Leadership Failure, State Collapse and External Intervention:

Investigating Instability and Conflict in the Democratic Republic of Congo, 1960-2010

Ebrima Njie

A dissertation submitted in fulfillment of the requirements for the degree of Doctor of Philosophy in Political Science, University of KwaZulu-Natal, 2016
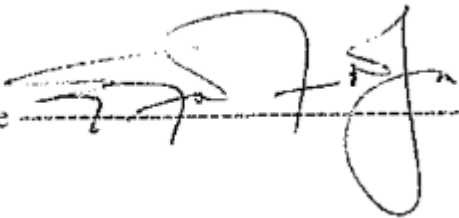
Supervisor: Professor Suzanne Francis

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Declaration

I, Ebrima Njie, declare that this dissertation is my own original work, has not been submitted for any degree or examination at any other university, and that the sources that I have used have been fully acknowledged. The dissertation is submitted in fulfillment of the requirements for the degree of Doctor of Philosophy in Political Science, University of KwaZulu-Natal, 2016

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Abstract

This is a study about leadership failure, state collapse and external intervention in the Democratic Republic of Congo (DRC) from 1960 to 2010. It is based on research that I undertook, records that I kept and field work interviews conducted while serving as a United Nations Electoral Affairs Officer (2004-2006) and Political Affairs Officer (2006-2010) in the DRC. It is further based on a field mission in the DRC in 2012. The study covers the period from independence in 1960 through the Mobutu years to the Joseph Kabila presidency up to 2010. I use the framework of historical legitimacy, political economy and subaltern realism to explain conflict and instability in the Congo since independence. I posit that governance and leadership failure and external intervention are interrelated but that leadership failure is a more crucial explanation of state failure and collapse than external intervention. Moreover, while political economy analysis and realism are powerful investigative tools, the state's lack of historical legitimacy best explains crises and instability in DRC since independence. Decentralization within a unitary system, functionalist regional integration and the rule of law may well be solutions to the problem of conflict and instability in the DRC.

Acknowledgements

Dedication

I dedicate this endeavor to my children Fatou, Alhagie Kebba, Bubacarr, Sheikh and Modou Karim.

List of acronyms and abbreviations

1. ABAKO - *Alliance des Bakongo pour l'Unification et l'Expansion de la Langue Kikongo* (The Association for the Unity and Expansion of the Kikongo Language)

2. AFDL - *Alliances des Forces Democratiques pour la Liberation du Congo-Zaire* (Alliance of Democratic Forces for the Liberation of Congo/Zaire)

3. BALUBAKAT – Balubas de Katanga – Balubas of Katanga

4. *Cartel Katangais – Katanga Cartel*

5. CEREA *Centre de Regroupement Africain – African Assembly*

6. CEPGL - *Communauté Economique des Pays des Grands Lacs*- Great Lakes Economic Community

7. CIAT - *Comité International d'Appui à la Transition* – International Committee in support of the Transition

8. CNDP - *Congrès National pour la Defense du Peuple* – National People's Defence Congress

9. CNS- Conference Nationale Sovereign – Sovereign National Conference

10. HCR-PT - *Haut Conseil de la République – Parlement de Transition* (HCR-PT)- High Council of the Republic-Transitional Government

11. CNL - *Conseil National de Liberation* – National Liberation Council

12. CONAKAT - *Confédération des Associations Tribales du Katanga* – Association of Katangan Tribal Associations

13. CSK - *Comite Special du Katanga* – Special Committee of Katanga

14. FARDC – Forces Armée de la République Democratique du Congo (The Congolese army)

15. FLNC - *Front du Liberation Nationale du Congo* – Congolese National Liberation Front

16. *Garde Republicaine – Republican Guard*

17. GECAMINES - *Generale Cariere des Mines* – the national administration of mines

18. MIBA - Miniere de Bakwanga- the Bakwnga diamond mining authority.

19. MONUC/MONUSCO – Mission d'Organisation des Nations Unies pour la Stabilisation du Congo – UN Stabilisation Mission in Congo. Previously known by the name MONUC, the Mission d'organisation des Nations Unies au Congo or UN Mission in Congo

20. MLC - *Mouvement de Libération Congolais* –Congolese Liberation Movement

21. MNC *Mouvement National Congolais*- Congolese National Movement

22. MPR - *Mouvement Populaire pour la Revolution* – Popular Movement for the Révolution

23. GUN – Gouvernement d'Unité Nationale – National Unity Government

24. PRP - *Parti de la Révolution Populaire* – People's Revolutionary Party

25. PSA - *Parti de Solidarité Africaine* – African Solidarity Party

26. RCD - *Rassemblement congolais pour la democratie* – Congolese Rally for Democracy

27. UDPS - *Union pour la Democratie et le Progres Social* - Union for Democracy and Social Progress

28. UMHK - *Union Miniere du Haut Katanga* – Katanga Mining Union

29. UN - *Union pour la Nation* – Union for the Nation

30. FDLR – Front Democratique pour la Liberation du Rwanda – Democratic Front for the Liberation of Rwanda

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Part II

Introduction to the Study

(i)   Introduction

Political scientists study power in relation to other concepts such as democracy, the state, class, ideology, conflict, war and peace. These concepts have preoccupied the minds of political philosophers since antiquity. It is not different in 21st century Africa, where the study of conflict and the African state dominates academic discourse. This dissertation is underpinned by the paradox of the state in Africa. First, the State is the centre of power and the main distributor of resources and privileges. Second, the State in Africa is without historical foundations and therefore fragile in its overwhelming power. This paradox sets the context of this dissertation about the DRC[1], conflict-ridden since independence which explains the inability to build institutions that would guarantee a legal-rational order. Powerful but fragile, having no historical legitimacy, the State's authority in the DRC has always been challenged. Coping with this crisis of legitimacy has sapped its capacity and depleted its resources during the period of the half century covered by this dissertation.

The 1960s were a period of profound change and hope as many African countries became politically independent. It was a time of triumphant African nationalism and inspiring debates by various political actors of the time over the future political and ideological direction of the continent. Thirty years later, after many secession crises, irredentist conflicts, military coups, civil

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[1] The name of the country has undergone many changes. During different periods, it was called the Congo Free State or Belgian King Leopold's Congo (1885-1908), the Belgian Congo (1908-1960), the Republic of Congo (1960 to 1973), Zaire (1973 to 1997) and the Democratic Republic of Congo (from 1997 to date). To better highlight the context of historical events, the different names are used interchangeably in this dissertation although *The Congo* stands out as the most used.

wars, political assassinations, ethno-electoral crises and instances of State collapse, the continent again celebrated, in 1989-1990, what was considered as another new dawn, one for democracy, following the collapse of the Berlin Wall ending the Cold War. Changes of revolutionary proportions occurred in the form of popular regime change or promising sovereign national conferences in Mali, Benin, Niger, Zaire Chad, Republic of Congo-Brazzaville, Ethiopia and Zambia. More than a decade into this new century, the quest for Pax-Africana remains elusive as the strong but weak State paradox continues to define the majority of African countries.

Weber conceptualizes the State as the institution that possesses the monopoly of the legitimate use of force. This legitimate force is to maintain social order and the delivery of goods like security, and social and economic progress[2]. Regardless of ideology, the objective of States is usually the same. Although the Westphalian State principles, central to the world order, account for relative stability across many regions, the situation in Africa has been different. Inherent in this problem is the lack of historical legitimacy which is a key framework in this dissertation. When a State lacks historical legitimacy, it lacks social capital; that is to say, it lacks the institutions, relationships, attitudes and values that govern interactions among people and contribute to economic and social development. The study shows that the lack of historical legitimacy crucially explains the reason for the absence of cohesion and stability in the Congo since independence in 1960. Due to this lacking, leaders embark on policies and actions that inevitably weaken the economy which results in state collapse.

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[2] The Marxist world view which sees the State as an instrument of bourgeois economic interest is not considered as appropriate here. The original declaration of the birth of states does not indicate an existence for the sole purpose of exploitation. Marxist historical materialism, dialectics and political economy are however relevant tools to understand social phenomena as well as the nature of the modern state.

The State in Africa may be described as an alien institution. Unlike European states that evolved over centuries and matured through earth-shaking historic turning points from the eras of powerful kings and kingdoms, peaceful or violent constitutional evolutions, the Enlightenment, the Industrial Revolution and continental upheavals between the 18th and 20th centuries, the average African State in its current form is barely more than two generations old. I argue that the nation-state has not yet arrived in Africa and the State's alien nature is a factor for instability. Corroborating Engelbert's (2000) findings[3], I argue that neopatrimonialism is another name for the politics of survival in conditions of contested legitimacy; secession and rebellion are at times expressions of ethnic competietion and antagonism; and one-party dictatorship was the other name for the imposition of the State on reluctant citizens.[4] In this dissertation, I used relevant examples to demonstrate that historical legitimacy is crucial in African politics and the lack of it is a factor that facilitates instability.

In my second approach, through the political economy analysis of conflict, I discuss instability in the context of the struggle for power and resources in the State. I posit that where the State has hardly any legitimacy, historical or contemporary, politics becomes violent owing to the lack of consensus on state and institution building. The state's overwhelming power as a 'bula matari'[5]

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[3] Engelbert's thesis on the African state's lack of legitimacy holds that the weakness of most African states is a function of heterogeneity which causes the adoption of policies that are inimical to growth and weakens the quality of institutions. Engelbert's arguments will be frequently discussed in this thesis.

[4] In the DRC, the state is referred to as Bula Matari, meaning breaker of rocks. The Belgian colonial authority had a difficult time fighting off resistance to kings and tribes that refused to accept it.

[5] 'Breaker of Rocks' in the Kikongo language. During Henry Morton Stanley's exploration cum conquest of the territory for King Leopold II in the 18 century, he had used dynamite to break up rocks and open up passages to the awe of the local population inhabiting areas his party passed through. They referred to him as Bula Matari, the breaker of rocks. Ever since, the expression has come to represent the overwhelming power of the state. The overwhelming power of the 'white man' demonstrated by the dynamite and other destructive capacity convinced the

makes it the alpha and the omega of the polity, the sole distributor of privilege and resources. This makes politics violent. To quote Clapham's expression, the struggle for power usually takes "pathological dimensions" (Clapham, 1985, p.45) and a power-security approach dynamique characterizes relations among the components of the divided territory. The political economy approach looks at state power as *the* sole avenue to security in the absence of functioning institutions and national cohesion. Politics is seen as a fight for survival. A political economy analysis also reveals, as Mamdani (2001), Nzongola-Ntalaja (2002) Lamarchand (2009) Turner (2007) and Stearns (2011) have demonstrated in their work, that conflict and instability in the eastern Congo from the 1990s to 2010 were caused by the struggle for space, land and economic resources. The framework revealed that competition for access to resources in the east of the DRC has fueled citizenship crises, ethnic conflicts, rebellion and war during the period covered in this dissertation. The political economy analysis in this dissertation showed that with the creation of the class of Africans who became the elite at independence, competition and lust for power became the logical consequence and with external manipulation, the explosion of crisis was inevitable.

Political realism is another approach used to understand and explain conflict and instability in the DRC since independence. Taking inspiration from Ayoob's (2002) sub-theory of subaltern realism which shares the themes of interest and power as running through the actions of all states past and present,[6] I demonstrate that the regional states that invaded the Congo from 1996 to 2003 took advantage of the security vacuum there due to state failure and collapse to address their own

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local populations that continuing to resist was futile against Bula Matari, the Belgian occupier. This is discussed by Rothschild in King Leopold's Ghost (1998).

[6] From classical (Machiavelli) to enlightened (Morgenthau) realism, the realist tradition has always emphasized outcomes and not moral considerations in politics. It has focused on the actual needs and interests of leaders and states paying less attention to morality. This thinking in Ayoob's analysis helps understand why regional states intervened in the DRC in the last decade of the 20th century.

internal political and security imperatives. Clark (2002) who calls Ayoob's 'subaltern realism' a compelling analysis says that contemporary leaders of developing states are indeed emulating the leaders of European states of the early modern period. In his *Inequality and Theorising in International Relations: The Case for Subaltern realism*, Ayoob shows that when international relations theory emerged it did not cater for subalterns, weak and emergent third world nations because the power politics of the past century and before it was based on a Euro-centric state formation, expansion and power relations. According to him, the context in which regional states (Rwanda, Uganda, Angola, Zimbabwe, etc.) fought in the DRC in the 1990s was partly out of realisation that they have to do what others did during their own state formation experiences, a subaltern perspective of international relations different from the theorising of power and conflicts shaped by circumstances appropriate to big powers. I have used this third approach to an extent in my discussion of external intervention in the DRC in 1997 and 1998-2003.

I adopted the interpretivist meta-theory of the social sciences as well as a qualitative methodology to interrogate and interprete data. Social reality is inherently objective but interpreting that reality involves dealing with rational, unpredictable, calculating, and subjective actors thus imposing multiple realities to deal with. I made a common sense reading of these different realities, perspectives and convictions after which I analysed them ending with conclusions that are grounded. I will now proceed to give a historical overview of conflict and instability in the DRC to set the context of this academic enquiry.

(ii)   Historical Background

Before the Belgian takeover of 1908, the territory of the Belgian Congo[7] was, in the words of Depelchin (1992), a virtual enterprise and a monopoly of the Belgian bourgeoisie led by the Belgian Royal Family and King Leopold II, supported by a few powerful trusts such as the *Societe Générale Belge*.[8] The magnitude of the Belgian interest was demonstrated by the size of the Belgian presence in the country in the late 1950s. On the eve of independence, 10,000 civil servants, 1000 military officers, 6000 catholic missionaries and several thousand managers of colonial enterprises supported the colonial administration from a population of 110,000 Belgians (Young, 2007). Belgian colonial rule mainly served the interests of Belgian investors whose attitude to the colony began to change under pressure only after the 1959 Leopoldville riots for independence (Nzongola-Ntalaja, 2002).[9]

The Belgian Congo became independent on 30 June 1960 as the Republic of Congo (Kinshasa) and shortly afterwards, the new government of Prime Minister Patrice Lumumba was thrown into crisis by the secession of the mineral rich provinces of Katanga under Moise Tshombe and South Kasai under Albert Kalonji. Lumumba appealed to the United Nations for help to preserve the country's territorial integrity, and, aware of the dimension of the conspiracy by Belgium and the United States, requested Soviet support (Kisangani, 2012). Devlin (2007,), former Chief of the CIA Station in the Congo in the 1960s has confirmed instructions he received to work with a CIA agent named "Joe from Paris" to remove Lumumba, if not peacefully, then violently. He said the

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[7] Map of the Belgian Congo in Appendix 1 (note the colonial names as opposed to the return to Congolese names at independence (Appendix 2)

[8] Belgian Investment Company, a major Belgian company

[9] According to Nzongola-Ntalaja, Belgian companies had dominated the economic space in the Congo colony from its inception to the late 1950s and were not keen to lose control after the territory's independence. This was a key explanation behind the crisis of independence, the assassination of Patrice Lumumba and the subsequent political events that unfolded.

directives must have come from the highest instances of government, meaning President Dwight Eisenhower at the time. Devlin further says that the conspiracy against Lumumba was a result of the perception of the Congolese leader as a Communist and therefore a danger to United States, Belgian and French economic and ideological interests in Central Africa. For Nzongola-Ntalaja, Western actors and multinational companies also wanted the Congo to be oriented towards Southern Africa where the reactionary and oppressive capitalist regimes held sway in Rhodesia, Mozambique, Namibia and South Africa at the time (Nzongola-Ntalaja 2002).

Lumumba was assassinated in 1961 in a political crisis that dragged on to 1965 when Colonel Joseph Mobutu seized power in a CIA-backed coup (Devlin, 2007). Following Lumumba's assassination, a nationalist rebellion erupted under Pierre Mulele, Lumumba's Education Minister, in Bandundu in Western Congo in 1964 and later spread to engulf most parts of the country. The rebellion captured the eastern half of the country and was only defeated with American and Belgian support. Faced with a crisis of legitimacy and the threat of national disintegration, Mobutu embarked on a cultural revolution ostensibly to weld the country together and established a one-party state. From the N'sele Declaration of 1967 on one party rule[10] to the 1973 launch of the Cultural Revolution[11], Mobutu experimented with strategies to stem challenges to state authority. For 32 years, he was sustained in power in a Cold War context that sought to keep Soviet influences out of Central Africa. Mobutu however did not solely rely on external support but internally, he

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[10] The Nsele Declaration was made in the district of Nsele, Kinshasa, in February 1967 during which the Popular Movement for the Revolution was launched. The ideology of Mobutism included nationalism, revolution, authenticity, and the return to authentic African values.

[11] The Zairean Cultural Revolution was mainly defined by the authenticity philosophy directing a return to cultural values and African dress codes.

embarked on policies designed to strengthen his power base. These misguided strategies destroyed the economy and precipitated state collapse.

Owing to economic crisis and pressure from his former Cold War allies, Mobutu, after 25 years of dictatorship, reluctantly agreed in 1990 to end one-party rule and allow a Sovereign National Conference (CNS) to usher in genuine democracy. The collapse of the Sovereign National Conference coinciding with the last years of Mobutu's dictatorial rule is one aspect of the successive tragedies in the DRC's post-colonial history. The historic Sovereign National Conference was the last chance for peaceful change and democracy and its disruption by a reluctant Mobutu added to the chain of events leading to the rebellion of 1996 and 1997.

Mobutu was overthrown in May 1997 in a Rwanda-Uganda-backed rebel coalition with Laurent Desiré Kabila[12] at its head. These two DRC neighbours soon after supported a new rebellion (in 1998) to remove Kabila which ignited regional war when Zimbabwe, Angola and Namibia entered the country to defend Kabila. The war ended in 2002 with a National Unity Government (NUG) comprising all the groups that were involved in the fighting (*Accords Global Inclusif sur la Republique Democratique du Congo*, 2002). Despite forming the NUG, fighting continued in several parts of the country as partly a reflection of the unresolved problems of nationality, deep-seated ethnic mistrusts, greed and political manipulation amid economic and state collapse. This state of affairs dragged on to 2008 when the Goma Conference on Peace and Security in Eastern Congo was organised by the Joseph Kabila government (Joseph replaced his father assassinated in 2001). In May 2010, Enyele rebels launched a series of attacks on Mbandaka, the capital city of

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[12] He changed the country's name to The Democratic Republic of Congo

Equateur province. Throughout that year, Banyamulenge/Tutsi rebels attacked government forces in South Kivu (Fizi) and Oriental province (Ituri) where former rebels took up arms to resist state authority restoration. In this dissertation, I investigated the causes of conflict and instability in the DRC since independence and used Engelbert's (2000) historical legitimacy theory, political economy analysis and subaltern realism as my analytical frameworks to understand state collapse, leadership failure and external intervention in the country during the period studied.

(iii)   Chapter Organisation

I have divided the themes of this dissertation into seven chapters. In the first chapter, I introduce the problem of conflict and instability in the Congo, identifying the key drivers of conflict. I then define the following key concepts as used in the dissertation: historical legitimacy, neocolonialism, dependency analysis, core-periphery thesis, state weakness, state failure, state collapse, civil society, ethnicity, subaltern realism and external intervention before reviewing extant literature on the research problem.

I introduce my theoretical models as historical legitimacy theory, political economy and subaltern realism analyses, a somewhat eclectic approach to interpretivist qualitative research that has ensured grounded findings and conclusions. I explain my method of data collection as based on primary data from field interviews, field experience with the United Nations in the DRC over a six-year period, a field visit in 2012, United Nations and personal reports, copies of original documents on the country, and live events I have witnessed between 2004 and 2010.

In chapter two, I outline the historical context of conflict and instability in the DRC. The chapter is divided into three parts. In part one, I discuss the crisis of independence (1960-1961), the motivations and actors of that crisis and its impact on the future stability of the country. In part two, I examine the rise of Mobutu Sese Seko to power in 1965, his long period of rule marked by the struggle for national cohesion and its impact on governance and development in Zaire. I also examine the Cold War actions of Belgium, France and the United States in the perpetuation of Mobutu's rule and, by extension, the Congolese tragedy. In part three, I focus on the nature and dimension of conflict under the Kabilas from the 1997 rebellion to the tumultuous political transition from 2003-2006 and its aftermath up to 2010. This historical narrative is interrogated in the analysis of primary data and extant literature using my key theoretical framework. The chapter sets the tone of the research analysis that follows.

In the third chapter, on governance and leadership, I discuss the structure of power in the DRC under Mobutu and the Kabilas and the role of external intervention in the perpetuation of Mobutu's rule during the Cold War. I then explore the links between natural resources and external intervention and how this in turn is facilitated by leadership failure and state collapse.

Chapter four explores state capacity through a review of concepts such as state weakness, failure and collapse and properly situates the DRC within each phenomenon at different stages of the country's history. I then examine one case study of internal conflict, the identity and citizenship crisis in the eastern Congo, and the international and regional dimensions of this problem. I conclude that the DRC lacked capacity since independence and this has been the impetus behind internal instability and external intervention since independence.

In chapter five, I focus upon the struggle for multiparty democracy in Zaire bringing out the role of civil society, the Catholic Church, students and political actors and parties as well as exiles and the externally-based opposition. I analyse the factors that inhibited the success of the struggle for democracy paying attention to both Mobutu's actions against the sovereign national conference and the greed and failures of the leaders of the multiparty movement.

Chapter six interrogates the issues around conflict and instability and the alternatives with regard to the reconstruction of the state. On the issues, I explain the leadership paradox, governance, the "curse" of minerals and citizenship as key problem areas to look into if the DRC is to emerge from the cauldron of unending conflict. I then examine federalism, unitarism and integration (through functionalist cooperation) among countries of the Great Lakes region of Africa as important for stability. Concluding, I recommend a decentralized unitary system of government as appropriate for the DRC given its history of conflicts from secessions.

In the final chapter, the conclusion, I summarize my dissertation, recapitulating the main points. The lack of historical legitimacy is fundamentally at the root of the crisis of governance and instability in the DRC since independence. The failure of leadership to build a cohesive and functioning nation-state resulted as a consequence of the absence of solid institutions amid mistrust among social groups that reject the post-colonial state. Interest in the state is only to 'capture' it, failing which it is rejected causing instability, a convenient situation for external intervention. I claim that this has been the problem in the Congo since independence in 1960. The country's energies have been consumed by conflict from a lack of historical legitimacy and the failure of

leadership. Corruption and patrimonialism have been the facility with which to buy loyalty and under Mobutu, who placed his power above all institutions, the phenomenon drained the state's resources. To this I add the role of mineral resources which influenced the struggles to capture state power, to access rent and resources. I discuss the crisis of governance, the failure/inability of civil society to triumph and usher in genuine multiparty democracy. These factors comprise the overall basis for state incapacity.

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Chapter One:

Theory, Concepts and Methodology

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1.1   Definitions of key concepts used in this dissertation

The concept of *historical legitimacy*, central to this dissertation, claims that the developmental capacity of a state relates directly to its level of historical entrenchment. According to Engelbert (2000), a state is deficient in legitimacy when it lacks the social capital, the institutions, relationships, attitudes and values that govern interactions among people in society and contribute to economic and social development.

For Engelbert, the average African state is not empirical as its existence as an idea is limited to an urbanized, schooled minority.[13] He says the weakness of most African states comes from heterogeneity which causes the adoption of policies that are inimical to growth and weakens the quality of institutions as resources are diverted towards the management of polarized social relations (ibid, p.56). In consequence, the cost of maintenance of an existing order, he rightly contends, is inversely proportionate to the perceived sense of legitimacy of the existing system (Engelbert, quoting Douglas North 1981, p. 73). This is corroborated in this research as findings show that in an average African state, such as the Congo, the appointment of qualified personnel and development priorities are subordinated to national, ethnic or regional patronage for the sake of stability, in spite of economic consequences. R.H Jackson (1990) called the average post-colonial state a quasi-state. The state legitimacy concept attracted the attention of this research

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[13] This also shows why politicians turn to ethnicity during periods of intense political competition to rally support.

because its insights are very instructive in the search for answers to the questions raised in this dissertation.

Belgian colonialism in the Congo was based on authoritarian paternalism, the rule that has ensured the firm control of the territory by King Leopold II through business trusts from 1895 to 1905. Belgian colonialism was hardly ever close in comparison to the milder forms of control in British and French colonial Africa. To maintain a very firm grip on the territory to enhance the exploitation of natural and mineral resources, Belgium divided the Congo into provinces and territories and was physically present in each territory of the country which was directly administered with the help of appointed chiefs. By the end of the first half of the 20th century, Belgian companies had established all the networks and institutions linking the Congo to Belgium in the global economy as an appendage. Depelchin (1992) has reported on how Belgian colonialism introduced economic investments, trade and capital relations with the Congo which in later years would determine the contours of economic relations.

The *Core-Periphery* concept, popular in Development Theory discourse in the 1960s and 1970s, refers to relations conditioned by the structure of the international economy as created by the expansion of global capitalism. With the expansion of the European home market after the industrial revolution, territories were subjugated overseas for the purposes of their transformation into markets for industrial products and sources of raw materials. Colonialism thus led to disarticulation and monetization of the local economy and, dependence. The local economy is today structured in a way that it supports the metropolitan economy by virtue of its position as a supplier of raw materials and consumer of its products. The core countries that act and decide the

fate of the global economy are supported by weak third world countries playing a very peripheral role, thus the centre-periphery thesis as espoused by the Argentinian structuralist Raoul Prebisch. This idea later developed into Dependency Theory to challenge neoclassical economic theory.

The concept of *delinking*, promoted by Samir Amin as an extension of radical political thought on dependency and the development of underdevelopment, called for the ending of centre-periphery relations in favour of a restructured global order in which the periphery will not transfer wealth to the core and poverty to the periphery (Amin, 1984).

External intervention according to Malan (1997) quoting Bull (1984) is a dictatorial or coercive interference by an outside party or parties, in the sphere of jurisdiction of a sovereign state. Heines (1996) defines intervention as the forcible interference of a state in the internal affairs of another, calculated to impose certain conduct or consequences. For Holsti (1994), intervention is a key foreign policy instrument of states in pursuit of their interests and goals. Interventions are a fact of international politics and the objectives for intervening usually range from ideology, national security, economic interests to humanitarian factors. In the case of the Congo external intervention was influenced, partly, by economic and ideological interests during the Cold War. In recent years, the security and political interests of intervening states have also explained the phenomenon. The continued intervention in the Congo from the imposition of the neocolonial State to the 1980s was purely economic and ideological. In the late 1990s, African States intervened in the Congo for security and political reasons.

Civil society as a concept denotes 'a certain degree of common consciousness and awareness, binding together society, a common rationality which allows for common rules of the game to be accepted' (Hartman 1994, p.218). Posner in Rothberg (ed. 2004) defines civil society as the complete reservoir of formal and informal organisations in society outside the control of the state. As such, it is an empty vessel as it can be filled with groups that foster social cooperation and improve peoples' lives. Warlord gangs, mafia organisations and paramilitary groups are, for Posner, as much a part of civil society as are churches and women's organizations. He further states that the job of civil society is to advocate and substitute (p. 236-237). The political opposition in Zaire discussed in this research is considered a part of the broader civil society that includes students, political parties, individual political actors, the church, and all other social groups active in the fight for multiparty democracy during the period studied. Lemarchand (2009, p.197) says democracy requires more than parties and elections. It requires other structures through which social demands can be formulated and acted upon. He sees the weakening of civil society in the Congo of the 1990s as the logical consequence of Mobutu's rule which set sharp limits on the organization of independent power centres. Chapter five of this research is dedicated to civil society and its role, strengths and successes in the struggle for democracy.

The term *ethnic group* refers mainly to a social group that shares a common language, history and culture and interacts and defines themselves as belonging to a name with whose interests they identify (Nwabueze, 2003). It is a group with a common identity and a common fate based on common kinship ties, traditions, cultural uniqueness and a shared history, and possibly a shared language (Thompson, 2000, p.58). Osaghae who sees *ethnicity* in objective/involuntary and subjective/voluntary terms, says the salience of ethnicity is marked during competition (Osaghae

p138, in Himmelsrand et al, 1994). Ethnicity (as largely understood in contemporary discourse) is not, for Thompson and Osaghae, a primordial tribal force. Although ethnic identity is natural, ethnic competition, antagonisms and mobilization take place during political competition (Thompson, ibid). This is close to the materialist/Marxist view which sees ethnicity as class interests parading in traditional garb (Lemarchand 2009, p.49). My explanation of ethnicity and ethnic conflict in this dissertation will be influenced by this viewpoint.

Bratton and Van der Walle (1997) define a *patrimonial regime* as one where the right to rule is ascribed to a person rather than to an office. Despite the official existence of a written Constitution, one individual dominates the state apparatus and stands above its laws. Relationships of loyalty and dependence pervade a formal political and administrative system, and officials occupy bureaucratic positions less to perform public service than to acquire personal wealth and status. Although state functionaries receive an official salary, they also enjoy access to various forms of illicit rent which constitute an entitlement of office. The chief executive and his inner circle undermine the effectiveness of the nominally modern state administration by using it for systematic patronage and clientelist practices in order to maintain political order. Patrimonialism especially under Mobutu was one of the reasons for state collapse in the Congo.

Realists believe the Congolese political and security vacuum caused by state collapse in the 1990s naturally had to be filled in adherence to the laws of nature (Turner 2007, p.8). This is close to the rational actor theory, or Ayoob's *Subaltern Realism*. According to this theory, even peripheral states of the international system seek power and take advantage of vacuums to enhance their power and security which was what happened in the Rwanda-Uganda invasion of the Congo. Such

states are guided in their actions by their calculations of power, security and threats to their alliance systems. I have underlined in this dissertation that the invasions and wars on the Congo from 1996 to 2010 were not motivated by the lust for mineral resources of the Congo. Rather, the loot of resources was a consequence of derailed objectives following the stalemate in the war.

Weak states are usually a result of geographical or physical factors, constraints, and internal political and social contradictions, ethnic, religious, linguistic and intercommunal tensions. They are also characterised by urban crime as people resort to other means as the state's capacity to deploy goods adequately is diminished or diminishing. Physical infrastructure networks are very poor, schools and hospitals show signs of neglect especially outside the main cities. Corruption is common and the rule of law is not adhered to. According to Rothberg (2003), states can be weak regardless of whether they are ruled by despots or those who have been elected.

A *failed state*, for Rothberg, refers to a situation characterised by civil wars, an inability to control peripheral regions, criminal violence, rampant corruption, dramatically declining economic growth and the loss of political legitimacy.

State collapse as defined by Zartman (1995) occurs in a situation where the structure of authority (legitimate power), law and political order have fallen apart. According to him in Hendrix (2002, p.1), this represents 'a deeper phenomenon than mere rebellion, coup or riot, and not necessarily anarchy'. Rothberg (2003, p.9) says it is that 'rare, extreme version of a failed state'. By the 1990s, the Congo was both a failed and collapsed state, albeit depending on what part of the country geopolitical zones in question.

1.2 Methodological reflection

The meta-theory through which I have approached this dissertation is interpretivism which focuses upon knowledge produced through an understanding of people, their views, positions, feelings and inter-subjectivity. The corresponding methodology is qualitative and thus I attempt to both explain and understand social phenomena and emphasize the importance of the human character and its unpredictability. In my approach I represent "the truth" that human beings are rational and make sense of their social world based on their experiences, interests and everyday fears. The approach rejects the positivist approach to social science. Hallowell (1944) in his response to the crusade for a positivist American political science at the time warned that even during data collection, the positivist forgets that the way he interprets data is influenced by a pre-formulated conceptual scheme, thus a prior value attitude. Interpreting social reality involves dealing with rational and unpredictable people.

I employed the methods of interviews, documentary analysis and personal observation to gather information for this dissertation. I interviewed people from different categories. They included political and civil society actors, academics, military officers, students and traditional leaders. I made use of on-the-ground experience and participant observations to make personal observations. I have worked and lived in Kinshasa, the capital of the DRC, as well as in eastern and central Congo (Kisangani, Kisangani, Kananga, Mbuji Mayi) over a six-year period. I lived through several events and crises that are discussed in this research. Documentary sources included Congolese government reports, archival documents, and audiovisual documentaries, UN reports on the Congo, investigative reports, thematic publications and inter-governmental conference documents.

Social reality is inherently objective and interpreting that reality involves dealing with rational persons. I therefore made a common sense reading of these different realities, perspectives and convictions, before analysing and interrogating all data.

1.3. Scope and limitation

The research covered the 1960-2010 period and mainly focused on key political events and crises including the crisis of independence, the rule of Mobutu from 1965 to 1997 and the period after Laurent Desiré Kabila's assassination through the political transition and the post-election period to 2010.

14 Theoretical models

My theoretical models in the research are historical legitimacy theory (Engelbert, 2000), political economy, and subaltern realism as espoused by Ayoob (2002). This eclectic approach to interpretivist qualitative research ensures in-depth and extensive analysis and grounded findings.

1.5 Literature Review

Dependency theorists writing on underdevelopment and conflict in Africa in the 1960s and 1970s emphasised the colonial and neocolonial context of relations between a European centre and a Third World periphery. Wallerstein's *World Systems* analysis (1974), Amin's *Delinking: Towards a Polycentric World* (1985) and Frank's *Capitalism and Underdevelopment in Latin America* (1966) are useful historical/neo-Marxist perspectives in discussions on underdevelopment and

conflict in the world's peripheral or fragile states. Nkrumah's interpretation of the Congo crisis of 1960 – 1964 also provides an important insight (Nkrumah, 1967). In his *The Challenge of the Congo* published after his overthrow in 1967, Kwame Nkrumah of Ghana said what happened in the Congo – the killing of Patrice Lumumba – was evidence that neocolonial powers will always resort to force to maintain their control over Africa's resources and the global capitalist order (p. 265). Nkrumah's view of neocolonialism as an instrument of global capitalism is pertinent for a fuller grasp of the crisis of independence in the Congo and the murder of Lumumba.

Hochschild (1998) on the Congolese tragedy says it can be explained in terms of pre-colonial, colonial and post-colonial continuities, a perspective akin to the historical/dependency analyses of Cardoso (1969), Frank (1967), Amin (1973; 1985), and Rodney (1973). According to these scholars, important historical linkages must be grasped for a fuller comprehension of underdevelopment and instability in most 'peripheral' states of the developing world. Marxist historical materialism from which all the authors above drew inspiration during their scholarly careers analyse underdevelopment and conflict in poorer countries as a function of the evolution and expansion of capitalism and the home market towards states of the periphery (Cardoso, 1969).

There is however an inherent shortcoming in the *dependencia* tradition found in its assumption that colonialism and neocolonial interventions alone account for instability in fragile post-colonial states. While colonialism has had disastrous consequences in the Democratic Republic of Congo, we must not ignore the many important legacies of colonial rule such as the modern state, its institutions and infrastructure. Kisangani (2012, p.14) highlights the relatively advanced health

facilities of the Belgian Congo at independence which was also the most industrialised territory on the continent after Apartheid South Africa.

On the other hand, it is not appropriate to ascribe conflict in DRC to internal factors alone. In his account of civil wars in the Congo from 1960 to 2010, Kisangani points to the politics of exclusion as the trigger for conflicts more than any other factor. However, his supposition that all conflicts in the country since independence were mainly caused by political and economic exclusion are challenged in this study. For instance, the Mulelist rebellions weren't as much a reaction against exclusion as they were a genuine uprising to restore the Lumumbist State in a regional setting of competition among political actors.

Writing on the role of leadership failure in the explanation of Congo's tragedies since independence, Mwamba (1991) and Wrong (2000) focus on President Mobutu's survival strategies of nationalisation and patronage which accounted for the country's economic decline and collapse by 1996. Corroborating this view, Kisangani (2012, p. 24-25) demonstrates that Mobutu's nationalisation of foreign businesses and plantations in 1973 'de-industrialised the Congo', increased her foreign debt and precipitated the collapse of the country's economy thus setting the stage for crisis. It is here important to state that there was an explanation for the policies of nationalization, patronage and corruption which translated into massive spending that destroyed the economy of the then Zaire. Lacking legitimacy in history after Lumumba's murder, Mobutu used Zaire's resources to preside over a dictatorship that was never successfully challenged for three decades.

For Mwamba (1991) and Kisangani (2012), nationalisation and patronage were among the main causes of the decline and collapse of the Zairean state under Mobutu. From Wrong's findings, billions of dollars were lost in three decades to misguided policies and patronage in a long period of dictatorship in which the 'leopard' reshuffled 51 governments (Wrong 2000, p.97). By the end of his rule, Mobutu had personalised the country's finances (Nzongola-Ntalaja 2002, p.150; Wrong 2000, p.118).

