to be financed by external contributions (donations, loans, resources of the PPTTE initiative) and only 47% from internal resources.²²

As we can see, a serious problem looms in the horizon: reinforcing the managerial capacities of the Congolese leaders. The modern state functions on the basis of tried and tested rules. There is no need to reinvent: the government can simply adopt the rules it needs to meet the objectives of its economic policy.

Nevertheless, the reconstruction of Congo cannot be started but with the consolidation of the pacification process of the entire national territory. The contribution of the international community is indispensable in this difficult phase of learning democracy. What does the Congo expect from the international community?

- 1- The Congo needs to enjoy peace again in its entire national territory. However, it does not yet possess the means to neutralise all the forces sowing insecurity, mainly in the east of the country. The international community has an important role to play in helping the Congo find again the path to a real and sustainable peace. The UNOMC is the instrument intended to make this wish come true.
- 2- Training sessions must be organised for the leaders of the state on PUBLIC MANAGEMENT; that is to say on the minimum norms of management of the "res publica." A module can highlight the fundamental elements of democratic culture, particularly emphasising the rule of the separation of powers and the

²¹ See MAKWALA ma Mavambu ye Beda et alii, *Administration publique, outil du développement de la nation congolaise*, Institut pour la démocratie et le leadership politique, Kinshasa, 2000, 166 pages.

²² Cf. Loi n° 04/003 of 31 March 2004 on the state budget for 2004 in the *Journal Officiel de la République Démocratique du Congo*, 45^e année, Première partie, numéro spécial, pp. 1-8. Total of 482.485 billion Congolese Francs, comprising standard returns (227.07 billion; i.e., 47%) and exceptional returns (255.411 billion; i.e., 53%).

notion of the public interest that all political leaders pretend to serve, but often sacrifice to the profit of personnel interests.

- 3- Practical training sojourns of three to four weeks in a European country would be particularly instructive for a certain number of high Congolese officials in both the judicial and the political domains: the First President of the Supreme Court, the General Prosecutor of the ministry of justice, the Director of prison services of the ministry of justice, provincial governors, mayors of various cities in the country, etc. These practical internships should be organised with the counterparts in the host country. At the end of internships reports should be drawn up of the lessons learned, including some concrete suggestions to improve performance in the sector where the trainees work.
- 4- Given that the same insufficiencies exist in several African countries in the field of justice administration, it is important to create a school of magistracy that serves all francophone countries.
- 5- The rehabilitation of infrastructure and the modernisation of equipment are domains that need the help of the international community. Sometimes, necessity calls for constructing buildings in places where the state rents private residences for certain offices and tribunals.

Finally, it is important to pay tribute to the different actions already undertaken by the traditional partners of the Democratic Republic of Congo (the World Bank, the European Union, Belgium, the UNDP, etc.), with the aim of rehabilitating certain basic infrastructure (roads, bridges and public edifices). Concerning the sector of justice in particular, we mention the rehabilitation works on several buildings housing public prosecutor's offices, courts and tribunals, both in the city of Kinshasa and in the interior of the country. The European Union is greatly involved in this programme, and on 2 April 2001 signed a financing convention with the Congolese government that provides for a sum of 28 million Euros within the framework of the sixth FED.²³

²³ Amongst the several actions undertaken, we mention in particular: the financing by the UNDP of a justice evaluation mission under the supervision of Professor Pierre AKELE Adau, in 1999; the financing by both the European Union and the German Konrad Adenauer Foundation of a mission to draw up an inventory of the Congolese judicial system that we supervised in August, 2003; the physical rehabilitation of the school for training and retraining judicial personnel, and the provision of documentation and studies related to the ministry of justice by the Italian NGO "Land of Humans;" the actions of the NGO ALISEI in Bandundu province with the aim at refurbishing several buildings; the action of the Kingdom of Belgium, which printed and distributed the Codes Lacier with the legal texts in effect in Congo; the action of the RCN (Réseau Citoyen Network), which provided the ministry of justice with information and office materials to support the school for training judicial personnel; and the organization by the organisation of the International Development Law Organization (ILDO) of training sessions for recently nominated consular judges, etc.

The military dimension of the Constitution of the Transition

PIERRE AKELE ADAU

Introduction

The Democratic republic of Congo has been engaged since the promulgation of the constitution of the Transition on 4 April 2003, and especially since the establishment of the government of national unity and other institutions of the transition, in a political process of peace and national reunification that should normally lead, through elections that will hopefully be "free, transparent and democratic", to the rule of law and a democratic system. Since the end of the Second republic on 24 June 1990, the transition has come up against many obstacles: endless discussions, fatal equivocations, tragic violence, serious violations of human rights and various humanitarian tragedies. The process of the Lusaka Ceasefire Agreement of 10 July 1999, the inter-Congolese Dialogue of Sun City (25 February - 19 April 2002) and finally the Global and Inclusive Agreement on transition in the Democratic republic of Congo (Pretoria, 17 December 2002) seems fortunately to have lead to what professor Noel Obotela Rashidi called "the reinvention of the DRC and the reestablishment of the new political order through permanent founding acts."¹ These acts, sustained by a population that

¹ *Congo-Africa*, February 2003, pp. 79f.

largely accepts the concepts of democracy, the rule of law, good governance, peace and justice² "raise hopes in spite of pitfalls"³ that are still numerous and insidious.

One of the pitfalls is precisely the military issue or the problem of the armed forces that Herbert Weiss, an American author, said in 1995 "create enormous difficulties for most regimes that follow after a dictatorship."

The Constitution of the Transition, after the Global and Inclusive Agreement, dealt with this issue. A quick inventory of the provisions of the constitution of the Transition shows that around 55 articles out of 205 (i.e., 26%), in addition to two paragraphs in the preamble, deal directly or indirectly, explicitly or implicitly, with national defence and the armed forces.⁴

The basic point or the cornerstone of this constitutional provision, postulated in Articles 180, 181 and 94 Paragraph 2, is that the armed forces of the Democratic republic of Congo are "national, republican and apolitical", meaning that they serve the entire Congolese nation, that no one can, on pain of high treason, use them for his own interests, and that their effectiveness at all levels lies in the fair and equal participation of all the provinces. In addition, the armed forces of the DRC are at the disposal of the government, submit to civil authority and are under the authority of the supreme commander.

These provisions confirm the fundamental options fixed by the constitution of the Transition concerning the armed forces and national defence. The second last paragraph of the preamble to the constitution should also be added to these provisions. In this paragraph, the authors, who are the delegates of the components and entities in the inter-Congolese dialogue, declared their commitment to make good use of the period of transition to establish, in peace and concord, a new political order in the DRC, particularly democratic institutions to achieve good governance in the country and a national, restructured and integrated army.

It should also be noted that the formation of a national, restructured and integrated army represents, according to the Global and Inclusive Agreement on the transition in the DRC - on which the constitution of the Transition is based - one of the five fundamental objectives of the transition.⁵ The Global and Inclusive Agreement stipu-

² See the results of the survey carried out by Leon de Saint Moulin S.J., J.-M. Kinkela, N.Paluko, E.Tshimanga, on "*La perception de la démocratie et de l'Etat de droit en R.D.C.*", Cepas, Kinshasa, 2003.

³ Mutuza Kabe, quoted by Obotela, *ibid.*, p. 92.

⁴ See Annex, document n° 1.

⁵ This objective comes third after "la réunification, la pacification, la reconstruction du Pays, la restauration de l'intégrité territoriale, et le rétablissement de l'autorité de l'Etat sur l'ensemble du territoire national", and "la réconciliation nationale". It precedes the "organisation d'élections libres et transparentes à tous les niveaux permettant la mise en place d'un régime constitutionnel démocratique" as well as "la mise en place des structures devant aboutir à un nouvel ordre politique" (see point 'Accord Global et Inclusif sur la Transition en RDC).

lates that this army should include the armed forces of the government of DRC, those of RCD, MLC, RCD-ML, RCD-N and the Mai-Mai. A meeting of the staff of these different forces led to the preparation of the military mechanism charged to create a military high command starting at the levels of the general staff and of the staff of the land, air and naval forces, down to the level of regional military command.

Therefore, it should be noted that the fundamental options of the constitution on the national defence and the armed forces should be seen in the light of the provisions of the Global and Inclusive Agreement and other instruments produced by the political process that preceded this Agreement: the Ceasefire Agreement of Lusaka of 10 July 1999, the Resolutions of the inter-Congolese Dialogue in Sun City, 25 February 2002 - 19 April 2002, the memorandum of 6 March 2003 on the mechanism of creating a national, structured and integrated army, the memorandum of 29 March 2003 on the structure and distribution of duties within the high command and on security during the transition period, and finally the Protocol of 29 June 2002 on military questions.

The memorandum of 29 March 2003 laid down the basic structures of the armed forces, the elements of their administration and logistics and the responsibilities for the preparation and deployment of the forces. It broadly defines the responsibilities of the chief of staff of operations and of the chief of military intelligence. It determines the organisation and the allocations corps of bodyguards (selection of the personnel and strength, composition and functions of the command unit, appointment of the members of the command unit, relations with the neutral forces and the MONUC, training of the selected personnel, timetable).

Concerning the issue of security during the Transition, it should be noted that the parties who are signatories of the Global and Inclusive Agreement and who are also officially the authors of the constitution, have consented to the following:

- Concerning the security of the political leaders in Kinshasa, in order not to let any supplementary armed force enter the capital and to avoid armed confrontations. They designated between five and 15 bodyguards for the personal security of each political leader. More safety measures can be added for some leaders as needed;
- concerning the interim safety measures, to organise an integrated police force charged with the security of the government and the population, hence, to provide with the active support of the international community security for the institutions of the transition.

When all is said and done, the legal and political framework that the constitution of the Transition and the Global and Inclusive Agreement assign to the national defence and armed forces complies with the standards that characterise the role of the army in democracy. In its functional configuration:

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- It establishes - in accordance with the principles of consensus, inclusiveness, peace and balanced and fair distribution of responsibilities between the different components - a subtle balance of responsibilities and prerogatives between the president of the republic as an integral part of the government and as the Supreme commander of armed forces, and other institutions and organs of the republic, without offending the command unit that is essential to the effectiveness of armed forces in periods of war and crisis and without hindering the means that derive from its quality as "guarantor of national independence, integrity of the national territory and national sovereignty" by which it is known.
 - The vice-presidents within the "presidential space," the vice-president in charge of the political committee, defence and security, the minister of national defence, the Supreme Council of Defence, the National Assembly, the Senate and the Supreme Court of Justice should play specific roles in the fields of direction, management and control of national defence and armed forces. To sum up, the political organisation of national defence and armed forces involve all the powers of the state - legislative, executive and judicial - in the direction, management and control of this important sector of the national life.
 - Finally, it establishes an organisation that submits the national defence and the armed forces to republican legality, enforced if necessary by sanctions, for crimes of high treason and intentional violation of the constitution, or for specific offences under the ordinary and military penal codes.

This republican legality applies to all the military leaders, general chiefs-of-staff, chiefs-of-staff of the branches of the armed forces, commanders of military districts and commanders of units whose role as leaders of operations and responsibility for strict control of the units and people under their command and initiatives for the sake of discipline or military necessity should always refer to the legal and regulatory foundations on which they are based under the rule of law.

All these elements characterise that the *military dimensions of the constitution of the Transition* can be summed up in the following questions:

- What are the constitutional responsibilities of the citizens - civilians and military - regarding national defence?
- What are the constitutional responsibilities and prerogatives of the main Congolese political actors in the Transition?
- What are the functions of the supreme commander of the armed forces in the constitution of the Transition?
- In what way are national defence and the armed forces subject to the law, in other words, what is the legal framework for military activity?

- What are the principles on which the formation, reconstruction and integration of the national army operate?

What are the responsibilities of citizens, civilians and military with regard to national defence?

The declaration that all Congolese citizens have certain responsibilities, not to say prerogatives, regarding national defence and the armed forces is a completely new development in Congolese constitutionalism. It confirms the hypothesis that military affairs are so serious that they should concern all citizens, not only the military. In addition, it gives a concrete meaning to citizenship, for it confers "sacred rights and duties" on every Congolese, by assigning to them a "duty of knowledge" and by indicating some fundamental prohibitions.

Sacred rights and duties related to Congolese citizenship

According to the Article 53 of the constitution, all the Congolese have the "right to live in peace and security" and, at the same time, Article 3 stipulates the sacred rights and duties to defend the nation and its integrity." Besides, in order to maintain the peace and security and to defend the nation, the constitution not only confers on all Congolese some standpoints on prevention and precaution, but also commits them to concrete actions.

Standpoints on prevention and precaution

Concerning the standpoints on prevention and precaution, we mention the following prescriptions.

First, it is prohibited to undertake any action within the national territory that endangers or compromises the peace and security of other states and leads to belligerence and hostility actions against DRC. In fact, the second paragraph of Article 53 stipulates the following: "It is prohibited to use any portion of the national territory to launch subversive terrorist actions against another state."

Second, it is invalid to make any transfer, exchange or annexation of territory without the agreement of the populations concerned who shall be consulted by referendum. (Article 192).

Actions to defend peace and security

Concerning the actions to maintain peace and security, the constitution binds on pain of treason, high treason or intentional violation of the constitution:

- all the central, provincial and local authorities to "*protect the integrity of the republic, the sovereignty and national unity*" (Article 6, paragraph 2);
- every Congolese "to prohibit any person or group of persons from taking power by force or by violating the provisions of the constitution".

In addition to all these rights and duties of all Congolese citizens related to the defense preservation and reestablishment of peace and security as well as the defence of the nation, there is the right and duty of knowledge.

Right and duty of knowledge

Every citizen, military or civil, has the right and the duty to know the following about the organisation of the national defence and the functioning of the armed forces:

- a) The armed forces are an instrument that the nation uses to defend the integrity of the national territory against external aggression and to participate, as determined by the law, in the economic, social and cultural development and to protect the people and their property. (Article 178)
- b) National, republican and apolitical, the armed forces work for the whole Congolese nation. Their composition at all levels is such that they provide a fair and balanced participation of all the provinces. They are not concerned with partisan political fights and battles. The armed forces are paid to accomplish their missions from national revenues in the form of budgetary allocations. (Article 180)
- c) They are subject to the civil authority and are under the authority of the supreme commander of armed forces. (Article 181)
- d) They are at the disposal of the government. Therefore, they are neither "the army of Mobutu" nor "the army of Kabila." The army serves the nation according to the instructions of the government and under the authority of the supreme commander. (Article 194)
- e) All the activities of the armed forces, including in time of war, are subject to the republican law, and, if need be, in case of an internal or external armed conflict, to international law (law of war and humanitarian international law). The crimes of war, crimes against humanity and genocide are serious violations of the law

of war and of the international humanitarian law. The Constitution of the Transition excludes them from the benefit of amnesty. (Article 199)

- f) Recruitment to the armed forces is based on objective criteria of age (over 18 years old, according to the Article 184), physical ability, sufficient education, good morals and a balance between all the provinces. Therefore, it should be understood that the army is not a place for rubbish or an institution of re-education or a reformatory for difficult children. (Article 183)
- g) Similarly, the promotion within the armed forces depends on competence, monograph of employment, the discipline and military specialization. Therefore, the practice called "nzombo le soir" is banned, i.e., promotion without having earned it, thanks to connections and clan. (Article 183.)
- h) Nothing, not even the war, can justify serious violations of "universal principles" and of "international law," particularly the crime of war, crime of genocide and crimes against humanity. (Article 199).