Clapham on corruption in Zaire of the 1980s ironically states: 'there is no embezzlement because the ruler's personal income is the same as government revenue; there is no nepotism because there is no criterion for appointment to office apart from the ruler's favour' (Clapham, 1985, p.47-50). According to Wrong, between 1975 and 1984, Zaire received $9.3 billion in foreign aid, and $542 million yearly between 1985 and 1994. Copper revenues ensured that the state's main source of revenue Gecamines[14] earned between 700 and 900 million dollars annually until 1974. But there was nothing to show for it. Between 1989 when the World Bank lamented the failure of leadership and crisis of governance in the country (World Bank Report, 1989) and 1994 when Gecamines needed $3 billion to be fully operational as in pre-crisis levels, the country's external debt stood at $10 billion (ibid). By the end of Mobutu's rule, Zaire's economy had totally collapsed (Kabemba 2006, p.104; Nzongola-Ntalaja 2002 p.150).

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[14] Gecamines, the *Generale Carriere des Minies*, the country's mining agency, was the main source of revenue for the country since independence. Under Mobutu, it managed revenue in taxes from the Katangan copper mines and the Kasai diamond fields

After Mobutu's overthrow in 1997, Laurent Desiré Kabila inherited a chaotic situation and a collapsed state.[15] As soon as he took over, Kabila demonstrated inexperience, incompetence and "self-destructive tendencies" (Kabemba 2006, p.105). Assessing his leadership, Nzongola-Ntalaja (2002, p. 246) says Kabila was neither a statesman nor a wise patrimonial ruler, but a man who lacked vision and skill. The 1998-2003 war which began when Rwanda and Uganda invaded the Congo with rebel forces to overthrow his government has been the subject of various scholarly analyses. Some have explained it as a rebellion internally fomented against Kabila's style of rule (Kabemba, ibid). For others, it was a punitive action by regional powers or foreign aggression aimed at looting the Congo's resources (Braeckman, 2004; Barouski, 2006 and Willame 2007). A more plausible explanation, subaltern realism which is a theoretical model in this dissertation, sees regional actors as having reacted to the vacuum in the Congo caused by state failure and collapse which made invasion of the Congo a security and opportunistic imperative. Both Rwanda and Uganda, being young regimes at the time, used the Congo campaigns to enhance their security, improve their strength and douse domestic tensions at home[16]. It is therefore inappropriate to analyse the 1997-2002 invasions by those countries through monofocal lens the lure of natural resources.

Challenging the resource loot postulate, Ottaway (2001) argues that mineral resources abundance alone cannot be a recipe for the invasion of a country. Mills (2001) buttresses this view by giving

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[15] The Congo was a collapsed state by the time of Mobutu's overthrow in 1997. See the definition of a collapsed state in this chapter.

[16] In Uganda, the National Resistance Movement Government of Yoweri Museveni faced domestic opposition especially from the north of the country who fought back against the ousting of Okello's government. In the south, although the Baganda Kingdom was an ally in the fight to overthrow Okello, the power of the monarchy and resistance to any land grab in the central region exposed some of the weaknesses of the regime. Added to this was the Allied Democratic Front-National Liberation Army of Uganda operating against his regime from the eastern Congo. In Rwanda, the Hutu rebels in eastern Congo clearly threatened the new government with a series of attacks inside Rwanda.

the example of Angola, a resource-endowed state that faced a prolonged rebellion but survived it without consequences in the magnitude of the Congo's. More interesting is Clark's (2002) analysis that the chaos in the Congo between 1998 and 2003 was a function of state collapse and scramble by unscrupulous neighbours over the spoils.

In this dissertation, I challenge the assumption that war was waged by regional states to loot Congo's mineral wealth. I argue that a coincidence of circumstances including a regional military stalemate derailed the war from its original objective of overthrowing Kabila and engendered and perpetuated its own dynamics resulting in the massive looting of resources. The illegal exploitation of resources was thus an unintended consequence of invasion by Rwanda and Uganda that was foiled by Zimbabwe and Angola. After Kabila's assassination, his son Joseph presided over a transition period that is now famous for the corruption and pillage that characterised it. Up to 2010, he failed to end anti-government rebellions and the looting of Congo's natural resources.

With the above review of the literature, what conclusion can be made of the explanations for conflict and instability in the Congo from 1960 to 2010? I posit that colonialism and neocolonialism alone do not fully explain post-independence conflicts and instability in the Congo. This research affirms the state's lack of historical foundations and provides this as a new emphasis in the conflict. The average African state's lack of historical legitimacy and acceptance partly explains the policies of leaders, patrimonialism and corruption to keep challenges at bay. Leadership failure is evident in the inability to forge a nation with visionary and selfless leaders. While this research concedes that external manipulation has contributed to the phenomenon of conflicts, it must not be the scapegoat for the failures of Congo's leaders. Drawing on insights

from the literature and field interviews, I demonstrated that although the colonial impact and neocolonial interventions have largely contributed to instability in the Congo between 1960 and 2010, this explanation is not sufficient given the inadequate space to issues of leadership failure and state collapse.

Ong'ayo (2008) highlights the need for a balanced look at both internal and external factors when he blames both colonialism and bad leadership for the lugubrious state of the continent. Ayee (2006) and Alemazung (2010) have emphasised the same in their analyses of the predicament of instability facing African states today. That so many scholars agree on the negative role of internal factors (leadership failure and state collapse) in the Congolese tragedy is a pointer to the need to revisit the literature on the debate on Congo's crises and other endemic ones in Africa. This dissertation affirms the following:

1. Although political economy analysis and the political realism of neighbours are powerful investigative and analytical tools, the DRC state's lack of historical legitimacy best explains crises and instability in the country since independence;

2. Governance and leadership failure and external intervention are interrelated and the latter is insufficient in explaining conflict and instability in the Congo since 1960;

3. Power, governance and leadership are double-bind and the misuse of power can lead to bad governance and leadership failure;

4. Civil society groups failed in the pro-democracy struggle in DRC owing to the greed for power of leaders;

5. Political economy dynamics (actors, their incentives and resources) explain many conflicts in DRC since independence

6. Decentralization within a unitary system, functionalist regional integration and the rule of law are identified the solutions to the problem of conflict and instability in the DRC

1.6   Theoretical framework

Shultz (2014) defines a theoretical framework as a broad theory-based explanation for the behaviour, actions, opinions and attitudes of interest to the research problem. My theoretical models for this research are historical legitimacy theory, political economy and subaltern realism.
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1.6.1   Historical legitimacy

Engelbert sees Africa's crises of underdevelopment and conflict through the lenses of the state's lack of historical legitimacy (2000, p.71). The state's lack of genuine historical foundations is, according to him, a key reason for instability in Africa. For him it does not matter whether a state is just, democratic, inclusive, popular or accountable. It is about being rooted in the history if it wants stability; a historical, structural condition.

Failing the historical legitimacy test, the state becomes illegitimate and governance becomes difficult. As a result, predation, neo-patrimonialism, rent-seeking, administrative decay, ethnic conflict and state collapse become inevitable. Developmental capacity, according to Engelbert, is

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weak in historically illegitimate states. Asked whether the Congo's problem was because the country was illegitimate in the sense in which Engelbert explains it, the majority of university students in Bukavu agreed (Personal Interviews with students, Bukavu, 2009). Asked whether they thought the leadership in the DRC would always face opposition more than the situation would have been in a homogeneous society, all answered in the affirmative. The lack of historical legitimacy is responsible for ethnic tensions because nations parading as ethnic groups were grouped together by Belgian colonialism under what Jackson refers to as a Quasi states (Jackson, 1993). Patronage, clientelism and corruption have been state survival strategies which, as discussed in this dissertation, led to economic collapse and crisis.

Engelbert's thesis is similar to Chabal's broader analysis that the postcolonial state was created 'on the false assumption that it could be conceived a-historically' (Chabal 1992, p.70). Created outside the African historical and evolutionary processes, and bequeathed to a petty bourgeoisie accepting 'instruments of sovereignty' without any thorough grasp of what was at stake, the state became a failure at independence (Zartman, 1995). Rene Dumont wrote about a false start (Dumont, 1966). Chabal contends that the legal and political super-structure of the post-colonial state in Africa was created to serve the requirements of the colonial enterprise, and was left behind to function in predominantly alien African systems. Thus, the African post-colonial state is not as solidly anchored to African political communities as the modern European state was anchored to European societies earlier. On the lack of congruence between nation and State, he says the myth of the nation-state conflicts with the reality of a heterogeneous and complex Africa (ibid, p.121).

Citing the example of the Congo in his thesis, Engelbert says the degeneration of Congo's leadership in the 1980s, policies, and eventually institutions, was the consequence of the nation-building 'over expenditures' around the neo-patrimonial logic of power brought about by the lack of historical legitimacy of the post-colonial State. He went on to say that the Congo was created as a commercial venture by King Leopold II of Belgium. The focus was extraction of resources, unification of the territory acquired from conquest and the economic destruction of preexisting kingdoms. (ibid, p.107). Colonisation destroyed the preexisting systems of power but provided no alternative path to political socialization at a hypothetical Congolese level, since Africans had been kept in an artificial state of political childhood until the 1950s about politics. It was therefore during the search for solidarities in their uprooted urban environment that evolués[17] began to organize politically on a mostly regional or ethnic basis. This is how Joseph Kasavubu's ABAKO represented Bas Congo province, Moise Tshombe's CONAKAT drew its support from southern Katanga province and Antoine Gizenga's *Parti Solidarité African* relied on the Bandundu (Kwilu) region.[18] The elites at independence naturally fell back on their tribes and regions of origin for support as the concept of a Congolese nation was new to most actors at the time. Thus comes into sharp focus the central question of lack of legitimacy in history.

During his reign, Mobutu tried to forge a united nation with Zaireanisation and authenticité (nationalization and return to shared African values) resorting to what Engelbert calls the 'fiction of a national family' (ibid, p.110). According to him, and confirmed by the literature and my

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[17] This was a derogatory term after independence. It meant the new class of educated Congolese elite.
[18] ABAKO, formed in 1956, was the first Congolese indigenous organization to demand improvement in the conditions of its ethnic members during Belgian colonial rule. Moise Tshombe's CONAKAT was formed in Katanga at the behest of the CARTEL Katangais, a white settler Belgian organization opposed to Congolese nationalism and independence. Antoine Gizenga's *Parti Solidarite Africaine* was formed in the 1950s in Bandundu Province. It was a key ally of Patrice Lumumba and Gizenga and emerged in 1962, after Lumumba's murder, to head the Lumumbist government established in Kisangani.

personal interviews, Mobutu 'purchased' support from regional elites and clients who systematically plundered the state. The lack of historical legitimacy is the main theme in this research as it will be used to explain conflict and instability since independence.

1.6.2 Dependency Theory

The Marxist approach to the analysis of political systems, based on Marxist historical and dialectical materialism and political economy, is the basis on which 20th century theory of Dependency theory was developed, but importantlyfrom the writings of Latin American structuralists Celso Furtado and Raoul Prebisch and the Marxist Paul Baran.. It was later used by Afro Marxists such as Nkrumah (1965), Rodney (1972) and Amin (1974) to demonstrate that owing to the capitalist division of the world between core and peripheral countries, a flawed structure and system of interdependence resulted causing the continued enrichment of the core and the impoverishment of the periphery. According to dependency theory, conflict and crisis in the periphery can best be explained from the dynamic in these relations.

According to dependency theory, the continued development of capitalism in past centuries has meant the development of capital in the core countries of the developed world and the perpetuation of the conditions of dependency in the peripheries or developing world. This had meant the transformation of the peripheral countries – the third world during the Cold War - into suppliers of raw materials and consumers of manufactured goods, an objective of colonialism and neocolonialism. From the above could be understood why the emergent capitalist sectors in the developing countries (for the most part export-oriented agricultural and mineral production)

developed as dependent sectors, 'integrated into the international economy but horizontally non-integrated in their national economies' (Froebel et al, 1981, p.13). Colonial finance capital created a state whose sole purpose was to exploit the periphery that was the Congo after investing almost nothing as clearly outlined by Depelchin (1992):

> '…finance capital found itself in a situation where it could only operate profitably if it could set up a politico-military structure designed to enable it to harvest the treasure from its trove while investing nothing at all…' (Depelchin 1992, p. 36).

Owing to the colonial integration of colonial economies, the national economies of former colonies were subjugated in an integrated global economy whose domination of the periphery was explained by a core-periphery relationship. Andre Gunder Frank speaks of the development of underdevelopment. Baran (1957) developed ideas about dependency in the world dominated capitalist system and Rodney (1972) wrote *How Europe underdeveloped Africa*. Based on this state of affairs and the intricacies of international entanglements, Amin (1984) called for the delinking of the periphery in 1984 (Amin, 1984). The dissertation demonstrates that instability in the Congo is a function of colonialism and neocolonialism with the ramifications on the economy which breeds instability.

1.6.3   Political Economy

Political Economy developed in the 18th century as the study of the economies of states, polities, hence political economy. French physiocrats, Adam Smith, David Ricardo and German philosopher and social theorist Karl Marx were some of the exponents of political economy.

Originally, political economy meant the study of the conditions under which production or consumption within limited parameters was organized in the nation-states.

Many fields use political economy to understand and explain social phenomena. These include sociology, political science, anthropology, history, economics, psychology, and law, among others. The ideology or political system that is best renowned for using political economy to understand and explain conflict in society is Marxism. In the Marxist Contribution to the Critique of Political Economy, Marx said:

> *'Legal relations as well as forms of state cannot be understood by themselves nor by the so-called general progress of the human mind, but rather are rooted from the material conditions of human existence' (Marx, 1859, p.3)*

Marxist analysis of societal phenomena is therefore hinged upon materialist monism, only one material factor, the economy. For Marxists, the economy and the material conditions emanating from it dictate the nature and consciousness of society. Political economy analysis essentially focuses on the economic explanations of political and social conflict, power, exclusion and vulnerability of groups or actors within a community. It identifies shifting interests that influence state actions, the nature and sources of state capacity, authority and legitimacy, and how and why rent seeking and patrimonial political systems can either contribute to, or undermine, state stability. As an approach, it can explain crisis in the Congo from a stand point of the social expressions of political and economic interests since the colonial period.

Using the eastern Congo as a case study, political economy analysis reveals that instability in the eastern Congo from the 1990s to 2010 was caused by the struggle for space, land and economic

resources. Mamdani (2001), Lamarchand (2009) Turner (2007) and Stearns (2011) have highlighted the importance of land, grazing, customary leadership in the regional political economy and how competition among groups led to a citizenship crisis, rebellion and war. The study demonstrated that the competition for economic opportunities among Congolese politicians and ethnic groups is always the motivating factor for conflict in Ituri, the Kivus, Katanga and Kasai provinces. The political economy approach puts the conflicts in the DR Congo into proper perspective and offers a concrete explanation of the local, regional and global dynamics that shape or underpin them.

1.6.4   Subaltern Realism

In his analysis of the 1998-2002 war, Clark (2002) discussing Ayoob's Subaltern Realism explains why regional states intervened in the Congo during the period. Calling it a compelling analysis, he quotes Ayoob as saying that contemporary leaders of developing states are emulating the leaders of European states of the of the early modern period. In his *Inequality and Theorising in International Relations: The Case for Subaltern realism*, Ayoob shows that international relations theory did not cater for subalterns, weak and emergent third world nations as the power politics of the past century and beyond was based on a Euro-centric state formation, expansion and power relations. In the African context in the 1990s, emergent states merely emulated these processes. The context in which regional states fought in the Congo was partly out of realisation that they have to do what others did during their own state formation experiences, a subaltern perspective of international relations different from the theorising of power and conflicts shaped by circumstances appropriate to big powers.

Their main goal, like that of their European predecessors, is to build up their states in terms of their economic strength, administrative capacity and military power. In doing so, war fighting and intervention in neighbouring states is often a logical part of that process (Clark, 2002, p.4). This theoretical approach partly answers the reason for regional intervention in the Congo by Rwanda, Uganda, Angola, Zimbabwe and Namibia. While true that both Rwanda and Uganda were developing states whose intervention in the Congo strengthened them and aided cohesion at home, their interventions were partly punitive and subsequently derailed into the exploitation of the resources of an occupied territory. This is demonstrated in this dissertation.

1.7   Conclusion

As the premise to the substantive part of the dissertation, I have introduced the research, the problem statement and my objectives after which I defined key concepts and thematic variables as used in the research. I then discussed my methodology as interpretivist allowing me to interrogate a wide scope of data from interviews, and participant observation to be analysed in light of my theoretical framework. Historical legitimacy theory, political economy and subaltern realism which constitute my analytical and theoretical framework are discussed as well as extant literature on conflict and instability in the DRC since independence. These set the context of my research after which I now proceed to discuss conflict and instability in the DRC from a historical perspective.

Chapter Two:

Conflict and Instability in the Democratic Republic of Congo (1960-2010)

A Historical Perspective

Part One: The crisis of independence

2.1   Introduction

From 1960 to 2010, the DRC has experienced seventeen civil conflicts and wars (Kisangani, 2012). In his book *Civil Wars in the Congo, 1960-2010*, Kisangani calls the country a laboratory of civil conflicts. In this chapter, I broadly narrate the key events and conflicts that have characterized the DRC's post-independence history. I start from the crisis of independence, its actors and consequences. I then discuss Mobutu's misrule up until his overthrow in 1997 by Laurent Desiré Kabila, the causes of the 1998-2002 regional war in the DRC, the political transition led by Joseph Kabila and the conflicts in Bukavu, Katanga, North Kivu and Ituri. In the chapter, I demonstrate that all the crises in the Congo since independence have been a function of the state's lack of historical legitimacy as elites, ethnic groupings and regions fought for relevance in the new post-colonial entity as the state struggled to establish its preeminence.

2.2   The June 1960 elections and the crisis of independence

The Congo as the Congo Free State was the property of King Leopold II of Belgium from the second half of the 19th century to 1908. After nearly half a century of brutal exploitation which claimed 10 million lives (Hochschild, 1998), the Belgian government annexed the territory as a colony in 1908. In 1998, Michiko Kakutani in his review of *King Leopold's Ghost* by Adam Hochschild said half the Congolese population (which at the time was between 16 and 20 million) died from King Leopold's greed.

By the 1950s, Belgium came under pressure to decolonize. At the time, Joseph Kasavubu's *Alliance des Bakongo pour l'Unification et l'Expansion de la Langue Kikongo* (ABAKO)[19] was the only active pressure group whose activities resembled a freedom movement. Although the 1959 ABAKO-led riots were historic for the Congo, the movement was ethnically and regionally based (in Leopoldville, present-day Kinshasa) and the Bas Congo region in the west of the country. It was only after the *Mouvement National Congolais* (MNC) of Patrice Emery Lumumba emerged and mobilised around a national and pro-independence platform that the independence struggle was sped up (Nzongola-Ntalaja, 2002).

During the 1960 independence (legislative) elections, there was no outright winner. Lumumba's MNC obtained 26% of the national vote followed in second place by Antoine Gizenga's *Parti de Solidarité Africaine* (PSA) with 12%. ABAKO, in spite of its historic credentials as the first indigenous sociopolitical organisation, came in third place with only 9%. The other regionally

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[19] The Association for the Unity and Expansion of the Kikongo Language (the language spoken by the BaKongos).

based parties obtained the following percentages: the white settlers' *Cartel Katangais* (4.9%), Moishe Tshombe's *Confederation des Associations Tribales du Katanga* (CONAKAT) (4.7%) and Anicet Kashamura´s *Centre de Regroupement Africain* (CEREA) in Kivu (4.3%). The rest of the votes were distributed among a dozen parties that had no influence outside their home bases (Nzongola-Ntalaja, 2002; Kisangani, 2012).

In Leopoldville, the PSA defeated ABAKO. In Katanga province, Moishe Tshombe's CONAKAT, strong in the urban south and allied to the Cartel Katangais which represented powerful multinational interests (Nzongola-Ntalaja 2002; 99), only narrowly defeated the nationalist Baluba des Katanga (BALUBAKAT) party, strong in north and led by the pro-Lumumba nationalist Jason Sendwe. In Kivu province (North Kivu, South Kivu and Maniema provinces today) CEREA won but did not obtain a majority. Lumumba's MNC came second. In Kasai province (East and West Kasai today), MNC-Lumumba and MNC-Kalonji (after the party split) contested for control which the MNC-L won through a coalition with two small parties. In Eastern province (Kisangani), MNC-L won a clear majority and in Equateur province, parties were weak though two politicians Justin Bomboko (UNIMO) and Jean Bolikango (PUNA) emerged as the main actors. The historic reports of the 1960 elections by Kisangani (2012) and Nzongola-Ntalaja (2002) are almost identical and as much as they touched on the intense mutual tribal and regional mutual antagonisms that characterized the elections, these elections were to show the first visible signs of the weakness of the post-colonial state as lacking historical legitimacy.

Overall, Patrice Lumumba benefitted from the nationalist appeal of his party to emerge as Congo's undisputed leader in 1960. He forged a coalition involving his MNC-L, PSA, BALUBAKAT, CEREA, UNC and COAKA to form the government that was to emerge from Belgian colonial rule. Lumumba's Congolese rivals however immediately demonstrated determination to resist his leadership and this was the opportunity for Lumumba's foreign enemies to hatch the anti-Lumumba conspiracy during which he was called a Communist and subsequently assassinated (Devlin, 2007).

After independence, two perspectives on the future of the Congo defined the position of the two camps of moderate African nationalists and radical African nationalists. During the struggle for Africa's liberation from colonial rule, African nationalists were divided over strategy and this was reflected in the two groups that represented these differences (Sallah, 2002). Colonial countries like Ghana, Mali, Morocco, Egypt, Algeria and Libya favoured rapid decolonization and an immediate federation of all African states. They met in Casablanca in Morocco in 1961 and hence the name the Casablanca group. They represented the group of radical African states and all other leaders of this motivation, like Patrice Lumumba, were associated with their ideals. Another group, led by Leopold Sedar Senghor of Senegal, comprised Nigeria, Liberia, Ethiopia and most francophone African states preferred a gradual political federation through gradual economic cooperation. They met in Liberia and hence the Monrovia group of moderate African states. It was from this history that African leaders in the early 1960s were grouped into moderates or "collaborators" on the one hand and radical African nationalists on the other. According to Sallah (2002) moderate African nationalists in the context of that period referred to those African leaders who called for gradualism in the process of integrating African states. Their outlook on politics

was one of caution and collaboration with the departing colonial powers. This was in opposition to radical African nationalists who wanted a rapid unification of African states confident in their world view as well as concern that the forces of imperialism will benefit from any delay by undermining Africa's unity.

The extent to which the moderates served the interests of neocolonialism is elucidated by Nkrumah who gives a pertinent analysis of the ideological underpinnings and neocolonialist influences in the Congolese conflict at around the same period. Under neocolonialism, Nkrumah says colonialism returns through the back door and controls the former colonial economies through international institutions and direct intervention when necessary (Nkrumah, Kwame in *Neocolonialism: The last stage of colonialism*, 1965). In the Congo, the division was clear between Patrice Lumumba and the group of Congolese with a moderate approach to dealing with the Belgian colonialists. Examples were Joseph Kasavubu and Moise Tshombe. Whereas the nationalists wanted a unitary system for the Congo, the federalists were opposed to that objective. It was in pursuit of their respective positions that moderate African leaders called for the federal approach which in essence was more akin to a confederation of African states. Federalism entailed surrendering some powers to the centre while the respective states retain defence and foreign policy principally. This would have defeated the purpose of union as the unitarist group of radical African leaders held (Personal Observation).

Six days following the independence celebrations, the *Force Publique*, in the process of mutation into becoming the country's new army, mutinied. Soldiers attacked Europeans and without invitation, Belgium sent in troops in violation of the new country's sovereignty (Nzongola-Ntalaja,

2002). As chaos prevailed, Tshombe (CONAKAT) declared the secession of the mineral rich Katanga province on 11 July 1960 with the support of Belgian business interests and over 6000 Belgian troops in the provincial capital of Elizabethville, now Lubumbashi. A few weeks later South Kasai declared its secession from the Congo. The Lumumba government, overwhelmed, appealed to the United Nations to help preserve Congo's territorial integrity. It was under these circumstances that Lumumba was overthrown and killed (Michel, Thiery (1999) in *Mobutu: Roi du Zaire*, documentary film on Mobutu's Congo).

2.2. i   The political economy of secession in Katanga and Kasai

Before independence, the province of Katanga was economically the most important region in the Congo after Kinshasa. It was its richest in terms of resources and the country's second most developed region. In his account of the Katanga crisis, Kisangani (2012) indicates that Katanga was the most industrialized province of the Congo having its share of wage earners at 36.2% in the 1950s, the highest in the colony. This industrialization was, however, the work of a single employer, the *Union Meniere du Haut Katanga* (UMHK) in a province known to be rich in high-value minerals. As already outlined, Belgian multinational companies in 1960 were determined, for obvious economic and financial reasons, to wrest Katanga from the control of the new nationalist government led by Prime Minister Patrice Lumumba. According to Nzongola-Ntalaja (2002), the United States, Belgium, France and Britain were at the time determined to have decolonization favourable to their economic and strategic interests with the help of moderate leaders (ibid, p. 95). These external interests were soon to find willing accomplices in South

Katangese politicians frustrated by the humiliating results of the 1960 national elections (Personal Observation).

On the eve of independence, Belgium decided to wind up the *Comite Special du Katanga* (CSK), the majority shareholder in the UMHK. The aim, in Depelchin's (1992) view, was to deny the nascent Congolese state the majority shareholder status enjoyed by the Congo as a Belgian colony within the UNHK. Before independence, the CSK's shares among all the important concessions in the Congo ware nearly 60% with capital increase of 8 billion Belgian francs. Its profits were 3.4 billion Belgian francs (Depelchin, p.171).

The "agreement" of 27 June, published by Depelchin in his book and cited below, also stipulated that the CSK was entitled to take over Congolese shares for 12% of its assets. What did this agreement entail? Depelchin states that the Belgian Congo had enjoyed a majority shares status within the UMHK throughout the period of Belgian colonial rule. However, as independence approached, and worried about rising Congolese nationalism, Belgium acted to protect its interests. It began with a decree 3 days before Independence Day (27 June 1960) which made it impossible for the future State to exert control over the company. The CSK, at that time to be inherited by the independent Congo, ran the UMHK and had statutory powers that were supposed to run until 1999. This would have allowed the independent Congo to have more votes at general assembly meetings of UMHK than all other shareholders. With this "agreement", Depelchin (1992) reveals that the CSK was wound up prematurely with two-thirds of its shares going to the Congo and the remaining one-third to the *Compagnie du Katanga*[20] (CK), another company of lesser importance.

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[20] Katanga Mining Company

As a result, the distribution of votes among the major shareholders of UMHK, according to Depelchin's account, was as follows: Congo: 478,292; Tanganyika Concessions Limited: 375,160; Compagnie du Katanga: 202,976 and Societe Generale[21]: 128,792. The Belgian interests combined had over 700,000 votes while the Congo was left with 478,292 votes. The importance of this development as a prelude to the Katanga crisis is instructive for it confirmed the determination of Belgium and multinational interests to keep the Congo from falling into the hands of those perceived to be nationalist, communists or revolutionaries (Depelchin 1992, p.169 and Kisangani 2012, p.37). After the 1960 elections, the so-called moderates and regional leaders who favoured a federal structure (so as to continue exerting control and power over their regions following failure in the elections) found convenient allies in multinational interests opposed to Lumumba. Tshombe's CONAKAT party closed ranks with the Belgian controlled UMHK and Belgian and Western neocolonial interests in precipitating the secession of Katanga and political crisis in the country

In South Kasai, the second economically most endowed province after Katanga, secession was more influenced by the frustrated ambitions of some of its political leaders. Kasai province as a whole at the time produced for Belgium 60% of the world´s industrial diamonds and before independence, Meniere de Batwing[22] (MIBA) contributed significantly to Congo's budget with 391.3 million francs, that is to say $55 million by 2010 estimates (Kisangani 2012, p.45). Young in Clark (2002, p17) confirms this. The importance of the province both economically and

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[21] The General Enterprises Company was a Belgian investment concern in the DRC during the colonial period.
[22] Bakwanga diamond mines

politically contributed to the heightened level of struggle for control among its leaders and the subsequent secession crisis.

2.2 ii   Demography and the political economy of conflict in Katanga and Kasai

In Katanga, the demographic strength of the Lubas was the result of the massive recruitment of ethnic Luba labour from Kasai into Katanga by Belgian and other multinational companies in the early 20th century. By the 1950s, Lubas of Kasai[23] origin constituted 26% of the population of the Katangan capital of Lubumbashi whereas the Luba Katanga from the north of the province comprised 18.1 %. Although there was no open alliance between the two, the Lunda and Bemba of south Katanga, respectively 6 and 3 percent of the entire provincial population, were apprehensive about the overall demographic strength of the Lubas (Kisangani 2012, p. 39). Despite being ethnic strangers, the Luba Kasai, as they were called, represented 56% of the African work force at UMHK. Kisangani (2012) reveals that in the African Katuba quarters of the city, Lubas represented 40% of the population and owned 42% of houses. Twelve percent of houses were owned by Lubas from north Katanga (BALUBAKAT). Thus, more than 50% of houses were owned by ethnic Lubas in Katuba in Lubumbashi around the period (Kisangani, 2012).

During the 1957 legislative elections, four "non-authentic"[24] Katangan burgomasters were elected to the national parliament (2 Luba Kasai, 1 Songe from Kasai province and 1 Kusu from Kivu).

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[23] Following the collapse of the precolonial Luba Empire in the late 19 Century, then centred in north Katanga, the Lubas spread out to different locations especially following the slave raids of the Arab slave raider Tippu Tip. Lubas are today found in the two Kasai provinces (one Kasai region at the time) and north Katanga (see maps of the Luba Empire and distribution of Lubas in today's Congo).

[24] In the context of the time, they were not considered genuine Katangese because they were migrants or the children of migrants who went to Kasai in search of work (Kisangani 2012).

They were not considered genuinely Katangese because they were migrants or the children of migrants who went to Kasai in search of work (Kisangani, 2012). Determined to fight this perceived threat, the Lundas formed CONAKAT under Moise Tshombe to address their frustrations through identity politics. It was under these circumstances that the 1960 elections took place. Following the 1960 legislative elections, CONAKAT obtained 8 seats in the lower house in Kinshasa while the BALUBAKAT cartel won 7 (Kisangani, 2012 and Nzongola-Ntalaja (2002). At the provincial level, CONAKAT obtained 25 out of 60 contested seats while BALUBAKAT won 22 seats. Fifteen individual tickets and those for traditional representatives went to CONAKAT confirming its lead in the province. According to Nzongola-Ntalaja (2002) and Kisangani (2012), the BALUBAKAT party objected to the results alleging irregularities.[25] The data from this chapter is taken from Kisangani's 2012 comprehensive report on the background to the crises of 1960-1961. In protest, it boycotted the first meeting of the provincial legislature and while the crisis persisted, Belgium, in support of CONAKAT, amended the Fundamental Law which then allowed CONAKAT to carry on with proceedings in the regional parliament if BALUBAKAT boycotted two consecutive meetings of the Katanga provincial assembly.

When BALUBAKAT boycotted a subsequent parliamentary session, CONAKAT members on 16 June 1960 elected Tshombe as President of the Provincial Government of Katanga. CONAKAT was determined to exert control over the province especially given its belief that BALUBAKAT was allied to its political enemy represented by the Patrice Lumumba-led government (Personal interview with Jean Omasombo, 2012)[26]. Earlier, the BALUBAKAT announced a separate

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[26] The interview has mainly covered all the crises the country has known since independence. From Kasai province and non-Luba, what happened in Katanga and Kasai during his fellow kinsman Lumumba's brief tenure makes the

government on 21 June 1960 and lobbied its nationalist ally in the Lumumba Government for support. Lumumba had named a BALUBAKAT politician Jason Sendwe as State Commissioner for Katanga with powers to override those of the provincial government (Kisangani 2012) On 11 July 1960, Tshombe announced the secession of Katanga from the Congo. Pursuing their interests, Belgian industrial companies, Belgium and other European countries supported the entry of mercenaries from South Africa, Belgium and other European countries to defend Tshombe's Katanga Republic (Kisangani, 2012). The crisis lasted 30 months.

In Kasai, the social circumstances of secession were not dissimilar to what happened in Katanga. On the eve of independence, the Luba people (Lulua and Luba) found themselves competing for political control of Kasai province. As in Katanga, Luba settlers from the south of the province were more visible and active in the colonial administration and were therefore more influential than their Lulua hosts who became apprehensive about losing out after independence.

During the first popular elections in the provincial capital Luluabourg (later renamed Kananga, and not to be confused with Katanga) in December 1958, the Luluas who hoped to address the perceived Luba threat of domination voted along ethnic lines in the two African quarters of Nganza and Ndesha obtaining 16 seats though they represented only 26% of the city's population (Kisangani, 2012).[27] According to Kisangani, the Luba, 56% of the Kananga population, obtained 17 seats. However, contrary to expectations, Sylvetre Kalamba, a Lulua political leader, soon after

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subject passionately interesting to him. For instance, he revealed to me that given the strong ethnic identities in the DRC, crisis was inevitable even without external intervention.

[27] The figures are taken from Anicet Kisangani's Civil Wars in the Democratic Republic of Congo, 1960-2010. See references

demanded being recognized by the Belgian government as King of the Bena Lulua (Lulua people) which was granted according to Kisangani. Here too, Belgian interference, as in Katanga, escalated the crisis. Kalamba went on to demand the allegiance of all Lubas (Luluas and Luba) and a wave of Luba protests against threats to their hold onto land led to the banishment of Luba leaders Albert Kalonji, Evariste Kalonji and Albert Nyembwe from the south of the province (South Kasai). The Lulua then raised the question of indigeneity having their sights on land that the enterprising Luba had acquired during the colonial period (Kisangani, 2002).

During the 1960 national elections, Kasai province had to fill 70 seats in the national parliament in addition to its quota in provincial institutions. Voting went along ethnic lines and the results reflected the deep ethnic divisions not only among Lubas in the west and south, but also among non-Lubas. Albert Kalonji benefitted from the Luba demographic strength and won 21 seats while the MNC- Lumumba obtained 17. The Lulua *Union Nationale Congolaise* won 10 seats and the Songo Unity Party got 6 of the remaining seats. Following announcement of the results, Patrice Lumumba flew to Kasai and brought together his party, with the Lulua group and the Songe party in a common front against the MNC-Kalonji. The coalition thus obtained 7 out of 10 positions in the provincial government and legislature (Kisangani 200, p.50). In addition, the later decision by two smaller parties to join the coalition led to the total control over the provincial government by Lumumba's coalition.[28]

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[28] Lumumba was from Kasai province. A Mutetela from the north, he was able to mobilize people around his leadership to emerge as national leader with the ability to bring together the coalition that emerged to lead Kasai in 1960

Lumumba appointed a supporter of what was considered the nationalist cause Barthelemy Mukenge as Governor of Kasai province, after Albert Kalonji lost the popular vote narrowly. The appointment of Mukenge occurred at a time of heightened tensions between Luba and Lulua and according to Kisangani, Kalonji's frustrated ambition drove him to secession (Kisangani 2012, p.50). Although soon after crushed by Lumumba's government forces with heavy casualties, it was from this legitimate action by the State that Joseph Kasavubu unconstitutionally dismissed Lumumba[29] precipitating the constitutional crisis of 1960 (Persona interview with Omasombo, 2012).

2.2 iiic   The assassination of Patrice Lumumba

Congolese Lumumba specialist Professor Jean Omasombo[30] informed me during my interview with him that his encounters with Victor Nendeka and Larry Devlin confirmed more or less the truth about the conspiracy to eliminate Lumumba. Speaking to me about the Lumumba's assassination, Omasombo explains that Lumumba was not a 'radical' before 1958, that as early as 1956, he believed in a Congo that in future would work in association with Belgium. He made known the importance of friendship and cooperation between Europeans and Africans and appreciated the transformations Belgium had made in the Congo (Personal Interview with Omasombo, 2012). He however denounced the atrocities of Belgian King Leopold II and the segregationist policies of colonial rule. In Omasombo's words, he was rather radicalized by 'Belgium's lack of commitment to addressing the grievances of the evolués and the heavy-

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[29] Discussion with Omasombo (op cit))
[30] The only Congolese and African to have sat as a member of the Lumumba murder investigation Commission in Brussels in 2001

handedness he Lumumba was subjected to from the time of his arrest in 1959 to 1960' (Jean Omasombo, and Benoit Verhaeghe, *Patrice Lumumba,acteur politique : De la prison aux portes du pouvoir*, juillet 1956-février 1960, *L'Harmattan,* Paris 410. p.)

On the day of Congo's independence (30 June 1960), Lumumba gave a nationalist and inflammatory address (annex 6) that was as honest as much as it was undiplomatic. During his address, Lumumba said independence was the culmination of a struggle of the nationalist liberation movement rather than the result of Belgian concessions. He said, 'Although independence was based on an agreement with friendly Belgium which we are dealing with today on equal terms, the Congolese people will always remember the struggle, humiliations, suffering, forced labour, racial discrimination, land seizures and physical mistreatment by the colonialist'. He went on to inform the audience in the presence of the Belgian delegation led by King Baudoin that no Congolese worthy of the name will forget the cost of the struggle for liberation and the wounds of 80 years of colonial domination with the very low salaries and the lack of a decent living. He said Belgium's decision to decolonize was because of pressure from the strong and irreversible currents of history. He said the new Congolese government would deliver social justice adding that the independence of the Congo was a decisive step towards the liberation of the African continent (see annex for the full speech as archived by Assata Shakur Forums, Collected Speeches and Writings of Patrice Lumumba. 31 August 2010).

Given the Cold War context of the event, the speech raised concerns in the United States, Belgium, the United Kingdom and France. As outlined above, it resulted in conspiracy (Devlin, 2007). Soon after the Katangan crisis erupted, Lumumba's trusted army chief Colonel Joseph Mobutu staged

his coup d'état against Lumumba. This intervention by Mobutu, prodded on and supported by the United States, has been confirmed by Devlin (2007) and Kabemba (2006, p. 103). After the coup, ceremonial president cum political rival of Lumumba Joseph Kasavubu was left in office while Mobutu remained the de facto power behind the new government. Lumumba was soon after taken away and delivered to his mortal Katangese enemies to be executed on 16 January 1961 as cited above. The assassination of Patrice Lumumba, shocking as much as it was an act of betrayal by Mobutu, was significant in Congolese history for two reasons. First it signified the end of 'independence' as fought for by Lumumba. Second, it represented the triumph of the neocolonial[31] project of control over the Congo in subsequent decades.

The Lumumba assassination is best explained in terms of the ideological and economic policies of Western powers (the United States of America, France, the United Kingdom and Belgium), Apartheid South Africa and multinational corporations as well as the frustrations of Congolese political actors in Katanga, Kasai and Kinshasa. These interests collided in a set of circumstances in which the removal of Lumumba became the inevitable and relished consequence. Devlin's (2007) account, which confirms this, has been corroborated in my personal interviews (Personal Interview with Omasombo, 2012).

Following Lumumba's assassination, Cyril Adoula, Lumumba's former Vice President in the MNC was named Prime Minister and all Lumumba supporters were retained in their or other posts in the government to emerge led by ceremonial president Joseph Kasavubu who had earlier been neutralized by Mobutu.

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[31] I use the term neocolonial in the context explained by Nkrumah.

2.2.iv   Rebellions in Kwilu and eastern Congo - 1964-1968

The rebellions that erupted in the Congo following Lumumba's assassination were mainly directed against the institutions established by Mobutu following their triumph over the nationalists. It was a struggle to eliminate the new bourgeoisie that for Cabral (Cabral, 1966) was created after independence to fight the illusion of national political power and independence. Cabral identifies two phases of what defined the independence revolution in Africa at the time. First was the nationalist phase when all classes of colonial society united to fight colonialism. The second was the social phase of reconstruction and transformation in which the essence of the task was to fight against neocolonialism and its internal allies.

Nzongola-Ntalaja (2002) in his research identifies two issues that inspired the rebellions namely i) the treachery and complicity of Congolese leaders in the murder of Lumumba and ii) their failure to live up to their promises of independence, namely the abolition of taxes, provision of housing, water, electricity, free healthcare, free education, jobs and better wages .

A political economy study reveals that the Kwilu rebellion was as much a reaction to Lumumba's assassination as it was a response to the changed socio-economic and political dynamics in the Bandundu region of the Congo from where some of the independence era leaders hailed. Up to the 1960 elections Kwilu's economy relied on palm oil production engaging one in every five men (Kisangani, 2012). Price fluctuations in the 1930s have always influenced a series of minor rebellions which were suppressed bloodily by the Belgian colonial authorities. The diminished

importance of the trade however meant people will turn elsewhere for their livelihood and as independence approached, politics became the only perceived means of easy access to resources (Kisangani, 2012).

Besides the much publicised anti-neocolonial revolt by Pierre Mulele, personality conflicts and antagonisms among political actors in the Bandundu region had persisted alongside the 1960s crises. At independence, three key players from province had emerged on the national scene, Antoine Gizenga, Pierre Mulele and Cleophas Kamitatu[32]. This is not to dismiss the more important role of resistance influenced by Lumumba's murder and led by Pierre Mulele and his *Conseil National de Liberation* (CNL)[33] in the Kwilu region in 1963. The CNL rebellion rejected the imposed reactionary state which confiscated their power and sought to extend its influence to areas where Lumumba, Gizenga and Mulele had their support – Kwilu (Bandundu), Kisangani, Kivu and north Katanga. However, because they were narrowly confined to the Mbunda (Mulele's ethnic group) and Gizenga's Pende areas of Kwilu in Bandundu province, the resistance fizzled out in mid-1964 (McCalpin in Clark, 2002, p.42).

The rebellion in the east began in April 1964 when rebels seized Bukavu, the then capital of Kivu province. In early August, Kisangani, the country's third largest city fell to Mulele lieutnant Christophe Gbenye's Simba rebels who established a revolutionary government in September. The

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[32] They were respectively from the Pende, Gungu and Bulongo ethnic groups. After the 1960 elections, the national leader of the PSA Gizenga and his Secretary-General Pierre Mulele respectively became Vice Prime Minister and Education Minister in Lumumba's coalition government. Cleophas Kamitatu was left out of the national government. When Lumumba's government in Kinshasa fell in 1961, Kamitatu was appointed Interior Minister by the new reactionary government of Kasavubu while Gizenga was imprisoned by Mobutu, then the power behind Kasavubu. This change in power relations in Bandundu alienated both Gizenga and Mulele and their ethnic groups (The problem of ethnicity being a function of the African continent's lack of legitimacy in history has already been discussed in chapter one) and contributed towards influencing the shifting alliances between moderates and nationalists).

[33] National Liberation Council

rebellion however was weakened by indiscipline and subsequently defeated by Western mercenaries deployed by Belgium and the United States to defend Mobutu. Mobutu seized power again in 1965 and subsequently imposed a thirty-two year dictatorship that was supported by the United States, Belgium, France and the United Kingdom (Kabemba, 2002; McCalpin, 2002 and Nzongola-Ntalaja).

2.3   Actors and motivations in the crisis of independence

The main actors in the crisis of independence were the three groups that fought for control over the Congolese State in 1960. These were (i) the moderates, otherwise called the counter elites, captured or coopted (Wong, 2010), (ii) Lumumba and his supporters otherwise referred to as the nationalists and (iii) multinational interests and their powerful allies. The terms counter elites, coopted elites or captured elite refer to the same group of people. Thompson (2000) defines these elites as the relatively educated bureaucrats and professionals who had benefitted from colonial rule and were set to profit again as the most closely associated with the post-colonial cum neocolonial State. I now discuss the elites and their motivations.

2.3 (i)   The counter-elites and their motivations

Thompson (2000) defines these counter elites as the relatively educated bureaucrats and professionals who had benefitted from colonial rule and were set to profit again as the most closely associated with the post-colonial cum neocolonial State. I now discuss the elites and their

motivations. Among the counter elites of the 1960s, Justin Bomboko and Victor Nendeka alongside Mobutu Sese Seko the Army Chief were the most powerful. According to Devlin (2007), Bomboko, Nendeka and Mobutu were an informal group that formed a troika and the centre of power from 1961 to 1967. They were known collectively as the Binza group, after the location they were based in Kinshasa with their families. Together with Cyril Adoula and other lesser historical personalities such as Joseph Ileo, Albert Ndele, Damien Kandolo and Jonas Mukamba, they constituted the moderates who collaborated with Western powers such as the United States, Belgium and France after Lumumba's murder (Omasombo, 2012). The first trio knew they wielded real power given their influence and closeness to the United States (Devlin, 2007).

Opposed to Lumumba and having lost the independence elections, they hid behind demands for a system that paid attention to regional specificities. Through this, they had hoped to be in charge in their regions. Two key advocates for federalism were Thombe in Katanga and Kalonji in Kasai. Joseph Ileo was among the figures of the Lumumba-led *Mouvement National Congolais* until the split between Lumumba and Kalonji in 1960 when he joined MNC-Kalonji. He later served as Prime Minister after Lumumba's assassination in 1960, a post he held twice before later becoming Speaker of the National Parliament. These men were all accomplices in the overthrow of Lumumba and the imposition of the neocolonial state of Mobutu. This has been corroborated by the Lumumba Commission Report of 2005 (Lumumba Commission Report, 2005).

2.3 ii   Western actors and multinational corporations and their motivations

The Western actors in the Congo's crisis at independence were the Belgian royal family, Belgium, France, the United Kingdom, the United States and the Belgian multinational companies in Katanga and their allies in southern Africa. These powers had reasons enough to want a change of government in Kinshasa in 1960. The nationalist and revolutionary government of Patrice Lumumba in Leopoldville was perceived as a threat to entrenched ideological and economic interests and, given their perception of the dangers that he posed in a Cold War context, were determined to remove him (Delvin, 2007). Belgium, the United States and France, for ideological reasons, organized the conspiracy against Lumumba, ostensibly to preempt the spread of Soviet influence into the region. The Western actors and multinational companies wanted Congo to be oriented towards Southern Africa (Nzongola-Ntalaja, 2002) where racist reactionary and oppressive capitalist regimes held sway in southern Rhodesia, Mozambique, Namibia and South Africa at the time.

2.3 iii   Lumumba's supporters and their motivations

Lumumba's supporters included Vice Prime Minister Antoine Gizenga, Education Minister Pierre Mulele who led the revolt in the Kwilu region of Bandundu, Christophe Gbenye and Gaston Soumialot who led the rebellions in the east, the Balubakat leader Jason Sendwe and Anicet Kashamura of Kivu province, among others. While Antoine Gizenga and Pierre Mulele had important nationalist credentials, personal ambitions and frustrations partly influenced their support for rebellion as already outlined. They were however much influenced by Lumumba, his nationalist outlook and the African independence revolution blowing across Africa at the time. Although not as directly involved in the crisis of independence as the Western powers, Kwame

Nkrumah's Ghana, Sekou Toure's Guinea, the Soviet Union, Cuba, China, Socialist Tanzania, Ngouabi's Congo-Brazzaville and Nasser's Egypt morally supported Lumumba and after his death, the nationalist rebellions (Kisangani, 2012).

2.4 The impact of the crisis of independence on the future stability of the Congo

The first impact of the crisis of independence was the triumph of the neocolonial state and the advance of neocolonialism in Central Africa. For Nzongola-Ntalaja (2002), the immediate result was the polarisation of the Congolese political class, the outbreak of rebellion and a long period of crisis that has continued to 2010. The crisis of independence was the original sin that continues to haunt the Congo to date. The 1960-1964 crises ended any prospect of Soviet expansion in Zaire and Central Africa and the death of Lumumba, in a great irony according to Omasombo (2012), heralded the birth of the Lualabourg debate.[34] It had since been taboo to talk of federalism in the Congo and this has continued to date. Patrice Lumumba died therefore to keep the Congo united and one notable legacy of the 1960 crisis was the keep Congo united.

The elites of what was clearly a neocolonial regime produced the 1964 Unitary Constitution (the Constitution is popularly called the Lualabourg Constitution, with the name of the place where it was adopted) for three reasons; The elites of what was clearly a neocolonial regime produced the Unitary Constitution for three reasons; 1) Their neo-colonial masters had no more interest in dividing the Congo once Lumumba was out of the way; 2) Secession had only been a front for

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[34] Lualabourg, present-day Kananga, was where the country's unitary constitution was drafted after Lumumba's death. All subsequent attempts to chart a new political system for the country in the decades that followed used the Lualabourg document as a useful reference to keep the country united.

opposition to Lumumba. Once he was out of the way, their objectives were attained, and 3) They sought to isolate the nationalist revolts of Mulele and the Lumumbists in eastern Congo by posing as unitarists, a ploy to expose the rebels as wanting to divide and break up the country (Discussions with members of Congolese civil society (2009). With the pro-Western faction at the helm in Kinshasa, the way was open to surrender the country to foreign interests. Curiously though, the Congo which could have gone federal with the nationalist Lumumba in 1960 was turned into a unitary country by the federalist moderates who opposed Lumumba's centralizing tendencies.

Half a century later in 2006, following a bitter four-year regional war, the government of Joseph Kabila, haunted by history, avoided the word federal in the new Constitution which was replaced by "decentralization" (Personal Interview with Omasombo, 2012). I have confirmed during this interview that the triumph of the neocolonial state in 1965 resulted in the entrenchment of illegitimacy and instability. The country under Mobutu came to be run based on 'patronage for legitimacy' which would later destroy the foundations for a viable State (Personal Interviews with Fikily, Congolese United Nations Staff, 2005. I discuss this in subsequent chapters with reference to Francois Bayart's (2009) *The State in Africa*, a study of corruption and patrimonialism influenced partly by his experiences in Cameroon. With the consolidation of power by the neocolonial state under Mobutu, Congo became a proxy ally serving the ideological interests of the United States. Subsequently, Congo under Mobutu worked to undermine revolutionary regimes in Marien Ngouabi's Brazzaville Congo, Angola's MPLA and other liberation movements in southern Africa. The crisis of independence denied Congolese people the right to choose what could have been a better leadership than Mobutu's repressive rule.

2.5   **National politics and the international context**

The crisis of independence was a convergence of national politics and the Cold War context in which it occurred. The origins of the conflict among Congo's leaders lay in the struggle for power and control over the institutions of the nascent state. The subsequent Western intervention was to preserve strategic ideological and economic interests.

The Cold War context at the time significantly influenced developments and the crisis of 1960. The West wanted to keep the Congo within the orbit of its ideological reach much as multinational companies were determined to maintain their hold over the country's strategic resources. The false perception of Lumumba as a Communist fed their fears, and as explained, resulted in conspiracy.

The Soviet Union's support for Lumumba may have been strategically and ideologically calculated. However, that Moscow did not go as far as committing the Soviet Union to an all-out conflict with the West points to Congo's lesser significance than, say, Cuba at the time. Despite the absence of deeper Soviet involvement, the international climate at the time was characterised by a bitter ideological confrontation between East and West which was played out in the Congo with tragic consequences. As happened in Cuba in 1962 and Vietnam from 1955-1975, the Congo was the playground for one of the proxy wars of the Cold War in the 1960s.

2.6 Summary

Neocolonialism and the narrow considerations of ambitious Congolese politicians explain the tragedy of independence in the Congo between 1960 and 1965. In addition, although Belgium was to blame for granting independence without creating a national cadre, or a strong institutional basis for an independent state Congolese leaders' acts of betrayal borne out of frustrated ambitions worsened the situation of their country in 1961. Most of the Congo's leaders had no collective vision of what an independent Congo should be like and each of the political groupings they formed represented the tribal or occupational interests of evolués and were lacking any knowledge of the complex external challenges their country faced. Their ambitions and frustrations played into the hands of outside powers and actors who helped to deepen the crisis which resulted in the death of Lumumba and the triumph of the neocolonial State of Mobutu.

Part II: Mobutu Sese Seko and the collapse of the Zairean State 1965-1997

2.2 1   Introduction

I have discussed how the ambitions and failures of Congo's leaders in 1960 set the stage for crisis and instability until Mobutu seized power in a CIA-orchestrated coup in 1965. In this section, I discuss the long rule of Mobutu during which his strategies of survival in the absence of political legitimacy dragged the country towards economic and political collapse.

2.2.2   Struggle for national cohesion and its impact on governance in Zaire

Mobutu is remembered by most Congolese people for his unitarist outlook in Zaire from 1965 to 1997. He came to power in 1965 at the height of the Cold War and superpower rivalry in the then third world. Very early in his rule, he realised the problem of political legitimacy facing his regime. In 1967, he established a one-party state under his *Mouvement Populaire pour la Revolution* party[35] (MPR) and abolished the parliamentary system. To unite the country around him and secure his rule, he cynically declared Lumumba a national hero, an action that surprised even his Western allies (Devlin, 2007). In a drive to stem tribalism and regionalism, he initiated his famous nationalization programmes in 1973 under Zaireanisation which saw the country, the national currency and river renamed Zaire.

Mobutu then decreed that all foreign owned farms, plantations and commercial enterprises, mostly in the hands of the Portuguese, Greeks, Italians and Pakistanis, be turned over to Zairean nationals and went on to confiscate all foreign and private enterprises, including 14 cocoa and rubber plantations which were distributed to cronies, generals and MPR chiefs (Wrong 2000, p.92-93). In their analysis of state failure and collapse in the Congo under Mobutu, Kisangani (2012), Muamba (1991), and Nzongola-Ntalaja (2002) agree that nationalisation and patronage featured among the main causes. Mobutu's nationalization policies were another name for the misappropriation of resources for eventual distribution to cronies so as to perpetuate his hold onto power. Soon after seizing enterprises controlled by foreigners, Mobutu transferred them to supporters, party bigwigs and generals who hardly had any knowledge of running an enterprise let alone economics.

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[35] Popular Movement for the Revolution

He launched the equivalent of a cultural revolution, authenticité[36]. It was hardly taken seriously in the later years of his rule after people became disillusioned and frustrated by government failure and economic crisis. Although Mobutu wanted to unite the country around him, his methods were destructive to the economy and compromised the future development of the country. His programmes were only sustainable as long as world copper prices and Zaire's strategic Cold War importance permitted.

Through the MPR, he distributed hundreds of posts, resources and money lavished on the Central Committee of the MPR, the Executive Council, regional administrations and heads of State enterprises. On top of these were the endless cabinet reshuffles. From Wrong's findings, 51 governments were appointed during the entire period of his rule from 1965 to 1997 (Wrong 2000, p. 97). Kisangani (2010, p.25) counted 40 cabinet reshuffles from 1966 and 1989 alone. Wrong (2000) demonstrates how cronyism and patronage under Mobutu precipitated the country's economic collapse because the system he built around him required massive resources to sustain it. For instance, $400 million in mineral export earnings disappeared from the national treasury in the midst of an economic crisis in 1988 (ibid, p111). Under Mobutu, the state-owned mining company Gecamines[37] was drained after being made the guarantor for state debts, unpaid loans, hospital and hotel bills and other liabilities. During his rule, Gecamines and the *Miniere de Bakwanga* (MIBA), the state's cooper and diamond parastatals and main sources of revenue, were milked until they collapsed. Jonas Mukamba, the long standing state representative in MIBA in

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[36] Autenticity demanded the return to African values, dress codes and a rejection of all aspects of European cultural practices
[37] *Generale des Cariere des mines*, the National Mining Company

his briefings after Mobutu was overthrown said between $1.5 million to $2 million was diverted to Mobutu every month and this had continued until 1997 even when diamond production had fallen from 10 million carats to 6.4 (Wrong, ibid, p.111).

Mobutu manipulated citizenship tensions in eastern Zaire and sided with both sides of conflicting ethno-social divides at different times in furtherance of his interests. This rendered him relevant as a patron, arbiter and unifier, which according to Muamba (1991) were the means through which he preserved his power. My analysis of personal interviews reveals that, Mobutu deliberately manipulated the citizenship debate in the Congo since 1972 for personal political gain (Personal Interviews with Sebeneza, 2009; Ndabagoye, 2009 and Kirhero, 2012). In 1972, citizenship was granted to all Congolese who were in the country before independence in 1960. The move was directed at Tutsis whose nationality was disputed by Congolese and was the cause of tensions in North and South Kivu provinces. Mobutu's wanted to win the support of the wealthy and influential Tutsis of eastern Congo to strengthen his power base and increase his options. Owing to this strategy and parallel nationalisation policies of the 1970s, 90% of land in Masisi in North Kivu were in Tutsi hands by 1974. In 1981, when his perception of his political interests demanded a change of strategy, the nationality law was revoked and most Tutsis lost their nationality. Mobutu's action was in response to threats to his support base from the large non-Tutsi population in the eastern Congo. This however set the stage for future conflicts that erupted in the 1990s. As part of his survival tactics, Mobutu focused on whatever perpetuated his hold on to power (Stearns, 2012).

In Katanga, he encouraged ethnic violence to weaken his opponents. In 1992 for instance, he encouraged Katangan expulsions of Kasaians from that province when opposition leader Etienne Tshisekedi, a Luba Kasai[38], opposed Nguz-Karl-I-Bond's appointment as Prime Minister by Mobutu. Mobutu sought to undermine the then sitting Sovereign National Conference (CNS) which had elected a rival Prime Minister in the person of Tshisekedi (Lemarchand 2009, p112). Under Mobutu, professionalism in the country's *Forces Armeés Zairoises* was undermined significantly. He favoured his own Ngbandi ethnic group in recruitment and, in 1978, ordered the enlistment of soldiers from the group and his native province of Equateur. By 1980, 90% of defence ministry personnel were from that region (Kisangani 2010, p.112) and strategic command positions were in the hands of officers from Equateur.

Rytjens refers to the period as that of the commercial Generals (Discussion with Filip Ryetsens, Bujumbura, July 2012) in reference to the economic influence of Generals Nzimbi Ngbale Kongo Wa Basa, Head of the Special Presidential Division and Baramoto Kpama Kata, Commander of the Civil Guard, among others. In the 1980s, Mobutu's Generals contributed to instability in Angolathrough its links with the then UNITA rebels under Jonas Savimbi. Zaire was throughout the Cold War a base for UNITA rebel commanders who used the territory for the transit of arms and money for conflict diamonds.

Mobutu's destructive rule surpasses in its negative consequences the impact of Belgian colonial rule in the Congo. Mobutu's historical role was different from what Belgian colonialism represented. He assumed the reins of office ostensibly to build and transform the independent

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[38] Ethnic Luba from Kasai Province, now East Kasai

Congo and presided over a state recognized internationally and which benefitted from decades-long inflows of resources from Cold War international support, rent from minerals, as well as other forms of bi-lateral and multilateral support.

In spite of the infrastructure left by Belgian colonialism the generation of patrimonial spoilage under Mobutu, reversed what development there was in the country before 1960 (Nzongola-Ntalaja, 2002). By 1997, the health infrastructure of the country had all but collapsed. For decades, the state and its organs and institutions served him, undermined the judicial system and trampled over voices. By 1992, people stopped identifying with the state. By 1995, Zaire was on its knees, a failed and collapsing state.

According to Kisangani (2012), the nationalisation of foreign businesses and plantations in 1973 de-industrialised the Congo, increased her foreign debt and precipitated the collapse of the country's economy. While many had believed the Zairean State to be strong, it never was. It was supported by a machine of intimidation with different and competing security apparatuses. Through them, Mobutu suppressed civil society and all forms of dissent and used his security arms to keep the country quiet, at least until 1985.[39]

According to Wrong (2000), during the entire period of Mobutu's rule, billions of dollars in revenue were spent to serve his political survival strategies. The effect of uncontrolled government spending was a soaring inflation in the 1970s. According to Kisangani (2010, p. 25), Mobutu spent 32% of government outlays on himself alone and in the 1970s, the country's foreign debt increased

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[39] The role of civil society in the struggle for democracy in Zaire will be discussed in detail in chapter five.

from less than 50% to more than 100% of GDP in the late 1980s. In 1979, a parliamentary commission of enquiry found that the president had illegally withdrawn $150 million ($450 million in 2010 prices) in foreign exchanges from the Central Bank for his personal use in defiance of austerity measures imposed by the IMF in its stabilisation programme (ibid). [40]

As a result of politicisation and ethnicisation of the *Forces Armees Zairoises*, the country's future capacity to defend itself was compromised. During my interviews, I was informed by a senior Congolese army officer in an interview that on several occasions, Mobutu's Western allies had to go to his rescue in Oriental, Kivu and Katanga provinces where rebellions threatened his regime during the decades he ruled the country. (FARDC 10 Military Region interview, Army Officer 1, Bukavu. 13 May 2010). In spite of his failures, amid the nationalist rhetoric that characterized his reign, Mobutu was overthrown in 1997 by a rebel coalition led by Laurent Desiré Kabila.

2.2.3   The Role of the West in the perpetuation of Mobutu's rule

By the West, I refer to the United States, France, Belgium, the United Kingdom and allied countries of a similar ideological persuasion who were implicated in the Congo crises of the 1960s as they fought to keep Soviet influence out of Central Africa. These countries consistently supported Mobutu throughout the Cold War and tolerated his repression of his people to cling on to power. Mobutu's thirty-two year longevity in power were thus the unintended consequence of the United States' anti-communist policies. Kisangani rightly quoted the "America's Tyrant" cliché in his

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[40] I explained in the preceding chapter how the IMF-appointed German head of Zaire's Central Bank Erwin Blumenthal left the country in frustration at the extent of mismanagement in the country's revenue institutions.

analysis of the role he played for the West which in return supported his misrule (Kisangani 2010, p117).

There are several explanations for the West's support for Mobutu between 1965 and 1997, the most common being the exigencies of the Cold War and the economic and political importance of Zaire to Western economic interests. The enormous riches of Zaire and its strategic and political importance made it an attraction for both East and West at the time and the latter, once securing Lumumba's elimination in 1961, ensured that the new reactionary status-quo remained as long as the Cold War permitted (Omasombo, 2012). Mobutu was a guarantor of Western ideological and economic interests in return for his security. His nationalist rhetoric, according to a former South Kivu vice Governor, was only for home consumption different from reality on the ground. Mobutu had never dared to threaten the foundations of the neocolonial state (Personal Interview with Didace Kaningini, 2009). Economic imperialism and ideological imperatives were mainly the explanations for the support Mobutu received from the West between 1965 and 1995. Western countries saw in Mobutu a staunch ally and bulwark against the spread of Communist ideology in the region. He was a reliable partner who supported Western interests as long as his power base was protected by the West. It was a symbiosis that continued as long as both sides mutually served each other, that is to say, up to the end of the Cold War in 1990.

2.2.4 Summary

Mobutu's reign was characterised by massive corruption, loot of resources, failed policies, intimidation and patronage. In three decades, Mobutu abandoned the institutional mechanisms of

rule and destroyed all the country's key institutions like the Central Bank, public corporations and the army all of which he controlled through cronies or relations within the MPR. According to a Congolese social activist, Mobutu had well-intentioned policies but which were never followed by serious action because the imperatives of political survival took precedence, and as a result he deliberately destroyed institutions to ensure this (Personal Interview with Arsene Kilhero, July 2012).

Part Three: Conflict and Instability under the Kabilas (1997-2010)

2.3.1   Introduction

This part of the chapter examines the period when Laurent Desiré Kabila came to power after Mobutu's overthrow, from 1997 to the end of the first four years of President Joseph Kabila in 2010. It examines conflict and instability during this period, in particular, the role played by Laurent Desiré Kabila and his son Joseph in the 13 years that followed Mobutu's political demise.

2.3.2   Laurent Desiré Kabila and the second collapse of the Congolese State

Laurent Desiré Kabila was president of the Congo from May 1997 to January 2001 when he was assassinated.[41] His becoming president was due to colliding regional and international political circumstances. Unlike Presidents Museveni and Kagame who led rebellions to capture power

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[41] Laurent Desire Kabila was assassinated on 16 January 2001. He was shot by a formerchild soldier Rashidi Kasereka who was instantly killed by Colonel Eddy Kapend, Kabila's military aide. Colonel Kapend was in turn arrested and accused of treason in the murder. The conspiracy against Kabila is the subject of continuing speculation that outside forces have been involved.

respectively in 1986 and 1994 in Uganda and Rwanda, Kabila was catapulted to power by a coalition led by Rwanda and Uganda, supported by foreign powers as outlined in the first chapter. A long-standing Lumumbist from Katanga,[42] Kabila formed his own *Parti de la Revolution Populaire*[43] to fight and overthrow Mobutu's neocolonial state by force of arms in the 1960s. In the decades that followed, he created his own fiefdom in Fizi in eastern Congo espousing collective agriculture, rudimentary Marxist re-education, carrying out extortion and mineral smuggling (Dunn 2002, p55). He retired to Tanzania in the 1980s where he was engaged in gold trading. It was President Museveni and late Tanzanian President Nyerere who introduced him to President Paul Kagame and who afterwards agreed to place him as the figurehead of the anti-Mobutu rebellion in 1996. With the strong backing of Rwanda and Uganda, he swept to power in May 1997.

Once in power, he set about reorganizing the country based on his own convictions. His early success in restoring hope in the country is noteworthy. However, in spite of his initial successes such as the introduction and stabilisation of the new national currency (Turner 2007, 38), Kabila began to derail very early in his reign. According to Kabemba (2002), Kabila came to power unprepared to accept the changed international situation of the 1990s. Once at the helm of affairs from 1997, he showed little appetite for adjusting to the new international climate at the end of the Cold War. His demagoguery[44] and intransigence alienated Western countries, especially the United States which more or less welcomed him in 1997.

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[42] He was a BALUBAKAT youth activist during the crisis of 1960.
[43] People's Revolutionary Party still re-echoing the language that was common during the Cold War.
[44] A demagogue is a populist, appeals to popular desires although they may know about their impracticability. Kabila paraded as a Lumumbist, and made use of socialist rhetoric even though he dealt with multinational companies during his march to Kinshasa in 1997.

He refused to recognise the country's debt obligations and rejected World Bank and IMF adjustment programmes and further refused to grant mining contracts to Western economic interests (Kabemba 2002, p.106.) On the administration of the country, Kabila disregarded experience and merit and placed people he could trust in important positions regardless of ability or skill. He controlled all revenue from customs to mining and nothing was allowed to happen without his permission (Kabemba, ibid). Placed in power by Rwanda and Uganda, he expelled these regional powers from the Congo by asking all their forces present in the country to leave in 1998 when he had no army to protect his power base. This was perhaps an act of political naivety.

Kabila wanted to launch his own transformation programme for the country disconnected from the process of political change set in motion by Congo's civil society in the 1990s. He rejected every opportunity to involve other forces in the ongoing change process referring to opponents or civil society activists as Mobutists or agents of foreign powers. On democratic reforms, he dragged his feet and refused to accommodate the opposition even when 86% of people in Kinshasa wanted this (Afoaku in Clark 2002, p.112). The outbreak of the externally supported RCD rebellion further evidenced his lack of diplomatic skills which prolonged the suffering of the Congolese people. As the war raged from 1998 to 2000, Kabila was considered unsuitable in the search for a negotiated solution. He resisted all efforts to stop the war and form an all-inclusive government and despite signing the Lusaka Accords of 1999, he made every effort to block their implementation. The Accords were engineered to include rebels in future efforts to reorganize the State through a sharing of responsibilities: 'Forty-five days after the signing of the Lusaka agreement (see appendix 5) , the DRC government, the *Rassemblement congolais pour la democratie* (RCD), the

Mouvement de Liberation Congolais (MLC), unarmed opposition groups and Congolese civil society are to begin up to six weeks of open political negotiations, to culminate in the setting up of a new political dispensation in the DRC. The negotiations are to be held under the authority of a neutral facilitator acceptable to all Congolese parties, to be chosen within 15 days of the signing. The dialogue's agenda would include the organisation of democratic elections, among other topics. Following the negotiations, a restructured national army is to be formed, which would integrate the forces of the Congolese army, the RCD and the MLC.' (2002 Global and Inclusive Agreement on Transition in DRC: Inter Congolese Dialogue, Congolese negotiation on the peace process and on transition in the DRC (see appendix 8)

Kabila however refused to accept this. In pursuit of his obstinate stance, he refused to meet the United Nations representative to Congo, restricted the United Nations Mission's movements and did little to stop demonstrations or propaganda against the International Community (Kabemba, 2006). In the words of Dunn, Kabila's subsequent downfall was the result of his inexperience in governing. Kabemba blames him for alienating the West very early in his reign. Less than a year into power, opinion polls in Kinshasa found out that less than 20% of voters would support Kabila if elections were held at the time (Dunn, 2002, p.61).

In spite of his tragic failures, Kabila was the archetypal Lumumbist who inspired hope and confidence in the Congolese during the early months of his brief rule. It was however tragic that he failed to learn from history to effectively deal with the delicate issues that he was condemned to live with as President of a country as strategically important as the Congo.

2.3.3 The regional war of 1998-2003 and its impact

According to interviewees the 1998-2002 war was caused by a unique combination of six factors namely state weakness, regional export of instability and civil wars, the profitability of war, local stakes, land and resources and Rwandan impunity (Personal Interview with Filip Ryetsens, 2012). The 1998 rebellion was precipitated by Kabila's expulsion of Rwandan forces from the country. While it is important for any worthy country to wrest itself of external influence, this research observed from the literature and interviews that the outbreak of war was more a reaction to Kabila's lack of diplomatic skills. In July 1998, after he expelled all Rwandan troops in the Congo to satisfy growing local opposition to the foreign presence, the Rwandan Government encouraged the *Ressemblement Congolais pour la Democratie* (RCD) rebellion[45] to overthrow Kabila. Rwanda felt betrayed by Kabila's independent line and nationalism and discovered that its mortal enemy, the FDLR rebels, would not be expelled from eastern Congo. It must however be stated that Kaila's failure to address the FDLR problem was both part incapacity and part reluctance (Personal Interview with Sebeneza, 2010).[46]

The rebels captured the eastern city of Goma in August, followed by Uvira, Bukavu and Kisangani in the same month and, leaping across the country in captured aircraft, Rwandans troops and rebels

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[45] The RCD's leaders including several non-Tutsi Congolese people who had various reasons to want to see Kabila's back. Emile Illunga, President, Ernest Wamba dia Wamba - Chairman, Arthur Z'Ahidi Ngoma - Co-founder , Jacques Depelchin - Executive secretary, Lunda Bululu - Executive council coordinator, Tambwe Alexis Mwamba - Executive council member and Mbusa Nyamwisi - Executive council member were all non-Tutsis. Two Tutsis who were part of the original group were Moise Nyarugabo - Deputy Chairman and Bizima Karaha - Executive council member and head of external relations department.

[46] Though Kabila quickly made use of FDLR rebels in the war against RCD and Rwanda, it was an act of desperation as there is no evidence of prior links before the war.

under Rwandan Colonel James Kabarebe, dismissed by Kabila as Congolese army commander, landed in the west of the country, initially capturing Kitona, Matadi, and the Inga Hydroelectric power complex threatening the eastern suburbs of Kinshasa including the airport.

Kabila quickly prevailed upon Angola, Zimbabwe and Namibia to come to his aid. Angolan troops attacked the rebels in the west whilst Zimbabwean commandoes retook control of Njili airport and moved to halt the rebel advance across the country. The actions of Angola, Zimbabwe and Namibia halted the Rwandan advance but ignited the regional war with the RCD rebels, Rwanda and Uganda fighting against the pro-Kabila armies. The war lasted four years[47] from 1998 to 2002 even though the Lusaka Peace Accords (see appendix 7) were signed in 1999. Kabila was assassinated during the war period as indicated above and succeeded by his son Joseph who signed the Comprehensive and Inclusive Accords (see appendix 8).

The war's humanitarian impact is the subject of varied reports. Turner (2007) writes of three million deaths while The Lancet in 2006 indicated 4 million deaths since 1998 (The Lancet Medical Journal, January 2006) A report by the International Rescue Committee gave its own figure: 5.4 million by April 2007 from 1998 (IRC report, 22 January 2008). What is no longer in doubt is that the Congo lost at least three million people from direct confrontation and the humanitarian consequences of war. Displacement, disease, malnutrition, arms proliferation, state collapse, occupation by Rwanda and Uganda and the massive loot of resources were among the consequences of the war.

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[47] Its impact has already been discussed in Chapter One.

The country was partitioned into three main zones under the government, MLC and RCD control while other smaller armed groups reigned in other zones they occupied. As a result of state collapse, the Congo remained occupied, unstable and violent until 2010, the limit of my investigations.