Fundamental prohibitions

The constitution targets and condemns particularly certain actions considered as acts of treason, high treason or intentional violation of the constitution; these actions can endanger the peace and security. Therefore, it categorically bans Congolese in general and those in a position of authority or power in particular from:

- *"Misusing the attributes of power and public authority, using these for personal advantage, partisan interests or to facilitate the interference of an institution or a public service in the functioning of another institution or public service"* (Article 3, paragraph 2);
- *"Replacing or trying to replace other constitutional powers and preventing them from exercising their devolved attributions"* (Article 143, paragraph 1);
- *"Endangering national independence, the integrity of the territory, national unity and the sovereignty of the Congolese State"* (Article 6, paragraph 1 and Article 143, paragraph 1);
- Misusing the armed forces and national police to serve personal goals (Articles 180 and 173);
- Organising military and paramilitary groups or private militias (Article 182).

What are the constitutional responsibilities and prerogatives of the main political Congolese actors of the Transition concerning defence and the armed forces?

The political actors and the institutions of the Transition that play a part in the chain of command and/or military coordination in general in the field of defence are:

- the *president of the republic* who is at the same time the supreme commander of armed forces and the president (chairman) of the Supreme Council of defence;
- the *vice-president responsible for the commission for defence and security* who is a coordinator for this section and, in the absence of the president of the republic, the chairman of the Supreme Defence Council;
- and the *minister of national defence*.

Their prerogatives and responsibilities may be exercised individually or collectively with the general direction of the defence and armed forces.

Individual prerogatives and responsibilities of political actors

The president of the republic

The responsibilities and prerogatives of the president of the republic concerning the defence and the army result from the fact that he is the supreme commander of the armed forces, as mentioned above. But, regardless of these responsibilities and prerogatives, the president of the republic exercises them in consultation with the vice-president and with the approval, depending on the subject, of the Supreme Defence Council and after consulting with the Council of Ministers.

In fact, according to the Article 72, paragraph 2 of the Constitution of the Transition, the president of the republic "appoints, reduces and dismisses the army and police officials, after consulting the Supreme Defence Council". "In addition, Article 190, paragraph 2 of the Constitution of the Transition as well as the Global and Inclusive Agreement stipulate in the paragraph VI. h, that the Supreme Defence Council contributes to the following actions: the formation of a national, restructured and integrated army, the disarmament of armed groups, the supervision of the withdrawal of foreign troops, the elaboration of the policy of defence and all other actions related to defence. Therefore, the aforementioned Articles enumerated almost all the duties of the supreme commander concerning the activation of armed forces. This is also the case in this previous paragraph of this provision that stipulates that "the Supreme Defence

Council" is to approve a proclamation of a state of emergency, a state of emergency and a declaration of war." The approval,⁶ not to say the authorisation⁷ of the National Assembly as well as the Senate is also required concerning these issues.

Therefore, we can say that the decisions related to the conduct of war, the activation of the armed forces and the operational engagement are part of the responsibilities of the president of the republic, as determined by consultation defined by the constitution in general⁸ or in particular concerning the attributions devolved to the Supreme Defence Council. The president of the republic chairs the Supreme Defence Council and the four vice-presidents, the minister of the interior, the decentralisation and the security, the ministry of foreign affairs, the general chief staff of the armed forces as well as the chiefs of staff of the land, air and naval forces.

Other authorities may participate in this council as stipulated in the organic law of the army and defence that defines their composition, attributions, functioning and organisation. In fact, the public or private administrations, services and bodies that deal with military or defence issues are almost all concerned with all the sectors of the national life: transport, health, education, economy, industry, scientific research, etc.

After all is said and done, it appears that the responsibilities and prerogatives of the president of the republic concerning defence and the army are important, but exercised within the government that defines and conducts the policy of the nation, in accordance with the resolutions of the inter-Congolese Dialogue⁹ and that "has at his disposal the armed forces,"¹⁰ and under the supervision of the Supreme Defence Council.

The cover of the government and the permanent presence of the Supreme Defence Council in the involvement of the supreme commander might mean that the powers and responsibilities of the president of the republic are largely merged with those of the government and the Supreme Defence Council. But, it should not be forgotten that the Supreme Defence Council is essentially a consultative body rather than a decision-making body. Besides, this kind of control, given as a prerogative to the president of the republic by the Supreme Defence Council and the government

- 1) is a part of the good and transparent practice of the conduct of public affairs within the political regime *sui generis*, which is particular and unique, negotiated

⁶ Article 74 of the constitution.

⁷ Article 73 of the constitution.

⁸ Consultation between the "Présidence de la République" and the vice-presidents: "Le Président de la République tient des réunions de concertation avec les Vice-Présidents sur toutes les matières relatives à la gestion du Gouvernement" (Article 82 paragraph 2 of the constitution), as well as the deliberations of the Conseil des ministres.

⁹ Article 93 of the constitution.

¹⁰ Article 94, paragraph 2 of the constitution.

in the Global and Inclusive Agreement and defined by the Constitution of the Transition;

- 2) is subject to the constraints implied by the management, within a "plural" government, of the issues related to the national defence that form a domain of collaboration between the president of the republic and other institutions or bodies of the republic;
- 3) cannot affect one of the essential responsibilities of the president: guaranteeing national independence, the integrity of the territory and national sovereignty. This responsibility justifies the operational and symbolic quality of supreme commander.

Logic states that the responsibilities and powers are related. Therefore, while exercising his power, the president of the republic can enhance his military and defence prerogatives, since the independence of the nation, the integrity of the territory and the national sovereignty should not be defended only in case they are directly threatened or the regular functioning of the constitutional public powers is interrupted. That is too late. "It would be pointless for the president of the republic to control the army if the latter does not carry out its assigned missions when there is a threat of war"¹¹

The independence of the nation, the integrity of the national territory and national sovereignty, which, according to Article 68, paragraph 2 of the constitution, are to be guaranteed by the president, should be defended every day on all fronts.

It is precisely in this field of daily defence of the vital interests of the nation that the constitutional prerogatives of the president of the republic concerning the military and defence issues can differ from the literal and restrictive interpretation of the general economy of the Supreme Defence Council; he convenes consultation meetings within the "presidential space," individually or at the request of a vice-president. He also convenes and presides over the Council of Ministers and the Supreme Defence Council. This responsibility allows the president of the republic to play a crucial role in defence. He can give a special stature and dimension to this role.

The vice-president in charge of the political commission, defence and security

The responsibilities and prerogatives of the vice-president in charge of the political commission, defence and security consist mainly, through coordination, of calling for the coherence of the government's policy concerning all the governmental activities that converge in the army and defence. The vice-president cannot take his own ini-

¹¹ Bernard Chantebout, *L'organisation générale de la défense nationale en France depuis la seconde guerre mondiale*, LGDJ, 1967, pp. 196, 197.

tatives: all he can do is enhancing the power of the government and the Supreme Defence Council. He is not in a position to take decisions, but to coordinate governmental action. He works with the government as an *ex officio* member of the Supreme Defence Council, and as chairman of the Supreme Defence Council when the president of the republic is absent. The vice-president collaborates in all the important decisions of the government concerning the defence. He cannot, in any way, lose this character of collaboration in the defence issues. In addition, not only does he inform on a regular basis the president of the republic of the results of his coordination, but also he maintains a permanent consultation with him, either within the multilateral and formal framework of the "president of the republic," in other words the "presidential space," or within the bilateral and informal framework of direct contact.

The minister of national defence

The same duty of informing and coordinating permanently with the president of the republic concerns the minister of national defence. Having as a mission to apply the fixed program and the decisions taken by the government concerning the defence, the minister of the defence is highly responsible for the management of this sector of the national life which he reports to the higher levels of government (president of the republic and the presidency of the republic) and for which he is responsible in the National Assembly.¹²

In fact, the armed forces are at the disposal of the government, as stipulated in the Article 94, paragraph 2 of the constitution. Therefore, the minister of defence shall make sure of the correct use of the means that the government mobilises in order to accomplish missions assigned to the army. Therefore, he shall take the appropriate measures by means of decrees, directives or orders.

As an *ex officio* member of the Supreme Defence Council, he participates in the definition of the raised political options and the decrees in this issue. He also has the responsibility of turning them into governmental directives presented to the armed forces. Therefore, the minister of defence, like other actors of the policy of the national defence, does not act in isolation, but in accordance with governmental deliberations and consultations as stated by the Council of Ministers, the Supreme Defence Council and inter-ministerial commission of the sectors of politics, security, and defence.

All in all, the Global and Inclusive Agreement as well as the Constitution of the Transition have established a system of collective direction and management of the defence and the armed forces - necessities for plural government. However, this system does not attenuate the personal responsibilities of political actors of the defence concerning the functional levels implied by this direction and this management.

¹² Articles 91 and 95 of the Constitution of the Transition.

Responsibilities and prerogatives concerning the direction and management of defence and armed forces

Traditionally, there are three levels in the defence direction: the general direction of defence, the military direction of defence and the operational direction of defence or the superior conduct of operations.

The general direction of defence

The general direction of defence covers two separate operations: the determination of the policy to be adopted and the coordination of the governmental action in order to achieve this policy.

The determination of the policy of defence

The determination of the policy of the defence that is the definition of political goals to be achieved by means of weapons and the choice of the general means to be activated, concerns the government, "formed by the president of the republic, the vice-presidents, the ministers and the vice-ministers."¹³ In fact, the armed forces are at the disposal of the government. Therefore, the latter determines and conducts the policy of the nation in accordance with the resolutions of the inter-Congolese Dialogue¹⁴. The government is assisted by the Supreme Defence Council that the Global and Inclusive Agreement gave a competence of approval, mainly concerning the elaboration of the policy of defence; which was not mentioned again by Article 190 of the constitution.¹⁵

From a practical point of view, the minister of defence should be responsible for submitting the elements of the policy of defence to the government, after discussing them with the president of the republic and the political commission of defence and security and after receiving the approval of the Supreme Defence Council. Then the government examines the options and decides the necessary arbitrations for the elaboration of this policy.

¹³ Article 89 paragraph 1 of the constitution.

¹⁴ Articles 93 and 94 paragraph 2 of the Constitution of the Transition.

¹⁵ It is not a matter of negligence, for firstly "l'élaboration de la politique de défense" can be included in "toutes les autres questions relatives à la défense nationale", which is stipulated by the Article 190 paragraph 2 *in fine* of the constitution, and secondly the latter was elaborated according to the Global and Inclusive Agreement. Therefore, the two texts are harmonious and complementary. (Article 11 of the constitution)

The coordination of the government activity

The coordination of the government activity in the pursuit of the purposes in the field of defence is an important level of the general direction of defence where the necessity of taking into consideration the universal character of national defence is revealed.

In fact, the policy of defence should be adapted to our period. It should determine, in a world of complete mutation and with complex and conflictive geopolitical configuration, the threat as it is nowadays and for the next years. It should characterise this threat in all its aspects, in order to define the regions where the actions of the government and the behaviour of the political actors on the international scene have the chance of being credible, sufficient and reassuring. The government should as well initiate and activate a global, rational, multiform, multi-sectional, operational and long-term strategy of defence. This strategy or policy of defence should, in addition, call for the total or consensual support of all the forces of the nation. It should be the manifestation of national support, *because a disunited and divided country is weak*.¹⁶ It should make the defence of the country the task not only of armed forces, but also all the forces regardless of the sectors in which they are involved: ideological, psychological, cultural, educational, social, military, economical, diplomatic, energetic, communicational, scientific...

The necessity of the coordination of the efforts of defence is, thus, indisputable. This coordination is achieved, in the government action, at two levels: the level of the inter-ministerial commission chaired by the vice-president in charge of political issues, defence and security, and the level of the Supreme Defence Council with a large, open,¹⁷ political and technical composition that confirms that the ministers, for instance, are not considered as politicians, but as heads of departments that are an essential part when it comes to the deliberations on defence issues.

The military direction of defence

The military direction of defence consists of establishing the broad outlines of the general strategic plans, global directives and the distribution of the means needed to put these directives into operation on the different fronts. The principle of the governmental responsibility in the military direction of defence is here protected. This responsibility is assumed on three levels.

¹⁶ We have recently passed through this painful experience. However, it did not prevent us from hoping of rebuilding a united and reconciled country based on the justice and democracy.

¹⁷ Articles 188 and 189 of the constitution.

Firstly, concerning the president of the republic, he can, according to the constitution, declare the war upon a decision of the Council of Ministers, after obtaining the approval of the Supreme Defence Council and the authorisation of the National Assembly and the Senate. He shall inform the nation in a speech or message¹⁸. Besides, he proclaims the state of emergency and the state of urgency upon the decision of the Council of Ministers, after receiving the approval of the Supreme Defence Council, the National Assembly, and the Senate. Thus, the government takes, by a meeting of the Council of Ministers, the urgent and necessary steps in order to face the situation¹⁹.

As for the minister of defence, he is in charge of executing correctly the military policy of defence by equipping the forces and building the necessary military infrastructures. He shall also take, in executing the deliberation of the government, all the general directives for the negotiations concerning defence. He also has to supervise the development of these negotiations and to evaluate them and report on them to the government. Besides, he is in charge of transmitting to the armed forces the urgent necessary measures taken by the Council of Ministers in the case of a state of emergency or urgency.

Finally, concerning the command, the president of the republic, as supreme commander, can play a role in determining the broad outlines of the general strategic plans, the global directives, and the distribution of the means needed to put these directives into operation on the different fronts.

Therefore, the military conduct of defence, and thus the conduct of the war and its preparation are duties of the government, which benefits from the permanent advice of certain military personalities or chiefs. This is not the case of the superior conduct of the operations, which assumes a large degree of autonomy in responsibility.

The superior conduct of operations

The superior conduct of the operations or war has to do with the technical aspects of the military actions. It is considered within the command in which, during the wars, the president of the republic, as supreme commander of the armed forces, is the first in the hierarchy. Therefore, he is the military chief of the nation, in other words, a *generalissimo* who has to lead all the forces of the nation in order to defend, by means of weapons, national independence, the integrity of the territory and national sovereignty. In fact, in periods of crisis or war, the system is subject, from a functional and particular point of view, to the supreme commander in order to provide to the

¹⁸ Articles 73 and 134 of the constitution.

¹⁹ Articles 74, 135 and 136 of the constitution.

nation as well as to its armed forces the *unity of command* that makes it easier for the nation to act efficiently when facing serious situations.

The logic of the institutions of the Transition and the requirements of the exercise of the power in accordance with the Global and Inclusive Agreement politically engage the president of the republic, "for the sake of the national unity," in providing "with the vice-presidents, exemplary leadership,"²⁰ mainly through abundant use of the mechanisms of consultation stipulated in Article 82 of the constitution or by having recourse to the consultation offered by the Supreme Defence Council.

The exercise can undoubtedly decrease the efficiency of the supreme command in the conduct of operations. However, there is the advantage of protecting the cohesion of the "presidential space" during conflagrations, for the sake of the national interest. This should not lead to troubles in the superior conduct of operations, which is the technical responsibility of the military chiefs, professionals in the domain of weaponry. In this field, the autonomy of the army is necessary in order to make it possible for it to express and exercise its profession. Consequently, the government should appoint, during periods of war, one or more commanders of operations with an operational staff of coordination.