2.3.4 The political transition (2002-2006): An evaluation

Joseph Kabila was chosen to succeed his father who was assassinated in 2001. He was selected to preside over the transition (which was to end in 2006). The 2002-2006 political transition in the Congo originated in the Lusaka and Sun City Accords respectively signed in 1999 and 2002. On 10 July 1999 while the war raged, leaders of six countries involved in the conflict (the Congo, Zimbabwe, Namibia, Angola, Rwanda and Uganda), signed for peace in Lusaka, Zambia, without the rebel groups. This effort dragged to 2002 when the Sun City Accords were signed.

2.3.4i Background: The Sun City Accords

On 17 December, the Congolese government, MLC, RCD, the Mayi Mayi, RCD-Nationale, RCD-KML and the unarmed opposition signed the *Accords Global Inclusif*. The Accords became known as "Sun City 2" to differentiate them from the earlier April Accords that left the RCD out of the arrangement. In the Global and Inclusive Accords, the warring factions mainly agreed on the following: Joseph Kabila, following the assassination of his father whom he replaced, was to remain President and Commander in Chief of the armed forces and head of the Transition initially expected to end in 2005. He was assisted by four Vice Presidents one each from the RCD, the

MLC, the outgoing (Kabila) Government[48] and the unarmed opposition. The four were placed in charge of ministries of which the most important were Defence (RCD) and Foreign and Economic and Financial Affairs (MLC). The country's Defence and Security Commission was headed by the RCD, an Economic and Finance Commission by the MLC, a Reconstruction and Development Commission by the Kabila Government and a Social and Cultural Commission by the political (unarmed) opposition as outlined in the agreements (*Global and Inclusive Agreement on transition in the DRC*).

The big government was the price to pay for peace. It comprised 36 ministers, 25 deputy ministers, 500 parliamentarians and 120 senators. The ex-government, the RCD and the MLC obtained the lion's share of appointments. The Transitional Parliament was headed by the MLC and the Senate by the *Forces Vives[49]* that included all civil society organisations. Five institutions in support of democracy were to be headed by civil society (Section V of the Accords, on Transitional Institutions, 2002).

2.3.4 ii Corruption during the transition

During the transition in the DRC, several political actors concurred that the strongest belligerents were those that benefitted the most from the Sun City Accords (Personal Interviews with Aziane 2005; Sebeneza, 2009; Biringingwa, 2009, and Kisangani regional office report on RCD 2005)[50] It was an occasion for hundreds of actors, nationalists, opportunists, agitators and armed militia

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[48] He stepped down as President to be sworn in again as President of the Transitional Government.
[49] Civil society's active forces
[50] The notes on the transition were partly obtained from archives at the United Nations Mission in Congo. These include personal reports and interviews during the period the author was based in the country from 2004 to 2010.

leaders and rebels to profit as ministers, deputy ministers, colonels, generals, ambassadors, heads of public enterprises, governors and heads of other transitional institutions. (NiZA, Netherlands 2006).

In 2006, the Netherlands Institution for Southern Africa NiZA, published a report entitled *State versus People: Governance, Mining and the Transitional Regime in the Democratic Republic of Congo* to expose the extent of the problem and how politicians enriched themselves from the transitional government whose members remained loyal to their respective factions. For the 107 Excellencies of the transition, 405 new cars were ordered as early as 2004. In September 2005, 620 four-wheel vehicles were commissioned by the National Assembly Chairman from a Belgian Company Demimpex at a time when teachers went hungry and unpaid. Every component of the transition literally sat on its budget, used it up, asked for more and threatened the transition when it felt less considered (NiZA, Netherlands 2006).

In 2004, according to NiZA, the Presidency exceeded its budget by 100% (7.9bn Congolese Francs) while the Vice Presidency responsible for defence overran its own by a similar percentage. The Vice Presidency responsible for finance exceeded its budget by 600% at 5bn francs and Vice President Zahidi Ngoma's Social and Cultural Commission swallowed a surplus of 780 million Congolese francs (100%). Allocations to the presidency were 8 times the national health budget, 6 times the social affairs budget and 16 times the agriculture budget (ibid).

In response to concerns about institutional corruption, a parliamentary commission headed by Gregoire Bakandaja, a parliamentarian, was appointed to audit state run enterprises in 2004. In

January 2005, 6 ministers as well as several public sector executives were dismissed as a result of the Bakandaja Report. The parliamentarian Roger Lumbala, former RCD-Nationale leader, appointed his wife to replace him after he was accused of corruption and removed.[51] During the same corruption investigations, Vice President Jean Pierre Bemba's close collaborator and Minister Jose Endundo, a fellow MLC party member and co-proprietor of Hewa Bowa Airlines was also affected. Jean Pierre Bemba threatened to leave the transition over the removal of Endundo. In another report, Human Rights Watch indicated that 30$mn from the Kivus Defence Budget was embezzled by the Defence Department (*Human Rights Watch*, 2005).

Corruption continued alongside sporadic armed conflicts exacerbated by the struggle for access to resources. In Katanga between 2003 and 2006, Government officials colluded with mining companies to circumvent control procedures and the payment of taxes. By the end of 2005, three quarters of minerals exported from Katanga were leaving illicitly (Global Witness, 2006).

2.3.4 iii The Lutundula Commission

The 2002 Sun City Accords under section 4 dealing with Institutions Supporting Democracy, in the subsection on Fight against Corruption, sanctioned a commission to investigate the validity of all mining, economic and financial contracts from 1996 to February 2003. Referred to as the *Commission chargée d'examen de la validite des conventions de character economique et financier pendants les guerre* 1996-1997 et from 1998 otherwise the Lutundula Commission, it

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[51] Hon. Roger Lumbala was the former rebel leader of the RCD-N which, as a signatory to the Sun City Accords of 2002, was guaranteed a percentage of power throughout the transition.

was established in 2004 and comprised 17 parliamentarians from a cross section of *Composantes*[52] of the Transition and headed by Christope Lutundula, an MP. The 271-page report which contained detailed information gathered during investigations in different parts of the Congo as well as in countries including Belgium, UK and USA, found out that dozens of contracts signed during the war were illegal and had nothing to do with the development of the country. Cases cited included 40 contracts signed with Gecamines, 10 Contracts signed with the Congolese State, 7 with the *Société de Dévélopment Industriel et Minier du Congo* (SODIMICO)[53] and 3 with *Societe Nationale des Chemins de fer* (SNCC) (The Lutundula Commission).[54] The Lutundula Commission report unearthed tax exemptions of between 15 to 30 years leading to loss of significant revenue and concluded that deals were disproportionately advantageous to private companies (ibid). The report in its recommendation called for the rescinding, renegotiation or amendment of some of the contracts and the placing of a moratorium on new contracts until after the elections. Submitted to the transitional National Assembly in June 2005, it was ignored by the authorities and after much national and international pressure (and despite attempts by political actors to suppress the publication of the report), was made public in February 2006. However, the transitional government never took any serious action on the issue. Here again, failure of leadership directly impacted on the country's economic and political crises problems adding to instability.

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[52] Major and other armed groups that signed the Sun City Accords
[53] Industrial and Mining Development Company
[54] National Railways Company

2.3.4 iv Conflicts in Ituri, Bukavu and Katanga during the transition

The Ituri crisis was first a struggle for control over land between the province's two main ethnic groups, the agricultural Lendu who owned ancestral land and the Hema (Ituri Tutsi) who legally bought land and amassed wealth during ex-President Mobutu's nationalization programmes of the 1970s as already outlined. Owing to their economic power, the Hema had long controlled political power in the province from the colonial period to the Mobutu era and were virtually in charge of *chefferies* and collectivités (administrative entities) at the expense of the majority Lendu. With the demise of the Mobutu regime, the reordering processes that followed revived many hitherto dormant conflicts, xenophobia, and the nationality and land tenure problems of the eastern Congo.

The land conflict in Ituri had its origins in the Bakajika Law of 1973, which took away people's automatic right to ancestral land whether vacant or occupied. Land automatically became saleable resulting in the massive buying from poor sedentary Lendu and new acquisitions by the enterprising Hema. In the 1990s, the Tutsi-versus 'Congolese' conflict in North and South Kivu over land influenced the negative perception of Tutsis in the entire region including Ituri (Sebeneza, 2010) where the two sides formed ethnic militias to self-protect, one to take back ancestral land and the other to protect land that was bought. Mutual killings went out of control and led to massacres. The scramble for gold and diamonds in Mongbwalu in the district while the regional war of 1998-2002 was ongoing became entwined into the wider land conflict in the province leading to a series of alliances (Lemarchand 2009, p. 24). Uganda, Rwanda and multinational companies got involved for a variety of reasons including interest to illegally exploit the Congo's mineral and natural resources (United Nations Panel of Experts Report on the Illegal

Exploitation of Natural Resources and other Forms of Wealth of the Democratic Republic of the Congo, 2001, appendix 12). Uganda encouraged Hemas to form the *Union des Patriots Congolais* (UPC) under Thomas Lubanga.[55] Lendu's in response formed *Front Nationaliste Integriste* (FNI) under Mathieu Ngudjolo. Another group, the *Forces Armées du Peuple Congolais* under Jerome Kakawavu Bukanda, a Munyarwanda from Masisi in North Kivu province, soon entered the fighting on the Hema side. At this time, the government of the DRC that was busy fighting the war against Uganda and Rwanda saw in the Lendu useful allies. Within the province, the Bira supported the Hema and the Ngiti supported the Lendus. Thousands of people perished between 1999 and 2004 from the conflict (International Crisis Group, Africa Report no. 84, August 2004). The BBC in a report published in 2006 mentioned tens of thousands killed (Report by Karen Allen, 30 November).

2.3.4 v   The Bukavu crisis of June 2004

In line with the Sun City Accords of 2002, political power and military command responsibility in the Congo were shared among the former warring factions as already explained above. In line with the arrangements, the commander for South Kivu province's military region was a military officer from the government side whilst the RCD held the position of deputy commander. Politically, the RCD appointed the province's Governor. It could thus be seen that the failure to take into account the dangers inherent in bringing two mutually antagonistic politico-military forces in a province next to Rwanda without any safeguards was a failure that could only have been explained by political naivety (Personal Interview with Kaningini, 2009).

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[55] Lubanga was convicted for 15 years at the Hague in July 2012 for war crimes committed during the Ituri conflict.

In late 2003, when the mainly Tutsi and Rwanda-backed RCD appointed Xavier Chiribanya as Governor of South Kivu province, Kinshasa viewed this as a provocation. Chiribanya was tried and sentenced in absentia by a military court in Kinshasa for complicity in the late President Kabila's assassination in 2001. During the Rwandan occupation of eastern Congo from 1998 to 2003, the RCD exercised control over the whole of South Kivu. Following the peace accords, most Tutsi/Banyamulenges soldiers refused integration into the new Congolese army which they feared would disperse and weaken if not arrest them. Mistrustful of integration, RCD political leaders in Kinshasa and Bukavu who stood to lose their influence in peace time sympathised with and remained in constant contact with the reluctant ex-RCD soldiers of the 10th Military Region. This was confirmed to me in several interviews (Kaningini 2009, Sebeneza 2009, University of Bukavu students 2009).

In early 2004, South Kivu's RCD Governor Chiribanya was suspended for keeping weapons (like most RCD soldiers in Bukavu at the time) in disregard for the centralization efforts of the transitional government. In executing this order the then 10th Military Region Commander General Nabyolwa ordered the search of residences of RCD soldiers. This order was immediately opposed by his Second in Command Colonel Jules Mutebutsi, a former RCD officer as reported by the UN Peacekeeping office in its Daily Situation Report of 10 February 2004.

Tensions weeks later got out of control and Mutebutsi launched an attack on his commander's residence intending to kill him on the night of 23 to 24 March 2004.[56] The Kinshasa authorities

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[56] This assault on Gen. Nabyolwa was led by Col. Mukalay who was to soon afterwards escape to Rwanda with Col. Mutebutsi as well as then Shabunda RCD Cdr Lt. Col Bisogo. Bisogo and Mukalay reemerged in the Hauts Plateux in 2005 as the "Group of 47" who later merged with another rebellious former RCD-FARDC officer (former 109

replaced Nabyolwa with General Mbuja Mabe who immediately demonstrated his determination to establish firm State control over South Kivu. From 26 May and 2 June, heavy fighting broke out in Bukavu city and Colonel Mutebutsi gained the upper hand over General Mabe due to General Nkunda's arrival from North Kivu with his ex-RCD troops to support his former colleagues. General Mabe counterattacked and recaptured Bukavu but only after Mutebutsi's troops began negotiating their retreat. FARDC troops went on hounding Tutsis dozens of whom were killed in retaliation for alleged rapes and deaths when Mutebutsi controlled the city. The United Nations Mission regional office in South Kivu witnessed the events and compiled a series of reports which I frequently consulted while in South Kivu from 2006.The Bukavu crisis impacted seriously on interethnic relations but more especially on trust among the actors of the Transition from the RCD and President Kabila's supporters.

2.3.4 vi The Katanga crisis of 2005

In North Katanga from 2004, 19 Mayi Mayi groups fought each other, against FARDC and their civilian enemies. They resisted being disarmed by the central government in Kinshasa whom they blamed for not rewarding their role in the resistance against the RCD and Rwanda during the 1998-2002 war. The Mayi Mayi also chided the government for wanting to turn its back on the Rwandan FDLR rebels through disarmament and repatriation after the latter fought on its side during the war. Katangan politicians like the late President Laurent Kabila and military actors such as John Numbi and former Governor Aime Ngoy had used the Mayi Mayi as a bulwark against the

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Bde 2iC in Uvira) Michel Rukunda to (re)form FRF. Mukalay left the Hauts Plateaux for Brassage in Kitona in July 2007.

advancing RCD/RDF forces during the 1998-2002 war. Numbi was known to have transferred weapons to the Mayi Mayi of North Katanga up to early 2004 (Human Rights Watch, 2004).

In a demonstration of commitment to disarm all armed groups as agreed upon at Sun City, government troops were sent to disarm Mayi Mayi fighters in Katanga and this precipitated the fighting. In October 2004 in the southern mining town of Kilwa, the Congolese army clashed with Mayi Mayi groups and 70 people died in the fighting. More than 100,000 people were displaced in Katanga in January 2006 (Global Witness, 2005). The fighting which increased in momentum in mid-November 2005 was concentrated in Mitwaba, Pweto and Manono (International Crisis Group, 2006).

2.3.5 The Nkunda rebellion and its impact on the Joseph Kabila administration

Laurent Nkundabatware was born in Rutshuru in eastern Congo to Tutsi parents in 1967. He grew up in the region, saw and lived all the ethnic tensions that plagued the region in his youth. In the early 1990s, frustrations from xenophobic attacks against Tutsis following the democratization of the 1990s led many of them to flee and join the Rwanda Patriotic Front (RPF) in the hope of finding solace in a movement whose ideals for a Rwanda "free from discrimination" sounded inspiring. After the capture of Kigali by the RPF in 1994, Nkunda returned to the Congo where ethnic tensions were high amid the presence of ex-Rwandan Hutus who had taken part in the Rwandan genocide of Tutsis in the final days of the Hutu-led regime of Juvenal Habyarimana. That situation and the circumstances that led to Mobutu's overthrow have already been analysed.

Following the Bukavu crisis of 2004, Nkunda created the *Congres National pour la Defense du Peuple* (CNDP) in 2006 with the purported objective of protecting his fellow Tutsis from persecution by Rwandan Hutu rebels and Congolese opponents. Supported by Rwanda[57], he controlled parts of north Kivu province and established a fiefdom outside the control of the central government. The government reaction was to encourage and arm Mayi Mayi groups to assist the FARDC in the fight against the Nkunda rebellion. As confirmed by a former RCD official in Bukabu, the *Patriote Resistants Congolais*, a Congolese Hutu armed group emerged in 2007 to defend Hutus of Masisi against Tutsi forces and soon naturally became Kinshasa's ally (Personal Interview with Fidele Ruhorimbere, Bukavu, June 2009). I was informed by sources in North and South Kivu that most government arms were either sold or supplied by the FARDC officers to the armed groups supporting the government. This was confirmed in interview with a serving Congolese FARDC Battalion Commander (Personal Interviews during Mission to Mwenga, January 2010). I was able to confirm this with the civil society in Minova, (Personal Interviews in northern South Kivi in March 2010).

Stearns (2012) traces the Nkunda rebellion to 2003 when he formed the *Synergie pour la Paix et Harmonie*, a supposed self-defence group to protect Tutsis and their investments in North Kivu. After the 2006 elections which the powerful RCD lost having obtained with only 1.69% of all votes, the CNDP rapidly emerged forcing many Congolese to conclude that it was an "RCD Plan B" in waiting (Biringingwa, 2010). Fighting between the CNDP and government forces continued in north Kivu with the rebels controlling parts of the province, having routed the FARDC many

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[57] Rwanda ended the Nkunda rebellion when he crossed over to that country in early 2009 and was arrested by Rwandan authorities who replaced him with his deputy Bosco Ntaganda. The Rwandan support was the subject of numerous reports by the United Nations Peacekeeping Mission, MONUSCO, and reported by its North Kivu Regional Office.

times thanks to Rwandan support. The United Nations Mission regional office has reported many times on infiltrations into zones under CNDP control to supply weapons and technicians to the CNDP.

While the conflict continued, the government lacked the will and capacity to control the illegal smuggling of mineral resources owing to the multiplicity of political and interests and networks. The fighting continued until Rwanda and the Congo agreed on a deal to arrest Nkunda (by Rwanda) in exchange for joint operations to track down Rwandan Hutu rebels in the eastern Congo.

The Nkunda rebellion had serious consequences for the Congo and, in particular, the stabilization efforts of the Joseph Kabila administration after the 2006 elections. The fighting led to hundreds of deaths, displaced tens of thousands and thousands more lost their lives from the direct fighting or related humanitarian consequences. There were massive human rights abuses including rape and mutilation on both sides. Both the Congolese armed forces and CNDP were accused of various human rights violations by the UN Peacekeeping Mission (MONUSCO Report, 2007).[58] This resulted in tensions between Kinshasa and the international community with relations frequently strained between the government and the United Nations Mission.

The government had concentrated resources in fighting the Nkunda which not only diverted its focus on other pressing needs but also weakened the government. The Nkunda rebellion weakened the government both politically and economically. To a large extent, it prolonged the illegal exploitation of resources of eastern Congo. The government lost revenue as it lacked total access

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[58] The United Nations Mission in the Congo, known by its French acronym, supported the transition and was the instrument of the international community in its efforts to stabilise the country and rebuild it after the war.

to some parts of the country. It thus brought to the fore the urgency to restore state authority in the east of the country first through successful security sector reform. The Congolese government by 2010 was not successful in these due to lack of commitment (Personal Interview with Ryetsens, in Bujumbura, 2012).

2.3.6   Conclusion

In this second chapter I provided a broad but in-depth historical analysis of conflict and instability in the DRC. This establishes the context of my further analysis by outlining the key cause of conflict in the DRC – the state's lack of historical legitimacy - and the consequences of political crisis, secession, dictatorship, ethnic conflicts and rebellions. I conclude that owing to challenges of legitimacy, the DRC has since independence in 1960 faced numerous crises that have always rendered the country weak and unstable. The various manifestations of this are explored in further chapters.

As such, in the next chapter, I analyse governance and leadership in the DRC under Mobutu and the Kabilas in an effort to demonstrate how political power is a preoccupation in the DRC, how it is acquired and maintained, and how its misuse impacts on governance.

Chapter Three:

Governance and Leadership in the Democratic Republic of Congo under

Mobutu and the Kabilas

3.1   Introduction

Governance as a process refers to the institutions, mechanisms, practices and procedures through which a system carries out extractive, distributive and regulatory functions of addressing society's needs (Brautigam, 1996). Good governance pays attention to such key concepts as organization, participation, accountability and transparency but the legitimacy of the regime and political system are crucial. Good governance and leadership are what make states strong. They are what it takes for a state to live up to its pedigree of providing the services of security and development in any political entity. When a leadership fails in governance, a Pandora's Box of consequences opens up often leading to collapse. Governance failure results in failure to penetrate society and the state becomes a source of insecurity. In the absence of institutions as had occurred in the Congo, patronage takes over and the state's resources are diverted at will to sustain the Praetorian Guard or buy off society. In a situation of governance and leadership failure there are, in reality, no permanently enforceable codes and procedures in the furtherance of the rule of law. In this chapter I examine governance and leadership in the Congo first looking at the structure of power in various regimes before discussing the role of mineral resources in governance and conflict. I then explore the related conflicts and their dynamics and the extent of failure under Mobutu and the Kabilas during the period studied. My objective in this chapter is to underscore the centrality of power

instead of authority in the absence of legitimate rule, and how it causes an obsession and a dynamic that shifts the focus of leaders and diverts resources for regime sustenance. Through political economy analysis, I also demonstrate that the presence of mineral or natural resources in a misgoverned country such as the DRC afflicted by the Dutch is responsible for the violent conflicts most of which take on an ethnic dimension. I conclude that the inability to resolve conflict is a result of the failure by the Congolese state (since independence) to be truly functional, both because the state is contested and because the leadership failed to build functioning institutions.

3.2 The Structure of Power in the Democratic Republic of Congo and Incentives

3.2.1 The Structure of power under Mobutu

Key actors of the Cold War namely the United States, France, former Colonial power Belgium and the United Kingdom were the most important support for Mobutu during the Cold War as they ensured that he stayed in power for more than three decades. Besides Western support, Mobutu built an army and a network of security services as well as established a one-party state in 1967. This party, the *Mouvement pour la Revolution* (MPR) was a key instrument to protect his hold on power, besides the security forces.

3.2.1 i Western support to Mobutu

Mobutu owed his rise to power and his astonishing political longevity to the decades-long support he received from the US, France and Belgium. As explained in the previous chapter, Mobutu was

a product of the Cold War and owed his rise to power to the strategic calculations of Western powers at the time. Nzongola-Ntalaja (2002) contends that the United States at the time 'preferred leaders with no social or political base and therefore without a strong national constituency to be accountable to' (Nzongola-Ntalaja 2002, p.142).[59] Further, he says France continuously supported the illegitimate and dictatorial regime of Mobutu relishing the failure and attendant political conflicts that would prevent Zaire from becoming a regional power and rival to France. Mobutu's stay in power was also part of the West's Cold War logic of having strong men believed to maintain stability in strategically important Third World states (ibid, p.160). Quoting Jean-Pierre Alaux, he says "according to this grand strategy, the ruin of Zaire is better for western interests than a strong Zaire" (Nzongola-Ntalaja 2002, p.162).

The West defended Mobutu during the Kwilu and eastern rebellions between 1965 and 1968 and saved his regime in Kolwezi in 1977 and 1978 when rebels invaded Shaba from Angola. We will discuss this in the fourth chapter in detail. Until the 1990s, Western countries provided economic, military and political support to the regime which remained a faithful Cold War ally that defended Western ideological interests in the Central African region. While I served with the United Nations Mission in the Congo, I had frequently attended the weekly meeting of foreign embassies in Kinshasa of countries supporting the *Comite International d'Appui a la Transition* (CIAT)[60] which brought together the US, UK, France, Belgium, South Africa, Angola and Russia among other key

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[59] Fifty years on in 1997, it has been the same with regard to external intervention. The only difference is the involvement of 'subalterns' for a variety of reasons. In recent years, Rwanda, Uganda and Angola have interfered with and sought to have leaders supportive of their interests. The historic powers are now more sophisticated than yesteryears, in their intervention.
[60] International Committee in Support of the DRC Political Transition

actors. I have during meetings I attended observed the heightened interest the key Western powers had in the stability of DRC as a strategically important country (Personal Observations).

During the Cold War, the incentive for collaboration with the United States, France and Belgium to render Zaire a bulwark against the spread of Communism, assured political power for Mobutu which remained with him as long as the Cold War permitted. While the West ignored his excesses and misrule, Mobutu had the free hand to do whatever he deemed necessary to ensure total control over the country. He did this through his grip over the party and the armed and security forces over a 30-year period.

3.2.ii   The armed and security forces

The armed and security forces were second only to Western support in terms of the extent of influence in keeping Mobutu in power. He created a large army by regional standards which, at its peak, numbered 70,000 men, trained and supplied with weapons from the West and divided into various formations to keep vigil over one another (Nzongola-Ntalaja, 2002). Lemarchand's account gives a far higher number of 120,000 soldiers (Lemarchand, 2009, According to Kisangani (2012), Mobutu reorganized and raised his army's prestige by sending hundreds of officers to military schools in Europe and the United States. Well paid, fed, and armed, the army and the security forces on three occasions (in 1960 when he overthrew Lumumba, in 1965 when he removed Kasavubu and in 1992 when he prevented the transitional government of Tshisekedi from being elected by the Sovereign National Conference) were used to remove regimes from power. He also skillfully manipulated its many formations to ensure that no threat to his rule existed.

In Nzongola-Ntalaja's account, Mobutu's army and security forces were organised thus: a) The Special Presidential Division (DSP) of 10,000 troops (Lemarchand's account is 12,000) was commanded by General Nzimbi Mbale, Mobutu's relative. This most loyal force was mostly made up of ethnic Ngbandi soldiers with the few remaining elements coming from other tribes in Equateur. The DSP, according to Lemarchand (2009), was responsible for the shooting dead of more than 1000 regular army soldiers for looting Kinshasa in January 1993. b)The Civil Guard of 15 to 20,000 soldiers was commanded by General Kpama Baramoto, another relative of Mobutu who "began his career as a military vehicle driver" (Nzongola-Ntalaja, p.154). The Guard was Mobutu's main repressive arm against the pro-democracy movement and was used in the massacre of Christians who marched to demand the reopening of the Sovereign National Conference that Mobutu sought to close in 1992; c) The Military Action and Intelligence Service, another instrument of political repression which raided and killed several students at Lubumbashi University in 1990, three weeks after Mobutu's 1990 speech ending one-party rule; d) The Special Research and Intelligence Brigade commanded by General Bolozi, a relative of Mobutu by marriage, was a police investigation unit-turned paramilitary force best known for its torture and brutal treatment of detainees; e)   The National Intelligence and Protection Service, under Honore Ngbanda, a Ngbandi like Mobutu and one of his closest aides who served as his Defence Minister and National Security Adviser, was the eyes and ears of Mobutu. It orchestrated most crackdowns and acts of terror meted out to the population.In 2009, I travelled on a mission with a former Mobutu intelligence official to the city of Uvira, 12 years after Mobutu's overthrow and witnessed how terrified our interlocutors were when they saw him. He had since left the government and was working for another organization. He informed me that day that the security

services under Mobutu were so effective that they at times supported regional intelligence services. He later informed me that under Mobutu, they competed for Mobutu's attention and in the process despised one another which Mobutu was very happy about (Personal Observation). f) The *Agence Nationale d'Immigration*[61] which spent its time watching over the movements of potential opponents, and g; The Special Action Forces referred to as Mobutu's death squads (Nzongola-Ntalaja p. 154-156).

3.2.1 iii   The *Mouvement Populaire pour la Revolution*

The *Mouvement Populaire pour la Revolution* (MPR)[62] party was another instrument through which Mobutu controlled Zaire from 1967 to 1990. Formed in 1967, the MPR was progressively integrated within the administrative branches of the state apparatus with which it became fused into a party-state. After three years of a de facto party state, it was declared de jure in 1970 and the MPR became the supreme institution of the State. According to Kisangani (2012), Mobutu became the head of all the country's political institutions and a special provision of the party's statutes allowed for his election as party chairman and therefore Head of State indefinitely. The MPR penetrated all levels of society from the capital to the provinces to the lowest and most isolated hamlets where loyalty took precedence over any other consideration. All civil servants were compulsorily members of the MPR. Ministers, generals, ambassadors, businessmen, market women, farmers, soldiers, and students were herded into the Mobutist creed of one country, one people and one leader. It was through the MPR that Mobutu perfected his system of patronnage around which he controlled the grid of loyalty for 32 years. At a Civic Education seminar in

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[61] National Immigration Agency
[62] Popular Movement of the Revolution

support of the electoral process in Kisangani, Oriental Province, in 2005, I was informed during a presentation that in the Congo, incumbents who replicate the Mobutist system of political patronage through a party control will always win elections, thus pointing to the likelihood of President Kabila's longevity in power 'since he will continue that style for obvious reasons' (Exchanges with Professor Otemikongo, Kisangani, 2005).

3.2.2   Political power under Laurent Desiré Kabila and Joseph Kabila (1997-2010)

Laurent Desir*é* Kabila, whose *Alliances des Forces Democratiques pour la Liberation du Congo-Zaire[63]* overthrew Mobutu in 1997, stayed in power for less than four years. The rebellion that brought him to power was supported by Rwanda and Uganda, and to a lesser extent, Angola.[64] Several Banyamulenge Tutsis have confirmed the role of Rwanda to me between 2006 and 2010 (Exchanges in Bukavu with Banyamulenge leaders and interlocutors with the regional UN Office in South Kivu – Personal Observation). Mobutu's erstwhile allies in the West sympathised with the AFDL march to power because, partly, the Cold War had ended and Mobutu's usefulness as an ally had waned.

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[63] Alliance of Democratic Forces for the Liberation of Congo-Zaire. It was at this early stage of the rebellion that Laurent Desiré Kabila indicated his readiness to return to Zaire's former name of Congo.

[64] The seizure of power by the Tutsi-led Rwanda Patriotic Front in Kigali has always irritated Mobutu who had sent troops to Kigali during the invasion from Uganda in support of President Habyarimana's troops. Mobutu harboured Hutu genocidaires who fled into the Congo after killing hundreds of thousands of Tutsis just before the RPF seized power in Kigali. Condoning Hutu FDLR attacks against the new regime in Kigali, Mobutu invited Rwanda's wrath and the conclusion that he posed a serious threat to its security. In Ituri district, the West Nile Bank Front rebels and the Lord's Resistance Army rebels opposed to Yoweri Museveni's regime in Uganda used Zairean territory to launch infiltrations into Uganda after it was never lost on both Museveni and Kagame that Mobutu abhorred the emergence of Kampala and Kigali as the new Anglophone/Anglophile regimes that could dent French influence in the region. Angola welcomed and supported Mobutu's removal because he was Luanda's most hated enemy in the region, having allowed the use of Zairean territory to be used to receive UNITA diamonds and through which arms shipments were made to the rebel group. In a Cold War context, Zaire was the main base in Africa to destabilize the MPLA regime in Luanda.

At the onset, Kabila's power base was secure owing to the sympathy he received after removing a corrupt and despotic regime that was partly the reason for regional stability. From 1997 to 2001, his power was first protected by Rwandan forces and, after their expulsion by Kabila in 1998, by Katangan elements (former Zairean soldiers and ex-Katangan gendarmes) and close personal allies he trusted. From the outbreak of the Rwanda and Uganda-backed rebellion in 1998 to his death in 2001, he mainly relied on Zimbabwean and Angolan troops for his security (Lamarchand 2009; Turner, 2007). While at the Political Affairs Division of the United Nations Mission in Kinshasa, I was informed by Congolese senior officials about the role Zimbabwe and Angola played in defending Kabila's regime from the Rwandan and Ugandan invasion in 1998 (Particippant Observation, 2007; UDPS-South Kivu, 2007[65]).

When Joseph Kabila succeeded his father in 2001, he reversed his controversial policies of non-negotiation with the RCD rebels and foreign forces demonstrating more flexibility to resolve the crisis (Dunn in Clark 2002, p. 69). The Global and Inclusive Accords signed at Sun City in South Africa which he signed with the various armed groups earned him international admiration. The Accords fundamentally distributed power among the warring factions in the Congo and created five institutions to support the democratic process that was to lead to elections after two years (*Accords Global et Inclusifs*, 2002).

However, still aware of the risks inherent in being in power in a country as complex as the Congo, he moved to strengthen his position and established a Personal Guard, the *Garde Republicaine* (GR)[66], separate from the new national army that was being formed through the integration of

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[65] *Union pour la Democratie et le Progres Social* (Union for Democracy and Social Progress)
[66] Republican Guard

former warring groups. The troops of the GR were mainly recruited from his home province of Katanga, a case of history repeating itself since Mobutu before him also only trusted recruiting his own Ngbandi kinsmen into the army. Kabila then exploited the advantages of incumbency to restructure the police and intelligence services in a way so as to significantly strengthen the coterie of loyal elements around his power base. It was this guard that attacked Vice President Bemba's forces following incidents and mutual recriminations in Kinshasa after the announcement of the 2006 presidential election results (Braeckmann, 2006). As a political officer in Kinsaha at the time, I have monitored and reported on these developments and prepared reports on the threat the rival groups posed to the transition. On one occasion I attended a meeting with Presidential Candidate Jean Pierre Bemba who strongly attacked President Kabila's PPRD party for provoking his militants (participant observation). Several incidents of mutual insults and shootings were reported as the country approached elections in a tense atmosphere where both sides were armed to the teeth with the United Nations Mission in between and a few thousands crossing the river into the neighboring Republic of Congo[67] fearful of the eruption of fighting which in fact happened (participant observation).

During the 2006 elections, Kinshasa was the stronghold of the opposition. This was so given the long grip and support the people of the west of the country (including former president Mobutu's Equateur region) had over the region. Joseph Kabila's father Laurent had led his rebellion against Mobutu from the eastern Swahili regions of the country from where he hailed and this was the reason for the informal dichotomy of a Lingala west versus a Swahili east during the contest in 2006 between Kabila's son and Jean-Pierre Bembe who not only recruited for elements of

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[67] The Congo River separating the two Congo's takes 10 minutes to cross.

Mobutu's army into his rebel group during the war, but many supporters. As tensions mounted between a Swahiliphone feast and a Lingalaphone west, transition president Joseph Kabila was accused of being an easterner in western territory. He was accused of being a 'foreigner', the son of a Tutsi woman, a thief and Rwandan Trojan Horse (Personal reports from meetings with political actors in Kinshasa, 2006).

The stakes were high during the 2006 elections. Following the first round of presidential elections, held on 30 July, Kabila won 44% of the national vote while Jean-Pierre Bemba obtained 22% but defeating President Kabila in Kinshasa. On 20 August, fighting erupted in the capital when I and a colleague political officer were monitoring and reporting on the meeting at Jean Pierre Bemba's residence between him and foreign ambassadors. The Special Representative of the Secretary-General of the United Mission and Head of the United Nations Mission William Swing was in attendance when the shooting towards Jean-Pierre Bemba's residence began. Fighting engulfed the city and heavy artillery was used. We were trapped within the zone of the fighting but later moved to safety. By the time the fighting subsided, many were killed. The international community represented by the International Committee in Support of the Transition (CIAT-*Comite International d'Accompagnement de la Transition*) and the United Nations Mission helped to establish a ceasefire (Participant Observations).

With his power legitimised by the 2006 elections, he moved to diminish the power of his main rivals, the RCD under Azarias Ruberwa and Jean Pierre Bemba's MLC. Legitimacy and international support in addition to his subsequent control over the armed and security forces helped to secure his position from which he gradually but effectively eroded the power of his

rivals. I had frequently noted the concern of diplomats over Joseph Kabila's actions to undermine his political rivals.[68] (Personal observation based on reports and analyses from our Political Division).

Deployed to the eastern Congo in late 2006, I was informed by political actors from the RCD, the MLC and civil society of the threat of dictatorship that lingered from Kabila's post-election disregard for consensus (Personal observation from consultations with civil society coordination of South Kivu). Up to 2010, a combination of political legitimacy, international support and manipulation of the advantages of incumbency ensured Kabila's stay in power (analysis from interviews and personal observations).

3.3   Mineral resources, misrule and conflict in the Congo since independence

The Congo is arguably Africa's richest country in terms of its strategic minerals. I have already demonstrated how Belgian policy to keep the country and its resources under its control influenced the first post-independence crisis of the 1960s. Throughout his rule, Mobutu was sustained in power by the financial resources at his disposal coming from the country's mineral wealth. Congo's resources are so vast, and institutions so weak, that those in power always seek to remain in power to directly control the power that comes with control over rent. The Lutundula Report which investigated corruption later in 2005 revealed that the country lost hundreds of

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[68] CIAT comprised South Africa, France, the USA, the UK, Russia, Belgium, Canada, Gabon, Zambia, the EU, the AU, Angola and MONUC.

millions of dollars during the transition because the government, hardly answerable to anybody, spent much time ensuring that all financial appropriations to the *composantes*[69] were paid.