However, victory in a war is related not only to the technical capacities of the military command, but also to the political assistance provided by the entire nation to the armed forces. This practical consideration is precisely to consolidate the supreme commander in the necessity of taking, during the periods of war and crisis, all his responsibilities, for he is the "constitutional guarantor of national independence, integrity of the national territory and national sovereignty."

The unity of command required by the situation of war and assumed, according to the constitution, by the supreme commander, on pain of high treason and serious violations of the constitution, is rooted on one hand in these constitutional responsibilities and on the other hand in the "necessary and exemplary direction" that he "provides, with the vice-presidents... for the sake of the national unity of the DRC".

Every hindrance to the exercise of this "necessary and exemplary direction" that destabilises or weakens the unit of command, and thus, during wars, the defence of the nation, may lead to charges of high treason and intentional violations of the constitution. Whoever has committed these offences, (a member of the "presidential space" or member of the government), he shall be personally punished.

²⁰ Article 80, paragraph 2 of the constitution.

How does the constitution view the supreme commander of the armed forces?

The impact of the past

In the institutional history of the DRC, especially of its armed forces, there is a constant confusion in the comprehension of the function of command. This situation has had consequences insofar as it creates a hierarchic and functional indetermination of the roles between the different superior bodies of the armed forces. It may eventually cause dangerous frictions between the organs of state in charge of national defence and the armed forces. It might seriously disturb the normal functioning of the army and influence its performance, not to say endanger its security. It is caused by a misinterpretation or by ignorance of the constitutional, legislative and regulatory texts that organise national defence and the armed forces. It may as well result from an erroneous approach of the meaning of the historical evolution of the military organisations of the country, from since the Public Force to the Congolese armed forces, not to mention the national Congolese Army, the Zairian armed forces and the politico-military rebellious forces.

It should be noted that under the Public Force as well as during the period of the national Congolese Army (NCA) until 1972, the effective command of armed forces was assumed by the commander in chief who exercised it under the authority of the general-governor of the colonies or the president of the republic. The constitution of 24 June 1967 considered the president as "*the supreme chief of the armed forces and the police.*"²¹ However, after he was appointed head of state after the events of 24 November 1965, Lieutenant-General Joseph-Désiré Mobutu appointed his uncle, General Louis de Gozangue Bobozo, commander in chief of the army. But, in fact, Mobutu continued to govern and command the army in addition to his position as a "supreme chief of the armed forces and the police." He considered that, as a military man, he should exercise effective command of the armed forces.

Therefore, the practice created by the specific "situation of the President-Founder" - according to the expression adopted at that time - led to the abolition, in 1972, of the function of commander in chief and to its replacement by the position of Captain General. This new name was confirmed by regulation 74-103 of 21 June 1974, which organised the command of Zairian armed forces. As a result, the Captain General does not exercise the command of forces; he is simply the higher official of the army with the main role of coordinating the activities of different forces under the authority of the commissioner of state (minister) of national defence and the security of the territory, in other words, the President-Founder himself. This specificity of the function

²¹ Article 30 of the constitution of 24 June 1967.

of Captain General was confirmed by law 77-012 of 1 July 1977, which organised the defence and armed forces and established the functions of the coordinator and the general chief of staff.

These changes resulted from the necessities of enhancing the monolithic and personalised structure of power and from a certain distrust (towards the military chiefs) that should be taken into consideration in order to avoid any temptation involved in the putsch. These changes occurred regardless of the good functioning of the army, its efficiency and the inter-functionality of the different instances of the political and military chain of command. In fact, this consideration did not have any pertinence inasmuch as the ministry of the national defence was governed by a secretary of state or by a minister who was not, in fact, more than a delegate, while the essence of power here was wielded by the chief of staff himself.

In addition, when practised, these changes did not fundamentally bring any novelty because they all had only one imperative: maintaining the army under the exclusive control of the "President-Founder" and for his own interests to the detriment of other institutions of the republic. Also, in the collective conscience and subconscious of the Congolese, the functions of the commander in chief of the armed forces, the Captain General, the Coordinator and the general chief of staff were considered as equivalent. Since then, there was, in the perception of the Congolese, a real hypertrophy and an obscurity of the function of supreme commander, in other words, an unlimited expansion of this function, leading to a serious alteration of its substance and a weak comprehension of its significance.

These collective representations were never corrected undoubtedly played a role in the recurrent conflict, with regard to the instalment of the institutions of the Transition, the formation of a national army, the appointment of chiefs of staff of the different forces, commanders of military districts and other positions of the big units of armed forces and the constitution of an integrated staff of Congolese armed forces.

The Constitution of the Transition recognises in Article 72 that the supreme command of the armed forces belongs to the president of the republic. It is convenient to bring out this function of the collective cultivated representations in the context of the Second Republic, which hinders the good visibility of the actions and interactions of this institution, which is its sphere of competence. In other words, the function of supreme commander should be more deeply understood.

The meaning of the function of the supreme commander

In order to know the meaning of the supreme commander, we should firstly compare it to the supreme chief of the armed forces and secondly reveal its functional position within the chain of command of the armed forces.

Supreme commander and supreme chief of the armed forces

The president of the republic is the supreme chief of armed forces, because he is the chief of the state and head of all the administration of the state. This position consists of the representative function assumed by the president of the republic concerning the cardinal values of the nation: national independence, integrity of the territory and national sovereignty - values that are constitutionally guaranteed by the president of the republic and defended by the army, even if this calls for the supreme sacrifice.

Therefore, the president of the republic is the head of state as well as the army, the ultimate symbol of the authority of the state and the power of the nation. In both republican and democratic regimes, the power of the state, (which is by nature civil power), symbolised by the president of the republic, represents the "supreme chief", in an institution as hierarchic as the army, which assumes that power derives from military power.

This symbolic character of the supreme chief of army that makes it an honorific position, gives the president of the republic a galvanising role in the armed forces when the independence, integrity and sovereignty of the nation is threatened.

Although it is the president of the republic that mainly determines and conducts the policy of the nation in the field of defence, the quality of supreme chief of the armed forces that he assumes, in the periods of peace, does not allow him to conduct their equipping and activation.

It should also be noted that if the chief of state manifested himself in his political partisan dimension, as a leader of a political party, he could not consequently command the armed forces that should, in all circumstances, remain apolitical. But, his honorific and symbolic title as a supreme chief of the armed forces is not affected. It is evident that except for this case, the political dimension of the function of the chief of state, taking into account the superior interests of the nation, is not incompatible with the exercise of the army command.

The preparation and the activation of the armed forces are tasks of command. This means tasks that:

- require direct actions
- involve the planning of military objectives, the operationalisation of means, the translation of this planning and this operationalisation into orders and military injunctions, the confirmation of the execution of the given orders and injunctions, the evaluation of the results on the field, the determination of the positive/negative sanctions
- need an immediate choice of options or decisions to make contact with what is happening on the field.

The command is actually defined as the power and responsibility of a military chief to give orders to execute a mission.

Equipping the armed forces, which means training the units and troops, comes under the ordinary superior and subaltern command of the armed forces. On the other hand, the activation of the armed forces that includes their deployment and their engagement, particularly in the field of battle, and the direction of war come under the responsibility of the president of the republic as the supreme commander of the armed forces. Thus, with this title, he is part of the chain of command.

The supreme commander in the chain of command

The armed forces are divided into two hierarchical functional chains: the chain of command and the chain of coordination.

The chain of command comes under the direction and supervision of the supreme commander; it includes the commander of the units of combat and those of operations.

The chain of coordination is doubly specified. First, there is the political coordination of conception and organisation, which is carried out by the minister of defence under the authority of the president of the republic, of the Supreme Defence Council and of the vice-president, part of whose remit is related to national defence. Then comes the *operational coordination* and equipping that is exercised by the general chief of staff assisted by the chiefs of staff of the different forces at the national level and the commanders of the military districts would take this task to the regional level.

It seems that the opinion fixed in the collective Congolese representations according to which, the chief of the general staff would be the commander in chief of the armed forces and the chiefs of the forces would command their respective forces, is erroneous. Being part of the chain of the operational coordination, these military chiefs are mainly charged with preparing, equipping and maintaining the forces they lead. They perform this task with the normative and logistic support of the minister of the defence, who sees to it that the activation of policy at this level, is confirmed by the cabinet and that the application that follows is assured by the vice-president of the republic charged of coordination at the governmental level of the political sector and of national defence and security. However, in the specific context of the organisation of the armed forces during the period of the transition, the result of the Memorandum II concerning the army stipulates that the daily exercise of the command is assured by the general chief of staff.

How is the activity of national defence and the armed forces subject to equality? What is the legal frame for military activity?

The normative and legal mechanisms of control of the political and military leaders of national defence and the armed forces appointed by the Constitution of the Transition consist either in the establishment of the legislative or regulatory norms related to national defence and the armed forces, or in the organisation of the decision-making process that involves different preparatory echelons, or in the specific system of sanction.

The establishment of the legislative or regulatory norms related to national defence and the armed forces.

The establishment of the legislative norms

The legislative norms related to national defence and the armed forces are established by the National Assembly alone or conjointly with the Senate.

The norms established by the National Assembly

The constitution is entrusted to the National Assembly to fix, through a law, the rules concerning:

- the army, the police and the security services
- the general organisation of defence and national police, the mode of recruitment of the members of the armed forces and the national police, the progress, the rights and duties of the military and police the personnel²²
- the upgraded conditions of recruitment and progress, organisation, rules of discipline, conditions of service, rights and duties of soldiers²³
- the conditions under which the armed forces will carry out the mission of participating in the economic, social and cultural development and protecting the people and their property.²⁴

²² Article 118 of the Constitution of the Transition, 13th and 14th points of Article 177 of the constitution.

²³ Article 186 of the Constitution of the Transition.

The National Assembly also assumes the task of ratifying or approving, through a law, the treaties of peace, and treaties and agreements related to the regulations of international conflicts.²⁵ These treaties and agreements are of special interest to national defence and the armed forces; that is why they deserve to be mentioned here.

The norms established jointly with the National Assembly and the Senate

The organic law of the army and defence is issued jointly by the National Assembly and the Senate. In fact, according to Article 121 of the Constitution of the Transition, "the laws qualified as organic are voted in and are modified by the majority of the members of the National Assembly and the Senate." Moreover, paragraph 2 of this same provision stipulates that these laws cannot be promulgated unless the Supreme Court of Justice, held essentially by the president of the republic, declares them in keeping with the constitution. The clauses ruled by the organic laws cannot be an object of the laws and decrees of the cabinet, as authorised by the National Assembly, due to the request of the government to execute its program of action²⁶.

Not to mention that the composition, the remit, the functioning and the organisation of the Supreme Defence Council are determined within the framework of the organic law of the army and defence.²⁷

The National Assembly and the Senate also intervene jointly and vote in an organic law that determines the rights and duties of citizens during war, or in a case of an invasion or an attack on the national territory by external forces.²⁸ In addition, they can jointly end, through a law, the state of emergency or siege.²⁹

The laws of military programming, which are defined as laws of public finances, are issued similarly³⁰ by the joint competence of the National Assembly and the Senate. The laws of military programming are related to the development and equipping of the armed forces. These laws determine, within the framework of the laws of finance and budget, the budget share reserved to the development and equipping of the armed forces; as well as the order, sequence and rhythm of the operations to be accomplished, or the purchases to be made in order to reach the exact objective of development and equipment.

²⁴ Article 178 of the Constitution of the Transition.

²⁵ Article 192 of the Constitution of the Transition.

²⁶ Article 121 paragraph 3 and Article 119 of the Constitution of the Transition.

²⁷ Article 188 of the Constitution of the Transition.

²⁸ Article 134 paragraph 3 of the Constitution of the Transition.

²⁹ Article 135 paragraph 5 of the Constitution of the Transition.

³⁰ Article 104 paragraph 3, and 118 of the Constitution of the Transition.

The establishment of the regulatory norms

The regulatory norms related to national defence and the armed forces are established by the president of the republic, as the supreme commander of the armed forces, and by the minister of national defence and the chief of the general staff.

The president of the republic, as the supreme commander of the armed forces, has the authority to appoint officials,³¹ remove them from their post and dismiss them if need be.

And since the armed forces are subject to civil authority and come under the power of the supreme commander,³² this latter exercises this authority by means of directives, commands, instructions and orders.

The directives are indications or guiding lines given by the military authority in order to reach results in a specific domain.

The commands are strict instructions given to a serviceman, a unit or all the armed forces. We may differentiate between the general commands and the specific commands. The general commands are addressed to the armed forces as a whole. They are mainly permanent. The special commands are addressed to a single serviceman, single unit, dealing with a single problem or a particular situation. Whether general or specific, the commands can be permanent or limited in time.

The instructors are prescriptions or orders given expressly, with all the useful precisions.

The order is a command that enjoins what is to be done or not to be done.

The minister of defence establishes these regulatory norms related to defence and to the armed forces by applying, in accordance with the resolutions complying with Article 91 of the constitution, the set programme and the decisions made by the government. Thus, he can enforce regulations on the accounting and finances of the units, and on the payments of the military etc., not to mention directives in order to execute the decrees of the president of the republic and the laws,³³ or to activate the measures of emergency that come along with the state of emergency or the state of siege.³⁴ In general, the normative intervention of the minister of defence, in the framework of the missions of conception, organisation, planning, acquisition, decision and control makes him take resolutions and directives concerning the elaboration of structures, the definition of links between functions, the acquisition and attribution of means.

³¹ Article 72 of the Constitution of the Transition.

³² Article 181 of the Constitution of the Transition.

³³ Article 94 of the Constitution of the Transition.

³⁴ Article 136 of the Constitution of the Transition.

Finally, the general chief of staff, performing within the hierarchical coordination chain under the authority of the supreme commander and of the government, translates the prescriptions of the higher hierarchy into *directives, commands, instructions and orders*. Furthermore, he carries out, according to a resolution, the nomination of the non-commissioned officers, soldiers of second and third ranks and the recruitment of soldiers, by preparing the employment monograph, planning the organisation of strengths and the upgraded promotions, as decided by the superior echelons (the supreme commander, the government, the National Assembly, the Senate, the minister of defence)

Also within the normative framework the general chief of staff has to regulate the interior service, which means the arrangement of activities and daily tasks that bind a serviceman to his unit, throughout the duration of the service. Furthermore, he constantly fixes the periodical schedule in the garrison or in the district in order to assure at all times, day or night, a continuous command. The regulation of interior services includes the organisation of the daily and weekly service, the guards and the pickets, the command of the place or the corps, the functions and duties assigned to the group, the conditions of the general police of the camp, the hygiene and medical services, the measures of security to prevent certain dangers (particularly fire fighting), etc.³⁵ This regulation is established according to the directives of the chief of staff.

In general, the general chief of staff establishes, within the framework of the conditioning tasks, the execution of the training programs, supervision, daily administration and management in everything that concerns the people and the equipment under his authority. In addition, he ensures the adherence to the regulations of the interior service, the regulations and procedures related to the tactical employment and training of units, the regulations related to the use and maintenance of the material and equipment; the regulations implemented by the chiefs of staff of the forces, the commanders of the military districts and the commanders of big units within their operational tasks.

The norms in the decision-making process

The processes that prepare and lead to the decisions related to national defence and to the armed forces involve different intermediate echelons of consultation, deliberations, opinions, authorisation or control. Things happen in a way that a decision taken with ignorance of the modalities characterising its processes can be questioned in its essence.

³⁵ Direction Training Etat-major général, *Précis sur le service intérieur*, Publication des Forces armées congolaises, Diffusion restreinte, mai 99, 27 pages.

Thus, the nomination decree, whether concerning functions or the revocation of officers, must mention in its introductory clauses or its preamble, the formula: "Whereas the Supreme Council has agreed."³⁶ In addition, the nomination decree of high-ranking government officials, such as the military attachés, has to be indicated in its clauses along with the decision taken by the cabinet to this effect, the confirmation of the Supreme Council of defence, as well as the authorisation of the National Assembly and of the Senate.³⁷ Similarly, the message delivered to the nation by the president of the republic declaring war mentions the decision of the Council of Ministers related to the matters, the conforming verdict of the Supreme Defence Council as well as the authorisation of the National Assembly and of the Senate.³⁸ The decree declaring the state of emergency mentions the following:

"Considering the decision of the Cabinet;

"Considering the conforming verdicts of the Supreme Defence Council;

"Considering the joint authorisation of the National Assembly and the Senate ..."

As for the decree declaring the state of emergency, it requires the decision of the cabinet, the conforming verdicts of the Supreme Defence Council, the National Assembly and the Senate.³⁹ In case of prorogation of the duration of the state of emergency or siege, the decree taken on this regard requires the decision of the cabinet and the joint authorisation of the National Assembly and the Senate.⁴⁰

The necessary urgent measures to face the situation that led to the declaration of the state of emergency or siege, undertaken in compliance with a decree issued by the president of the republic or by a decision taken by the minister of defence or other ministers (interior, justice, transport, energy, economics, etc.), are subject first and foremost to the decision of the Supreme Court of Justice to evaluate their constitutionality.

The decisions and directives of the minister of defence mention in their clauses the programmes and decisions of the government to which they refer or on which they are based. They also require the laws or decrees that the minister of defence executes in the name of the government.⁴¹

The organic laws, particularly those of national defence and armed forces, are subject to the vote of the National Assembly and the Senate in order to be valid. Besides, they cannot be promulgated unless the Supreme Court of Justice, to which

³⁶ Article 72 of the Constitution of the Transition.

³⁷ Article 76 of the Constitution of the Transition.

³⁸ Article 73 of the Constitution of the Transition.

³⁹ Article 74, 135, 136 of the Constitution of the Transition.

⁴⁰ Article 135, paragraph 4 of the Constitution of the Transition.

⁴¹ Article 94 of the Constitution of the Transition.

the president of the republic must refer them, declares them in compliance with the constitution.

Finally, the verdict of the Supreme Defence Council is required in general every time a law, a decree or a decision is to be taken on matters of the formation of a national, reconstructed and integrated army, the disarmament of armed groups, the supervision of the withdrawal of foreign troops and any other question related to national defence.

The specific system of sanction

In order to be efficient, the organisation and functioning of national defence and the armed forces require the support of strong constitutional and legal guarantees that give effect the administrative, disciplinary, political and criminal sanction. The administrative and disciplinary sanctions are included in Articles 118, 186 and 188 of the Constitution of the Transition; namely, the law organising the rules of discipline, the conditions of service and the rights and duties of the soldiers. Here we shall mention only the political and penal sanctions included in the Constitution of the Transition, the ordinary penal code and the new military penal code.

The sanctions included in the constitution

The Constitution of the Transition introduces the crime of high treason in order to repress the exploitation of the armed forces for personal goals to the detriment of the Congolese nation as a whole, and the organisation of military and paramilitary groups or private militias, and the support of subversive armed youth.⁴²

We should note that according to Articles 141 and 142 of the Constitution of the Transition, the president of the republic and the vice-presidents shall not be penalised for any action undertaken within the framework of exercising their functions, except for extreme cases of treason, embezzlement of public funds, misappropriation of public funds, corruption or intentional violation of the constitution⁴³. Moreover, Article 44 of the constitution, stipulates that the other members of the government, who are penalised for action undertaken within the framework of exercising their functions

⁴² Article 180 paragraph 3 and 182 of the Constitution of the Transition.

⁴³ It should be noted that the president of the republic and the vice-presidents shall not be sued for any offence or crime committed outside the framework of their tasks, unless they are accused by the National Assembly with the approval of the majority of its members (Articles 141, paragraph 2 and 142, paragraph 2 of the Constitution of the Transition).

without restriction, engage their personal responsibility in extreme cases of treason, intentional violation of the constitution, embezzlement of public funds and corruption.⁴⁴

Article 143 of the constitution stipulates that high treason takes place “when the president of the republic or the vice-president endangers the national independence or the integrity of the national territory, substitutes or attempts to substitute for other constitutional powers or prevent them from exercising the functions granted to them by the constitution.”⁴⁵

Thus, under the guarantee of a criminal sanction for high treason and for intentional violation of the constitution, when the fatherland under threat engages its armed forces in a war, the unity of command of the latter, under the terms of Article 181 of the constitution, applies to all, in the name of the supreme interest of the nation and in the name of the necessity to defend the country. It is the responsibility of the supreme commander of the armed forces to embody and assume this unity of command within the institutional and organic framework described above, i.e., respecting the constitution, the laws of the republic and the military regulations.

It should be equally noted that the criminal sanction regarding the exercise of the command and the unity of command does not only concern the president of the republic, the vice-presidents and the other members of the government. The warning provided for in Article 3, paragraph 2 of the Constitution of the Transition states - and is unequivocal in its general application - “no one shall abuse the attributes of authority and the public power for personal goals, to gain partisan interests, or to facilitate the interference of one institution or public service in the functioning of another institution or public service.”

Several times,⁴⁶ the constitution emphasises *the abuse of the attributes of authority and public power for personal goals*, to gain partisan interests, or to facilitate the interference of one institution or public service in the functioning of another institution or public service. It calls for all the central, provincial and local authorities to safeguard the integrity of the republic, its sovereignty and national unity, under pain of treason or high treason.

High treason is a grave transgression with which only the president of the republic, vice-Presidents, ministers and vice-ministers, deputies and senators, and the

⁴⁴ The members of the government, other than the president and vice-presidents, cannot be sued for these offences or for other offences committed outside the framework of their tasks, unless they are accused by the National Assembly with the approval of two third of its members (Article 144, paragraph 2 of the Constitution of the Transition).

⁴⁵ The second paragraph of this provision stipulates that the organic law determines the applicable penalties for the offences of high treason and of the intentional violation of the constitution; it determines as well the procedures to be followed before the Cour suprême de justice.

⁴⁶ Articles 3, 6, 11, paragraph 6, 53, 66, 67, 68, 85, 89, 101, 107, 141, 142, 143, 144, 159, 180, 182 of the Constitution of the Transition.

presidents and members of the democratic institutions can be charged. It is a kind of political sanction, since it leads to the end of the political mandate of the condemned person; and a kind of penal sanction - the applicable penalties must be determined by an organic law in conformity with the prescriptions of Article 143, paragraph 2 of the Constitution of the Transition.

As for the offence of treason, it falls under ordinary criminal law and the military criminal law; any person, civilian or military, can be charged with it.

The sanctions of the ordinary penal code

The sanctions of the ordinary penal code for offences committed against the command of the armed forces and against the interests of national defence and the armed forces are included in the provisions related to the threat to the state's national security, treason in particular; the attacks, plots and other crimes against the authority of the state and the integrity of the territory; the attacks and plots tending to massacre, devastate and pillage; and the involvement in armed bands or insurrectionary movements, etc.⁴⁷

The sanctions of the military penal code

More specifically, the military penal code incriminates and sanctions threats to the fundamental interests of the nation⁴⁸, crimes committed against discipline, several types of constitutive behaviour, namely obstructing the command and the unity of command of the armed forces, and attacks against the commander.

Accordingly, any one, civilian or military, would be punished if he committed:

- treason, consisting mainly of turning in to a foreign power, or under a foreign control, or to their agents, either troops belonging to the Congolese armed forces, or an entire part of the national territory, or even through the means of undertaking hostilities or carrying out aggression acts against the republic (Article 128 of the military penal code);

⁴⁷ Articles 181 to 220 of the ordinary penal code.

⁴⁸ According to the military penal code, and observing the fundamental interests of the nation, one must seek to ensure its independence, the integrity of its territory, its security, its republican form and its institutions, the means of its defence and diplomacy, the safeguarding of its population even abroad, the equilibrium of its natural milieu and its environment, and the essential elements of its scientific, economic and cultural heritage potentials. (Article 126 of the military penal code).

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- acts of violence endangering the institutions of the republic or harming the integrity of the national territory (Article 135 of the military penal code);
 - the participation in, the direction, the organisation, or the command of an insurrectionary movement (Articles 136 to 139 of the military penal code);
 - the usurpation of command, the illegal lifting of armed forces, the incitement to illegal armament (Articles 140 to 142 of the military penal code);
 - the inducement of soldiers belonging to the Congolese armed forces to serve under foreign powers in order to endanger national defence (Article 143 of the military penal code);
 - the encouragement to disobedience, through any given means whatsoever, of soldiers, servicemen and people in charge of any form of civil service in order to undermine the national defence (Article 145 of the military penal code);
 - the commission of any act destined to harm national defence or to hamper the normal functioning of services, establishments or public or private enterprises, or an interest to national defence (Article 148 of the military penal code);
 - the apology or propaganda harming the fundamental interests of the nation (Article 206 of the military penal code);
 - a military plot with the aim of harming the authority of the command (Article 62 of the military penal code);
 - the refusal to obey the orders of one's superior or execute them (Articles 93 and 94 of the military penal code). Naturally, only the legal order could be established. The Constitution of the Transition stipulates in Article 25 the following: "no one shall execute a manifestly illegal order, particularly when the latter harms the fundamental liberties and rights of the people."

What are the principles that will govern the formation, restructuring and integration of the new national army?

The formation of a national, restructured and integrated army is one of the main objectives of the Transition.

According to the Global and Inclusive Agreement on transition in the Democratic Republic of Congo, the formation of a national, restructured and integrated army is considered one of the main objectives of the transition. This objective is repeated in the preamble to the Constitution of the Transition in terms of the reiterated commitment of the "representatives of the Components and Entities to the Inter-Congolese Dialogue" "to profit from the period of transition in order to establish, within a context of

peace and concord, a new and political order in the Democratic Republic of Congo, in particular democratic institutions aiming to good governance of the country and the formation of a national, restructured and integrated army.”

We are talking here about a major political commitment, the realisation of which imposes itself as a strong indicator to the will of all the active forces of the nation and the political actors of the Transition, transcending their particularism, namely their cleavages, to really apply themselves to reinventing our institutions. This is a major challenge at the same time; a challenge that put to test our high sense of patriotism and the great idea of the supreme interest of the nation.

This challenge resides in the will to form during the period of transition, not only an army of transition, nor an army of several components and entities, but a “national, restructured, and integrated army,” that survives the transition period and overcomes the fatal archaisms that have characterised up to now our system of defence, in order to join the ranks of the modern armies of the twenty-first century.

The formation of a national, restructured and integrated army is a necessity imposed by the political, internal, military, and international context

This challenge tests our capacity to take into account the international, geostrategic and geopolitical transformations that began at the end the 1980s and treat it as urgent, two decades later, to redefine our political defence and general reorganise our forces of security and defence. In light of these transformations, the self-evident question of the defence and the security of the republic comes in terms of knowing which type of army, which type of security forces or police, and which type of security system to choose for which type of threats, which political internal and international objectives and with which means?

The orientations of the law concerning national defence and the armed forces

The organic law on of the general organisation of defence and of the Congolese armed forces is still under debate within the government. In fact, regardless of final form that submitted to the parliament; this text should certainly be in conformity with the fundamental options of the Constitution of the Transition concerning national defence and the armed forces. These fundamental options should be formulated in the light of the provisions of the Global and Inclusive Agreement and the other institutions established by the political process that precede or follow this Agreement; namely, the

Ceasefire Agreement of Lusaka of 10 July 1999, the Resolutions of the inter-Congolese Dialogue of Sun City, 25 February 2002 - 19 April 2001; Memorandum I, signed in Pretoria on 6 March 2003 on "the mechanism of the formation of a national, restructured and integrated army," Memorandum II, signed in Pretoria on 29 March 2003 and in Kinshasa on 29 June 2003, on "the organisation of the high command of the armed forces of the Democratic Republic of Congo" and on the security during the transition.

Four guiding principles, based on the constitution, should mark and architecture of this law:

- the army is subject to the civil authority, and is placed at the disposal of the government and under the authority of the supreme commander;
- the army is national because it serves the whole nation and no one is allowed to exploit it in order to achieve personal interests
- the army is republican in that its strengths are composed in a way to ensure the equitable participation of all the provinces; and
- the army is apolitical since it is an instrument of national sovereignty and national interest. It is not only indifferent, by nature, to the interests of the partisans, but also it cannot be exploited to achieve personal interests, under pain of high treason.

In view of these guiding principles, the submitted pilot draft law orients its efforts in three directions: the involvement of the citizens, the political management of defence, and the armed forces within the framework of the defence apparatus of the nation.

Let us remember that the involvement of the citizens in military affairs and defence is promulgated in different provisions of the Constitution of the Transition, confirming the rights and duties of the citizens in this matter. It is truly about a new orientation in the history of our organisation of defence. This involvement constitutes the basis for educating the spirit of defence and organising civil defence, which is the responsibility of the minister of the interior acting in collaboration with minister of defence.

As for the political management of defence and armed forces, this law should make by all means to establish good equilibrium of responsibilities and prerogatives between the president of the republic and the other institutions and bodies in the republic, without harming the unity of command necessary for the efficiency of the armed forces at all times. The mechanisms of management and collaboration, that are to be activated, should take into consideration the whole content of the constitution related to the organisation and functioning of the national defence and armed forces.

Let us remember in this regard that:

- 1- the supreme commander exercises his authority over the armed forces

as an authority that nominates guard officers with different ranks and military functions at all echelons of command, with the approval of the Supreme Council of the defence or to the High command;

as responsible for the functioning of units and the proceeding of the war;

as an authority of impetus of the high command

2- The role of the president of the republic inside the government:

Responsibility for determining and conducting general defence policy is assumed by the government.

The cabinet, presided over by the president of the republic, declares war and a state of siege or emergency, with the approval and/or the authorisation of the National Assembly and the Senate.

As for government responsibility, the role of the president of the republic remains essential in view of his capacity as supreme commander, but most importantly in view of his capacity as the constitutional guarantor of national independence, national sovereignty and the integrity of the territory and in view of his capacity as leader in the political game of the institutions of the transition.

Finally, the president of the republic ratifies and approves the defence treaties and agreements that are not ratified by parliament.