Under Mobutu, while mineral resources oiled the machinery of control and enrichment, it also became the reason for Mobutu's determination to cling on to power. For more than thirty years, reliance on rent from the exploitation of minerals made the central government the centre of attraction for Zaire's political class. Wrong (2000) cites how the country's financial cows, Gecamines and MIBA[70], were over the decades milked dry by Mobutu to support his patronage policies. As his regime collapsed in early 1997, concern over an impending power vacuum motivated external actors to court incoming leader Laurent Kabila for contracts and access to the country's mineral resources. According to Turner, as the AFDL rebels advanced against Mobutu in late 1996, Kabila's 'Finance Minister' Mawampanga Mwana met with businessmen (Goldman Sachs, First Bank of Boston, Morgan Grefel and other economic investors)[71] in Lubumbashi to sign mining contracts (Turner, 2007, p.59). Turner further informs us that in April 1997, while the

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[69] Other rival components of the transition government
[70] The *General Cariere des Mines* (GECAMINES) was the national administration of mines which exercised political and administrative control and oversight over the country's entire mining industry. The Miniere de Bakwanga (MIBA), was the Bakwnga diamond mining authority in Kasai Province. The two were the country's main sources of revenue since independence.
[71] All three banks are major international investment banks actively involved in the international banking and financial system. Goldman Sachs is a leading multinational investment banking firm with headquarters in New York and engages in other investment management and financial services for key global organisations and concerns. Goldman Sachs was formed in 1869. Bank of Boston merged with Bay Bank as Bank Boston dates back to 1784 and is widely connected and involved in international banking and industry. Morgan Grefel is another London-based investment bank established in 1838. One of the oldest British banks, it played a key role in the reconstruction of Europe in the 1920s and has been linked to JP Morgan another renowned international bank. This ended in 1982. After being acquired by Deutsche Bank it was renamed Deutsche Morgan Grefel..Such was the nature and extent of engagement in the Congo that the United Nations in its 2001 panel report mentioned the expression conflicts prolonged by the role of foreign involvement and exploitation of strategic minerals.

fighting was ongoing, Jean-Ramon Boulle, a cofounder of the mining concern Adastra[72] signed a billion dollar deal for mines in Kolwezi (Cobalt) and Kipuzi (Zinc) from Kabila.

After Mobutu was overthrown in 1997, the quest for and role of mineral resources continued to influence political conflicts. Soon after the 1998 war to remove President Kabila was launched by Rwanda and Uganda, it derailed into a struggle over mineral resources. With the stalemate between the opposing sides, Rwanda, Uganda and the RCD rebels massively exploited minerals in eastern DRC as elucidated in the 2001 UN panel of experts' report which revealed that : 'Between September 1998 and August 1999, occupied zones of the Democratic Republic of the Congo were drained of existing stockpiles, including minerals, agricultural and forest products and livestock. Regardless of the looter, the pattern was the same: Burundian, Rwandan, Ugandan and/or RCD soldiers, commanded by an officer, visited farms, storage facilities, factories and banks, and demanded that the managers open the coffers and doors. The soldiers were then ordered to remove the relevant products and load them into vehicles. The Panel received numerous accounts and claims of unlawful removal of products by Rwandan or Ugandan armies and their local RCD allies. The Panel has chosen to illustrate this point with some examples' (Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo, 2001)

After Laurent Desire Kabila's assassination, his son Joseph succeeded him and was chosen to lead the political transition during which period the question of mineral resource exploitation largely

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[72] Adastra Minerals is a London-based mineral mining company with heavy operations in Central Africa (D.R.Congo, Zambia and Angola) and focuses on copper, cobalt and zinc mining. Its properties and concessions were acquired by First Quantum Minerals in 2006.

accounted for the lack of focus on governance. All factions showed more interest in the resources and appropriations to their ministries. This unfortunate phenomenon, the illicit misappropriations of funds and revenues from the mining industry, is well documented by the Lutundula Commission. While in Bukavu as a political officer in 2008, I discussed corruption and the illegal exploitation of minerals during the Joseph Kabila-led transition frequently with former Vice Governor of South Kivu Ignace Mupira who served in the Lutundula Commission as a secretary. This phenomenon however predates Joseph Kabila's presidency.

As early as April 1997, Jean-Ramon Boulle, a cofounder of Adastra (then AMFI) received a 1bn dollar deal for mines in the Congo at Kolwezi (Cobalt) and Kipuzi (Zinc) from Laurent Kabila's *Alliance des Forces Democratiques pour la liberation du Congo-Zaire* before he even captured power (Barouski et al, 2006). According to Barouski the AFDL were even allowed to use Boulle's private jet. According to Barouski in his report, coltan ore is widely used in the aerospace and electronics industries for capacitors, superconductors and transistors after it is refined to tantalum. The USA is entirely dependent on foreign sources for tantalum, an enabling technology for capacitors essential to aerospace weaponry and every pager, cellphone, computer, VCR, CD player, PDA, and TV. American import records show a dramatic jump in purchases from Rwanda and Uganda during the time they were smuggling tantalum and cobalt out of the country. The report also mentioned that Sony, Compaq, Hewlett-Packard, Nokia, Lucen, Motorola, Dell, Microsoft and Eriksson are large-scale consumers of coltan (ibid)

The United Nations Expert Panel on the illegal exploitation of the Congo's mineral resources in its October 2002 report identified elite networks within Congo centring on the Rwandan and

Ugandan occupation zones and on the Kinshasa Government. Between January and June 2004, 1760 tons of casseterite in Walikale were shipped out of the country. Eighty five foreign companies were afterwards named by the Panel of Experts as participating in the exploitation of the Congo's natural resources. It was the panel's 2003 report that forced the UNSC to shift its emphasis from the illegal exploitation of the Congo's resources to the wars that are financed in the exchanges between arms and weapons (UN Panel of Experts Report on the illegal exploitation of natural resources of the Democratic Republic of Congo, 2003).

When Uganda withdrew from the DRC in 2002, Ugandan General and brother of President Yoweri Museveni Salim Saleh began training paramilitary groups to act as proxis to sustain the flow of minerals into Uganda. The UN Panel of Experts had recommended that Saleh to be put on a travel ban and his assets frozen, but nothing was done. Almost all armed groups deviated from their original goals of resisting the Ugandan and Rwandan occupation of eastern Congo to focus on the wealth and riches of the eastern DRC. FDLR, Mayi Mayi, ADF/NALU, have all benefited from the mining riches of areas they are deployed and all commit large scale human rights abuses (ibid) Several UN Mission reports on Ituri district later confirmed this much as national UN staff and colleagues in Bunia, Ituri district, confirmed to me in 2005.

The analysis of the 2005 Lutundula Report revealed how the state lost revenues from high-level deals with foreign interests in the country's copper mining industry. Katanga's militias, according to Snow and Barouski (2006), were connected to criminal networks of businesspeople including Zimbabwe's President Robert Mugabe, Billy Rautenbach, John Bredenkamp and Mark Rich. US diamond magnate Maurice Tempelsman has profited from Katanga concessions since the Kennedy

era. Snow and Barouski reported in July of 2006 that 10 million people had died since 1996 and said that the war in the DRC was, still, driven by the desire to extract raw materials, including diamonds, gold, columbite, tantalite, niobium, cobalt, copper, uranium and petroleum.

The transition period from 2003 to 2006, and the first four years of legitimately elected government led by Joseph Kabila, did not represent any change in the pillage of the Congo's mineral resources. Up to 2010, rebellions in the east of the country erupted and persisted in resource-endowed regions such as Ituri, North Kivu, South Kivu and pockets of locations that are rich in minerals. The continued challenge to the restoration of state authority had continued until after 2010 (Personal Observations,). I worked and monitored the security situation in eastern Congo throughout the 2006-2010 period in Masisi-Minova, Mwenga, Shabunda and Fizi territories and visited and reported armed conflict in areas reputed to be endowed with mineral resources. We were part of the team of UN Mission officials that worked in eastern Congo to support the authorities to restore state authority across the region (Participant Observation, 2009).

Whereas the exploitation of resources was not the original cause of the war, it became an obstacle to efforts to end it.[73] In exchanges with a United Nations Colleague working with the UN Panel of Experts in 2012, I was informed first hand that the conflicts in Central Africa were encouraged by the lust for strategic minerals (Personal exchange - with a former colleague in South Kivu and

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[73] Throughout history, economic factors have always played a central role in warfare. Civil wars have become increasingly self-financing (Ballentine and Sherman, 2003). Given the role of lucrative natural resource in fuelling war economies, the term "resource wars" has become popular among analysts and policy makers. More broadly, attention on the economics of conflict has found expression in the concept of "war economies". A political economy analysis will reveal how war and security in the DRC was in the interest of all involved. This involved had a vested interested in its continuation (Ballentine and Nitzschke, 2009). Research carried out by the two indicate that countries with important natural resources have a high risk of conflict.

subsequently a member of the UN Panel of Experts on the illegal exploitation of mineral resources in the Democratic Republic of Congo - Steve Hege, Bujumbura, 2012) The 'resource war' explanation sees the war as having been caused by the interest in the Congo's mineral resources and is the view of many Congolese people. Students at a seminar organized by the United Nations peacekeeping regional office of South Kivu in 2009 (and which I moderated) generally emphasized this view (Participant Observations, 2009). Apart from students, several regional and national politicians, religious leaders, soldiers and ordinary people held similar views although one of my objectives as a result of my analysis is to debunk the view. Congolese Information Minister Henri Movan Sakanyi in 2005 consistently defended his country's territorial integrity and wars orchestrated to access mineral resources. During personal interviews of regional MP Ngoma-Gbaliamutu (2009), traditional leader in South Kivu Mwami Kabare (2010), Mayi Mayi resistance rebel Amuri Yakutumba (2008), and even the archbishop of BukavuXavier Maroy (2010), my interlocutors have always themed their views on what they regard as the imposition of wars on the DRC to exploit her mineral and natural resources.)[74]. This view is challenged in this dissertation.

3.4   Ethnicity, regionalism and legitimacy in the explanation of conflict in the Congo

In this part of my research, I discuss ethnicity through the lens of Osaghae's (1994) analysis, seeing it as the mobilisation of identity and differences to gain advantage in situations of competition or

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[74] Henry Mova Sakanyi, Congolese Information Minister, television broadcast, 2005, Interview with Enoch Sebeneza, former AFDL rebel movement member, 2009, Interview with Ngoma Gbaliamutu, South Kivu regional MP, Fizi, 2009, Interview with General Pacifique Mauzunzu, South Kivu 10th Military Region Commander, 2010, Interview with Mwami Ndare Kabare, South Kivu United Nations Mission Office, 2010, Congolese rebel leader Amuri Yakutumba, statements recorded during peace talks in Fizi, South Kivu 2008, Interview with Ombeni David, South Kivu regional MP, Bukavu 2010, and meeting with Archbishop Xavier Maroy of Bukavu, 2010).

conflict. I will from this premise agree with Nnoli (1978) that ethnicity becomes evident as social and political cleavages when relations between groups are competitive rather than cooperative.

The negative effect of politicised or instrumentalised ethnicity in the Congo became clearly evident at independence when ethnic identity was used as a convenient tool in competition for political power among the various political actors. It is my view that the instrumentalisation of ethnicity is possible only because the legitimacy of the state is in question from the very society it tries to exert control over. Engelbert's theory (2000) of the state as discussed below and political economy analysis, discussed in the next chapter, are relevant in that regard. In a situation where one ethnic group or region is perceived to have captured state power, the losing side leans, in reaction and frustration, on the state's lack of historical legitimacy to challenge it, as happened in Kasai and Katanga in the 1960s. In addition, from the 1980s to the first decade of the 21st century, ethnic conflicts in the Congo can be explained as a function of the struggle for land and access to resources developing into more complex conflict dynamics or struggle for political power among politicians. The following examples will elucidate the points raised.

3.4.1   Ethnicity and regionalism during the independence crisis of 1960

During the late 1950s, when the struggles for independence across Africa were at a peak, Congolese tribal associations emerged to demand improvements in the colonial system. They were led by the few partially educated or "transformed" low ranking African participants in the Belgian colonial establishment referred to as the evolués. Their world view was narrow and their grievances lacked any strategic focus beyond rectifying injustices in the colonial system

(McCalpin in Clark 2002, p.36). The Association des Bas Congos[75] (ABAKO) rose to defend the interests of the people of Bas Congo, the Confederation des Associations Tribales du Katanga (CONAKAT)[76] for South Katanga, the Balubas du Katanga[77] (BALUBAKAT) for North Katanga and Kasaian Union for Kasai (Kisangani 2012, p.16, Nzongola-Ntalaja 2002, p.81-85).[78] After the ABAKO-inspired 1959 riots[79] which were followed by the rapid approach of independence, ethnic and regional antagonisms were accentuated in the context of struggle to control power at the centre. These ethnic and regional tensions continued after independence.

I have explained in chapter two that the earlier protests of ABAKO were in reaction to abuses in the colonial system. However, the changing context and the prospect of independence brought in a new reality, ethnicity, as rival political actors vied to inherit the nascent state. The independence crisis of 1960-1961 in which *the Mouvement National Congolais*[80] (MNC) leader Prime Minister Lumumba was assassinated was partly a reflection of this struggle for power between nationalists represented by Patrice Lumumba, and those politicians who were mainly ambitious regional

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[75] Bakongo People's Association
[76] Confederation of Katangan Tribal Associations
[77] Balubas of Katanga
[78] ABAKO, formed in 1956, was the first Congolese indigenous organization to demand improvement in the conditions of its ethnic members during Belgian colonial rule. It was a Bakongo ethnic solidarity association, the first to present what resembled a challenge to the abuses of the colonial system and transformed in the late 1950s into a political party. It, however always remained in essence a regional party like Moise Tshombe's CONAKAT formed in Katanga at the behest of the CARTEL Katangais, a white settler elgian organization opposed to nationalism and independence politics. Mistrustful of the centralizing state, the Katangese regional leader opted for secession when his party lost the 1959 elections to Lumumba whose MNC with its nationalist credentials received nation-wide support. The BALUBAKAT party, formed in 1959, was the rival to the CONAKAT and was intensely nationalist and pro-MNC that emerged in 1958 (Emizet Kisangani, Civil Wars in the Dem. Rep. of Congo, 2012)
[79] The ABAKO riots were the violent demonstrations by the local population in Kinshasa to demand changes in the colonial system. The Belgian reaction and heavy-handedness when ABAKO rioted led to between 49 and 500 deaths according to Kisangani (2012). The significance of the riots was that they sped up the drive towards independence.
[80] Congolese National Movement

politicians who lacked nationalist credentials. These were Tshombe in Katanga, Kalonji in Kasai and Kasavubu[81] in Bas Congo.

As already outlined, the prospect of Lumumba winning the elections at independence was perceived as a serious blow to Joseph Kasavubu and ABAKO, the first to organize people in the territory against abuses of the colonial system. Lumumba's nationalism and widespread support across the country had quietly aroused the envy of his rivals in the opposing camps. No other word than jealousy or phrase like frustrated sense of humiliation better explain the basis of "hate" and conspiracy leading to crisis (Omasombo 2012, Fikily 2006).These frustrations resulted partly in the ease with which ceremonial President Kasavubu was easily influenced by conspiring forces to dismiss Lumumba unconstitutionally**.** It also explained the crises in Kinsasha in 1961 and secessions in Katanga and Kasai in 1960.

3.4.2   *Ethnic conflict in the eastern DRC since independence*

Owing to the Belgian colonial policy of bringing into the Congo labour migrants from Rwanda (1926-1937) and immigrants from the same country (after 1937) to work in colonial plantations in North Kivu, the Banyarwanda (Hutus and Tutsis from Rwanda), on the eve of independence in

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[81] Moise Tshombe was the Premier of Katanga province, Zaire's richest province that was at the centre of the crisis of independence during which Prime Minister Patrice Lumumba was assassinated. He was opposed to Lumumba's nationalist appeal and fearful of losing control over his region, joined the conspiracy in Lumumba's overthrow in his failed bid to secede with the support of Belgium and Belgian setters. A similar situation occurred in Kasai where Albert Kalonji, having lost the national elections to Lumumba's MNC, in an act of frustration and desperation declared secession of his diamond rich province. This rebellion was crushed by Lumumba. Kasavubu was the Congo's first ceremonial president and founder of the first social group that got muted into a political party which never extended its influence beyond its native Bas Kongo region. History accuses him of having band wagoned in the conspiracy against Lumumba out of frustration over his loss of the elections to Lumumba. Details of all three are in the literature.

1960, heavily outnumbered the local Hunde population of Masisi whose traditional ownership of land was perceived to be threatened. Over time, the Banyarwanda immigrants had insisted and obtained a native authority in Gishari in 1938,[82] and had thereafter decided to stop paying tribute to their Hunde hosts until 1957 when the Gishari native authority was disestablished by the Belgian colonial authorities. Nevertheless, the Banyarwanda, especially the Tutsis, become economically very powerful after independence owing to their effective use of links to power to acquire land (Mamdani, ibid).

The early influence of Tutsis was owed to Mobutu's *Chef de Cabinet*[83] in the 1970s, a Tutsi refugee from Rwanda called Barthelemy Bisengimana (Kisangani, 2012 p.176; Lemarchand 2009, p.14, p. 210; and Mamdani, 2001 p. 243). Tensions arising from opposition to Tutsi influence had earlier caused the "Banyarwanda wars" of the 1960s (ibid).[84] Intermittent fighting at the time resulted in the large scale killings of Tutsis and Hutus, the first outward display of anti-Tutsi sentiment in post independent Zaire. At the time, the Banyarwandas (Tutsis and Hutus) were considered as a single ethnic unit by virtue of their origin (Rwanda) and their common language (Kinyarwanda). Their rivals for land and influence, the Nandes, Hundes and Nyanga were generally opposed to their influence (Lemarchand, 2009, p.13). With the increasing threat to their traditional power, the Hunde in particular leaned on their 'native rights' arising from their 'ethnic citizenship' to assert

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[82] A native authority in Gishari was established by the Belgian colonial authorities in 1938 after Banyarwandans (Hutu and Tutsi immigrants post-1937) to appease them after they demanded it to stop paying tribute to their Hunde hosts. When disestablished in 1957, the Banyarwandans lost the ethnic space within which to channel their problems.

[83] Chief of Staff

[84] The Banyarwanda wars were the revolts by the Banyarwandas who were denied administrative rights over land they occupied. Owing to years of immigration from Rwanda by the Belgians, the Banyarwanda population on the eve of independence outnumbered their Hunde hosts. By virtue of their numerical strength, they won more than their Hunde hosts but were still prevented from assuming new roles because they were still considered "ethnic strangers". They rose up in arms in 1963-1964 in what is popularly referred to in history as the Banyarwanda wars.

control and to begin questioning the rights of Banyarwanda, who in their view lacked rights to own land. These heightened inter-ethnic tensions were however allowed to fester alongside a failing economy and a weak state under Mobutu.

In 1993 armed Nande, Hunde and Nyanga youths attacked Banyarwandas, apparently encouraged by the *Conference National Sovereign* (*CNS*) taking place at the time to introduce genuine democracy in Zaire. By the time the weak and failed Mobutu regime forcefully intervened and 14,000 people, mostly Banyarwanda, had died (Lemarchand, ibid). The 1993 CNS occurred at a time when Mobutu's power was waning alongside a heightened nationality and citizenship crisis.

Most Tutsis lived in the Congo well before those resettled by the Belgians in the early 20th century given the proximity to Rwanda. However, the distinction became blurred from the continued migrations (Mamdani, 2001, p.246). South Kivu Province's former Agriculture Minister informed me in 2009 during an exchange that he, a Tutsi, traced his ancestors in the Congo as far back as the early 20th Century (Interview, 2009). The borders being arbitrarily drawn by colonialism, cross border relations remain strong throughout Africa. Although in the Congo the question of who therefore is Congolese Tutsi is complex, most people would choose to simplify a complex problem, by considering all Tutsis as Rwandans. Tutsis subsequently concluded that the CNS was nothing but a forum to deprive Banyarwandas of their "Congolese identity" and rightful political participation (Kisangani, 2012).

In Fizi in South Kivu province, the unresolved tensions between Banyamulenge Tutsis and the Bembe ethnic group led a Mobutist Bembe politician Anzuluni Bambe, then Deputy Speaker of

the *Haut Conseil de la Republique – Parlement de Transition* (HCR-PT)[85], an organ of the CNS, to push through a resolution in April 1995 calling for the expulsion of Banyamulenge Tutsis from the Congo, referred to as "recent Rwandan refugees" (Lemarchand 2009, p. 34). This problem has lingered on and the political authorities have not been innocent. During a meeting with middle level South Kivu authorities in 2009, I have cautioned against the return of such tendencies at a time when the United Nations was engaged in supporting the stabilisation processes in eastern Congo (Participant Observation). One of the participants at the meeting, a civil society activist, gave a short but significant response: 'Talk to the authorities in Kinshasa. They are the problem' (Participant Observation - Seminar on Reconciliation in Fizi Territory, 2009).

In 2009, Mwami Ndabagoye of the Rusizi Plains of Uvira territory informed me during a monitoring mission that xenophobia against Tutsis and Barundis of the plains was never going to go away easily. He said the Tutsi sense of siege in Central Africa comes from this deep hatred (meeting in Bukavu in 2009). Back to my office in Bukavu, the local chief called me to say he was under threat from the territorial administrator who continued to refuse to recognize his authority. [86]

At around the same period the manipulation of ethnic tensions in the struggle for political power brought back to life the ghosts of the 1960s ethnic conflicts in Katanga. In August 1992 when opposition leader Etienne Tshisekedi was appointed Prime Minister by the HCR-PT, an estimated 150,000 Luba Kasai people were expelled from Katanga by Lunda youths inspired by the then

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[85] High Council of State – Transitional Parliament
[86] In 2014 after I had left the region and the DRC, I was informed that the Mwami was killed in a night attack by unidentified elements.

Governor Kyungu who supported President Mobutu's rival appointee Nguz Karl-I- Bond, a native of the province (Mwamba, 1991). My analysis shows that in the Congo, political support is often personalized and people do not direct their support at ideas and policy, but rather individuals, either local heroes, sons and daughters of historic figures, ethnic gladiators, those who pay for the support. Mobutu mastered the art of managing and circulating the list of politicians forever assembled behind him for appointments, money and influence. Mobutu has always known that having a 'liste consistent', that is to say a list of serious actors (regionally powerful, influential and potential threats) on his side guaranteed the security of his power. Ethnicity and its misuse for political purposes have been the bane of Congolese politics since independence (Personal Observation).

History came full circle because just as secessionist Katangan Lundas supporting Moise Tshombe attacked Luba Kasai migrants in the 1960s, Lunda youths who supported their kinsman Nguz attacked Lubas from Tshisekedi's ethnic group living in Katanga in 1992. All this happened thanks to Mobutu's manipulation to divide his rivals and stay in power (Nzongola-Ntalaja, 2002). As could be seen, in both the Kivus and Katanga, ethnic manipulation was a result of the struggle for power. As outlined earlier, ethnic tensions became the manifestation of the struggle for power. Mobutu's appointment of Nguz, a Katangan, was mainly to undermine and divide his enemies in the CNS by pitching them against one another. By naming Nguz, Katangans quickly became less critical of Mobutu because once again their province has returned to the political limelight. This demonstrates the saliency of a political economy analysis and the insights from historical legitimacy theory which both succinctly explain political and ethnic conflicts in Katanga at the time.

3.5   The regional dimension of the Hutu-Tutsi conflict

The history of the Tutsi-Hutu conflict is generally considered by some scholars (Mamdani, 2001; Kisangani, 2012) as the consequences of Belgian manipulation of ethnic identity. Through what Mamdani (2001) refers to as the hamitic myth, the Belgians placed Tutsis above Hutus and justified Tutsi royal rule over the majority Hutus of Rwanda.

In 1959, the Belgians switched sides and gave way to the 1959 revolution it encouraged which caused the shift of power to Hutus as Tutsis became refugees in Uganda, Congo and elsewhere. Mamdani (2001) elucidates the idea of the Hamitic myth in his demonstration of how a flawed conception of racial difference, carried over into colonialism, sowed the seeds of hatred and genocide. According to him, the Hamitic theory held that the Hamitic race was superior to, or more advanced than the negroid populations of sub-Saharan Africa. As a result of this belief, the policies of European imperial powers in Africa in the 20th century were affected by this misconception. German and Belgian displayed preferential attitudes in Central Africa, especially in Rwanda and Burundi where the Tutsis were said to be of Hamitic origins and therefore destined to lead the Hutus who were rooted in south of the Sahara, i.e the negroid peoples of Africa. Hutus have since viewed Tutsis as usurpers and invaders of "their" land and the continued domination with support by imperialism and colonialism continued into the mid-20th century resulting in genocide.

The roots of rivalry and hatred, caused by Belgian's disruption of pre-colonial social organization of the Rwandan Kingdom under Tutsi Kings, exploded into genocide when Tutsi rebels and refugee children of the 1959 revolution from Uganda under Paul Kagame seized power in Kigali.

The 1994 Tutsi takeover empowered children of Tutsi refugees in Congo most of whom served in the Tutsi-led RPF. These developments coincided with the post-1991-1993 Sovereign National Conference which had voted to expel Tutsis from the Congo (Mamdani, 2001, p.245 The Sovereign National Conference and the Resolution on Citizenship in 1991). From role reversals in Rwanda to shifting fortunes in a citizenship crisis (Hutus and Tutsis), both Banyarwanda people parted company after Tutsis seized power under the Rwanda Patriotic Front. The explosion in the eastern Congo was only a matter of time. As Tutsis of the eastern Congo after 1994 had a new-found confidence following the seizure of power by Tutsis in Rwanda, the Hutus in the eastern DRC in an apparent solidarity with their kinsmen, not only collaborated, but joined in aiding fleeing genocidaires and former Rwandan Hutu soldiers in attacks on Tutsis in the region (Mamdani 2001, Lemarchand 2009, Reed 1998, Turner 2007 and McCalpin 2002).

After 1994, while the Tutsi Rwandan Patriotic Army struggled to establish firm control over Rwanda, tensions were peaking along the border with the Congo from where Rwandan Hutu rebels of the former government launched attacks against the new Rwandan government.[87] Hutu militias and former Rwandan army soldiers (numbering tens of thousands) were tolerated and even helped to reorganize and rearm by Zaire (Reed 1998, 134-138). In spite of international calls for the Zaire government to dislodge or control them, nothing happened because the collapsing Mobutu government was complicit, militarily unable, and not keen in doing so (Reed, 1994).[88] According

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[87] By this time, persecuted Tutsis had begun reaching out to the RPF with which they shared a common plight and a common enemy. Congolese autochthones were already sympathetic to the Hutu refugees and saw Tutsis in general as the problem.

[88] The French were strong allies of the Hutu-led government of President Juvenal Habyarimana up to the time of the Tutsi rebel victory in 1994. They trained and armed the then Hutu-led Rwandan army and up to 1994 armed the government forces and provided training and technical support.

to Reed, states of the region repeatedly expressed concern over the destabilising activities of the FDLR and Zairean inaction or complicity.

Two years of sporadic and disparate attacks against Rwanda's new government and Tutsis in eastern Zaire, specifically in Giseyni (Reed, 1998, p.145) intensified. It became the rationale for the 1997 AFDL rebellion/Rwandan invasion. Enoch Sebeneza, former MP and Tutsi Banyamulenge activist, confirmed to me at his residence in 2009 that the 1997 and 1998 rebellions against President Mobutu and Laurent Desire Kabila were planned and executed from Rwanda (Personal Interview, 2009). Mr. Sebeneza said the overthrow of Mobutu was deemed necessary and carried out by Presidents Museveni and Kagame given his support of the FDLR, the attacks on Ugandan soil by the Lord's Resistance Army rebels, the threat he posed to the region and his manipulation of the citizenship crisis in the eastern Congo. He further confirmed that the second invasion (the 1998-2003 war) was a punitive action against Kabila by Rwanda and Uganda for expelling them from the Congo after they brought him to power (Personal Interview, 2009).

The 1997 rebellion and overthrow of Mobutu was by an amalgam of four disparate rebel groups brought together principally by the Rwandans with the contribution of the Ugandans. Within seven months, Tutsi Banyamulenge troops, *Kadogos* [89]as well as Rwandan advisers and few RPA troops approached Kinshasa precipitating Mobutu's flight into exile.

The failure to address the citizenship question in the eastern Congo since independence has been a key cause of the regional crisis, the wars from 1996 to 2002 and the resulting instability up to

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[89] Kadogos were Congolese child soldiers who swept across the country from the east with President Kabila in the 1996/97 overthrow of Mobutu. Abandoned children, they were recruited from across the Kivus with the promise of a better life.

2010. The 1998-2002 war which erupted 13 months after Kabila came to power was partly caused by a lack of confidence in the Congolese state's efforts to resolve the nationality crisis. The CNDP rebellion of 2006-2009, according to its then leader Laurent Nkundabatware, was borne out of the same problem (Participant Observations as a participant in the Goma Peace Conference; CNDP, 2008). I represented the United Nations South Kivu office to the Goma Peace Conference of December 2007-January 2008. During the conference, the delegation representing the CNDP-Tutsi rebellion discussed its intervention mainly on this (Participant Observations).

3.6   Conclusion

In this chapter I demonstrated that in the absence of historical legitimacy and in the midst of challenges to the state, power becomes the only guarantee of survival. This was not lost on the Congo's leaders since independence. Dependent on its own resources, without any programme to diversify its economy, the pathological quest for power is seen as the best guarantee of power. In the absence of leadership amid manipulation, the competition over resources derails into ethnic conflicts and inter-ethnic war (as occurred in Ituri). The failure of leadership in the contested and challenged state makes the state vulnerable and prone to conflict.

In chapter four, I situate the DRC in the conceptual literature of weak, failed and collapsed states and discuss the international and regional contexts of intervention in the country since independence.

Chapter Four:

State Capacity and External Intervention in the Congo under Mobutu and the Kabilas

4.1 Introduction

In chapter three, I discussed the importance of governance where the state must be able to deliver the goods of security and perform its administrative, distributive and regulatory functions (Brautigam, 1996). Nation states exist to provide a decentralized method of delivering political (public) goods to persons living within designated borders. They succeed or fail depending on their level of delivery/performance. Success or failure determines how strong or weak they are and the ways in which they can be distinguished from one another. The goods a state must deliver to prove its raison d'être include the security, social, economic, educational, medical and even the infrastructure needs of society. This is what state capacity is about. To be considered viable, a state must, in the words of Rothberg (1995), ensure security, prevent cross border invasions and loss of territory, deter domestic threats and attacks on the national order, and prevent crime and any related dangers to domestic human security. State capacity is determined by the extent to which regulatory, administrative, technical and extractive functions in the polity are successfully carried out (Brautigam in Ndulu et al, 1996, p.83). How can we characterize the Congolese State under Presidents Mobutu, Laurent Desiré Kabila and his son Joseph Kabila in light of the theory and literature? What is the relationship, if any, between state capacity and external intervention? This chapter examines state capacity in the DRC and proceeds with an analysis of the evidence in history and contemporary times, to show how the historical legitimacy argument and external intervention provide explanations for the understanding state incapacity in the DRC since 1960.

4.2   Understanding State Collapse in the Democratic Republic of Congo

Successive United Nations Mission mandates in the Congo have stated that their key objective was to enhance the Congolese state's capacities through state authority restoration. In the Political Affairs Division of the UN Mission, we have monitored and reported on mandate implementation strategies and activities on the Restoration of the Justice System, Security Sector Reform, Army Mentoring, Consolidation of the Rule of Law and more importantly the all-embracing International Stabilisation Support Strategies in the eastern Congo between 2007 and 2009 (MONUSCO reports, 2007-2009). This is out of the conviction that capacitating the Congolese state first through state authority restoration was fundamental to the reconstruction of the country. As evidenced by its history, the DRC state has not had the capacity to function since independence owing to misrule, internal conflict and external intervention.

4.2.1   State capacity in the DRC

Discussing state capacity in the Congo since independence conjures up different levels of evaluation used to explain the constantly changing character of the country through violent assassinations, rebellions, change of regimes, economic collapse, social crises, loss of control over territory, ethnic conflicts, and civil and regional wars. The extent and duration of incapacity (the entire period covered by this dissertation) is such that the Congo has never witnessed a peaceful transfer of power from one civilian government to the next. The 2006 elections, deemed to be successfully held, but not free and fair, occasioned bloody fighting between the two main contenders with several loss of lives. Jean Pierre Bemba, the MLC leader and candidate for the

coalition *Union pour la Nation* reluctantly accepted the results yet claimed systematic cheating which was rejected by the Supreme Court (The Political Affairs Division of the UN Mission in Congo, MONUC, December 2006).

State capacity can exist at various levels. A state can be strong, weak, failing, failed and collapsed, as the case may be, or a combination of the above, as happened in the Congo, that is to say, being both strong and weak as was the case in the Zaire of Mobutu from the early 1990s. Rothberg contends that state capacity is about stability and predictability. Economic indicators such as GDP, human development, transparency in governance, press freedom, functioning infrastructure, communications, and rule of law, the existence of universities and medical centres in such states point to a functioning order, according to Rothberg.

Weak states can usually be due to geographical or physical factors, constraints, internal political and social contradictions, ethnic, religious, linguistic and inter-communal tensions, even if the characteristics are not violent. They are also characterised by urban crime as people resort to other means since the state's capacity to deploy goods adequately is diminished or diminishing. Physical infrastructure networks are deteriorated, schools and hospitals show signs of neglect, especially outside the main cities. Corruption is common and the rule of law is not adhered to. Rothberg says whether states are ruled by despots, elected or not, they can be weak. They can also be consumed by internal violence and cease to deliver positive political goods to inhabitants. Such governments lose credibility and citizens begin doubting its legitimacy. With the foregoing in mind, how different is a failed state?

A failed state, according to Rothberg, refers to a situation characterised by civil wars, the inability to control peripheral regions, criminal violence, rampant corruption, dramatically declining economic growth and the loss of political legitimacy. Failed states are tense, deeply conflicted, dangerous and contested bitterly by warring factions. In failed states, ruling cadres oppress, extort and harass the majority of compatriots while privileging a narrowly based entity. Patrimonialism thrives under such situations and the authority of the state is not effective outside the urban centres and the leader's home village. Government troops deploy on the rampage, battle armed revolts led by one or more rivals, two or more insurgencies. Civil unrest is common. The rule of Mobutu and the Kabilas was more or less the same on this score (Personal Observation). The Congolese state 'permanently' failed during the period studied. It collapsed at independence during the crisis in which the Prime Minister was killed in 1961 and in 1997 when Mobutu fled into exile. I have paid attention to state failure as the long-running affliction of the Congo. When the Congolese state collapsed in 1997, it was from the weight of decades of failure.

When the joint provincial (UN-DRC) coordination committee met in December 2008 to provide strategic direction to the peace process (political process and Amani Leo military operations against rebels), it was confirmed that FARDC was the number one violator of human rights in the province as they continued to rob, kill, rape and pillage across the province with impunity. The army was part of the Congo's problem and security sector reform was a crucial requirement in ending instability (Personal observation from evaluation missions, UN Mission's South Kivu office, 2008).

Engelbert (2000) has gone beyond mere naming to investigate and explain why this situation of incapacity and weakness afflicts the post-colonial African state. His definition of state capacity

pays attention to concepts such as social capital, ethnic heterogeneity and civic culture and emphasizes the importance of homogeneity, a common cultural and historical origin, a common consciousness and civic culture as well as willingness to accept the state and its institutions.

For Engelbert, although the average African state has not collapsed, its capacity to provide order, and security, implement policies for growth, adopt and enforce laws is in doubt. In Africa, he said, there is a mismatch between state and society and institutions do not reflect the underlying systems of power. He said the weakness of most African states comes from heterogeneity which causes the adoption of policies that are inimical to growth and weakens the quality of institutions as resources are diverted towards the management of polarized social relations (ibid, p.56). Thus, the cost of maintenance of an existing order is inversely proportional to the perceived sense of legitimacy of the existing system (Quoting Douglas North 1981, p.73 in State Legitimacy and developmental capacity). This absence of unity, thanks to the state's lack of historical legitimacy, means that the strategies of power employed by domestic elites are framed by the degree of institutional congruence, or historical legitimacy of the post-colonial state. Corruption, nepotism, ethnic politics and factionalism become the features of the patrimonial stage that emerges inevitably (ibid. 103-104).[90] The height of patronage was summarized in this narrative quoted from Nzongola-Ntalaja:

> *'In late as 1996, one minister who had reason to believe that he would be dropped from the government in a coming cabinet reshuffle came up with a brilliant idea. He took the prudent step of flying to Gbadolite[91], to see the President Mobutu and his family. In his brief case he carried one million United States dollars as a gift to Bobi Ladawa, the president's wife. When the cabinet reshuffle was announced, the minister not only retained his post, he was also promoted to the rank of deputy Prime Minister' (Nzongola-Ntalaja, 2002, p.158).*

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[91] President Mobutu's birth place in the heart of the equatorial forest where he built a second presidential mansion

Engelbert sees Africa's development crisis as a crisis of state capacity which is absent because the state is contested, being unhistorical and lacking in social capital, summed as civic culture and common consciousness of the state, the common good, political awareness and reciprocal obligations and positive expectations which together ensure compliance among citizens with commonly agreed and accepted rules and policies. This relieves government of deploying resources for compliance - both forceful or through enticements (p.58).

Analysis of the evidence from my interviews, it can be argued that the Congo has on several occasions in its history vacillated between weaknesses, failure and collapse with instances during which it straddled two or three conditions at the same time. During the independence crisis of 1960-1961, the state collapsed after Lumumba's assassination from a conspiracy that involved local political and outside actors. Although independent on 30 June 1960, the new state was weak as it was immediately besieged by political crisis, leaving it without the capacity to fully assert its authority or restore constitutional order. That government collapsed in blood. Mobutu, as soon as he imposed his new government through force, was faced in his turn by a crisis of legitimacy. He embarked on misguided policies – a cultural revolution, *authenticité*, nationalization and a one party-state – to rally people to his support. , However the "revolution" turned into three decades of patronage, massive public spending and corruption resulting in economic failure and state collapse too. By the time of his overthrow by a coalition of regional states and Congolese Tutsi rebels, the Zairean state had collapsed.

Trefon (2004) best captures the collapse when he speaks of Congo's NGOisation. He said informal structures had replaced the state which had disappeared and people innovated survival strategies. Electricity, water, educational, medical and all other services had collapsed by 1994. Under Laurent Desiré Kabila, the state was weak also because it had no army, or means to perform its functions. Once Kabila came to power, he began building a personality cult compounding his problems and enemies precipitating his downfall. He failed to transform the country's situation for the better and left it weak and occupied. His misrule during his brief period has been discussed in Chapter Two.

The period under his son Joseph Kabila until 2010 was marked by a near total lack of control over many parts of the country. The economy relied on external support and the country had no control over the national boundaries. By 2010, there were at least as many as twenty or more armed groups locally known as Mayi Mayi[92] in the eastern Congo while the entire country was seething with the absence of social services, infrastructure, jobs and health services.

4.2.2   The DRC – Between failure and collapse since independence

From the evidence, the Congo was prevented from being a fully functional state throughout the period covered by this dissertation. The Congo between 1960 and 2010 had never satisfied any of

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[92] Mayi Mayi means water in Swahili, the lingua franca in the eastern Congo. During the rebellions of the 1960s, the Lumumbist/Mulelist rebels were believed to have magical powers that turned the bullets from Mobutu's forces to water. The people of the region reinvented the phenomenon in the 1990s conflicts. The Mayi Mayi were local self defence forces that emerged as a consequence of state collapse, mainly to protect communities from Rwandan or anti-government forces occupying the east of the country from 1998 to 2003. In South Kivu Province alone where I served as a Political Affairs Officer, I and colleagues have during political missions been in contact with at least more than ten armed groups as follows: *Front des Republicains Federalistes*, Mayi Mayi Yakutumba, Mayi Mayi Zabuloni, Mudundu 40, PARECO, FDLR, Mayi Mayi Shikito, Mayi Mayi Akilimali, Mayi Mayi Kifuafua, Mayi Mayi Kirikicho and Raia Mutomboki.

the criteria for state capacity in light of its troubled history. From the assassination of Lumumba to 2010 the country, for half a century, was a violent place, where citizens only knew dictatorship, repression, violence and misery in spite of being endowed with world-class minerals. Besides the usurpation of political power, the Congo experienced infrastructure collapse, lack of proper health care, an ineffective educational system, and hunger and despair for decades. Government in the Congo had never been transparent during the period and the repressive arm of the state had always stifled civil liberties and fanned inter-communal tensions pursuing whatever kept the country's ruling elites in power.

4.2.3   The challenge of state legitimacy

Legitimacy is understood in this dissertation in two contexts; the historical legitimacy of a state and the political legitimacy of a regime. Engelbert (2000) stresses the importance of social capital which is the sum total of positive inputs from society and ranges from acceptance of the regime and a fundamental belief that its policies are directed towards the common good. A society that believes in the historical legitimacy of its government abides by, supports and defends its policies. Such ideal situations occur usually, though not always, in polities with a common history, attitudes, norms, value systems, language and heritage. Homogeneity for Engelbert is an absolute advantage as the African experience of heterogeneity has sadly demonstrated.

At independence, third world states were bequeathed advanced political institutions (Alavi, 1974) and were expected to superimpose them on relatively agrarian, traditional and undeveloped

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societies.[93] The lack of historical legitimacy in post-colonial Africa is aptly explained by Jackson (1993) in his concept of quasi states. Clapham says Western industrial forms of administrative institutions 'cannot be parachuted into third world states and expected to work in the same way as they do in societies with very different values, economies and patterns of historical development'(Clapham, 1985, p.46).

The average African state was created outside the African historical and evolutionary processes, and bequeathed to a petty bourgeoisie that accepted the "instruments of sovereignty" without any thorough grasp of what was at stake. The crisis at independence had to a large extent been due to the competition for political power among the tribes/nations within the new Congo that had just recently been grouped into a new entity called the Republic.

It is to be recalled that Belgium never prepared the colony for independence as evidenced by the Van Bilsen plea for an additional thirty years of colonization to prepare the country (see preceding chapter on the Van Bilsen Plan). It created no post-war indigenous leadership prepared to take over the mantle of leadership as occurred in British colonies. Belgian rule was based on authoritarian paternalism whereby Belgian colonial officials deployed territorial administrators across the country where they directly supervised the running of the colony with the assistance of appointed local chiefs. There was no focus on the future which would have prepared the colony's people for independence. In British and French colonial Africa, it was different. In the West African British colonies, Africans, towards the end of colonial rule, served in the colony's legislative councils and practiced their trades such as law and teaching which meant they were

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[93] The modern European state system evolved in a gradual but indigenous way since Westphalia and had undergone progressive evolution through historic upheavals and revolutions.

ready to partake in politics and take over their independent countries. In *Afrique Occidentale Francaise* (French West Africa) the policy of Assimilation ensured the appointment of parliamentarians to the French National Assembly in Paris.

While the new Congolese republic yearned for leaders with vision to build a genuine Congolese nation, successive Congolese leaders focused on patronage, clientelism and corruption to survive the challenges of legitimacy and held on to power at the expense of rival political actors.

4.2.4   Illegitimate power and ethnic crises

The usurpation of power has been a contributory factor to instability in the DRC since independence. Mobutu and Laurent Desire Kabila both seized power through the barrel of a gun and therefore led illegitimate regimes *stricto senso*. Both rulers never had the full support of the population except for Kabila's brief honeymoon with his people which quickly dissipated before civil war/invasion erupted in 1998. Owing to the fragility of power and the inherent problems of cohesion, Congo's leaders always relied on their kinsmen and regions to form a protective coterie around their power base. That Mobutu recruited from his own ethnic kinsmen from Equateur to serve in the armed forces and hold key strategic positions in government was almost normal in the Congolese context as Laurent Desire Kabila and his son and successor Joseph relied on Katangans for security and support.

At demonstrated in this dissertation, ethnicity has been instrumentalised in the Congo during periods of political competition or used to disenfranchise or exclude others, in particular Tutsis or

Rwandophones. This has been the cause of crisis and rebellion and contributed to the collapse of the Mobutist state in 1997.

4.2.5   The Tutsi question in the eastern Congo and its impact on national and regional stability

The crisis of identity is integral to understanding instability in the eastern Congo. The Congolese Tutsi interest in rebellion in their own country arises partly from being rejected by their compatriots as being non-Congolese, or at least non-indigenous to the Congo (Personal Interview with Sebeneza, 2009). These perceptions have been confirmed in several reports by prominent Congolese Tutsis of South Kivu province such as Kabibi Kamanzi (2008), and General Pacifique Masunzu (2010). The sense of humiliation in being rejected as Congolese citizens explains their involvement in the wars against Kinshasa in 1996 and 1998 and their mistrust of institutions and tendency to even be supportive of Rwanda. Most Tutsi politicians did not necessarily support the Laurent Nkunda rebellion (2006-2009) but sympathised with his position that Tutsis feel rejected in Congo and took up arms to defend their birthright (Analysis of Personal Observations).

The discrimination against the Tutsi in the DRC was unfortunately given new regional interpretations as the Tutsi-Hutu conflicts in Rwanda and Burundi dictated the pace of regional events. Developments in Burundi throughout the 1970s and 1980s and in Rwanda in 1990s impacted on the situation in the eastern Congo. The 1972 Massacre of Hutus in Burundi, the ensuing wars and the 1993 murder of democratically elected Hutu President of Burundi Melchior Ndadaye by Tutsi soldiers all contributed to the adverse view of Tutsis in the region in 1994. Then came the 1990 Rwanda Patriotic Front attack on Rwanda and the subsequent seizure of power.

The seismic effects these had on the eastern Congo have already been discussed. It only suffices to reiterate that fleeing Hutu genocidaies who escaped into the Congo contributed to the resentment of the local communities in the eastern Congo towards their Tutsi neighbours.

While in the Congo from 2004 to 2010, I have frequently engaged interlocutors on the almost generalised view of Tutsis which ignores the entire regional context and history of conflict. I have made mention of the Hutu social revolution of 1959 in Rwanda and the subsequent hunting down and chasing away of Tutsis in exile. The Hutu-led government of Juvenal Habyarimana is known to have practiced ethnic identification whereby Hutus were separated from Tutsis in public and the latter exposed to measures to put them in check. After the Tutsi rebellion from Uganda seized power and the Hutu genocidaires[94] fled into the eastern Congo, they substantially added to the regional tensions,

I have been informed of the government of Congo's support to the FDLR rebels up to 2009 (Revelations in 2009 from same former child soldier cited above). He confirmed that the government in Kinshasa supplied arms to the FDLR in 2008-2009 through the Congolese Hutu militia group PARECO[95]. In January 2010, this was confirmed by another Congolese battalion commander in Mwenga in South Kivu (Personal Interview with Congolese officer in South Kivu).

The Tutsi question was the subject of historic deliberations during the Sovereign National Conference of 1991-1994, the last debate that failed and led to the Tutsi rebellion which overthrew

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[94] Those accused of genocide
[95] *Patriots Resistants Congolais*, the Resistant Congolese Patriots, a Congolese Hutu armed group that fought against the Rwandan invasion on the DRC side.

Mobutu. Despite the Nationality Law of 2006, Congolese have up to 2010 continued to label Tutsis as Rwandans and generally refuse them nationality rights in the DRC.

An understanding of this history and the Congo's location along the ethnic fault lines separating Rwandophones of Burundi, Rwanda and the Congo is integral to understanding the problem of instability and incapacity in the Congolese state. The problem of Tutsi nationality has engaged successive governments since independence and the country has seen many conflicts and wars which have, in a sustained way, sapped the energies of the country (Analysis of Personal Observations). Crises in the Congo have the potential to draw in neighbouring states such as Rwanda, Uganda and Burundi who are culturally and ethnically akin to certain groups in the eastern DRC. This was reflected in a report I prepared after attending a high-level meeting of Governors of South Kivu (the Congo) and Rusizi (Rwanda) provinces in 2008. The meeting was held as part of the joint verification mechanism on the repatriation of Rwandan FDLR rebels in the eastern Congo (Participant Observations).

4.3   External Intervention in the Congo since independence

African countries are appendages to the international capitalist system whose key actors and institutions maintain their stranglehold on them. The Congo is arguably a captured state, that is to say, one whose economy and institutions are subordinated by, and dictated to, in their operations as appendages. On the extent of the interest of external powers, the crisis of 1960-1961 is instructive. The initial turning point, when it all started, was the period in European history when the Congo was discovered to be rich in rubber and ivory, highly valued in Europe in the late 19th

Century (Hochschild, 2007)[96]. The scramble for the Congo and subsequent Belgian colonization of the Congo laid the foundations of control and dependence, making the country a supplier of vital raw materials to Belgium and the wider international market.

Towards independence, the global capitalist powers were jittery about losing control, frightened by Patrice Lumumba's nationalism. Intervening to preserve their interests, Britain, France and Apartheid South Africa gave active support to Katangan secession as their ruling classes shared the Belgians' fear of Lumumba's commitment to genuine independence and radical social change. They conspired to remove him from power. Among other issues of thematic relevance, Professor Jean Tshonda Omasombo of the Royal Museum of Central Africa and the only African member of the 2001 Belgium-sanctioned inquiry into the exact circumstances of Lumumba's assassination and the role played by Belgian political leaders in this event, a foremost Congo expert on the Lumumba inquest, believes on the basis of evidence that the death of Lumumba was planned and executed by the United States, Belgium and supported by Katangan business interests and his Congolese political rivals (Personal Interview with Omasombo, 2009). Lumumba's fall was the result of a vast conspiracy involving the US and Belgium on the one hand and his Congolese political enemies like Kasavubu Tshombe and Mobutu.

I have already discussed the rebellions and invasions during Mobutu's reign which were always defeated or foiled by United States, Belgian and French support.

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[96] Hochscild's King Leopold's Ghost provides a detailed explanation of the killings for rubber and how this decimated a large percentage of the Congolese population in the early 20th century.

Other forms of external intervention were the regional states' actions in the Congo in 1997, 1998 and between 1998 and 2003. Why did regional states invade and fight in the Congo? They did for other reasons than the mineral resources lure. Uganda, Rwanda, Angola were strengthening their power, securing their borders and profiting from the power vacuum in the eastern Congo left by the collapsed Congolese state. I reiterate that mineral resources were not the main reason for external intervention in the Congo from 1996 to 2003. The cold realities of power politics and national interest dictated the actions of intervening states in Congo are noteworthy. Angola's fears of a weak Congo accessible to UNITA which was allied to Mobutu (Turner, 2007) and Uganda and Rwanda's determination to both secure their borders against rebel groups such as The Lord's Resistance Army, the ADF NALU and the FDLR and to punish Kabila for betraying them are useful insights to consider when discussing external intervention in the Congo.

Additionally, realists believe the Congolese political and security vacuum had to be filled in adherence to the laws of nature which dictate that the vacuum left by the collapsed state be filled. (Turner 2007, p8) This rational actor theory (subaltern realism to quote Mohammed Ayoob) is worthy of note. It sees intervening states in the DRC as doing what nations have done throughout history under the circumstances occasioned by leadership failure and state collapse.

4.4.   The Impact of external intervention

The impact of external intervention in the Congo since independence has been negative. To many Congolese people, it altered the course of their history with the imposition of the neo-colonial state after Lumumba's death. The overthrow of Lumumba, the suppression of the Kwilu and eastern rebellions, the foiling of the Shaba invasions were all actions that, in the calculations of Belgium,

the United States and France, protected their own ideological interests, stemmed the spread of communism and kept the country's resources safe for their companies and investments. It may however never be known in what direction Lumumba may have taken Zaire had he lived.

As a result of external intervention, neo-colonial Zaire became a "captured" state whose leadership's interests coincided with those of Western powers. The result was the crisis of political legitimacy that had undermined the country's stability for decades. The Congo continued to suffer the impact of external intervention until 2010. External intervention destabilized the region and Africa as a whole. Zaire under Mobutu played a key role in undermining progressive regimes in Angola, Congo-Brazzaville and the then Front Line states of Southern Africa. However, through external intervention in 1997, the Mobutist state was overthrown. I consider this invasion as the only positive external intervention the country has known since independence (Analysis from Personal Interviews and Participant Observation).

4.5   Conclusion

In this chapter, I discussed state capacity and state collapse in the DRC and analysed the characteristics which, from the historical evidence, situates the DRC as having consistently been a weak and failed state that collapsed twice at periods identified in the research. I demonstrated how accumulated power and a mono-ethnic praetorian guard was the sole guarantee for security under both Mobutu and Joseph Kabila, a situation linked to the problem of absence of national cohesion. I then discussed internal instability in the country which is rich in mineral resources, competition for political and economic power and the manipulation of ethnicity in the process,

analyzing the citizenship crisis of the eastern Congo and its impact. To conclude this chapter, I state that the Congo lacks capacity as a result of its historic inheritance. State collapse in the DRC is explained by a) extreme weakness from the lack of legitimacy and constant challenges to the state; b) exhaustion from the combined financial and political cost of strategies to ensure its continued existence; and c) a lack of autonomy as a result of foreign intervention, which is itself a function of the vacuum created by a lack of security and a lack of state viability.

In the next chapter, I examine state failure from the perspective of dictatorship and resistance to democracy by Mobutu. I consider the role played by civil society in the struggle for multi-party democracy during Mobutu's dictatorial rule paying particular attention to the Catholic Church, students, political parties/actors and the foreign-based opposition. I examined the internal and external factors that militated against democracy in Zaire and, in particular, the causes of the collapse of the Sovereign National Conference for Democracy setting the stage for violent rebellion in 1997.

Chapter Five

The Role of Civil Society and Outside Forces in the Struggle for Stability and Democracy[97]

5.1   Introduction

Civil society in Africa played key roles in the struggle for multiparty democracy in the 1980s and early 1990s. The 1980s were a period of military rule and one-party dictatorships and mass collective action was *en vogue* in such countries as Senegal, Kenya, Benin, Mali and even the Congo where political parties, the Catholic Church and students were foremost in the struggle. In this chapter, I discuss the role played by civil society in the struggle for democracy in the Democratic Republic of Congo since 1960 with an emphasis on the period from 1960 to 1997.[98] Why did the struggle for multi-party democracy fail in 1994? I demonstrate in this chapter that while Mobutu's determination to cling on to power was instrumental, failure by the pro-democracy movement was a consequence of internal political and social contradictions that are best explained by the artificial nature of the state in the DRC. A lack of unity, ambition and greed all influenced by the fragile nature of the post-colonial state largely account for the failure of the movement during the period in question.

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[97] Civil society in South and North Kivu provinces were known to have produced some of the most vociferous activists against the regimes of President Mobutu. Many of the activists became MPs, party leaders, Governors, ministers and opinion leaders. South Kivu civil society activists were well represented at the Sun City talks in South Africa to end the regional war and their role was pivotal in the resistance against the Ugandan and Rwandan occupation of the eastern Congo between 1998 and 2003. The renowned investigative journalist Floribert Chebeya, who was murdered in 2010, hailed from South Kivu. Between 2006 and 2010, I had a series of meetings, and attended seminars with key civil society members of the province and this chapter on the struggle for democracy by civil society in the Congo is based upon my experience of exchanges with them.

[98] I mainly focus on the period of Mobutu's rule because more than 80% of the time spent by civil society fighting for democracy was during the period (pre1960- to 1997).

5.2   Civil Society - A historical summary

Although people who lived in the territory today called the Democratic Republic of Congo have organized themselves to resist foreign encroachment and domination since 1895, what is referred to as civil society truly emerged in the Congo in the late 1950s. Nzongola-Ntalaja (2002, p.61) refers to it as the anti-colonial resistance which he distinguishes from the pro-democracy movement which took root after 1950. The impetus followed the end of the Second World War and the rise of the then two superpowers (the United States and the Soviet Union) opposed to colonial rule. At a time of increased agitations across Africa, civil society emerged in the Congo during the final years of colonial rule led by evolués, tribal associations and trade unions[99]. Pressure groups emerged to demand improvements in the colonial system. From the mid-1950s, the *Association des Bakongos* (ABAKO), initially an ethnic Kongo pressure group in Kinshasa, and *Conscience Africaine[100]*, the discussion group of moderate catholic intellectuals, were the only groups known in the Belgian colony before 1956. Their world view was narrow and their objectives were limited to improvements in the colonial system. It was after Patrice Lumumba's radical activism brought together supporters from varied walks of life and society that the agitations for change became radicalised and sped up the independence struggle (Personal Interview with Omasombo, 2012).

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[99] The evolués were the Africans with colonial and Western education who served the colonial administration as clerks or worked in other professions. Their status was a little higher than their illiterate kinsmen in the country. Nzongola-Ntalaja (2002) writing on the Congolese democracy movement in a historical context mentions Kimbanguist sect, evolues, lumpen proletariats, the Catholic intellectuals grouped together in *Conscience Africaine*, ABAKO, and later the other parties such as Lumumba's MNC, Tshombe's CONAKAT and Jason Sendwe's BALUBAKAT (above) in and around Kinshasa,as the earliest groups that constituted civil society before independence.
[100] Catholic intellectuals brought up by missionaries in the colonial system, but who discussed current issues around the paper carrying its name in Kinshasa (then Leopoldville)

Patrice Lumumba was born in Sankuru in north Kasai in 1925. After his basic education, Catholic missionary school and colonial postal services training, he stood out among the group of evolués by the standards of the time. Dynamic and speaking French and all the key languages of the Congo (Swahili, Tshiluba, Lingala) and his native Tetela, Lumumba became a star capable of conversing with all across the country, and following his study tour to Belgium in 1955, he began showing the leadership potential the country yearned for at the time (ibid). He strengthened his pan-African beliefs after attending the All-Africa People's Conference in Nkrumah's Ghana in 1958, the year he was arrested for anti-colonial disturbances. He was released to attend the round table conference on independence in Belgium where he arrived as a hero and distinguished leader of the pro-independence struggle. He won the 1959 elections and became the first Prime Minister of the Congo on 30 June 1960 (Nzongola-Ntalaja, 2002).

Nzongola-Ntalaja (2002) dates the birth of the Congolese democracy movement to 1956 when *Conscience Africaine* members including Joseph Malula, Joseph Ileo and Joseph Ngalula rejected the Van Bilsen Plan[101] of that year seeking to make independence a gradual affair. In 1956, the members of the *Conscience Africaine* released a document entitled *Manifeste de la Conscience Africaine*[102] demanding the right of Africans to self-rule, although they accepted the Van Bilsen Plan as a 'good starting point', according to Nzongola-Ntalaja (2002). Joseph Malula trained as a priest and was to later become the second African to attain the rank of a Roman Catholic Cardinal

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[101] The Van Bilson Plan, from the name of the Belgian academic from the Colonial University of Antwerp, was published in 1956 and recommended a thirty-year plan to prepare the colony of the Belgian Congo for independence. It was known as the thirty-year plan for the political emancipation of Belgian Africa and was a bombshell among Africans in evolué circles. The Van Bilsen report set the context and pace of agitations which continued into independence in 1960.

[102] African Consciousness Manifesto

in the 20th century (He was later active in the pro-democracy struggle in Kinshasa in the 1970s and 1980s). Joseph Illeo was a member of the group and later joined the *Mouvement National Congolais* of Patrice Lumumba. He left Lumumba for Albert Kalonji's MNC-Kalonji which the latter formed when he parted with Lumumba in 1959. Joseph Malula was among the original drafters of the manifesto.

ABAKO, the BaKongo tribal Assiociation discussed earlier, was formed in 1950 and soon after led by Joseph Kasavubu[103] who was to become the Congo's first ceremonial president in 1960. ABAKO was the first pressure activist group whose actions resembled a civil society organization. It had its support base from various social groups in Kinshasa and Bas Kongo province. With a solid political base among members of the Kongo ethnic group in these areas, ABAKO through its actions set the pace for what later became the Congolese agitations for independence (Nzongola-Ntalaja, 2002).

In 1958 other new parties, cum pressure groups, emerged to broaden the space of political expression. It was from this impetus that the *Mouvement National Congolais* (MNC) emerged in 1958 under Patrice Lumumba. Other parties that emerged were the *Centre de Regroupment Afaricain* (CEREA) led by Anicet Kashamula in the Kivus, the *Balubas of Katanga* (BALUBAKAT) party formed by Jason Sendwe in north Katanga and the *Confederation des Nationalistes Katangais* (CONAKAT) created by Moise Tshombe in South Katanga. Of all the parties however, only Lumumba's MNC was nationalist in outlook with nation-wide support. The rest were regionally-based parties (Personal Interview with Omasombo, 2012).

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[103] Joseph Kasavubu was the Democratic Republic of Congo's first President in Prime Minister Patrice Lumumba's government at independence. He precipitated the independence crisis of 1960 by dismissing Lumumba.

Owing to the nature and fragility of the emerging state, these groupings became conflicting ethnic and regional organisations and soon undermined what should otherwise have been the basis of an historic, all-encompassing, national consciousness and liberation movement. The failure to project a united front was among the earliest indicators of the crises the country would face owing to the country's lack of strong historical foundations. This point was confirmed in numerous exchanges prior to and during my fieldwork with the South Kivu Civil Society Coordination some of whose members gave their views on the Sovereign National Conference which failed to usher in a new democratic dispensation for Zaire (Analysis of Personal Interviews and Participant Observation). I had several meetings with civil society groupings as part of the UN mandate of strengthening the entity to support governance in a post-transition atmosphere. These views expressed above and in this chapter came from successive personal interviews conducted in South Kivu (Kaningini (2009), Mupira (2008), Ebenezer (2009) and Biringingwa (2009). Civil Society activists Didace Kaningini and Ignace Mupira later became Vice Governors of South Kivu Province; Enoch Ebenezer served in the transitional parliament after the 1998-2003 war and Cyprien Biringingwa was elected President of the Civil Society Coordination until 2010.

After the independence crisis of the 1960s and the pro-Lumumba rebellions between 1964 and 1968, the face of civil society in the Congo was of students of the Louvanium University in Kinshasa, the all influential Congolese Catholic Church,[104] political parties, and actors who

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[104] The most influential institution in the DRC is the Catholic Church. More than 90% of Congolese self-identify as Christians and, of these, 50% are Roman Catholics. The Congo has the second largest congregation of Christians in Africa (Nigeria being the first) and has influenced the early emergence of what is today modern Nigeria through missionaries who brought western education and early social transformation. Before and after independence, the church played an important role as the sanctuary of hope and inspiration and has earned its legitimacy during colonial rule and after 1960 as being closest to the people who remain fervently attached to the church. Christianity came to the Congo region through the Kongo Empire and the Portuguese who converted a Kongo King in the early

supported Lumumba as the legitimate leader of the Congo. These included Kashamura's CEREA, Gizenga *Parti Solidarité Africain*[105] and Sendwe's BALUBAKAT. After 1970 when Mobutu's one-party state and his Cultural Revolution peaked in their influence over society, the church, students and political actors began to organize and question the activities of the state (Kasongo, 1998). These groups saw in the regime a determination to cling on to power and to impose its will on society

The church is historically remembered for its pastoral letters[106] and criticism of Mobutu's regime which continued up to 1991 when the Sovereign National Conference (SNC) was convened (see below). The 1990 SNC and its aftermath are considered historic for civil society for both the impact they had on its image and the way it set in motion the series of events leading to the inevitable collapse of the dictatorial Mobutu regime in 1997 (Analysis of Personal Interviews).

The students' struggle within civil society will also be given detailed attention below. The historic turning point in their struggle was the 1969 massacre of students by Mobutu's forces because they demanded democracy and improvements in their living conditions in the universities (Lemarchand 2009, Nzongola-Ntalaja 2002, and Kasongo 1998). Opposition to Mobutu's rule was also by political exiles whose role will be discussed in detail.

16th Century. Today, the church is the institution with the strongest moral force and plays a key role in its social and even political life, when necessary (Kasongo, 1998)

[105] African Solidarity Party

[106] The compilation of all the pastoral letters in favour of democracy addressed to Mobutu openly was done by Abbe Pierre Gaise of the Catholic University of Uele in Isiro in Oriental Province. After exchanges with him in 2005, I was provided with a copy.

5.3 The Catholic Church and the struggle for democracy in Zaire

What kind of protest agent has the church been? What were the characteristics of the protest and its ideology? Kasongo (1998) identifies two schools of thought about the church's role in Zaire's history, first as a facilitator of colonialism and then as an opportunistic member of the resistance forces to Mobutu's rule. As a part of the Belgian colonial empire, he says the Church exploited Africans by destroying their cultural basis, forcing them to accept Christianity, pacifying them to pave the way for commercial and social exploitative practices that were actualized by the state and corporations (p.75). He went further to say that the church's message of Christianization was another expression for the westernization of Africans. After independence and following its gradual Africanisation, the church struggled briefly to preserve its role and influence, both as a savior and educator of western ideas and culture. As its influence as an arm of colonialism diminished, its post-independence role turned it in to a people's institution combating social injustice and preaching equality, respect for human rights and values. This enhanced its voice as a respected institution. Kasongo's criticism of the church is that it preached social justice only *after* independence (ibid).

Following the institutionalization of one-party rule through the MPR in 1970 and the suppression of all dissent, the Catholic Church in Zaire remained the only voice of hope in the country. As was to be expected, the first sign of tensions between Mobutu and the Catholic Church emerged. Implementing his *authetencité* revolution (see chapter two), Mobutu banned Christian names considered as foreign and decreed that young Christian missionaries take part in MPR youth

activities. Led by Cardinal Joseph Malula, and inspired by the Catholic Theology of Liberation,[107] Catholic bishops became the powerful voice of dissent against the Mobutu regime (Personal Interviews with Abbe Pierre Gaise, Isiro, Oriental Province, DRC, 2005). The Catholic Church, according to Father Gaise, released several pastoral letters on the condition that Zairean society under Mobutu, would reflect a quiet but dignified resistance.[108]

During the Authenticity Revolution, Mobutu replaced the image of Jesus in the church with his own and the Virgin Mary with his mother's, Mama Yemo. Christian names were dropped for African names, Christian holidays suppressed and the John XXIII Episcopal Seminary, renowned as a training ground for future Catholic priests, closed down (Kasongo 1998, p. 75).[109] *Authenticité* was the official ideology of the state under Mobutu from 1967 to 1990. Mobutu declared *Authenticité* as Zaire's national ideology in 1967. The essence of it was the return to authentic African values (*retour à l'authenticité*) which was mainly symbolised by a non-European dress code. It was an effort to forge a national identity that could take precedence over regionalism and tribalism while coping with the exigencies of modernization.

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[107] The Catholic Theology of Liberation was born in Latin America in the 1960s and inspired by the revolutionary struggle in defence of the poor in society in Argentina, Brazil and Nicaragua. It was also inspired by the Vatican II (1962-1965) which introduced doctrinal changes to the faith as well as defined what the church's relation should be with the modern world. After Vatican II, liberation theology spread in Latin America.

[108] Abbe Gaise handed me a volume on the activities of the Catholic Church in Zaire since the Vatican II. Copies of some of the pastoral letters are in Appendix 9.

[109] More than 90% of Congolese people are Christians and half of them are of the Roman Catholic sect of Christianity. The Democratic Republic of Congo hosts Africa's largest numbers of Christians in any one country. This makes the Catholic Church influential and respected by the Vatican. The Seminary has since the 1960s trained several priests who later became Bishops and Cardinals. The Christian faith is well implanted across the country with parishes everywhere from the equatorial forests to the shores of Lakes Tanganyika and Kivu. Their involvement in the pro-democracy struggle, albeit in a dignified way, was difficult for Mobutu to tolerate although he carefully avoided clashing with the Church.

Despite the clergy's initial support for authenticity, the first pastoral letter by Monsignor Bakole of Kananga in Kasai West Province cautioned against 'idolizing humans' which in itself was revolutionary in the civil society struggle (ibid, p.76). This was followed by another petition for respect for the dignity of human life, signed by 47 Bishops under the leadership of the Council of Bishops Chairman Monsignor Lusambo Ndamwize.[110] Up to the end of the 1970s, protests were mainly doctrinal. In the 1980s, with economic and social conditions worsening, the Church became more political and radical. It began to raise questions about the absolutist nature of the Mobutu regime (Analysis of Personal Interviews and documents). In numerous pastoral letters, the *mal Zairois* or Zaire's condition was the theme with the lack of democracy and human rights at the centre of the discourse. In the course of my research, I have had several meetings with political and social actors (2009-2010) including Archbishop Xavier Maroy of Bukavu who believed that the Church remained a credible source of inspiration for Congolese people and draws its power from the people's confidence (Personal Interviews held between 2009-2010)

In early 1990, with the increased voices of popular movements, Catholic bishops wrote one of the strongest letters ever to Mobutu condemning the socio-economic situation in Zaire and demanding improvements. According to Kasongo, when the Sovereign National Conference convened in 1991, people turned to the Catholic Church for leadership. Despite this, the National Conference under the leadership of Monsignor Monsengwo did not successfully push through the aspirations of the Congolese people. It tried to satisfy pro-democracy forces and Mobutu at the same time and it was this careful walk that was much criticized (Lemarchand, 2009) ending in the loss of what

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[110] Leon Lesambo Ndamwiswe was the Bishop of Inongo in Bandundu and the National Episcopal Conference of Congo elected him to serve the body from 1970 to 1975 as its chairman. By virtue of this position, he was influential in petition by the 47 Bishops calling on Mobutu to respect the dignity of human life.

many considered an historic opportunity to midwife democratic change in Zaire (Personal Interviews with Stearns, 2012, Omasombo 2012).

By the time Mobutu succeeded in breaking up the Sovereign National Conference in 1994, the Church, although still with a sense of moral authority in the country, had lost some of its influence due to its disinclination to face Mobutu head on. According to Nzongola-Ntalaja (2002) who attended the conference as a delegate, the conference faced numerous obstacles in August 1992, one year after it commenced its deliberations. At one point, it arrived at a compromise to appoint the historic opposition leader Tshisekedi Prime Minister to lead a two-year transition. In a series of frustrations and counter frustrations, delegates criticized the Chairman Monsignor Monsengwo for disallowing the presentation of a commission report on assassinations by Mobutu's regime while his agents infiltrated the conference to frustrate Etienne Tshisekedi's assumption of office as Prime Minister. As if this was not enough, on the night of 12 to 13 August, agents supporting the state firebombed the UDPS headquarters to provoke his militants into a fight to be used as an excuse to declare a state of emergency and close down the conference. This ploy failed and a vote was allowed in which Tsisekedi won 71% of the votes (ibid). Humiliated by popular will, Mobutu directly ordered Monsignor Monsengwo to close down the nationally popular conference which he did on 6 December 1992. According to former South Kivu Governor, police soon descended on the venue chasing delegates away in various directions (Didace Kaningini 2009).

Monsignor Monsengwo, now Cardinal Monsengwo, was elected to lead the Sovereign National Conference for three reasons. First, the Church has the highest following and commands the unquestioned loyalty of 90% of the entire population who are Christians (of these 50% are

Catholics). Second, the church was implicated, with dignity, in the pro-democracy struggle and was aware of the demands of society on the Mobutu government. Given its leadership and image, it was believed it could confer legitimacy to any outcomes. Third, most agreed that the Church would be neutral (Personal Interview with Father Pierre Gaise, Isiro, Oriental Province, 2004). Monsignor Monsengwo was the Catholic Archbishop of Kisangani when named by President Mobutu to preside over the Sovereign National Conference in 1991, a time of agitation for democracy when Bishops had successfully led through national conferences in Brazzaville and Benin.

While I served in Kisangani in 2005 where Monsengwo led the church for years, the mood had still not changed against the Catholic prelate, albeit tempered by the respect for his person and the institution he led (Personal Interviews with Professor Otemikongo Mandefu and Jean Pierre Makakaro respectively Coordinator and Deputy Coordinator of the National Elections Commission in Oriental Province, 2005).

5.4   The role of the political opposition

According to Afoaku (1999), the political opposition to Mobutu that matured in the 1990s at the height of the pro-democracy struggle in Zaire and across Africa lacked vision and responsibility which were factors that contributed to the collapse of the Sovereign National Conference. The Conference (1991-1993) was Zaire's highest level of civil society engagement in the struggle for democracy. The process that led to its collapse partly reflected a serious failure of leadership, a key theme in this study.