- 3- The Political, Defence and Security commission. It is necessary to prevent this inter-ministerial coordination structure becoming, in practice, a heavy, useless interface in the apparatus of the political management of defence. The efficiency of this apparatus would be seriously eroded by a diffuse text on responsibilities that leave the lines of responsibility at governmental level badly drawn among the president of the republic, the aforementioned commission and the minister of defence.
- 4- The minister of defence. The law should clarify the responsibilities of the minister of defence in order to avoid any overlapping with the attributions of the general chief of staff. The minister of defence assumes important responsibilities such as the mobilisation of the resources necessary to the development of the forces and the infrastructures indispensable for the defence and control over the use of these means. Administrative and financial autonomy should be given to the armed forces so as to allow the general chief of staff in particular to enjoy sufficient scope to manoeuvre in the administration and the daily management of the army, always under permanent control of the minister of defence.
- 5- The composition of the Supreme Defence Council should be reinforced. Its functioning should be organised in a practical manner; its consultative mission should be clarified. The modalities of these deliberations should be defined, while stressing the fact that its resolutions must be taken with tacit approval, necessitating no voting. It is up to the president of the republic, chairman of the

Council, to subtly establish the position of the Supreme Defence Council from the deliberations. His secretary and his spokesman should be designated. The very extended material competence of the Supreme Defence Council should allow the different personalities forming it not only to be fully informed about the course of the military affairs, but also to contribute, through their opinions, to thinking about military defence and change in some military practices. Presided over by the president of the republic or, if the latter is absent, by the vice-president in charge of the political, defence and security commission, the Supreme Defence Council, however, can only be convened by the president of the republic, either through his own initiative or at the request of one of the Council's members. The agenda of the Supreme Defence Council should be fixed by the president of the republic. The members of the Supreme Council of defence are required to keep their deliberations secret, and any information they acquired due to their capacity in members.

- 6- The National Assembly and the Senate should intervene in an essential way in the voting of laws related for defence and armed forces; under the process of ratification of defence treaties and peace agreements, the settlement of international conflicts, cessions, the exchange or annexation of territories; as well as the announcement of the state of emergency or siege in the process of declaring war.

The new articulation of the forces

The new articulation of the forces to be built should abide by the principal of the unity of command, the hierarchy of which starts with the supreme commander of the armed forces and ends with the soldiers, by way of the general chief of staff and the chiefs of staff of the individual forces and the commanders of the big units. This unity of command reveals its importance when the army to be formed, should integrate mixed and disparate forces, made of fighters of old belligerents. This army would be much better reinforced when the activation and conditioning of the forces are in place, the first, under the responsibility of the supreme commander; and, the second, under the responsibility of the general chief of staff and chiefs of staff of forces, within the framework of the high-command and/or of the Council of Command.

The high command would have the mission of translating into military terms the resolutions of the Supreme Defence Council and continuously evaluating threats in order to come up with suitable solutions. It is within this structure of command that the detailed program of the integration of troops should be elaborated. The Council of Command should ensure, under the authority of the general chief of staff, the daily management of units.

A general reserve should be prepared to provide the command, at any time and under any circumstances, with efficient means of intervention, supporting the operational action of the Military Regiments and the zones of defence. In addition, for the needs of training a restructured and integrated army that involves many operations of selection and choosing, a technical general staff of integration should be instituted.

The political management of the national defence and armed forces

In the new organisation of defence it is going to establish, the organic law must take into consideration the previous and most recent experiences of our armed forces as formulated in the law № 77-012 of 1 July 1997, the law-decree № 001/2002 of 26 January 2002 and the law-decree № 008/2003 of 30 March 2003; and bring particularly concrete answers to the questions related to the responsibilities of the citizens in terms of defence; to the constitutional responsibilities and prerogatives of the main Congolese politicians of the transition; to the meaning of the function of the supreme commander; to the submission of the military activity to the republican legality; to the principles according to which the formation, reconstruction and integration of the new national army are to be operated.

Conclusion

In conclusion, the direction and the management of defence in the political system, put in place by the Global and Inclusive agreement, and by the constitution of the Transition, follow totally new standards, utterly different from the traditions developed by the regime of the Second Republic. This system is marked by the responsibility of the government in leading the armed forces and coordinating national defence. This responsibility is carried collectively by the government, with some prerogatives being given, however, to some political actors, thanking them for their particular, personal responsibilities. The responsibilities of the supreme commander of the armed forces are based, simultaneously, on their status as a guarantor of national independence, the integrity of the national territory, the national sovereignty as well as the political and military direction, to the extent that he is called to fill in at the top of the state, within the respect of the balances of the presidential space and of the imponderability of the plural government, and with due consideration for the supreme interest of the nation.

This system is, for a country like ours, seeking its way out of tyranny to democracy and the rule of law, a true revolution at least regarding the relations between the civil power and military power. The national defence and the army were the responsibility of one person - the supreme commander of the armed forces - reserved, in a sort of a caste privilege system, to some military "elites." The political and civil authority had no claim to this regard.

On the other hand, the political and constitutional system currently governing the direction and the management of national defence and of the army, is characterised by: the effective subordination of soldiers to the political and civil authorities that take the fundamental decisions in the issues of foreign policies and defence; the recognition and acceptance by these civil authorities of the existence of a range of competence in which the army enjoys a real autonomy; in consequence, a minimum of intervention by soldiers in political life, and a minimum of intervention of politicians in military life.

All this presupposes a high level of professionalism in the army and the respect of officers at the limits of their competence.⁴⁹ We wish that the government of the transition works on ensuring this professionalism in the army and this competence awareness of limits amongst soldiers. An organic law on the army and on defence, as voiced in Article 188 of the Constitution of the Transition, as well as a law on the national police and security services (Article 118 of the constitution), should - something that seems to us obviously very urgent - establish the guiding principles of this professionalism, defining its conditions and modalities, and drawing all the consequences regarding the competences of the command or coordination, without forgetting to precisely define administrative, disciplinary or penal solutions in case of encroachment, usurpation or abuse of power.

Finally, based on this study of the military dimension of the Constitution of the Transition, the logic and intelligence of the balances and sensitivities of the institutions of the transition appear to be undoubtedly much clearer than in other subjects. Personally, I drew the lesson that the great danger of the institutional regime of transition lies, not in the system it sets, but in the ignorance of its logic, intelligence, balances and sensitivities. Apparently, the democratic system it aspires to promote is never that which abides by the rule of the digital majority. It is rather the system that abides by the much more diffuse rule that grants a plurality of powers with the aim of ensuring the participation of all the actors present in the public function framework.

The experience seems interesting to me within the prospective perspective of the re-creation of the State and its true re-appropriation by our populations basically. Unfortunately, it does not go without risks. We face, in particular, the risk of swindling, fooling or spoiling the live forces of this unique opportunity that history is granting us. This risk, brought to the field of the national defence and armed forces, made us demand with vigour that the formation of a national, restructured and integrated army would not be a simple affair of reconciling intimate "components and entities," but a true affair of the nation, exhibited and debated by each and every single one of us so that we can contribute to its edifice and identify ourselves with it.

⁴⁹ Larry Diamond et Marc Plattner, *Le rôle de l'armée en démocratie*, Nouveaux Horizons, 1996, pp. 39, 40.

Civil society's contribution to building democracy in the DRC

BAUDOUIIN HAMULI KABARHUZA

The emergence of civil society

Civil society can be defined as a group of associative gatherings of diverse nature, formal or informal, national or international, that mobilises citizens on a local, national, and international scale to participate actively in order to improve the quality of everyday life, promote democracy and human rights, work for equitable development and fight for a safer environment.

Civil society can be found in every country. It is not a recent or an isolated creation. Its nature is so diverse and naturally contradictory that sometimes, it is difficult to control it. It is really a space to express the freedom of association. Its dynamism can be seen as a sign that a population is starting to be aware of its destiny and its development problems.

Civil society is also seen as a gathering of groups that play the role of counterbalancing the powers of government, political parties and enterprises. By working to improve justice, social conditions, citizens' participation in controlling their destiny, respect for human rights, etc., it encourages citizens to participate and choose development policies, to elect decision makers, and mostly, to actively contribute to the governance of the country.

The civic involvement of civil society's organisations finds its inspiration in religious, moral or political sources. We engage ourselves because we are compassionate towards the others, because we feel a certain responsibility in others' critical situations and because we refuse to accept inequality, violence or oppression.

The end of the cold war gave birth, all over the world, to a political environment much more open and favourable to popular expression. The fall of the Berlin Wall announced the arrival of a new context more favourable to public expression and people's participation in the life of their nations. The concept of civil society has been rediscovered by different communities everywhere in the world. It should be mentioned that the development of and the access to new information technologies have reinforced communities' strivings for participation.

In the Democratic Republic of Congo, the emergence of civil society was slow due to restrictions on associative freedoms under the Mobutu dictatorship. In the 1980s and 1990s, Congolese civil society experienced faster expansion after the introduction of multiparty politics and the promotion of indirect cooperation through international community. It is an active civil society, in which we find, among others, churches, NGOs concerned with development issues and human rights, trade unions, a free and independent press, women's organisations, etc.

All kinds of organisations have been set up and fought hard to earn the right to express themselves in a national civil space that was still nebulous. To illustrate the fast expansion of Congolese civil society, here are a number of examples:

- The number of trade unions increased from one in 1990 to 112 in 1991 and nearly 1300 nowadays. There was one association of employers until 1990, today there are at least three.
- In 1990, 450 non-governmental organisations (NGOs) were recorded, in 1996 there were 1322 and today between 2500 and 4700.

Acknowledging the situation

In Africa, awareness of the need for popular participation in building the rule of law and fighting poverty became generally acknowledged in the early 1980s as a result of the failure of government policies. With public institutions mostly eroded by corruption, injustice and incompetence, citizens began to organise themselves to express their discontentment and to seek alternatives.

During that period, opposition political movements, often established without a legal framework, were forced to underground, into exile or direct confrontation with the power at the time. In the last situation, civil society organisations assumed the role of

voicing the population's claims. This task, initially done timidly and not very professionally, was undertaken by structures that were tolerated or legally accepted by authorities. Therefore, churches, human rights NGOs, trade unions, women's groups, peasant groups, etc, exerted pressures for democratisation and sound governance.

The international environment was then favourable. Many bilateral and multilateral financial partners made it a priority to support national and international organisations and NGOs concerned with development. The goal was to reach the least fortunate. The World Bank, the UNDP and the bilateral cooperatives adopted strategies and decentralised programmes to support civil society. This support helped reinforce the legitimacy of civil society's actions.

Towards the beginning of the 1990s, a number of regimes surrendered to internal and international pressures for democratisation. In some countries, the sovereign national conferences opened the door widely to the participation of civil society which asked to be an essential element of it, since it represented the true expression of popular aspirations. That was precisely the case of the Democratic Republic of Congo. In other countries, the arrival of political pluralism enhanced the freedoms of association and expression and therefore the legitimacy of civil society organisations.

Nowadays, most governments in Africa recognise citizens' participation in the choice and the execution of development policies, and the choice of the representatives contribute to better stability and development. They admit that the freedom of association plays a big role in mobilising and enlightening the public opinion in order to pave the way for the emergence of a national conscience. Many countries currently witness a revision process of the constitution to guarantee political pluralism, fundamental freedoms and the freedoms of association and expression, but only after a fierce fight against autocratic powers.

The Economic Commission for Africa created an office to support to the participation of African civil society, and organises, in collaboration with the African Union, seminars to educate civil society. The Cotonou Agreement, which most of the ACP states signed, stipulates the important role of NGOs and civil society. Even the NEPAD acknowledges the important role of civil society when it comes to the mobilisation of the public and evolution of the rule of law.

In spite of this generally favourable environment, the situation is not the same everywhere. Not all governments accept the political desire for openness. Today, Congolese civil society is an acknowledged element in the construction of a new political order during transition. But this did not happen without fighting and directly confronting the leaders.

The legal frame of evolving civil society

In the DRC, five legal texts govern the functioning of Congolese civil society:

- The decree of 19 July 1926 on state-approved private enterprises
- The decree of 24 March 1956 on indigenous cooperatives
- The decree of 26 November 1959 on the state-approved institutions
- The statutory order of 18 September 1965 on non-profit organisations
- The statutory order № 195 of 29 January 1999 on the regulation of non-profit organisations and state-approved enterprises
- The law № 004/2001 of 20 July 2001 on general provisions applicable to non-profit organisations and state-approved enterprises.

The 1964 law on non-profit organisations gave the power of official recognition to the president. Taking into consideration the immensity of the country, naturally it was difficult to obtain this official recognition. Up until 2001, non-profit organisations had to settle for provisional recognition from local authorities. Given the way the political system functioned, only organisations close to the government or with offices in the capital or with political or administrative contacts could get the president's signature. Militant NGOs, like those concerned with human rights, relied on rights under international law.

It was necessary to struggle to change the law and democratise the procedure. The work of the National Council of NGOs concerned with development (NCNGOD), created in 1990 was crucial. The law № 004/2001 of 20 July 2001 on general provisions applicable to non-profit organisations and state-approved enterprises promulgated by President Joseph Kabila finally improved the situation. This new law speeded up the procedure of legal recognition by instituting a "due date" for the minister of justice who, from now on, grants this legal recognition.

The press was not organised until 1996. Under the dictatorship, free expression was forbidden. It started spontaneously and without a legal framework when political pluralism was permitted in 1990. At the 1990 Sovereign National Conference, the press asked for a legal framework guaranteeing media freedom. Later on, the government press commission prepared a draft law. Finally, the 96-002 law defining the modalities of the press was promulgated under Mobutu on 22 June 1996. However, it did not include independent radio and television. There is still no specific legislation for independent radio stations, although there are more than 150 radio stations in the DRC.

Civil society and participation in democratic openness

The 1991 Sovereign National Conference speeded up the fight for democratisation. At the time, the main concern was to reduce the monolithic and dictatorial power of Mobutu and the small elite that controlled the institutions and financial wealth of the country.

When Mobutu succumbed to national and international pressure, he accepted the organisation of a National Conference with the power to institute a new government and a new parliament. After gaining this victory, the people had to push the process further. This explains civil society's role at the conference, as it hoped to influence the choices of the leaders to lead the transition and introduce the necessary structural reforms to establish democracy.

But the SNC did not succeed in instituting this long-desired government. The participants did not evaluate in a proper manner the power of the ruling class, which invented subterfuges to block the SNC. And while it was expected to last six months, it lasted more than three years. But the merit of the SNC is that it maintained the momentum to give power back to the people. And through the debates on the management of the country, it revealed how the country had been shamefully plundered. It showed that the people had to take charge of their own destiny.

Unfortunately, the three years of struggle for democratisation through the SNC were also three years of social and economic decline for the country, culminating in 1997 in the first war of aggression that plunged the country into the abyss of war that it is just starting to recover from today.

But an overview of the achievements of this struggle for democracy shows, however, some positive gains that we tend today to take for granted. We can count:

- the guarantee of the freedom of association
- the guarantee of the freedom of expression
- the protection of human rights as part of governance
- civil society's participation in governance
- clear progress towards elections.

These gains are not the result civil society's efforts alone. But civil society certainly played a very important role. As shown above, the revision of legislation helped to guarantee a space for the expression and consolidation of organisations of Congolese civil society.

Today, all across the country, organisations and trade unions can form without any problem. The PMR is no longer the only political party and the sole avenue of political expression. Now, any group of Congolese can create a political party or a trade union.

There is no more repression of popular independent organisations. Organisations are established and disbanded according to the interest and objectives of the members. Provincial collectives and national networks are created. But considering the immensity of the country and the defective communication tools, the capacity of mobilising civil society remains weak.