In April 1990, Zaire's dictator, Mobutu Sese Seko addressed the nation and informed them of the return to multi-party democracy. The Sovereign National Conference began constituted by 2000 delegates from the internal opposition, political exiles and actors as well as representatives of the Mobutu regime. Prior to 1990, Zairean civil society had relentlessly engaged the Mobutu regime which had been entrenched due to support during the Cold War from the United States, Belgium and France as well as Britain and Apartheid South Africa. In 1980, 13 ruling MPR deputies left the government and by 1982 had created in the *Union pour la Democracy and Progres Social*, UDPS[111], which had since been led by Etienne Tshisekedi, a former Justice Minister and insider of Mobutu's entourage (Kisangani, 2012). Given its pedigree in the struggle for multiparty democracy, it was not surprising that that the UDPS was recognized at the Sovereign National Conference and Tshisekedi given a key role in the deliberations. Etienne Tshisekedi is widely considered as the historic icon of the struggle for democracy against Mobutu. After he and the 12 other MPs wrote a 50-page letter to Mobutu demanding political reforms in 1980, Etienne Tshisekedi emerged as the leader of the democracy movement (Kasongo, 1998; Lemarchand, 2009). In the 1980s, he led several marches and confrontations with security forces and at the height of Mobutu's power from the early 1980s, according to Nzongola-Ntalaja (2002), Tshisekedi's image as the first opponent of the regime increased. By the time of Mobutu's overthrow, Tshisekedi's title as the leading opposition figure was undisputed in Zaire.

On why the Sovereign National Conference collapsed in 1993, Afoaku (1999) provides an in-depth account of the role played by the political opposition. In an apt critique, he says that Zaire's

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[111] Union for Democracy and Social Progress

political opposition, through its failures, proved the Cold War policy that a strong man (i.e. Mobutu) was the key to stability and unity in a multi-ethnic and divided country such as Zaire. Once the conference opened, it was faced with the task of defining its mandate, selecting its membership and establishing a new national agenda. The opposition failed to take full advantage of the post-Cold War situation and the growing international isolation of the Mobutu regime to effectively strip him of his power.

When the various political parties and broader civil society members emerged under the banner of the Sacred Union (an amalgam of opposition parties and social actors) to push for eventual democratic change, divisions emerged leading to the lack of a unified programme. According to the Biringingwa, (Personal Interview, 2010), the *Union Sacrée[112]* was a house of strange political bedfellows and contradictions. They were preoccupied, not with Mobutu, but with securing political appointments under the auspisces of the decadent regime while at the same time beckoning the global community to support their cause (Kasongo, 1998).

After the merging of the High Council of the Republic with Mobutu's National Assembly to create the so-called *Haut Conseil de la Republique – Parlement de Transition* (Parliament of the Transition),[113] Mobutu moved on to seek to control it. For the opposition and civil society, it was a period of hope amid crisis.

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[112] Sacred Union
[113] The High Council of the Republic – Parliament of the Transition was established by the 2000 delegates attending the historic national conference. They invested themselves with the authority to elect a Prime Minister as well as the instrument of democratic transition. Delegates came from all the 11 regions of the country and included political exiles, party leaders, civil society, the political opposition, intellectuals, trade unions and students.

According to Afoaku, the pattern of rivalry and political opportunism which developed in the Sacred Union did not reflect the basic values of civil society that are essential to the institution of democracy. Suffice it also to state that two of the most important actors, Etienne Tshisekedi and Nguz Karl-I-Bond, carried historical baggage that undermined confidence in their actions (Personal Observations). Tshisekedi was a historic figure of contradictions. As Justice Minister in the 1960s, he drafted the One-Party State Constitution (see appendix 11) as Chairman of the MPR's political division. Allowed to play a key role at the conference given his historic opposition to Mobutu, he disappointed many by not hesitating to accept appointments within the framework of a Mobutu controlled transitional government. According to Nzongola-Ntalaja (2002) who was a delegate, he was dismissed by Mobutu in 1991, adding to the tensions within the conference, but his credibility was already undermined. In 1995 Tshisekedi voted with Mobutists to hold presidential and parliamentary elections in July 1997 and to dismiss Monsignor Monsengwo as Chairman of the HCR-PT. Underlying this was a thirst for power by Tshisekedi as he had thought the arrangement would endear him to Mobutists who would support his quest for the Prime Ministership (Personal Observations and analysis of Personal Interviews).

Another actor, Nguz Karl-I-Bond shared a similar background as Mobutu's. He was the leader of the Katanga-based *Unions des Federalistes et Republicaines Independants* (UFERI) and Tsisekedi's main rival in the *Union Sacree*. The Union of Federalists and Independent Republicans, UFERI, was a Katangan political party founded by Nguz Karl-I-Bond after the 1990 unbanning of political parties in Zaire. UFERI was a truly chauvinistic party which appealed for the ethnic cleansing of Katanga to rid the region of Lubas from Kasai. The party was during Nguz's term a Mobutu subterfuge to break up the opposition (Kasongo, 1998).

After a relationship with Moise Tshombe during the Katangan secession of the 1960s, Nguz joined Mobutu's government becoming Foreign Minister from 1972 to 1974, and in 1977 and Prime Minister in 1979. Exiled between 1981 and 1985, he published a book on Mobutu's dictatorial tendencies calling him the *incarnation of evil* only to accept a presidential pardon and an ambassadorial post to Washington in 1986, becoming Foreign Minister and Prime Minister subsequently (Nzongola-Ntalaja, 2002). During the SNC when Mobutu dismissed Tshisekedi against the wishes of the majority of those attending the conference in the *Union Sacree*, Nguz accepted to replace him when contacted by Mobutu. Nguz was thus dismissed from the *Union Sacree*. Mobutu named him Minister of State and Defence Minister after which he retaliated by suspending (though this would not be definitive) the SNC with Mobutu's blessing in 1992 (ibid). Throughout my exchanges with civil society leaders in the eastern Congo, the mistrust among politicians has always been at the core of their arguments (Personal Observation). Nzongola-Ntalaja referred to Nguz's susceptibility to Mobutu's manipulative actions as unadulterated opportunism.

By 1994, ten parties had left the *Union Sacree*. Tensions between Tshisekedi and Nguz coming from two key geopolitical regions led to ethnic clashes and state supported attacks by Nguz's Lunda kinsmen against Tshisekedi's fellow Lubas in Katanga resulting in massacres and mass expulsions (Lemarchand, 2009). This was exactly what Mobutu intended and had by 1995 broken the back of the opposition with money, appointments and coercion. At one point, they started fighting for appointments from Mobutu who delivered as long as necessary to destroy hope in democracy in Zaire (Personal Observation). As a reflection of the divisions among the Congolese

political class and the manner in which Mobutu played them against one another, he appointed 10 transitional governments between 1991 and 1997! Public confidence was at its lowest when the Sacred Union's Leon Kengo wa Dondo, leader of a moderate faction of the opposition, the Union for the Republic and Democracy (*Union pour la Republique el la Democratie*, URD), was appointed transitional Prime Minister by Mobutu. Kengo, of a Polish father and a Tutsi (Ruanda-Urundi) mother and was a strong ally of Mobutu having grown up in Equateur Province where they both hailed from. He was a very close to Mobutu with whom they discussed state matters in confidence for several years. He served in several capacities in Justice, Budget, parastatals and three times as Prime Minister (1982-1986, 1988-1990 and in 1994). He was Mobutu's longest serving and most trusted Prime Minister. When he formed the Union for the Republic and Democracy after 1990, many observers believed he would always end up rejoining Mobutu, which he did in 1994 (Personal and Participant Observations).

Despite attempts by radical elements within the Sacred Union to challenge Kengo's appointment, the opposition had become too weak to fend off the latest blow to its legitimacy, with a growing number of its leaders scrambling for appointments in the central government (Personal Observations). During a seminar I moderated in 2009 on the role of civil society (students) in the struggle for democracy in the Democratic Republic of Congo, the students from the Bukavu's state university (*Universite Officielle de Bukavu*) agreed amongst themselves that the pro-democracy movement since independence had been afflicted by political ambition, greed and lack of leadership (Participant Observations, 2009).

The situation deteriorated further as three Tshisekedi ministers joined Kengo's cabinet, while the fourth was helping to draft Kengo's speeches (Kasongo, 1998). The *Parti Democrate et Social Chretien* split when one of its leaders, Gustave Malumba Mbangula, accepted the post of Deputy Prime Minister / Interior Minister. Both Kengo and Mbangula were from Equateur and his abandonment of Tshisekedi a Kasai politician speaks of opportunism as well as regionalism and ethnicity (Personal Observation). The Democratic Christian Party was formed after 1990 when political party activity was unbanned in Zaire. Jose Endundo and Gustave Malumba Mbangula were its leaders. The party split during the SNC when Mbangula left to serve in Kengo's cabinet (Nzongola-Ntalaja, 2002).

Most deputies from the civil society ended their eleven-week parliamentary boycott, and their former leader, Bahati Lukwebo, accepted the Budget Ministry. By the time Mobutu dispersed the conference, only the trade unions stuck with the radical opposition. By late 1996, the Sacred Union was clearly in disarray and the struggle for democracy had lost momentum. Without the rebel invasion led by Laurent Desire Kabila supported by Rwanda and Uganda, Mobutu might not have left power in 1997 (Personal Observation).

5.5   The student struggle for democracy

The student movement in the struggle for democracy is as old as the Congolese University. The first Catholic University of Louvanium (now the University of Kinsahsa) was established in 1954.

Lubumbashi University was established in 1956 and Kisangani University in 1963. Thus, two of Congo's first three universities predated independence. On the university campuses, students have always been interested in pursuing issues that directly affect their welfare which are never completely disconnected from the struggle for the sound management of the country. In the 1960s, students demanded the democratization of governance in all universities and technical institutes, the decolonisation and Africanisation of the curriculum and better living conditions and studying conditions for all students (Nzongola-Ntalaja 2002, p.174).

The first major student strike was at the University of Kinshasa in 1964. It was a struggle between the students' democratic ideal and the reported authoritarianism of the establishment and the students accused the expatriate staff of acting in a patronizing, neocolonialist and racist manner. When Mobutu attempted to revamp the education system, the *Union Generale des Etudiants du Congo* (UGEC) and the *Association Generale des Etudiants de Louvanium*,[114] initially formed after independence[115] to advance the welfare of students, reacted. The students wanted to distance themselves from Mobutu and his political control in an era of fervent African nationalism, and only three years after Patrice Lumumba's murder. Relations soured after Mobutu created the MPR and began to exert total control over society. Mobutu's attempts to rewrite history by putting himself on the side of Patrice Lumumba provoked an angry backlash from students. For instance, on the occasion of US Vice President Hubert Humphrey's visit to Kinshasa in 1964, Mobutu chose 4 January, Heroes Day in Zaire, to visit Patrice Lumumba's monument in the capital. Louvanium students of UGEC organized a demonstration against "the profanation" of the monument by those who killed Lumumba (Personal Interview with Omasombo, 2012). The demonstration was deeply

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[114] General Union of CONGOLESE Students and General Association of Louvanium University Students
[115] Exact date is not known

humiliating for Mobutu as it was in the presence of the US delegation. In February 1968, UGEC President Nkanza Dolumingu and other student leaders were arrested and student activism was banned by the MPR. Up to the 1969 massacre of students, Mobutu did not succeed in containing student dissent. He later opted for cooptation. Mobutu was always successful in co-opting his adversaries. As early as this time, some student leaders were won over with appointments. Student leader Dolumingu was banished for 12 years to his place of origin and later, after having been crushed morally, joined Mobutu's government. (Nzongola-Ntalaja, p.177). Others were UGEC interim leader from 1962 and 1963, Joseph N'singa Udjuu, who served in top MPR positions as well as Prime Minister Henri Takizala, UGEC's first President who served in cabinet and was also a Governor (Kasongo, 1998). A third was Gerard Kamanda wa Kamanda who served as international affairs secretary from 1963 to 1966 and 30 years later was in Mobutu's government as Foreign Minister (ibid).

After banning student union activities, the students were convinced of Mobutu's determination to consolidate state power. During the university crises of 1967 and 1968, over fees and the registration of the student organization, the government sided with the administration. Amid the confusion, students suspected that the administration wanted to use the strikes to expel student leaders. On 4 June 1969, students gathered to peacefully demonstrate in favour of social and academic improvements. They broke through police blockades and came face to face with the army who first used tear gas, then opened fire killing 60 students (Lemarchand, 2009).

The effect of this massacre silenced dissent leaving the field of protest quiet until 1990 when the Cold War ended and multiparty politics re-emerged. While the voice of students, the church and

civil society was crucial to continuing protests, it was only the might of neighbouring armies that could end Mobutu's rule, and this they did. This would not, however, have been possible without the historical momentum that had already been created.

5.6   The role of external forces

External forces played a crucial role in the struggle for democracy in Zaire and the eventual removal of Mobutu from power. From the invasions from Angola in 1977 and 1978 by the *Front pour la Liberation Nationale du Congo* discussed in this study to the post-Cold War situation and regional conflict dynamics, the fight for democracy in Zaire took many forms. After the 1969 massacre of students, the main opposition to Mobutu came from outside the country. Another way of opposing Mobutu was through conferences and manifestoes by former allies or patriotic Congolese who yearned for change (Kasongo, 1998).

The loudest voice against the Mobutu regime was Nguz Karl-I-Bond, a relative of Moise Tshombe from Katanga who served Mobutu as Foreign Minister in 1972 and Prime Minister in 1980 (discussed above).

Other forces included the *Mouvement d'Action pour la Ressurection du Congo* (MARC)[116] formed by two former JMPR (MPR youth) members Kayonga Mobatelli and Ali Kalonga. According to Nzongola-Ntalaja, their failure stemmed from the penchant for attacks against Mobutu and his family rather than, for many, a deeper intellectual or ideological analysis of structures and

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[116] Action Movement for the Resurrection of the Congo, a minor party that fell by the wayside of the struggle.

institutional functioning, materialistic diagnosis of society's ills with revolutionary prescriptions. Additionally, the MARC's sensationalist opposition made them open to accept anyone and it soon became a forum for all.

The *Front du Liberation Nationale du Congo* (FLNC)[117] was perhaps the most action oriented as it made history when it launched the Shaba invasions of 1977 and 1978 (Personal Interview with DRC 10 Military Region Commander General Tshikwej Nawej in Bukavu in 2007). It distinguished itself from all externally based groups because it waged an armed struggle. It should however be emphasized, as noted by Kisangani (2012), that whereas most externally based political groups were in the Belgium and other European countries (which did not show any intent of helping to overthrow Mobutu), the FLNC was based in and allowed by Angola to attack Zaire. Mobutu's archenemy that was the MPLA government deeply craved Mobutu's overthrow as punishment for his support for Angolan rebels UNITA. This personal observation is shared by Turner (2007). The FLNC was mainly composed of Congolese refugees and especially of younger remnants of Tshombe's Gendarmes[118] after the Katangan rebellion of the 1960s ended. To their ranks were added recently exiled victims of Mobutu's repressive actions in Katanga in the 1970s (Nzongola-Ntalaja, 2002). Earlier used by Tshombe in the fight against pro-Lumumba rebels when he served as a Prime Minister of Mobutu, they were abandoned to their fate after Tshombe's fall. Leading this group was a Nathaniel Mbumba, a former Katangan Police Commissioner under

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[117] The Congolese National Liberation Front was formed by the former Katangese Gendarmes of Moise Tshombe around 1975 to return to Katanga and destabilize Mobutu's regime. Angola supported the FLNC and knew of the 1977 and 1978 invasions that were foiled with support from the United States and France.
[118] During Katanga's failed secession from the Congo in 1960, its leader Moise Tshombe created a force that functioned as a militia and army and were referred to as Gendarmes who stood up to the government forces of Patrice Lumumba and the United Nations. Many became mercenaries in the region and some went to Angola where they fought for the MPLA.

Tshombe (ibid). As I have earlier discussed, the failure of FLNC was a result of external intervention by Belgium and the United States and France.

5.6.1 *End of the Cold War and the overthrow of Mobutu*

After the Cold War ended, following the collapse of the Soviet Union, the United States and Western Europe no longer felt threatened by the spread of international Communism (Fukuyama, 1989) and therefore adjusted their foreign policy approach of ignoring or tolerating dictators who were allied to them. The new order preached democracy and human rights which, according to Afoaku (1999), led to the proliferation of pro-democracy groups in the Congo.

Confidence and hope in developments from across Africa following the end of the Cold War were an important impetus to the movement for multi-party democracy in Mobutu's Zaire after 1990. Demonstrations in Senegal in 1988-1989, national conferences in Benin (1990), Niger (1991), Congo-Brazzaville (1991) and Mali (1991), and the end of long reigning regimes in Menguistu's Ethiopia (1991), Kaunda's Zambia (1991) all corroborated this. The period was marked by sympathetic support for change and democracy from Western governments and NGO's. Protagonists of African pro-democracy groups visited or took refuge in the United States, Belgium, and France and with this foreign support, they organized public symposia, marches and distributed messages to rally the diaspora and subsequently influenced events within Zaire in favour of change.[119] Lemarchand (2009), Turner (2007) and Reed (2001) have discussed this in detail in

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[119] The impetus given to the pro-democracy movement was the logical consequence of the end of the Cold War ,as confirmed through the analysis of several interviews conducted for this study.

their work on the 1997 AFDL[120] invasion that led to Mobutu's overthrow. Zaire's pro-democracy forces could however not transform the opportunities into successful change. Owing to their performance throughout the Sovereign National Conference, they could not convince the United States, Belgium and France to push Mobutu from power. According to Didace Kaningini, Mobutu's regime was a hollow shell and all that was necessary was a sense of purpose during the Sovereign National Conference to remove Mobutu, but this failed and this did not happen (Personal Interview, 2009).

It was the Rwandan genocide of 1994 that was to change the history of Zaire through a series of consequences resulting in a rebel coalition that removed Mobutu from power. It all started with the Rwandan genocide of 1994 when hundreds of thousands of Tutsis were killed by Hutu extremists supporting the collapsing Hutu regime, and who subsequently fled into neighbouring eastern Congo (just before Tutsi rebels of the Rwanda Patriotic Front seized power in Kigali). As discussed earlier, two years of tensions between the new Tutsi-led regime and Mobutu's Zaire, which made no secret of its opposition to Kigali, matters came to a head when Mobutu allowed direct attacks into Rwanda from Zaire by Hutu rebels (Reed, 1998). When Rwanda and Uganda organized the invasion and overthrow of Mobutu in 1996, Angola gave support for the advancing Alliance of Democratic Forces Rebels happy at the occasion to exert revenge on Mobutu, UNITA's godfather and Angola's Cold War enemy for decades (Personal Observation).[121]

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[120] The Alliance of Democratic Forces for the Liberation of the Congo led by Laurent Desire Kabila was a loose coalition of Congolese rebel groups put together with the support of Rwanda and Uganda to forcefully remove Mobutu from power.

[121] During the Cold War, Mobutu was an indispensable ally of the Western powers and multinational companies that supported UNITA which pitched him as Angola's fervent enemy. Angola's Marxist regime was in the vanguard struggle for African liberation in its earlier days under Agotinho Neto and Mobutu, a Cold War client state whose power was assured by his collaboration with policies against nationalist regimes. UNITA was a proxy instrument of South Africa and the West at the time and therefore an inevitable ally of Mobutu. For decades, Zaire's territory was used to transfer military hardware and other forms of support to UNITA by Apartheid South Africa and Western

5.7   Conclusion

I have demonstrated the weakness of the civil society actors in the Congo owing to several factors, not least of which is the absence of cohesion emanating from the post-colonial state's inheritance. Much of the problems that afflicted civil society in the Congo related to its fractured nature and its relatively young age and lack of experience, Mobutu's repression during the Cold War and the greed of Congo's political leaders.   I have demonstrated how the collective resolve and commitment by Congolese civil society, through their disparate but combined actions, constituted the pressures from the 1970s and 1980s leading to the Sovereign National Conference of 1991. Civil society in the DRC lacks a common identity and an awareness of itself. It does not yet have a sufficiently developed collective consciousness. Political parties are led by ambitious politicians whose interests do not include a vision to entrench the key elements of a functioning democracy. This, I argue, is made clear by the role political parties, leaders and politicians played to undermine and subsequently frustrate the aspirations of the Sovereign National Conference.

In the next chapter, I discuss the issues and the alternatives with regard to the reconstruction of the state in the DRC today.

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powers. Apartheid South Africa's interest has always been to fight African nationalism which was opposed to European settlers in southern Africa and thus the reason why the regime in Pretoria destabilized Front Line States such as Angola, Zambia, and Mozambique in the 1970s and 1980s though the policy of Total Strategy. In 1997, the government in Luanda saw in the invasion by the AFDL an opportunity to destroy UNITA bases in Zaire and to take revenge on Mobutu for his past actions. See Joseph Hanlon (1986) Beggar your Neighbours: Apartheid's Southern Africa Policies.

Chapter Six

State Reconstruction in the Democratic Republic of Congo:

The Issues and the Alternatives

6.1   Introduction

State reconstruction can be defined conceptually as a process that rejuvenates institutional mechanisms to give effect to policy, to legitimize institutional power, and to establish social trust, effectively returning the state to the centre of social life (Khadiagala in Zartman ed., 1995, p.38). Reconstruction is indeed a priority in the DRC. The state should be restored and reinvented to be legitimate. Institutions could be restored through good governance and visionary leadership. The DRC needs to be restored fully to a functioning and effective state. The United Nations role currently[122] supports efforts to restore state authority, to implement reforms of the security sector, support to properly regulate the country's mineral resources sector and to ensure the security of its borders. It is supporting various humanitarian interventions, reform of the justice system and the rejuvenation of civil society, as an essential component of democratic governance.

While these priorities are fully supported by the international community, the onus is on the DRC and its future leaders to pay attention to some of the key issues that I have raised in this study. These include the crises of legitimacy, governance, leadership, the curse of minerals and identity. I have identified the key issues that emerged from this study and discussed them. The resolution of these issues is fundamental to the restoration of the DRC as a strong and effective state, to

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[122] The United Nations Multidimensional Integrated Stabilisation Mission in DRC (MONUSCO)

national reorganization and to stability. I have also identified, among a series of alternatives, the unitary and federal systems as institutional options and have opted for the latter with an emphasis upon decentralization. I claim that functionalist economic integration in the Great Lakes region can enhance stability.

6.2 The Issues

Part I:

6.2.1 Legitimacy

The issue of legitimacy in the DRC can be discussed by first putting historical legitimacy and political legitimacy in to their proper context. Historical legitimacy refers to the state's generally accepted historical foundations while political legitimacy relates to how political power is acquired and maintained. Political legitimacy has been a problem in the DRC because both Mobutu and Laurent Desiré Kabila came to power through armed force and although Joseph Kabila was elected, in 2006, in was in controversial elections. This was the first democratic election in 46 years. If the will of the people is considered as the basis for governmental authority and legitimacy, a lack of an elected government, controversial elections and the usurpation of power by armed force has been the DRC's undoing. Seventeen civil wars, political assassinations, rebellions and violent challenges to state authority is the logical consequence of dictatorship, repression and restriction of the democratic space. A lack of legitimacy poses serious challenges to the state, engenders corruption and the mismanagement of resources, and facilitates conspiracies, ethnic conflicts and regionalism.

Political appointments across the DRC are balanced to ensure ethnic representation (Analysis of Personal Observations). For example, it is a typical scenario in the DRC for the Governor in Lubumbashi to be Lunda, in Bukavu to be Bashi and in North Kivu to be Nande. Once appointed the office becomes a vehicle of patronage, nepotism and cronyism (Personal Observations). This arrangement also caters for the second biggest ethnic group to be the second in charge in each region, an ethnic balancing act that secures access to resources for the group. In many instances, the removal of one actor, regardless of his or her crime, has brought operations in the province literally to a halt until s/he was reinstated or replaced by a fellow kinsman from the same ethnic grouping. Thus, when the state is fragile and lacks historical legitimacy, informal networks and informal institutions and agreements come to dominate and define the political landscape. The problem of legitimacy is central to the African state as the key mechanism to ensure that conflicts will be abated.

There is no historic continuity that links society and the formal institutions of the state. Formal institutions preside over an amalgam of divided groupings which pushes leaders to create networks of political support across 'nations' within the territory. They respond rationally and in accordance with expectations to the historical constraints they have inherited, and this leads to governance failures.

Owing to the problems associated with historical legitimacy, regimes in Africa struggle and frequently collapse under the weight of excessive spending on potential spoilers and ethno-regional challengers. This was clearly seen in Mobutu's nationalization and patronage policies. It

was not surprising that Mobutu himself claimed that he was betrayed.[123] Managing the state in the past 60 years has not worked. Dictatorship, party-state system, Afro-Marxist regimes, capitalist single party dictatorships, revolutionary regimes, military rule, have all come and gone but the situation in Africa has not improved. The problem is the state itself, which stands at the centre of all crises. It lacks legitimacy and it is challenged. These challenges take different forms but they are visible as crisis and conflict.

6.2.2   Leadership

Bennis (2003) says that leadership comes from a combination of factors, the most important of which is learning and experience from the external environment. Debunking the "myth" that leadership is genetically sanctioned, he says leaders are made (Bennis, 2003). Quoting Lao Tzu, Bennis says a leader is best at what s/he is when people barely know s/he exists, when his or her work is done, his or her aim is fulfilled, and people say we did it ourselves. This he claims is leadership at its best, a leadership that inspires. During crisis situations, and in the absence of strong state institutions, inspirational leadership is important. It is critical for people to believe in and trust their leader, to be ready to act on his or her behalf to execute and implement programmers. Although s/he leads, people take a prominant role and s/he leads from behind. Leading from behind is one paradox of leadership.

Another paradox is that a leader listens to those s/he leads, takes inspiration from them and follows their aspirations. By listening, we gain respect from those with whom we interact, allowing us to

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[123] Public address in Kinshasa to Zairean citizens by President Mobutu on 24 April 1990, on the unbanning of political parties and the return to multiparty democracy.

be listened to when we most need it. Edmonson (1999) speaks of fourteen leadership paradoxes including listening when leading, strength in situations of vulnerability, unsatisfied even when achieving, strength in weakness, and the provision of service rather than domination. Edmondson's categories of leadership, as fundamental to success, have been lacking in the DRC since independence. Rather than a leadership that has demonstrated the capacity to lead, the DRC's leaders have dragged the country into crisis and instability as a consequence of their own ambition.

6.2.3   Governance

Good Governance refers to the ways in which national leaders and institutions function to manage public resources and promote long-term sustainable development that is in the public interest. For the United Nations, it is the ways in which public institutions conduct public affairs and manage public resources.[124] According to the IMF (2009), promoting good governance in all its aspects includes ensuring the rule of law, improving the efficiency and accountability of the public sector, and tackling corruption as essential elements of a framework within which economies can prosper. So committed is the IMF to the principles of good governance that they have - over many years- constituted them as preconditions for aid to developing countries. For the United Nations (2009), good governance has eight characteristics. These are, namely, consensus, participation, the rule of law, accountability, efficient and effective management, transparency, responsiveness and inclusiveness. Agere (2000) identifies three sets of institutions in a country that can be reformed to promote good governance. These are the state, the private sector and civil society.

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[124] UNESCAP 2009. What is good governance?

That the DRC needs a governance agenda cannot be over emphasized. For thirty-two years, the country was ruled as a dictatorship under Mobutu. He stifled the press, basic freedoms and the most basic features of a democratic environment. Vibrant party or trade union activism was uncommon. Under the Kabilas the situation was more or less the same. The magnitude of the problem of governance failure was so ingrained in the DRC that it was common to hear of the cliché "starting from scratch" from even ordinary people during the United Nations-supported post-conflict transition from 2003 to 2006 (Participant Observation).

Hyden (1992) says governance is the conscious management of regime structures with a view to enhancing the public realm. When in 1989 the World Bank spoke of a crisis of governance in Africa, it was concerned about the collapse of regime structures in the midst of the extensive personalization of power, the denial of fundamental human rights, widespread corruption and unelected, unaccountable governments (Hyden ed. 1992, p.5). Twenty three years since Hyden made these comments in 1992, the contemporary challenge is how to restore a civic public realm in the DRC based on the four pillars of governance. These are namely authority, reciprocity, trust and accountability.

6.2.4   *The curse of minerals*

No study on conflicts in the DRC could be complete without a consideration of the theme of the country's mineral resources. The DRC is attractive to study because, in part, of its vast strategic resource base which creates the extensive external interest of both capital and foreign governments. Although minerals are usually considered a blessing for all countries endowed with

them, in the case of conflict-ridden countries in Africa, they are instead a curse. This is for three key reasons. First, there is usually violent competition for access to these resources and/or to the state which controls them. Second, in spite of an endowment of resources, these countries are poorer as they cannot, as a result of conflict and mismanagement, transform their potential wealth into development opportunities – the paradox of poverty amid plenty. Third, such countries frequently and excessively rely upon the extraction of the mineral respurces that they are endowed with to the detriment of developing other productive sectors of the economy. This perpetuates dependence, commonly referred to as the Dutch Disease.[125] It affects the state when depletion sets in or when prices fluctuate, which they commonly do in the markets for raw materials. Moreover it creates a path dependency. This means such countries are never stable.

I outlined in chapter one how advanced health facilities were in the Congo at independence. According to Kisangani (2012) the country was the most industrialised territory on the continent after Apartheid South Africa in 1960. However, half a century after independence, one of Africa's richest countries in terms of strategic minerals is one of its poorest. Judged in these terms, the "curse of minerals" metaphor is appropriate. Well before the Belgian colonization of the Congo in

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[125] In economic development discourse, the Dutch Disease has come to refer to the phenomenon of focusing on natural resource extraction to the extent of neglecting or abandoning other sectors of the economy, such as agriculture, that are productive or that have the potential to be productive. In well-resourced African countries such as Angola, Nigeria and the DRC, too much attention to the flow of revenue and high and unplanned spending results in unplanned management at the expense of sound economic policies for future resilience and sustainable development. The lure into such a situation has been enhanced over the decades by the increased demand for oil and minerals, war and instability in the Middle East, the increase in oil prices, and the appreciation of the United States dollar, the international exchange currency. The term was first used by The Economist in an article entitled The Dutch Disease (p82-83) describing the decline of the manufacturing sector in the Netherlands after the discovery of the large Groningen natural gas field in 1959 (see http://en.wiki/Dutch_disease#cite_note-2). The following articles are important in their discussion of the problem namely 1) *Booming Sector and de-industrialisation in a small open economy* reported in the Economic Journal no. 92 (December 1992) p.825-848 by Corden WM Neary JP and 2) *Back to Basics-Dutch Disease:Too much wealth managed unwisely* written by Ebrahim-Zadeh, Christine (March 2003). In the article, Ebrahim-Zadeh states that although the Dutch disease is generally associated with a natural resource discovery, it can occur from any development that results in a large inflow of foreign currency, including a sharp surge in natural resources prices, foreign assistance and foreign direct investment.

the early 20th century, 10 million people died in King Leopold II's late 19th century rubber loot of genocidal proportions (Hochschild, 1998).

After independence, the Congo's fame grew over its zinc, manganese, uranium, niobium, copper, cobalt, cadmium, cassiterite as well as its holding of 80% of the world's known Coltan reserves (Lemarchand, 2009). This rendered the country a Cold War attraction. The United States and allied countries such as France, Belgium and the United Kingdom ensured that the country under Mobutu remained a captured State regardless of the negative consequences of Mobutu's disastrous rule. Throughout the Cold War, the Congo provided strategic minerals to the US, Belgium and France, among other Western countries, while politicians within the country competed for control over resources and political power. The war of 1998-2002 when Rwanda and Uganda invaded the country precipitating the regional war that sucked in Zimbabwe, Namibia and Angola was not at first (when the first two countries attacked) motivated by the quest for minerals. However, all countries subsequently became embroiled in the mineral rush, thus prolonging Africa's worst humanitarian tragedy ever.

Since independence, the economy of the country has been based on rent from the exploitation and mining of minerals which encouraged the country's political elites to loot the national treasury at the expense of sustainable human development. For instance, almost 40% of Congo's national revenues accrued to Mobutu and his cronies in the late 1980s (Wrong, 2000). I have shown how several reports by the United Nations exposed the pillaging, looting and illegal export of the Congo's mineral resources during the 1998-2003 war. This included the actions of foreign interests. According to Lemarchand (2009), 'Western economic interests were deeply involved in

the conflict through direct or indirect roles in the illicit trade in mineral resources' (Lemarchand 2009, p.5). Lemarchand further names the Economic Section of the US embassy in Kigali as being very active at the beginning of the war in helping establish joint ventures to exploit coltan.

The prolonged suffering of the Congolese people between 1998 and 2003 when the war raged was heightened because of illegal business networks, headquartered in foreign countries where the Congo's mineral resources were cheaply sold and processed, that had stakes in the chaotic situation. During the war, it was not only the main warring groups that looted mineral resources. The Rwandan FDLR/Interahamwe also massively exploited coltan resources. In South Kivu, they mined in seven of the eight territories of the Province and in North Kivu in Masisi, Walikale and Rutshuru (see appendix 13). During the period from 1997 to 2010, armed groups in the DRC deviated from their original goals and focused on the wealth and riches in Itiri, Oriental Province, South and North Kivu and Katanga. The FDLR, Mayi Mayi, the ADF/NALU, the ex-RCD and the FARDC illegally exploited minerals in areas under their control where they also committed widespread atrocities (Personal Observations from my reports as a Political Officer in South Kivu Province between 2008 and 2010).   .

The crisis of independence was partly the result of a conspiracy for control over mineral-rich Katanga province. This Cold War conspiracy led to three decades of control, dictatorship and misrule while the Congo served the purposes of the United States, France, Belgium and other Western allies. During the 1997-2003 wars, minerals played the determinant role in prolonging the humanitarian tragedy that befell the Congo. The civil conflicts in Ituri and the seemingly unending challenges to the restoration of State by armed groups in North Kivu, South Kivu and Katanga

were influenced by the struggle for control over mineral rich zones. The unending conflicts in the Congo had by 2010 clearly become a function of the struggle over resources.

Evidently, the presence of minerals should have been emancipator. But instead, as in most African countries, it has been a curse. Instead of being the impetus to social and economic transformation, mineral resources have intensified the struggle for State power, fuelled rebellions and increased foreign involvement and interference adding to chaos, instability and underdevelopment.

6.2.5 The identity crisis in the eastern Congo

On citizenship and the national question, I have chosen to focus primarily in this discussion on the Congo-Tutsi/Rwandophone crisis which is the predominant citizenship crisis in the DRC. Generally, Rwandophones in the east of the country are frequently accused of being more loyal to Rwanda, a perceived or real enemy of the country depending on whom one speaks to (Personal Interviews).

Manasse Ruhimbika, founder of the *Front des Republicains Federalistes*, a Banyamulenge Tutsi Politico-Military organization created to resist what he called Rwandan manipulation of Congolese Tutsi (especially during the 1998-2002 war) maintains in his *Les Banyamulenge (Congo-Zaire) entre deux guerres* (2001) that the question of Tutsi recognition in the Congo lies at the heart of the crisis in the east of the country. He has made frequent reference to discrimination, humiliation and the closing of job opportunities to Tutsis in South Kivu and North Katanga where he lived and studied for years. In a personal interview with a Tutsi South Kivu regional Minister in Bukavu, it

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was indicated to me that Tutsis were despised for their entrepreneurship, ownership of land and capital in eastern Congo and this perception and scapegoating was at the origin of the problem, but had been exacerbated by the Rwandan Tutsi-led invasion of the Congo between 1998 and 2003 (Personal Interview with Kamanzi, 2007).

In order to historically contextualize the problem it would be suffice to state that after decades of struggle by Tutsis for recognition, events in Burundi from 1993 and Rwanda after the 1994 genocide changed the power dynamics of the region with far reaching consequences. I have already outlined how this last genocide of the 20th century changed the dynamics of power in the region, led to the invasion of the Congo and worsened a situation that was already out of control in the eastern Congo during the dying years of Mobutu's regime. The Banyamulenge Tutsis of South Kivu Province in the eastern Congo led the Rwanda-backed rebellion of Laurent Desire Kabila in 1997 in the hope of obtaining national recognition for Tutsis by the central government in Kinshasa.[126]

The crisis of identity in the eastern Congo is integral to understanding unending instability in the area and must be treated as separate from Rwandan interests. While it is true that Rwanda has sought to influence and possibly use aggrieved Congolese Tutsis whose broader substantive citizenship rights have been threatened as Trojan Horses in schemes against the country[127], Congolese Tutsis rebelliousness is fundamentally a result of frustration from rejection by their compatriots. It should also be noted that many Tutsi politicians did not necessarily support Tutsi

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[126] It will be recalled in the dissertation that during the Sovereign National Conference of 1991-1994, MPs had voted to expel Tutsis of South Kivu from the DRC.

[127] Examples being the RCD invasion of 1998 using aggrieved Tutsis denied of Congolese nationality and the attempt in 2001 to influence Tutsis of Minembwe in South Kivu to rally to the side of the Rwanda occupation.