Organisations are being established all fields. We can find organisations concerned with human rights, development, youth promotion, women, children, etc.

At the Sovereign National Conference there were 11 categories of organisation:

- non-governmental organisations active in development.
- human rights organisations
- religious sects
- youth organisations
- women's organisations
- professional associations
- trade unions
- philanthropic organisations

The acknowledgement of civil society as an important element in governance, and its participation in political debates about the future of the country were recognised at the 1991 SNC and the 2002 inter-Congolese Dialogue.

At the SNC, civil society weighed in the political balance of forces and managed to get Mgr Monsengo elected as president. A prelate from the bosom of the Catholic Church moderated the debates on the future of the country and legal and institutional reform. Here, civil society helped to broadcast the debates publicly in the media of the country to let the population follow and contribute to them. At the end, civil society representatives were chosen to participate in the government and in the transitional parliament. But, as mentioned above, these two institutions had trouble functioning because those who held power refused to get involved in the process of change. At the end, the 1996 war of aggression swept away the post-SNC order.

The inter-Congolese Dialogue was organised in Sun City in South Africa to let the government, rebel groups, peaceful political parties and representatives of civil society negotiate a new institutional order to help the country recover from the years of war.

It must be noted that the inter-Congolese Dialogue was not possible without the signing, in July 1990, of the Lusaka agreement. Civil society was represented by about 60 delegates from all the provinces of the country, as well as representatives of various groups.

The active role played by civil society in the plea for peace before and after the agreement of Lusaka legitimised its participation. Its permanent role as a channel of expression voicing the aspirations of the people versus political leaders was played so well that it was decided that even civil society could delegate its representatives to the government and the transition parliament.

Furthermore, civil society fought to set institutions to reinforce democracy:

- High Authority of the Media
- National Observatory for Human Rights
- National Ethics and Anti-corruption Commission
- National Truth and Reconciliation Commission
- Independent Electoral Commission.

All these institutions were presided over by civil society figures. The Independent Electoral Commission and the High Authority of the Media did a remarkable job all over the country. The mission of the former was to prepare and supervise free, democratic and transparent elections. The latter was in charge of guaranteeing the access of all stakeholders to the national media.

Certainly, the participation of civil society's delegates in parliament and the transitional government was not impressive because of the poor experience of these delegates. But we should mention that the social weakness of the population and the negative impact of wars and armed violence did not allow full popular participation.

Congolese civil society and the struggle for the freedom of expression

Above we saw the evolution of the legal framework for the media. After years of dictatorship, the new legal environment has enabled the media to bloom.

Journalists' heroic struggles to consolidate the freedoms of expression and opinion were extraordinary from the time the democratic openness was announced by the late President Mobutu in April 1990. Before that period, there was practically no radio, no television channel, and no newspaper that was not controlled by the dictatorial regime. Even the national association of journalists, the Press Union of Zaire (PUOZ), was practically controlled by the Mobutu regime, without which it would not have functioned.

Free newspapers quickly stormed the streets of Kinshasa and other big cities in the country, revealing the reprehensible practices of the power elite. Even some newspapers close to the regime decided to make good use of this independence.

The political class of 1990 that was used to being adulated and flattered found itself naked and vilified in a particularly virulent and sensation-seeking press. Repression was brutal in the first years: journalists were arrested, beaten and thrown into jail by the regime's militias. Publishing houses and printing establishments were bombed and closed down. Newspapers were seized in the streets and sellers were lashed.

But none of this undermined the determination of the knights of the pen to fight for freedom. Stratagems were invented for the media to stand strong and be published. In Kinshasa, there were newspapers that were printed inside a moving truck to escape police control. Editors and journalists created new professional organisations and organisations to defend the freedom of expression such as "Journalists in Danger" (JID) that quickly became the spearhead against the abuses against journalists.

Private radio stations spread in an extraordinary way. There was not a single private radio in 1990; in 2004, there were more than 150 radio stations in the DRC. Moreover, there are more free television channels in the country. The media space has become so dense that it is difficult for the authorities to reduce it without provoking a true social crisis.

The future lies in the capacity of these media to contribute sensibly to the construction of democracy, peace, and development in the country. To get there, journalists must be competent and must work together.

The principal leaders of media quickly understood the challenge and decided, in September 2003, after a Press Union institutional analysis, to hold a congress with the aim of drawing up new structures for journalism training and media support. In February 2004, they organised a National Congress of the DRC press that set up three important organisations:

- the National Congolese Press Union (NCPU)
- the National Press Observatory (NPO)
- the National Association of Editors (NAE)

Henceforth, through the NCPU, the Congolese press had a national democratic structure organised through 11 provincial sections. A national committee was composed of managers who expressed and defended regularly the aspirations and needs of journalists and their media, and guaranteed the freedom of expression.

The Congolese civil society's struggle for human rights;

The Mobutu dictatorship committed massive and horrible violations of human rights. Special police units, army units and secret services abducted, killed, arbitrarily arrested, and harassed in all ways, keeping the people in a state of permanent terror. Hence, Mobutu was able to rule by force over a submissive people.

But all through the 32 years of Mobutu's regime, civil society denounced these barbaric acts. One of the active components was the Catholic Church, which was well organised and present all over the country. It criticised the abuse of power many times in books and statements of the bishops and of the Bishops' Conference. This even occasioned, in the 1970s, great tension between the Catholic Church (under Cardinal Mulala) and the Mobutu regime. Since the 1980s, the dioceses of the DRC have created Justice and Peace Commissions. Through the latter, Christians began to express themselves and criticise the human rights abuse. This work is still going on.

Human rights organisations could not express themselves before 1990. They functioned underground through student movements. It was not until 1990 that many came out into the open, including the Zairian Association of Human Rights (Zahr) and the Voice of the Voiceless (VV).

The growth of human rights organisations is evident everywhere. In almost every province there is one or more human rights organisation. Some federated at the provincial and national level to create networks such as the National Human Rights Network in Congo (NHRNIC), Human Rights and Civic Education Organisations Network in Congo (HRACEONC), Civic Educators in Congo Network in Congo (CECNC), etc.

The human rights militants have also been heroic in certain periods of the country's history. For example, at the beginning of the 1990s, criticising the massacres and the arbitrary arrests by the authorities was taking a great risk. Even during the wars of aggression in the east of the country, civil rights militants criticised the massive violations of human rights, crimes against humanity and other criminal acts that the armed groups committed against the population. Their reports were published nationally and internationally.

It is thanks to their efforts that the United Nations resolved to name for the Congo a Human Rights Special Rapporteur and to establish in Kinshasa a bureau of the Human Rights High Commissioner.

These organisations did an appreciable job in the domain of raising awareness and educating people about human rights. They also undertook the advocacy role at the level of the government, resulting in the creation of the ministry of human rights. From then on, the organisations worked freely in collaboration with the ministry. Their reports were submitted for examination and action. The government had finally

integrated the promotion of human rights in its action programme. But there was still a lot of work to be done because if this ministry was operational in the capital, it was not in the provinces. Its means were limited. As long as the violations of human rights were perpetrated by armed men, the role of the organisations was still important. Nowadays, the role of human rights organisations is enforced by the presence of the National Observatory for Human Rights (NOHR).

Congolese civil society and the struggle for elections and against poverty

Mobutu's totalitarian regime centralised power and the state's resources in Kinshasa. He left them in the hands of a small elite that managed public institutions without any control and did not hesitate to abuse them. Many even "privatised" the state's resources to the detriment of the population. Corruption and embezzlement of public resources practically paralysed the country.

Disapproval of the governing class had been apparent since the 1980s. But the people did not have the means to change it by free elections, for there had been none since the 1960s. During the dictatorship, parliamentary and presidential elections were charades. They were organised by a single party, and there were no independent candidates to present credible alternatives.

In 1990, parliament's mandate had long expired. The hope of democratisation triggered by the SNC opened up the perspective of free and transparent elections to put an end to transition. Civil society organisations help with voter education and electoral observation. Catholic and Protestant churches helped with the awakening of the population at grass-root level by inviting elections specialists.

In 1995, the government set up a National Election Commission to organise elections. NGOs like the National League of Electors, Electors League, Free and Independent Elections League, etc. were founded and their activists fanned out to the provinces. Unfortunately, the war stopped this dynamism.

After the end of the Inter-Congolese Dialogue, another independent electoral commission was created. Existing organisations resumed electoral awareness-raising. But this sector needed financial resources. In addition, there was no proper legal framework for elections. But here, the government and international partners declared their will to organise free and transparent elections in June 2005 or one year later.

In the field of the struggle against poverty, civil society, through the work of development NGOs, undertook remarkable actions and acquired good professional experience. In fact, apart from the churches, the development NGOs were the most structured component of civil society. Since the 1990s, they have even served as

avant-garde movements of civil society, especially through the action of NGOD provincial councils and the national council of NGOD.

Nowadays, there are more than 4,700 NGOs in DRC. They vary in size, from small local initiatives to big professional development support organisations. They work in practically all fields of national life. They take basic actions in the poorest popular neighbourhoods of the city, and they also launch political actions on a national and international scale.

Congolese civil society is well aware that democracy can not grow when the majority of the population lives in absolute poverty. It also admits that the democratic development must have an impact: that of ameliorating the living conditions of the population. That is why the struggle for democracy must go hand in hand with the struggle against poverty, especially by supporting basic services and insisting on transparency in the management of public resources and justice.

In a context like that of the DRC, this translates into a struggle for decentralisation. In fact, without decentralisation, it is not possible to reach the provinces and remote communities. When structural cooperation revives in the DRC, civil society should regularly draw attention to the necessity of avoiding the recreation of the system that fathered dictatorship and instead reinforce communities, territories, districts and provinces in order to fully mobilise the Congolese people to take their destiny into their own hands.

Conclusion

Congolese civil society is full of vitality and creativity. It has demonstrated that it can really help people in their social struggles, help them improve their welfare and lead them towards participating in determining their destiny. It constitutes a true motor of democratisation, through the freedom it conquered, and through the enhancement of popular participation. However, it must stay independent and autonomous in order to act as a counterbalance: a crucial task in the construction of a democracy.

Congo - a hopeless case?

Perceptions of democracy and politics in DRC

BEATRICE SCHLEE

Introduction

Congo and Conflict. In the minds of many these two words go together. The idea of reaching a peaceful and stable solution, as well as a democratic one for Congo, appears to be unthinkable. Chaos, bad governance and high intensity of conflicts: does the population share this image, which external observers seem to have internalised? Is the Congolese population less qualified than others for democracy? Is it more predisposed to violence than other populations? A survey carried out by UNESCO's International Centre for Human Sciences (ICHS) in Kinshasa in April 2002 tries to answer these questions. A thousand interviews were conducted with residents of 52 districts in Kinshasa.¹ For obvious reasons, at the time it was impossible to extend the survey to the whole country. Hence, the conclusions and

¹ The questionnaire used in the survey was developed by Theodor Hanf in collaboration with Salim Nasr and Lawrence Schlemmer (© Arnold Bergstraesser Institute, Freiburg, Germany) and has been used in almost three dozen almostcountries in different parts of the world. The full evaluation of the answers is published in: Schlee, Beatrice: Perception of Culture and democracy in Metropolitan Kinshasa, Democratic Republic of Congo. A survey study. *Lettres de Byblos*, No .6. International Center for Human Sciences (ed.) Byblos 2004. CENADEP (National Center of the Development and the Popular Participation) helped to conduct the survey.

results apply exclusively to Kinshasa, which, however, as political centre may serve as a model for the other provinces.

In what follows, we will present excerpts of the survey's results, in particular concerning the three questions below:²

- Given respondents' democratic or undemocratic attitudes, what are the odds of establishing a democratic order?
- Does the multiethnic character of the Congo itself constitute a potential for conflict?
- To what extent are the residents of Kinshasa violent?

Other results of the survey indicate which politicians the interviewees favoured and which political parties that would have liked to see in government in 2002. A comparison with the elections of 2006 gives an indication of continuity and change in political preferences since 2002. Some conclusions can also be drawn concerning the social profile of the voters of different political persuasions as well as population groups that might cause trouble in the future.

Prospects for democracy

While it is correct that there are democracies without democrats and that citizens' democratic attitudes do not necessarily lead to democracy, the chances of democracy and of finding peaceful solutions to conflicts are higher when the population manifests democratic attitudes. Outsiders in particular frequently ask the question, "Do the Congolese really have an idea of democracy?" For the inhabitants of the capital, the answer is clearly yes. Various questions in the survey serve as indicators of democratic attitudes. Asked about basic attitudes to democratic principles such as *the separation of powers, freedom of the media and the control of the government*, the response was as follows:

About 80% of the interviewees favour a separation of the executive and the legislative (no control of the people's representatives by the government) and of the executive and the judiciary.

Similarly, almost four fifths favour the media functioning freely as a so-called "watchdog", even if this means upsetting the harmony between the Congolese people. Even if the results almost coincide, for respondents it is most important that

² All the details are based on the ICHS survey results; extracts of which are used in this article. For clarity's sake, we analyse only the views of the most important groups, e.g. only the three largest religious groups: the members of the Church of the Reawakening, Catholics, and Adventists and Pentecostals. Similarly, the breakdown of educational groups (by highest level of education completed) is less detailed than the breakdown used in the questionnaire.

their representatives should control the government (82%) - which is not surprising after decades of corruption and bad governance led the country to war and made it the plaything of foreign powers.

For all three indicators of democracy it is noticeable that, with few exceptions, agreement correlates with the level of education. This does not mean that poor, many of whom are unemployed, do not have a clear understanding of the law. Among the language groups, the Swahili and Chiluba are the "better democrats".³ In both groups levels of education and income are above average, which emphasises the correlation between education/income and democratic attitudes.

Furthermore, many Chiluba speakers are members of the UDPS, one of the oldest democratic opposition parties in Congo. On the other side, there is a disproportionately high number of people from Bandundu (many with low incomes and little education) and from Equateur, Mobutu's home province.

The *form of government* is another indicator. Notwithstanding the options of a one-party system⁴ and absolute ethnic domination of one group over all the others, almost three quarters of the interviewees favoured either a government of national unity (53%), or a majority government (21%). Whereas the former option was considered the best across all strata, the latter draws less support from less-educated people.⁵

Since some foreign governments, in particular South Africa, recommended a national unity government, and which was agreed in the 1+4 formula, the topic needs deeper study. Asked if the government should include ministers from all political parties or only from the majority parties, a good three quarters of the interviewees, regardless of their social and cultural background, favoured the participation of all parties in the government. When asked to choose between a national unity government and a majority government, opinions are less clear-cut. The inha-

³ In the survey, Swahili-speakers make up 10% of the interviewees and Chiluba speakers 13% (90% of the Chiluba-speakers come from East Kasai). In light of the diversity of the ethnic groups in Kinshasa, the survey frequently used language and place of origin as characteristics of cultural differentiation. In the east of the country, Swahili is the vernacular, whereas Chiluba is the language of the Luba ethnic group in Kasai. Swahili is the only language of 313,200 inhabitants (as of 1982), but the second language of 9,100,000 inhabitants (as of 1991). As of 1991, Chiluba is spoken by 6,300,000 Congolese people. Visit www.ethnologue.com (Ethnologic Report for Democratic Republic of Congo, Languages of Democratic Republic of Congo). The figures should be treated with caution.

⁴ The re-introduction of a one party-system (14%) was supported by 25% of respondents from Equateur, Mobutu's home region, in which the proportion of well-educated people is well below average.

⁵ Among language groups, support is strongest among the Lingala and Swahili-speakers (just under 30%). Similarly, almost one third of the respondents from Equateur favour a multiparty democracy, whereas support for a national unity government is above-average among people from Bandundu. This shows that the people from Equateur do not automatically favour a one-party state.

bitants of the capital have different opinions, even though there is slightly stronger support for a majority government. In particular middle-aged persons opted for majority government, whereas younger people - possibly due to their negative experiences in recent years - were more likely to want to include all parties.

This raises the question of this breakdown would be repeated in 2006, after a three-year experience with the 1+4 formula? Despite negative experiences with the formula, given the strength of Bemba' opposition group, it will not be easy for Sabila to impose a majority government. Support for this solution is above average among Tshisekedi supporters. However, this is unlikely to stop people questioning the legitimacy of Sabila as head of a majority government.

In general, we can state that in 2002 the inhabitants of Sinshasa differed about whether they wanted a government of national unity or a majority government. However, there is still a strong desire for consensus. Hence, the Sabila government would be well advised not to rule out dialogue with other political parties. Similarly few would welcome a return to authoritarian structures. More than three quarters of the inhabitants of Sinshasa, whether rich or poor, educated or uneducated, have a clear idea of the basic principles of democracy. They are no longer willing to follow a leader who governs badly and are ready to vote him out at the next elections. This is very clear from the results of the survey - an astonishing finding in view of the years of misgovernment in which corruption, pillaging and kleptocracy had become routine.⁶

1.2. Prospects for ethnic conflicts

Above all, the events in Ituri led to the view that all conflicts in a multiethnic country like Congo must have ethnic roots. Nevertheless, the presence of different ethnic groups must not automatically lead to conflict, as Theodor Hanf has shown in many publications.⁷ It cannot be denied that ethnicity in Congo is particularly diverse. As

⁶ We can not exclude the mobilisation during the election campaign was effective and that today party supporters are more loyal to political leaders than they were four years ago. Interestingly, in 2002 just under one quarter of the Chiluba-speakers were prepared to forgive political leaders mistakes, the only group to express this, which reflects the high degree of mobilisation by the UDPS. Whether this attitude extend to understanding for UDPS's RCD-Goma intermezzo, or whether this and other decisions did not cost Tshisekedi a lot of support; is an open question.

⁷ See e.g. Hanf, Theodor: "The diverse modes of conflict-regulation in deeply divided societies", in: Anthony D. Smith (ed.), *Ethnicity and Nationalism*. Leiden 1992, 26-47 (with Sammy Smooha).

the survey data show, most respondents belong to smaller ethnic groups.⁸ This has the advantage for peaceful coexistence inasmuch as no single ethnic group obviously dominates.

In what follows, we shall look at some indicators that show that ethnic affiliation is not an exclusive determinant for the capital's inhabitants. With which of the following groups do interviewees identify most closely?

| | |
|--|----|
| <i>My church or my religious community</i> | 47 |
| <i>Congolese</i> | 19 |
| <i>Intellectuals</i> | 15 |
| <i>Middle class</i> | 6 |
| <i>Ethnic group</i> | 5 |
| <i>People in the neighbourhood</i> | 5 |
| <i>Farmers</i> | 1 |
| <i>The poor/the little people</i> | 1 |

The result speaks for itself: only 5% identify themselves primarily with their ethnic group. Identification with other Congolese people is much stronger, and the religious community is paramount.

The social profile of those who voted disproportionately for ethnic affiliation includes an above-average number of less educated, but there are also some civil servants. This may be indicative of recruitment for the civil service on the basis of ethnic criteria and should be kept in mind. Farmers also identify strongly with their own ethnic group, which may be an indication of the results of a survey in rural areas. That said, less than 10% of farmers identified primarily with their ethnic group. The strong identification with members of the same religious community proves that in times of war and poverty the churches become the refuge of the people. Similarly, the identification with other Congolese can also be related to the experiences of war. Despite the fact that Congo was still divided into four spheres of influence in 2002, the war and the external threat helped to foster a sense of nationality.⁹ Will this new national feeling survive in the coming years? This will depend a lot on the performance of the first democratically elected government.

Needless to say, the identification with other Congolese people is stronger in a cosmopolitan city than in rural areas. A breakdown of whom the Congolese trust produces a similar ranking as above. In Kinshasa, too, almost 60% of the interviewees trust members of their own ethnic group, without necessarily identifying

⁸ Only two groups comprise more than 10% of the population, the Kongo with just under almost 20% and the Luba with a good 10%. For further information, see Schlee 2004.

⁹ Fewer than 8% of the interviewees are for the partition of Congo. See the Annex.

with them first and foremost.¹⁰ In many countries, it was the latter that led to the outbreak of ethnic conflict. A closer study of the results of those who trust members of their ethnic group shows that such trust is much weaker among younger than older respondents. Education also plays a role: the less educated people are, the more they trust the members of their ethnic group.

The question of whether a parent would agree to an *interethnic marriage* by a child is also a useful indicator of the significance of ethnicity in everyday life? Almost 90 percent of the interviewees stated that they did not have a problem with that. Agreement correlates with education.¹¹

The results show that the Congolese people do not approve of filling *public offices by ethnic criteria*. This applies in particular to the highest public office, i.e. the presidency: 90% of the interviewees think that the president should be elected according to his competence rather than to his ethnic affiliation. This does not mean that regional background does not play a role. As we will see later, every politician has an advantage in his home province. However, the results of the elections in 2006 show that both Kabila and Bemba succeeded in attracting votes from all provinces.

As for other public positions, such as minister, civil servant or army appointments, a majority of interviewees think that the qualifications should be the only criteria. 1 out of 5 favours ethnic quotas and only 2% want preferences for their own ethnic group.¹² Understandably, support for a quota system or for ethnic group preferences is stronger among people with a lower level of education, e.g. among Kikongo-speakers who are less educated than speakers of other languages.¹³

Finally, we look at the question of coexistence in a multiethnic country. Almost four fifths of the interviewees agree on the following statement:

Even very different ethnic groups living in one country can easily accept other people as they are and respect each other's mutual rights.

Similarly, more than 60% think that the ethnic diversity is culturally beneficial for a country.

¹⁰ Accordingly, the biggest distinctions in Congo are not ethnic differences (12%), but economic inequality (58%).

¹¹ More parents reject interreligious marriage (20%) than interethnic marriage (10%).

¹² Concerning the composition of the army, a disproportionately large number of the Lingala-speakers (many from the Equateur) are for a quota system; which probably has to do with the recruitment system in the past. The Lingala-speakers make up 22% of the interviewees; 60% of them come from the Equateur. According to a 1993 estimate, 300,000 people speak Lingala as their first language and 7,000,000 as their second language. (www.ethnologue.com)

¹³ The Kikongo-speakers (40%) constitute the largest linguistic group in the survey. Kikongo-speakers are underrepresented among secondary-school and university graduates. Kikongo is spoken in Bas-Congo and Bandundu provinces. According to a survey carried out in 1986, there are 1,000,000 Kikongo-speakers in DRC. (www.ethnologue.com)

These results show that there is no immediate threat of ethnic conflict, even allowing for the fact that this might not be the case in rural areas. Past experience has shown that particularly in rural areas that ethnic conflict was caused not by local people but by internal and external warlords who acted as ethnic entrepreneurs in order to gain access to the country's resources and, hence, weapons - with devastating consequences for the civilian population.

1.3. Prospects for outbreaks of violence

The violence that accompanied the recent elections was a reminder that violence is an on-going problem. This automatically raises the question of the extent to which violence in recent years has influenced people's attitudes to violence. Has acceptance of violence as a means of achieving political goals increased or are people so traumatised by the three wars that they cannot accept violence under any circumstances? Interviewees in Kinshasa responded as follows:

Violence and killing can never be justified, no matter how important the struggle.

Forty-six percent of the interviewees agree with this statement, which means that the wars have had consequences, and possibly created an example. The most accepting of violence are the youngest: 6 out of 10 interviewees under 25 disagree with the above statement. The results by religious group are surprising: almost 70% of the Anglicans, Presbyterians and the Methodists do not fundamentally reject violence. This is also the case among some 60% of the members of the Churches of Reawakening; which is shocking, considering that as the biggest religious group in the survey (some 30%) its importance far outweighs that of the small religious communities.¹⁴

Assuming that the current efforts to make peace fail, do you think that people in your personal and professional circle would support the following actions?

¹⁴ The Churches of the Reawakening have experienced enormous growth in the past few years. The Kinshasa, it is almost impossible to distinguish between the large number of different groups and trends following various teachings and self-appointed preachers on the followers. In our discussion we shall use the term Church of the Reawakening for all of these respondents.

The interviewees responded as follows:

| | |
|--|----|
| Boycott shops that belong to political opponents ¹⁵ | 23 |
| A strike of one, two or three days ¹⁶ | 27 |
| A strike of two weeks or more ¹⁷ | 20 |
| Peaceful meetings and protests ¹⁸ | 54 |
| Damage the property of political opponents | 21 |
| Physical violence against political opponents | 22 |
| Violence against anybody | 5 |
| Use weapons against political opponents | 12 |
| Only peaceful means | 72 |

Another picture is revealed here: almost three quarters of the interviewees clearly favour peaceful options, i.e. fundamentally reject violence. The rejection of violence against people is even clearer: almost nobody approves of it.

Due to the current outbreaks of violence in Kinshasa, we will discuss the various violent options in the table: violence against political opponents, violence against anybody and armed violence.

The level of education plays a decisive role in all forms of violence. The less educated the person, the more willing he is to use violence, including weapons. This applies in particular to most students at vocational schools. Although only a small group (5%), unlike others they were mobilised by Tshisekedi's UDPS, and thus constitute a greater potential danger. Surprisingly, support for *violence against political opponents*, whether *people* or *property*, is found only in the 18-34 age group (almost one quarter). Hence, the youth cannot consider the youth as a potential of violence in general. The same applies to the Churches of the Reawakening and Catholics. One quarter of their members support violence against political opponents, but are against the other forms of violence. This is also the case of the interviewees from Bandundu: a good 30% refuse to exclude violence against politi-

¹⁵ Young people and those with little education (but excluding those without any formal schooling) are overrepresented among those who chose this option.

¹⁶ A short strike, supported BY one quarter of the interviewees, finds above-average support only among the youngest group (32%).

¹⁷ Among those who chose the option of a strike of two weeks or more, support was strongest among the youngest and the less educated (except for those without any formal schooling). By language group, three tenths of the Chiluba-speakers support this option; Swahili-speakers are the strongest opponents of strikes. These results can be exploited by Tshisekedi for his political plans.

¹⁸ Here, too, education plays a role, except among the catechumens, who are the most peaceful group (almost 70%).

cal opponents. This is particularly true of migrant workers, who have low incomes and have to live in emergency housing. On the whole, people with lower incomes are overrepresented among those who approve of *violence against anybody*.

Finally, we can state that despite a clear preference for peaceful measures, there is a potential for violence among less-educated people. Other important factors are income and age. Another group that should not be overlooked is the followers of the Churches of the Reawakening, who do not fundamentally reject violence. This can probably be explained by their large support among young people (two fifths). Due to the popularity of these churches, whose membership is already larger than that of the Catholic Church, this factor must be taken into account, especially as religion is an effective factor in mobilisation. By regional background, the migrant workers from Bandundu are particularly violent - their social profile coincides with many of the aforementioned factors. Among the less educated, vocational students are overrepresented, and these are overrepresented among members of the opposition UDPS. This combination should be kept in mind when considering the political development of the opposition and its potential for violence. The survey's results show that the UDPS members also favour peaceful protest methods, such as lengthy strikes; which will inevitably have consequences for the political situation in the capital.

The next section deals with the political leaders and their followers. This provides greater insight into conflict potential within the ranks of political supporters and whether political unrest in connection with the elections can be linked with the social profile of different groups of political supporters.

The political elite and its supporters

The political elite

Opinion about the influence of political leaders is split - somewhat less than half think that politicians can improve life in Congo. In the following we shall analyse preferences for different politicians.

The Congolese people are essentially optimistic: despite the catastrophic experiences of the past, they have not completely abandoned hope in the political elite. One must hope that the experience of the 1+4 formula does not cause the survey results of recent years to deteriorate, but that the elections help to enhance them.

Notwithstanding the level of mistrust in 2002, which leaders and political parties did interviewees favour? The survey data allow us to construct a brief social profile of supporters and compare it with actual election analyses. Which groups support which candidates and parties and who was able to increase their support? In particular, Bemba's rapid rise needs to be analysed in detail. Was his later success

already indicated in 2002, or was there at least room for a new candidate besides political heavyweights such as the president and Etienne Tshisekedi?

We shall limit our examination to politicians and political parties that won more than 5% of the votes in the 2006 elections. For obvious reasons, we shall include assessments of Tshisekedi, even though he did not take part in the elections.

Which leader do you admire most?

| | |
|-------------------------------|----|
| Joseph Kabila | 31 |
| Etienne Tshisekedi Wa Mulumba | 20 |
| Antoine Gizenga ¹⁹ | 9 |
| Jean-Pierre Bemba | 3 |
| None | 25 |
| Other politicians | 9 |
| I don't know | 2 |

The results show clear preferences. President Kabila, at the time a political neophyte, was the most popular leader. Despite the difficulties associated with the transitional 1+4 formula, he not only succeeded in keeping his followers, but also gained new ones. According to the survey carried out in 2002, Tshisekedi could have become a serious contender for Kabila's position.

His boycott triggered the dazzling rise of Jean-Pierre Bemba who had little support in 2002. The existence of an opening for new politicians is shown by the large number of respondents who chose *none* of the options, whether politician or party, who preferred *other* possibilities or simply had *no opinion* (see below).

In general, we can state that the results of the 2002 survey indicated trends in the 2006 presidential elections.

We now turn to which groups supported which politicians.

¹⁹ Antoine Gizenga was the Secretary-General of the Unified Lumumbist Party (PALU) for several years. In 1960 and 1961, he was deputy prime minister and the president of the rebel government in Stanleyville. His support is strongest among people with little education. Gizenga's survey result is very similar to the 2006 election results. On the PALU, see below.

Kabila, a president for everyone?

Support for *Joseph Kabila* (31%), president of the DRC in 2002 and confirmed in office by a short head in the 2006 elections was overrepresented among women (55%) and young people: a good 40% of his support is younger than 25 years of age. His support was weakest in the oldest age group. A good third of Kabila's followers, probably including many refugees,²⁰ live in poor conditions. His image as a peacemaker appears to have helped him. This circumstance is confirmed by an analysis of his support by educational group: his followers are overrepresented among the low educational levels and underrepresented among university graduates - although even here he has the support of almost 25%. Interestingly, this is also true of people without any formal education, whom the president could not easily reach. An important factor is his disproportionately strong support among members of the Churches of the Reawakening, the largest religious group in the survey. Secondary school students are overrepresented in the membership of these churches, which confirms Kabila's support among the youth. His support is weaker among Catholics, the second largest group; however, more than one out of five of his followers is Catholic. With widespread support among the two largest religious groups in a religious country like Congo, his chances of being elected president were good.

By language group, his support is above average among Lingala and Kikongo-speakers; more than half of his supporters come from Bas-Congo, which is not surprising given his background (his - adoptive? - father, Laurent Kabila, came from Bas-Congo).

Although far from being a president for everyone in 2002, even then he had succeeded in attracting people with very different educational background, except for university graduates.

Tshisekedi, regional heavyweight with the support of the educated

Given the confused political situation in 2002, we also asked the question which politician people would not like to see in government. The results put Tshisekedi decision not to run in the 2006 elections in a new light: almost 30% of the interviewees disapproved of Tshisekedi, the head of the UDPS. In 2002, *Etienne Tshisekedi* was, on the one hand, the president's strongest challenger in the popularity scale and, on the other, the most contentious politician in the survey. In

²⁰ Their proportion was not very high in 2002 (5% of the interviewees). Their numbers could have risen in the past four years due to new opportunities in the capital and the ongoing unrest in other provinces.

2002, he was far and away the politician people did not want to see in government.²¹ It is difficult to say whether this is because he is seen as the eternal of opposition politician or because people fear having him in government.

In his case, the regional factor is particularly strong. A good half of his followers come from East Kasai, Tshisekedi's home province. His support is below average among non-Chiluba-speakers. He is popular among vocational school graduates (a good third of his support) and university and polytechnic graduates (25%). Like President Kabila, he has trouble reaching people with any formal school education.

Bemba, admired by young men

It is conspicuous that among the supports of *Jean-Pierre Bemba* (almost 3%), the former leader of the rebel Movement for the Liberation of Congo (MLC), who controlled the north of the country for many years, three quarters are men, a good 60% of them younger than 25 years of age.²² Bemba's supporters are recruited disproportionately from Equateur, his home province. The geographical and family proximity to Mobutu - his father was one of Mobutu's ministers - ensures him widespread support even today in the north among Mobutists.

The group of people who admire either *no or another* politician, or *do not know* whom to support - together a good third of the respondents - are mainly older than 50 years of age; many middle aged persons also admire none of the listed politicians. It appears that in the 2006 elections both Kabila and Bemba succeeded in convincing this old generation. Swahili-speakers are also heavily overrepresented among those who admire no or another politician. By region, a disproportionate number of respondents from Equateur supported none of the mentioned politicians. It is possible that Bemba managed to convince this group in recent years.

Political parties

Concerning the *level of organisation of political parties*, the result is generally poor. Even in the capital, only 11% of the interviewees stated they were members of a political party. This is in keeping with the general level of organisation: two thirds of all interviewees are not members of any political, religious or cultural association.²³

²¹ Second, Pierre Bemba with 8%, followed by Kabila with 5%

²² The MLC was formed in 1998 and supported for several years by Uganda until, even before the end of the war, it started to move closer to the governing faction under Kabila.

²³ Just 9%.

Various factors explain the low level of political involvement: the war, frustration with bad governance, corruption among the elites, the poor showing of most political parties in the early years of the Mobutu liberalization and, finally, the ban on political parties still in force at the time of the survey, which may have discouraged some people from revealing their real opinions.

The popularity of political parties is particularly evident in replies to the question of whether life improved or deteriorated after political parties were allowed: only 14% stated that their life had improved. The deterioration of the situation of a vast majority cuts across all strata, irrespective of language and religion. It is clear that political parties still have a lot to do to gain the trust of the Congolese people.

The low level of organisation and the negative experience with political liberalisation raises the question of the role of politics in a country that has recently been through three wars? The survey's results show clearly that four fifths of the interviewees consider politics to be secondary, especially compared with religion. Only 20% put politics in first position. Appreciation of politics correlates directly with education: whereas all interviewees without any formal education gave precedence to religion, among university graduates and teachers this dropped to six out of ten. Income also plays a role. About one quarter of those in the highest and middle income groups put politics ahead of religion. Politics is a luxury of the educated and rich.

Who is interested and who is *active in political parties*? Membership correlates directly with the level of education: almost 20% of university graduates are active in political parties. By contrast, not one of the interviewees without formal education is politically active. By occupation, farmers are most active (one quarter).²⁴ It is not surprising that by linguistic group the Chiluba-speakers are the most active: a good fifth of them are members of political parties. Almost all of them are probably in Etienne Tshisekedi's UDPS, whose largely Luba membership is drawn from East Kasai, his home province.

The results of the 2006 elections give added weight to political party preferences in April 2002.²⁵

²⁴ In second place temporary employees and white-collar workers

²⁵ Asked whether they could imagine elections without fraud, 60% of the interviewees answered No.

Which party are you most likely to vote for?

| | |
|-----------------------------|----|
| PPRD ²⁶ | 23 |
| UDPS ²⁷ | 19 |
| PALU ²⁸ | 10 |
| None ²⁹ | 13 |
| I don't know ³⁰ | 26 |
| Other parties ³¹ | 8 |

If we compare these results with the ratings of leaders of parties, it is clear that the president himself has far greater support than the PPRD: only 60% of those who support Kabila would have voted for his party in 2002.

Unity is much greater in the UDPS, which would have got as many votes as its leader Tshisekedi.

What is the social profile of people who would vote for the above-mentioned parties?

For the PPRD (23%) and the other parties, the profile is, with restrictions, similar to support for the party leaders, hence, we shall concern ourselves only with discrepancies and other details of supporters' social profiles. The PPRD draws least support from people with medium incomes. Support is well above average among unskilled and skilled workers, of whom two fifths would vote for the PPRD. This party is also popular among farmers. However, it is favoured by only 10% of teachers, casual labourers and white-collar workers. By linguistic group, a good third of

²⁶ Kabila leads Parti pour la réconciliation et le développement (PPRD), which he founded in March 2002.

²⁷ Etienne Tshisekedi is chairman of the Union pour la démocratie et le progrès social (UDPS), founded in 1982

²⁸ The secretary general of the PALU is Antoine Gizenga. The PALU (10%) can be viewed as the party of the middle class and small people. It is overrepresented among workers, craftsmen and farmers as well as people in emergency housing. It is also popular among people from Bandundu, Gizenga's home province, almost three tenths of whom would vote for the PALU.

²⁹ A good quarter of all civil servants would not vote for any of the parties; this is also true of the best and least educated (20%).

³⁰ Mainly women and persons aged over 35 (three tenths) and those in emergency housing. Shopkeepers (including many women), teachers, farmers, unemployed and white-collar workers are overrepresented, as are many less-educated persons and many Lingala- and Swahili- speakers.

³¹ An above-average number of craftsmen and people from Equateur province support other parties.

Swahili-speakers would vote for Kabila's party, which is understandable given Kabila's role in reuniting the country.

The UDPS (19%) is mainly supported by casual labourers, of whom three out of ten would vote for the party. However, it finds little support among civil servants and farmers.

Concerning the question of which party the Congolese would not like to see in the government, the UDPS did not do as poorly as its leader, but was joint first, with the ex-Mobutists (PMR, Popular Movement of Revolution),³² each with a good 20% of the votes. The former rebellious RDC-Goma³³ did much better, getting 5% of the vote, although for a long time it controlled large parts of eastern Congo with the help of Rwanda. Hence, we must conclude that Kinshasa's inhabitants are geographically and emotionally remote from events in eastern provinces. If the survey had been carried out in those provinces, the RDC-Goma would not have got much support.

Outlook

The incorrect assumption that democratic conceptions exist only in countries that have never experienced wars or chaos is not very widespread and was clearly contradicted by the results of the survey, at least among the inhabitants of Kinshasa. This also holds for views about the importance of ethnicity in a country like Congo. The following results are of great importance:

- 80% of the interviewees can be considered as good democrats due to their attitudes about fundamental principles of a democratic order. There is a direct correlation between a high level of education and democratic attitudes.
- Forms of authoritarian government are generally rejected. The inhabitants of the capital were divided when were asked to choose between a government of national unity and a majority government for Congo. Among those who chose the latter, many have a high level of education.

³² Unskilled and skilled workers form the smallest proportion (a good tenth) and civil servants (16%). By education, a good 30% of technical and vocational school graduates do not want the party to be in the government. People from Bandundu and Equateur as well as those with a high or very low education and university students are indifferent about this matter.

³³ A good 20% of teachers and a good tenth of civil servants do not agree on the participation of the former rebel RDC-Goma in the government, whereas people with little education are underrepresented. By linguistic group, Disapproval is above average among Swahili-speakers, who had a lot of experience with RDC-Goma in the east of the country. By contrast, this rebellious movement is not rejected in Equateur (Bemba supposedly recruited former PMR members and RDC-Goma supporters).

- Politics is a luxury of the well-educated and well-off. Not only are they more interested in political topics, but also they are more involved in political parties. The level of involvement in political parties in 2002 was somewhat less than 11%. Only half of the interviewees believe that the political leader can improve living conditions. After the terrible wars, the Congolese view religious institutions are seen as more trustworthy than political institutions.
- Ethnicity plays little role in Kinshasa, especially among the youngest and the most educated people.

There are clear signs of a national identity, especially when compared with low level of ethnic identity (5%). However, no less than half the interviewees identify first with their religious group.

The risk of violent clashes does exist: 6 out of 10 persons between 18 and 24 years of age do not disagree with violence on principle. One fifth of the interviewees do not reject physical violence against a political opponent. Persons with low educational levels are potentially the most dangerous group. The youth prefer to participate in peaceful protests such as boycotts and strikes. The results of the survey in 2002 are similar to those of the 2006 elections since Kabila and the PPRD were in the first position in both cases. Another coincidence is that the second candidate after in the first ballot got 20% of the votes. The proportion of votes that Antoine Gizenga got (about 10%) was also predictable. This is why we can regard Kinshasa as an ultimate model that represents the other provinces. Jean-Pierre Bemba, not Etienne Tshisekedi, was Kabila's main competitor for two reasons: Bemba being seen as a rebel leader and Tshisekedi withdrew from the electoral process. The 2002 survey results showed that there was an opening for a new politician: almost 50% of the interviewees did not have any opinion or did not favour any of the proposed candidates.

The present study shows that the main concern of the government should be investment in the field of the education. In Kinshasa, the proportion of educated persons is significant, unlike in other provinces, especially in rural areas: 25% of the interviewees have low educational levels, low incomes and poor living conditions, especially workers coming from Bandundu. These people constitute a group that tends to favour violence. The students of secondary schools without any future perspective (50% of the interviewees) represent a potential of conflict that should not be ignored.

Based on the results, we can identify some potential conflict groups:

- 1) The followers of the Churches of the Reawakening is the largest religious group, with a largely youthful membership. The Churches of the Reawakening is not a unified movement, but a number of independent churches. This feature represents an advantage for a democratic, non-violent future. However, these Churches cannot be easily controlled, unless politicians succeeded in mobilising their followers.

-
- 2) As past experience showed, Bemba's supporters constitute a potential of danger. This is not surprising, as his main support in Kinshasa is among the young, and his followers are motivated. Besides, Bemba has the advantage of being from Equateur, Mobutu's stronghold, where, as shown in the survey, the tendency for authoritarian representation is more prevalent than in other provinces. More significantly, many of his supporters have the impression that their ethnic group is less respected than others. Similarly, they think that the other groups consider them arrogant and envious and fear them. The potential of conflict becomes clearer when we note that this region, more than others, has failed to introduce pluralist democracy. Given these factors, Bemba's rapid rise is not surprising. The fact that Bemba succeeded in mobilising people besides those in Equateur in the second ballot is positive.
- 3) Tshisekedi's supporters are likely to cause trouble as well. For the Chiluba-speakers, it is clear that regional origin and ethnic identity overlap political aims. As we saw above, the UDPS followers, except for the least educated, are not inclined to be violent. But they favour strikes and boycotts more strongly than other. It cannot be excluded that these will not be exploited by the young and less-educated for violent purposes. When we consider the adjectives given to the ethnic groups, we notice that the Chiluba-speakers are much more fearful than others and they think that they are not thought to be as good as others. Hence, 90% insist that they are "as good as others". Similarly, like those from Equateur, they think that members of other groups are envious of them, and three quarters of them are convinced that others see them as arrogant - which half of them actually agree with. Considering that their political leader was not a candidate during elections, that he called for a boycott and that the UDPS is not represented in the government, which they consider illegitimate, we have an explosive mixture.

Finally, it is up to the political leaders, in particular the president, to seek dialogue with these conflict groups that will satisfy the groups and would defuse the long-term situation.

In fact, except for these real and potential conflict groups, the outlook for the new government is encouraging given the country's human resources, high degree of conviviality and tolerance towards others, significant national identity, lack of identification with ethnic groups and, above all, great optimism. Half of the interviewees have a positive view of the future and two thirds are convinced that they can contribute to establishing a stable situation in their country. Similarly, half of the interviewees think the present unsatisfactory situation will improve in the next ten years.

These are all resources with which to build a new state. Undoubtedly, some of these positive factors will change, as they are related to a period of war with an external enemy, and many had more to lose than to win. This makes responsible government all the more important, so as to give the country a degree of normality and satisfy the democratic expectations of the population better than previous governments.

Annex

Table 1: *Which of the options do you feel is the best solution for the Congo?
(Choose only one)*

| | Acceptable | Best solution for Congo |
|--|------------|-------------------------|
| The country is partitioned and each ethnic group has its own state | 13 | 8 ³⁴ |
| The largest group governs and the other groups accept its decisions | 18 | 3 |
| One group governs and people who don't like this either keep quiet or get out | 9 | 1 |
| A single party open to everyone governs without opposition | 27 | 14 |
| Everybody votes for the party of their choice, and the parties form a national government in which each group has a share of power | 75 | 53 |
| People vote for the party they like: the winning party governs and the other parties go into opposition. | 56 | 21 |

³⁴ A divided Congo is totally refused by Swahili speakers. As for the least educated persons, a good part of them (almost one quarter) are for the division of Congo.

Table 2: *In your opinion, which of the following characteristics/attributes describes your ethnic group?
You belong to a specific ethnic group. What do other ethnic groups think of your group?*

| | Self-perception | Perceptions of others' views |
|--------------------------|-----------------|------------------------------|
| <i>Respected</i> | 88 | 73 |
| <i>Better</i> | 86 | 65 |
| <i>Modest</i> | 81 | 72 |
| <i>As good as others</i> | 78 | 66 |
| <i>Envied</i> | 60 | 54 |
| <i>Feared by others</i> | 55 | 53 |
| <i>Less developed</i> | 29 | 40 |
| <i>Arrogant</i> | 27 | 37 |
| <i>Weak</i> | 21 | 30 |

Table 3: *Think about life in the Democratic Republic of Congo for people like yourself.
How do you feel about life now and how do you think you will feel in ten years' time?*

| | now | In ten years |
|--|-----|--------------|
| <i>Very satisfied with life as it is in Congo</i> | 2 | 25 |
| <i>Basically satisfied with life as it is</i> | 6 | 15 |
| <i>Neither satisfied, nor dissatisfied - so-so</i> | 17 | 27 |
| <i>Dissatisfied with life as it is</i> | 12 | 5 |
| <i>Angry and impatient with the current situation in Congo</i> | 64 | 28 |

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The research for this book was financed by the UNESCO International Centre for Human Sciences, as part of a research project on "Culture and Democracy".

It was published in French by the Konrad Adenauer Foundation Office in Kinshasa (Democratic Republic of Congo).