General Laurent Nkunda's rebellion in 2007-2009 and nor do they accept Rwandan designs even though they shared some understanding of Tutsi frustrations (Ebenezer 2009; Masunzu 2009, Ruhorimbere 2008 and Asoni 2009). Mamdani (2001) uses Huntington's kin-country syndrome analysis to demonstrate this point. Most ordinary Tutsis however, simply want to live and carry out their daily chores in peace and nothing more. The educated or powerful Tutsi actors however have used the strong position of Rwanda as a regional military power to pressure the Congo in their struggle for acceptance or power. From my participant observation in the eastern Congo over a four-year period (2006-2010), it became clear that Tutsi leaders are split on the question of Rwanda. While some believe they should fully supportive of the Congo as Congolese citizens, others prefer leaving their options open as a form of pressure on the Congo (Participant Observations). According to Muller, after South and North Kivu delegates to the National Conference in 1995 demonstrated their determination to expel Tutsis from Congolese soil altogether, most Banyamulenge Tutsis arrived at only one conclusion - leave the country or fight for their birth right (Ruhimbika, Muller Manasse, 2001).

The nationality question remains a core aspect and reason for instability in the eastern Congo. The purported resolution of the problem by the 2006 Constitution which confers nationality on them, is still only begrudgingly accepted by many Congolese people. Even when the new Constitution was promulgated, passions were still high as a constitutional framework was not a sufficient guarantee for acceptance. Many made reference to the distinction between Mamdani's (2001) ethnic and civic citizenship as they sought to accept Tutsis as "acceptable constitutional citizens" (Philemon, 2009). More interesting is the willingness among Congolese people to allow dual citizenship for Congolese people that have immigrated from Belgium and other parts of the world

while simultaneously not allowing Tutsis to show social, political or even economic links to Rwanda (Ebenezer, 2009). In spite of the ban on dual citizenship by the Congolese Constitution, a moratorium is still in place owing to elite interests - many Congolese politicians with Belgian or other European nationality have realized that the clause against double nationality affects them much as it does Tutsis. During the period I served in South Kivu province as a Political Affairs Officer (2006-2010), there were continuous reports of authorities in Kinshasa wanting to apply the clause on citizenship only with regard to Tutsis and Rwanda (Participant Observations; United Nations South Kivu Reports 2007; Personal Interview with Mululu 2014).

While many Tutsis in the eastern Congo refused to be manipulated by Rwanda, the widespread impression has continued to be that all Tutsis harboured pro-Rwanda loyalties. When the M23 Tutsi rebellion in North Kivu against the DRC erupted in 2010, General Masunzu, Tutsi Congolese loyalist and commander of the 10 military region in South Kivu stood by the Congolese authorities as much as the Banyamulenge community in South Kivu province (Participant Observation). At the end of the transition which concluded the regional war involving Rwanda, Uganda, Zimbabwe and Angola, it was envisaged that the elected government of Joseph Kabila would boldly address the questions regarding the citizenship status of Tutsis of the eastern Congo. Up to this time, most Tutsi officers of the Congolese integrated army refused to be deployed to the west of the country for fear of being attacked or killed (Personal Interview with Asoni, 2008; Stearns 2011). On 23 March 2009, the government signed an accord with the then rebel of General Laurent Nkunda (Tutsi leader of the National Council for the Defence of the People) to end the rebellion and integrate Tutsi officers into the national army. Three years later, the Tutsi soldiers revolted and

formed the M23 (named after the March 23 agreement with the government) and resumed fighting against the government.

The Congolese civil society chapter of the province acknowledged the position of the Banyamulenge leaders and fought to relay the message of refusal to bandwagon to the rebellion (Personal Interview with Mululu, 2014). Hitherto rebelling Tutsi officers such as Michel Rukunda[128] even deployed troops to Bukavu's airport to deter infiltration from North Kivu by the M23 rebels. During this time between 2009 and 2012, the South Kivu Governor Marcelin Chisambo[129] and the Catholic Church under Maroy[130] supported the Banyamulenge position (Personal Observation; South Kivu MONUSCO notes; Personal Interview with Mululu 2014).

Although this was a significant development, Mululu agreed that the nationality question for Tutsis in the Congo remains a key issue that must be fully and finally and resolved to avert future conflicts. The generalized view of Tutsis as "non-Congolese" or disloyal to the state is a form of

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[128] Major Michel Rukunda is a Banyamulenge Tutsi commander and a leading actor in the South Kivu rebellion by Tutsi soldiers against the Kinshasa government's efforts to extend state authority in the south of the province, (Minembwe and Kamombo areas). The origins of the rebellion can be traced from the 1998 Rwanda-backed invasion during which Kigali supported the mainly Tutsi-led Ressemblement Congolais pour la Democratie that was led by Azarias Ruberwa, a Tutsi himself. At the end of the war and the Rwandan withdrawal from the region, an uneasy cohabitation existed in the province between the Tutsi troops and the Congolese soldiers, determined to extend state authority, which led to frequent clashes and fighting. In 2004, Tutsi soldiers briefly seized Bukavu chasing the Congolese commander away. Remnants of the group and other deserting Tutsi soldiers later emerged in the Minembwe-Kamombo area as the Front Republicain Federalist demanding the establishment of a decentralized structure where Tutsis would be in charge of a territory. This has since been rejected by Kinshasa but the rebellion had continued until 2009 when they agreed to be integrated into the *Forces Armees de la Republique Democratique du Congo*. (Participant Observation - I have reported on the FRF rebellion for more than two years during the period I served in South Kivu province).
[129] Marcellin Chisambo was the Governor of South Kivu province after the period served by Governor Leonce Muderhwa who left in 2010. He is a very close ally of President Joseph Kabila and is from South Kivu.
[130] The archbishop of Bukavu, Fracois Xavier Maroy, is known as a patient collaborator with the United Nations presence in the province. He is very accessible and exerts enormous moral authority in the province (participant Observation -. I have met him on behalf of my Head of Office on several occasions during periods of political tensions and crisis in the province). He has however periodically come under criticism for not controlling the statements of hardline priests opposed to concessions to Banyamulenge Tutsi demands.

negative othering, which causes exclusion, auto-exclusion and scapegoating and provides an opportunity for Rwanda to influence aggrieved Tutsis and interfere in the Congo.

6.3   The Alternatives

Part II

6.3.1   Federalism or Unitarism for the DRC?

To reflect over what system is best for the DRC as an alternative political system, I claim at the outset that the current unitary system has simply not worked. Since the promulgation of the Lualabourg Constitution of 1964, the Congolese authorities have to date continuously avoided any reforms that might lead to federalism. This is feared to be a prelude to secession by the regions that are substantially endowed with minerals (Personal Observation). This perception is not without cause. Historical experiences are perhaps responsible for this mindset. Having experienced secession crises in Katanga and Kasai in the 1960s, demands for administrative autonomy in Ituri in the 1990s, the arbitrary creation of the Minembwe territory for Banyamulenge Tutsis in 2002 by the Rwandan occupation forces, and continued challenges to state authority in the Kivus and Bas Congo, the Congolese government (whilst arguably aware of the difficulty of running the huge country as a unitary state) are concerned about the potential of the country to break apart if federalism was introduced. The reluctance to implement decentralization, as enshrined in the 2006 Constitution has its foundations in these historical experiences. There is however another dimension and explanation for the reluctance to adopt federalism: elite interests. In Katanga, for instance, the elite from the north of the province, both in the regional capital Lubumbashi and in Kinshasa, is fearful that decentralization or federalism will deprive them of financial and other

privileges and control over regional resources (Personal Interviews with Kinhasa-based elite between 2006 and 2010. These include the former Governor of South Kivu Province, Celestin Cibalonza).

Examples abound of large countries that are well governed and that enshrine and protect regional rights and regional specificities amid policies that promote a commitment to national cohesion. What is obvious in the reluctance to pursue or explore a federalist path by the leadership of the government of the DRC is, in the words of Mululu (cited above), fear of losing control over the country through regional control of strategic resources and administration (Personal Interview with Mululu, 2014). In a discussion with students from the University of Kisangani during a seminar organized by the United Nations Mission regional office, participants from different disciplines and regions (such as Ituri, Kindu, Bukavu and even Kinshasa) said that they firmly believed that the DRC must always remain a unitary state to be best shielded from the threats of secession that could be precipitated by discussions on a federal option. (Participant Observations, Bukavu, South Kivu Province, DRC, July 2006). In Kasai Oriental earlier in 2005, I engaged members of the Congolese regional electoral commission about what system was best for the country. The response from all was direct: a unitary Congo, and always (Participant Observations).

I agree with Mululu's assertion that the design of the DRC should be one that takes into consideration the country's history of attempted secessions, while at the same time respecting the country's size and regional, national and cultural complexities. Many Congolese people are agreed that the country is too big to be unitary. Of the country's eleven provinces, Equateur, Katanga and Oriental provinces are each larger than France. Equateur is mostly dense forests and its capital

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Mbandaka is very distant from isolated areas. The same situation applies in the two other provinces, yet the 2006 Constitution, splitting the country into 26 *provincettes,*[131] is still not implemented (Personal Observation).

The decentralized system enshrined in the 2006 constitution was virtually a federal system without claiming it as such, which could have been an appropriate institutional system for the DRC as a consequence of its diversity. However, this could not have been implemented without genuine guarantees to nationalists and unitarists. What I thus propose for the DRC is neither unitarism nor federalism but, as enshrined in the 2006 Constitution, a strong presidential system with decentralization to allow both centre and periphery to develop while in a relationship that guarantees all powers. The earlier experiment during Mobutu's rule to implement decentralization in stages beginning with the old Kivu province (now South Kivu, North Kivu and Kindu provinces) should be continued across the country. The breakup of the old Kivu Province has enhanced the development of Butembo and Beni, hitherto distant and neglected from the old Kivu Provincial capital of Bukavu (Personal Observation). These areas were able to profit over the past two decades from managing their own affairs and became regional business hubs. The 2006 constitution, if fully implemented, will lead to genuine decentralization within a strong state.

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[131] According to the 2006 Constitution, the country was to implement a decentralized structure with 26 smaller regions or provinces called provincettes in French. Of the entire country, the relatively small provinces of Bas Congo, Kindu, North Kivu and South Kivu would remain. The following large provinces would be split accordingly: Oriental Province would be broken up into Tshopo, Haut Uele, Bas Uele and Ituri, Katanga into Tanganyika, Haut Lomani, Lomani, Haut Katanga, Luluaba; Bandundu into Kwilu, Kwango and Mai Ndome; Equateur into North Ubangi, Sud Ubangi Mongala, Tshuapa and Equateur, South Kasai into Kasai Oriental, Lomani and Sankuru and West Kasai into Kasai-Luebo and Kasai Central-Kananga. The delay in implementing this constitutional provision to create 26 smaller provinces was out of concern that retroceding 40% of all revenues collected in each new province to that region when the central government was just emerging from a bitter an destructive war was unwise. The 26 provincettes are expected to come into existence in 2016.

6.3.2   Regional integration and stability- the need for collective security

In this section, I will argue that regional integration is important to address the problem of conflict and instability in the eastern Congo and the wider region. At the end of the First World War, the key global actors (the allies and victors – the United States and the United Kingdom) convened at the Versailles conference to reorganize the international system and prevent future conflicts and established the League of Nations in the first major action to ensure world peace. After the Second World War the European powers set out to build the foundations of intra-European cooperation which later became the Common Market incorporating the states of Western Europe and later evolved into the European Union (Thompson, 1957; Peacock 1982) now incorporating many Eastern European states. During the 20th century, several attempts at integration have helped to prevent conflict around the world, through economic corporation and efforts at economic integration. I argue that regional economic integration aids stability as it acts as a catalyst for cooperation between states, rather than conflict. What is integration? How can it be useful in aiding stability in the Great Lakes region of Africa?

Chime (1978) defines integration as a process of cohesion between two or more social units whereby these units come to constitute a political whole which can, in some cases, be described as a community. Economic integration relates to the harmonization of economic policies between and among states with the abolition of tariff walls or restrictions as a step to full and political integration. In the Great Lakes region of Africa integration efforts, as a panacea to the perennial crises, are being pursued through the *Communauté Economique des Pays des Grands Lacs*

(CEPGL)[132]. Integration as a process being pursued is "functional", that is to say a gradual process of inter-state cooperation leading to common economic policies, unfettered trade and economic development. It is hoped that through economic integration, states of the region will cooperate out of interest in socio-economic development. Functionalist integration or functionalism for Mitrany (1975) is when organisations and institutions (only) at various levels work and cooperate across borders through a dynamic process that promotes interest integration. Mitrany's statement that society will develop from our living it, not by policing it, comes to mind. Since the state always carries the historical baggage of competition, war, mistrust and interest, the theory leaves integration to private persons who, through their entrepreneurship, develop links and business opportunities that would favour stability and integration in integration. The CPGL displays a neo-functionalist process. Neo-functionalism is an approach to integration which is a modification of functionalism to bring in the state as the primary actor that implements cross-state economic and social links leading to integration. Apart from these two approaches to integration, there is also the pluralist approach which advocates that integration is most possible when as many societal groups and institutions as possible (for instance, civil societies, internet companies, milk processing factories, banks, etc.) from both sides cooperate and seek to work towards common goals and mutual benefits (Chime, 1978). To this I will add federalism as the most common, and its many

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[132] During the period in which I worked as a Political Affairs Officer in the eastern Congo, I have frequently been involved in meetings or receiving visiting CEPGL officials in South Kivu. Its members or officials attended the Goma Conference on Peace and Security in early 2008 which was an important prelude to Amani Leo military operations to rid the east of the Congo of Rwandan Hutu rebels, a main cause of tensions between the Congo and Rwanda. The CEPGL, like ECOWAS in West Africa (although less important in terms of GDP and jurisdiction) is a Great Lakes regional organization that was created in Gisenyi, Rwanda, in 1976 to ensure security and stability through the development and promotion of trade and economic cooperation as well as to facilitate the movement of people in the region. The main objective is economic integration and stability. Its members are Burundi, DRC and Rwanda.

quasi-federal variants, which helps to keep a huge and diverse country together by empowering its component parts, often under a centre and authority.

The Economic Community of Countries of the Great Lakes Region was created in 1976 to enhance economic integration and to support the free movement of goods and persons among the countries of Rwanda, Burundi, and the Democratic Republic of Congo. Its headquarters is in Gisenyi in Rwanda. Given the conflicts that have rocked the region from the 1990s to the early 21st century, the CPGL was not successful in terms of supporting economic integration, which could have prevented, or at least mitigated, conflict in the region in the first place. From the Burundi crisis from 1993 to the 1994 genocide against Tutsis in Rwanda and to the Congo wars of 1996-2003, the CEPGL, a potential tool to bring about economic integration, did not succeed as a project, as all three countries were embroiled in conflict for the majority of their post-independence existence.

6.3.3   What integrative strategy for the Great Lakes region?

Africa's experiences teaches us that gradualism is a more preferable option in the drive towards integration. The emergence of the Organisation of African Unity, and later the African Union[133], is testimony to this (OAU Charter in Appendix). The African Union's formation was preceded by

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[133] The Organization of African Unity is a pan-African continental organization formed on the 25 May 1963. Its charter aimed to promote the unity and solidarity of African states, to coordinate and intensify cooperation to promote better lives for the peoples of Africa, to promote international cooperation with due respect and regard to the United Nations Charter, ensure the total liberation of the African continent from colonial rule, defend the independence and sovereignty of African countries. The OAU was a compromise solution to the rift between independent African states of the radical Casablanca group namely Morocco, Libya, Algeria, Ghana, Guinea and Mali, and the moderate Monrovia group of moderate African states such as Liberia, Senegal, Ivory Coast, Nigeria and Ethiopia. The former agitated for instant unification of Africa while the latter preferred gradualism. This has already been discussed in chapter 2. The Organisation of African Unity became the African Union in 1992 (c.f. OAU Charter).

debate and the option of gradual evolution towards integration was accepted as the only realistic way to avoid disunity Whereas the then progressive states of Ghana under Kwame Nkrumah, Algeria under Ben Bella, Egypt under Gamal Abdel Nasser, Mali under Modibo Keita and Morocco under King Mohammed V's Prime Minister Abdullah Ibrahim advocated federalism, the so-called conservative states of Senegal, Liberia, Nigeria and Ivory Coast called for gradualism, that is to say, a functionalist or neo-functionalist approach to integration. The emergence of the OAU was a compromise, but in essence the triumph of the neo-functionalist approach. States of the Organisation continue to promote regional and continental integration through supranational institutions, cross country collaboration and trade and regional coordination.

I argue that regional economic cooperation can contribute to stability in the DRC and the Great Lakes region of Africa more broadly. The neo-functionalist approach to integration could engage the governments of the region in economic cooperation arrangements as they share a sense of common destiny and development.

Just as prolonged crisis in the DRC often involves or invokes interference from Rwanda, Uganda and Burundi, common economic interests will make conflict among them less likely. Owing to what Engelbert (2000) refers to as a historical lack of legitimacy, the phenomenon of Mamdani's (2001) kin-country syndrome makes countries of the region (Uganda, Rwanda, eastern Congo and Burundi) interrelated and only through embracing the working peace (Mitrany, 1975) in the Great Lakes region of Africa can continued peace be best guaranteed. The importance of cultural and cross-national linkages as an important impetus to integration is highlight by Mamdani (2001) when he argues that states of the Great Lakes region must avoid insisting on their sovereignties to the extent of neglecting cultural and social links which are natural and whose bonds are stronger.

According to Mamdani, the post-colonial historical developments in Rwanda, Burundi, Uganda and the eastern DRC cannot be treated as if these states exist, in what Mamdani (2001) calls, 'knowledge boundaries' (in When Victims Become Killers : Decolonising Area Studies, p. xii) . The historicity of crisis has proven that the boundaries separating countries in the region will always remain what they are - artificial.

I further claim that, although economic governance is important for integration, democracy is vital and should be the point of departure for integration. Addressing the International Great Lakes region of Africa conference in 2006, Mr. *Legwaila Joseph Legwaila* said in Nairobi that the Pact on Security, Stability and Development not only addresses issues related to peace and security, but also gives equal importance to democracy, good governance, economic development, regional integration and humanitarian issues, all of which will help consolidate peace and stability (Participant Observation - MONUC/UN South Kivu notes, 2007). He also said that peace and security will not be consolidated unless democracy, good governance, and regional integration succeed (ibid). In this regard, much work is needed in Rwanda where the need for inclusiveness is important for regime legitimacy and in Burundi and the DRC where accountability and rule of law are clearly absent.

6.3.4   Conclusion

I have identified the key issues that have emerged from this research and discussed them with a view to affirming that the resolution of these issues or the context of failure, instability and conflict they explain are fundamental to the full restoration of the DRC state. These issues are legitimacy,

governance, identity, leadership and the curse of minerals. I have also identified among the alternatives the unitary and federal systems and opted for the former with decentralisation emphasized. I conclude with support for functionalist economic integration in the Great Lakes region which can enhance stability in the region. When countries occupying a given geographical area see their mutual interests in economic development and social progress, they cooperate. When they aspire to enhance their economic opportunities, they shun conflict as the Europeans have learned. I have explained this through Mitrany's working peace concept which well captures the essence of functionalist integration.

I now turn to the conclusion of this dissertation.

Chapter Seven: Conclusion

Political science is the study of power and politics is the exercise of authority by actors within the state. In post-colonial Africa, two key factors represent the paradox of the state. First, the state has overwhelming power. Second, the state is fragile due to its lack of historical legitimacy. In this dissertation, I explored conflict and instability in the Democratic Republic of Congo from 1960 to 2010 and focused upon leadership failure, state collapse and external intervention. Through the use of data from primary sources and the interrogation of extant literature I have established that conflict and instability, reflected in political crises, civil wars, and external interventions, are fundamentally explained through the state's lack of legitimacy. This lack of legitimacy is the basis for all crises in the DRC. That the state was contested at independence was inevitable. Through a political economy analysis the struggle for power (ironically to seize control of that contested entity) has been a factor of instability since independence.

My approach to this study of conflict and instability in the DRC integrates historical legitimacy theory, political economy analysis and subaltern realism. I claim that historically illegitimate states cannot be cohesive because of the incongruence between the state and society. Moreover, civil order that should have resulted from legitimacy cannot be guaranteed as the state is at best grudgingly tolerated. As such, the competition for state power is violent because it is the only locus of power and only avenue to wealth and privilege in the absence of functioning and accountable institutions. I demonstrated that the average European state is more or less historical and legitimate having evolved through epochal turning points such as revolutions, constitutional evolutions and conflicts while the new states in Africa have no links whatsoever to the continent's pre-colonial

past. The nation building processes in Europe from kingdoms to totalitarianism to democracy occurred in phases and has today resulted in the relatively cohesive nations as we know many of them. That this is lacking in the DRC, and most African states, is the point around which themes on instability in this dissertation are discussed. I further discussed conflict and instability as a manifestation of the struggle for power and resources and external intervention as emanating from the core interests of intervening states during opportune moments of state failure or collapse. I outlined external intervention as both a cause and as a consequence of instability.

In my first substantive chapter I examined primary historical information from the crisis of independence and the collapse of the new state at independence, through President Mobutu's misrule to the period of the Kabilas, outlining the political, economic, social, ethnic, ideological factors of crisis. In the first part of the chapter, I discussed the crisis of legitimacy in 1960, the rebellions against Mobutu and external interventions in a Cold War context revealing the weak character of the ahistorical state and the attendant negative ramifications of ethnicity, secessions and corruption. The Congolese state's lack of legitimacy in part explains its weakness at independence and political economy analysis captured the essence of political and ethnic conflict. The crisis between Lumumba and Kasavubu and Tshombe and Kalonji's secessions were a "pathological" quest for power, because power was everything in a game where no one accepted the post-colonial state's authority except those whom presided over it. If Tshombe or Kalonji had won the 1960 elections, they might never have attempted secession or collaborated by default with the United States, Belgium and France to overthrow the state. I examined the misguided policies for national cohesion which had all ruined Zaire by 1994.

I then examined the brief rule of Laurent Desiré Kabila, his quest to monopolise power and surround himself with cronies, his misguided policies leading to regional intervention and the second Congo war which I analysed from the stand point of subaltern realism, and best captures the essence of the actions by emerging fragile states in evolution seeking security and influence. The period after Kabila's assassination is analysed as one that is fraught with corruption as Joseph Kabila struggled to ensure stability in the country without the necessary social capital that comes with historical legitimacy. During this period, the contested state's survival was maintained through compromise, which meant lax controls over government resources amid helplessness in restoring state authority in peripheral areas.

In pursuit of my investigations, I examined how power was used by Mobutu, Laurent Desire Kabila and the circumstantially weak Joseph Kabila, all of whom devised mechanisms to protect it. Mobutu and Joseph Kabila established praetorian guards. Mobutu used party and patronage to ensure loyalty and further politicised ethnicity as defences to his power. Mobutu's reliance on an ethnic and Ngbandi dominated army and Joseph Kabila's mistrust of a newly integrated army of former enemies, and his creation of a republican guard comprising his Katangan kinsmen, further proved that the contested state has not been an instrument of development but a prize to win and protect at all costs. Since the Sun City inspired accords came about as a result of a military stalemate in a power struggle, the transition revealed itself as the highest point in the division of the spoils of the state as the Lutundula Commission report of 2005 showed. For a country afflicted by the "Dutch disease" and where the easy flow of copper and diamond revenues from Gecamines and MIBA went straight into the coffers of the state, the consequences for reconstruction and state authority restoration were disasterous. With the absence of effective institutions in the Congo for

decades, and the over centralization of the state as the main distributor of resources, positions and privileges, politics has always been both attractive and dangerous. Hence, it's violent and ethnicised character and the role of mineral resources in fuelling conflicts and instability.

I referred, in my analysis, to two key guiding documents - the Lutundula Commission Report (2005) and the United Nations Panel of Experts report on the illegal forms of exploitation of natural and mineral resources from the Democratic Republic of Congo (2001) - to elucidate these assertions. I concluded that governance and leadership failure were consequences of the struggle for, and misuse of, power in the quest for space in an intensely contested political field. The focus on retaining power was so much of an issue that it sapped what could otherwise have energized the state.

I provided a strong theoretical basis for the DRC's status as a failed and collapsed state showing that the problem of capacity has always made external intervention inevitable.[134] I demonstrated that when a state lacks capacity and fails in performing its critical functions of ensuring security (internal and external) or catering for the social and economic needs of society, it loses its *raison d'etre*. The lack of capacity, due to the failure of Belgian decolonization and the absence of a national focus and leadership to truly nationalize a set of alien institution which comprised the state, were perfect conditions for centrifugal regional elites in Bas Kongo, Equateur, Kasai, Katanga and the Kivus to challenge the state following their frustrating experiences in the 1960 elections.

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[134] I have recalled in the dissertation that neighbouring Angola fought a powerful rebellion aided from outside from 1975 to 2002 but did not collapse in the same manner that the Congo had experienced.

After the crisis of the 1960s, forms of control by Mobutu, and later the Kabilas, drained the state of revenues and capacity. I referred to North's view that the cost of maintenance of an existing order is inversely proportional to the perceived sense of legitimacy of the existing system. Corruption, nepotism, ethnic politics and factionalism have characterized patrimonial regimes in the DRC since independence. I cited Engelbert's contention that Africa's development crisis is a crisis of state capacity which is absent because the state is contested, being ahistorical and lacking social capital. The challenge of legitimacy thus undermined state capacity since the regimes of Mobutu, Laurent Desiré Kabila and Joseph Kabila spent time and resources dealing with political or military challenges. Where they could not fight to preserve the state, they used patronage and the allocation of resources in its place. Instead of delivering security and sustainable development to society, the state engaged in popular acceptance politics which depleted resources in the process. I again cited external intervention as a cause and a consequence of weakness and collapse using the United States, Belgium, France and the United Kingdom for the former and the 1998-2003 invasion by regional states for the latter. I discussed the role of natural resources while affirming that the 1998-2003 war was not caused by the lust for resources but rather the stalemate in a bitter confrontation among states, which derailed into resource exploitation.

In the absence of democracy (in a dictatorship that was Mobutu's Zaire and one that was intransigent towards reform), civil society was the only force that was quasi-active enough to salvage the country and restore democracy. Civil society did, however, fail to live up expectations. I explored the role of civil society, and in particular the role of the Catholic Church, students and political actors. Drawing on primary data for the Supreme National Conference, I demonstrated that while Mobutu successfully undermined the struggle for democracy, it was the failure of politicians, their lust for power and greed that destroyed the cohesion of the conference, through

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the method of surprise defections and reconciliations with Mobutu. The fragility of the Congolese state became apparent at the conference when Lubas and Lunda in Katanga clashed over the appointment of Nguz Karl-I-Bond as a rival to transitional parliament Prime Minister Etienne Tshsekedi. The manner in which the conference collapsed was reminiscent of the fragility of the state and how it has always been high jacked to advantage by politicians. Civil society is however credited with the impetus of protests that led to rebellion and Mobutu's overthrow, although this did not lead to the return of democracy immediately.

In the end, I argue that civil society in the DRC, as in many parts of Africa, is not firmly anchored in an evolved and historic form of interactions that respond to demands from state-society relations. Civil society in the Congo is relatively recent, ethnically influenced, spontaneous, fractured and hampered by rivalries. Political actors are not immune to the problem, as the Supreme National Conference (on the multi-party democracy experience) has shown.

In the final chapter, I explored how theoretical constructs, explain the key conflict issues in the DRC, namely failed governance, ethnic conflicts, xenophobia and a crisis of citizenship, corruption and patronage, political crises, the exploitation of mineral resources, and rebellions and invasions. Importantly, I demonstrated that the essence of conflict and instability in the Congo is best captured through an analysis of the African state's lack of historical legitimacy. I emphasized the equally important role of political economy analysis as well as explained invasions of the DRC and other foreign intervention as a function of the realist calculations of intervening states in favour of their own survival or acting in a historically rational ways. I have underlined that the Congo's mineral resources did not directly precipitate the 1998-2003 wars, but rather that the massive

looting of the country's resources resulted from the stalemate that followed the intervention of Zimbabwe, Angola and Namibia in defence of the Kinshasa government. In the conclusion, I have discussed federalism and unitarism as systems of organization and put forward the case for decentralization within a unitary system. This is because, as earlier explained, the history of secessions in the country, the country's size and the relatively young age of the state dictate the caution of its leaders. In fact, this view is widespread among politicians and intellectuals who all cite the conflicts and instability as having emanated from the centrifugal tendencies that I have discussed.

It is my conclusion that addressing the problem of State legitimacy is critical in resolving conflict and instability in the DRC. Ethnic conflicts, inter-elite political conflicts, nationality crises and rule by fiat and through patronage are largely to do with the lack of historical legitimacy of the post-colonial State that was Zaire. Recreating pre-colonial entities is impossible and not necessarily desirable, just as delinking the periphery is almost impractical. It is however important to note that the new nations grouped together in the post-colonial state must be encouraged to accept the post-colonial reality in the forging of a new nation-state through genuine and guaranteed decentralization that recognizes diversity, increases confidence in the state, or briefly put, unifies a diverse country. The formula for this is necessarily the subject of a further research agenda, and another thesis, but it is most important that this process begins with visionary leadership. Sub-Saharan Africa and the DRC's circumstances and difficulties begin with the illegitimate nature of the DRC State. The solution to the problems of conflict and instability must begin there. The problems of corruption, greed, regionalism, citizenship and national unity and cohesion and lack of regard for institution building have to do with lack of commitment to shared principles caused

by the absence of an empirical state with a strong historical basis. The challenge for leaders is to make the DRC state acceptable. People must accept it, believe in it, support and defend it and from this 'political kingdom' will develop the state. The acceptance of a legitimate State is the best social capital for effective governance. Governance is easier when the state is legitimate or legitimated. With committed, visionary, democratic and firm leadership, all institutions will function effectively.

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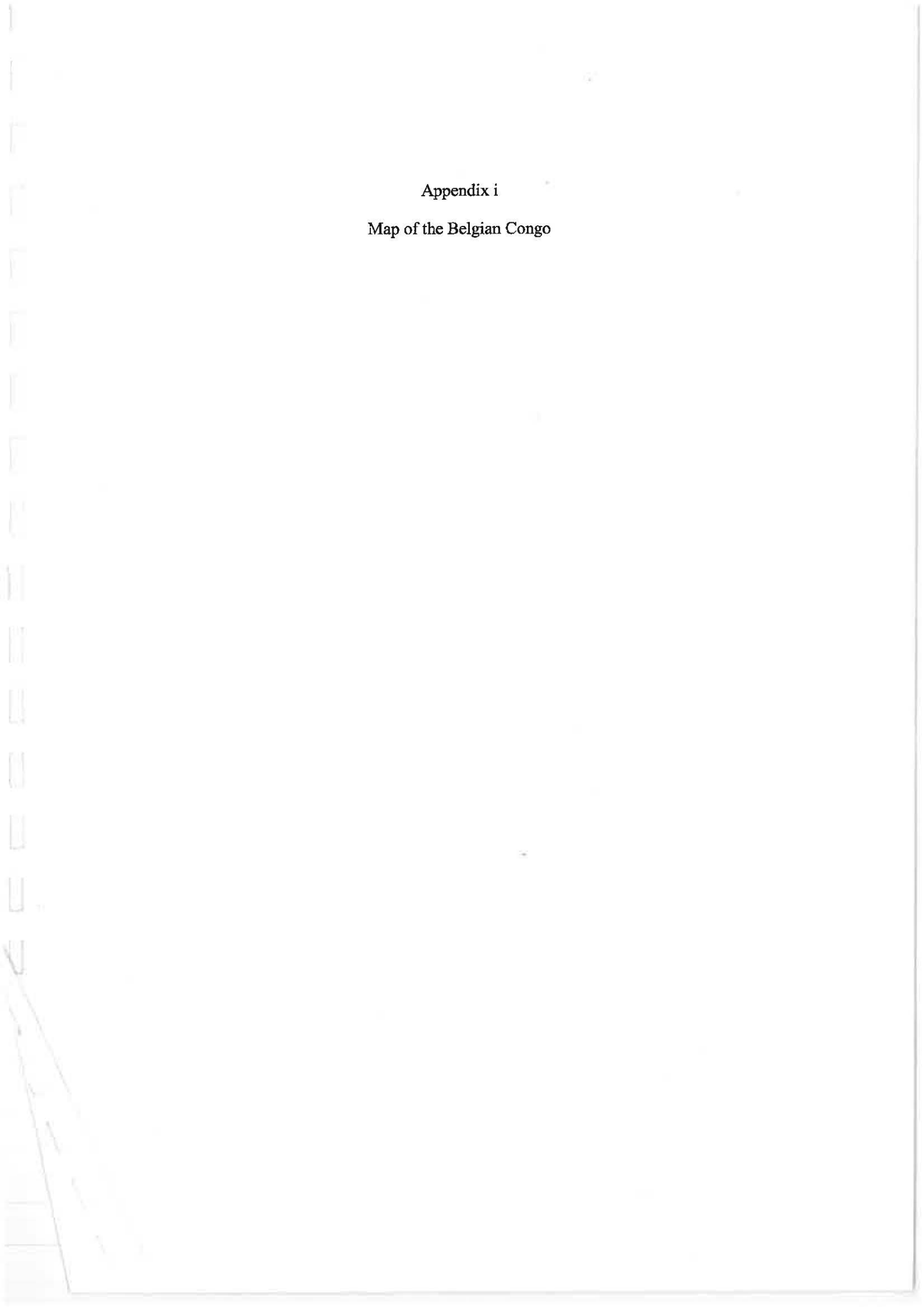
Appendices

i. Map of the DRC showing precolonial empires (Source
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&biw=1366&bih=607&source=lnms&tbm=isch&sa=X&ved=0ahUKEwi9pP3L767OAh
VCDxoKHZcQCTgQ_AUIBigB)

ii. Map of the Belgian Congo (source
: https://www.google.ml/search?q=belgian+congo+map+africa&espv=2&biw=1366&bih
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QwQ_AUIBigB#imgrc=ioFeZ2eIpYUX6M%3A)

iii. Map of the independent Congo
(source: https://www.google.ml/search?q=map+of+independent+congo&espv=2&biw=1
366&bih=607&source=lnms&tbm=isch&sa=X&ved=0ahUKEwizqI6u8K7OAhVE0xoK
HfV0BAgQ_AUIBigB)

iv. Political Map of the DRC (source
:https://www.google.ml/search?q=political+map+of+DRC&espv=2&biw=1366&bih=60
7&source=lnms&tbm=isch&sa=X&ved=0ahUKEwjB18_R8K7OAhUCQBoKHS9DAbk
Q_AUIBigB)

v. Map of the DRC showing the major regional languages (
source: https://www.google.ml/search?q=map+of+DRC+REGIONAL+LANGUAGES&
espv=2&biw=1366&bih=607&source=lnms&tbm=isch&sa=X&ved=0ahUKEwjgkNv38
K7OAhVInBoKHRsMDNIQ_AUIBigB)

vi. Map of the eastern DRC showing important minerals and mining zones
(https://www.google.ml/search?q=eastern+congo+mineral+zones&espv=2&biw=1366&b
ih=607&source=lnms&tbm=isch&sa=X&ved=0ahUKEwjp_MCl8a7OAhUJfhoKHXSeB
ZcQ_AUIBigB)

vii. Speech by Patrice Lumumba at DRC's independence on 30 June 1960
(source: http://www.assatashakur.org/forum/shoulders-our-freedom-fighters/42970-
collected-speeches-writings-patrice-lumumba.html)

viii.   The Lualabourg Constitution (source: http://www.droitcongolais.info/files/1.04.-Constitution-du-1er-aout-1964.pdf)

ix. The One-Party state Constitution of Zaire
(source: http://translate.google.co.uk/translate?hl=en&sl=fr&u=http://mjp.univ-perp.fr/constit/cd1974.htm&prev=search)

x. The Lusaka Accords on the Democratic Republic of Congo (source: source: UN Mission in Congo)

xi. The Global and Inclusive Accords on DRC, Pretoria (source: UN Mission in Congo)

xii. UN Panel of Experts report on the illegal exploitation of natural resources 2001 (source: UN Mission in Congo)

xiii.   UN Panel of Experts report on the illegal exploitation of natural resources 2003(source: UN Mission in Congo)

xiv.   UN Panel of Experts report on the illegal exploitation of natural resources 2005 (source: source: UN Mission in Congo)

xv. Lutundula Commission Report (source: source: UN Mission in Congo)

xvi.   The 2006 Constitution of the DRC (UN Mission in Congo)

Appendices

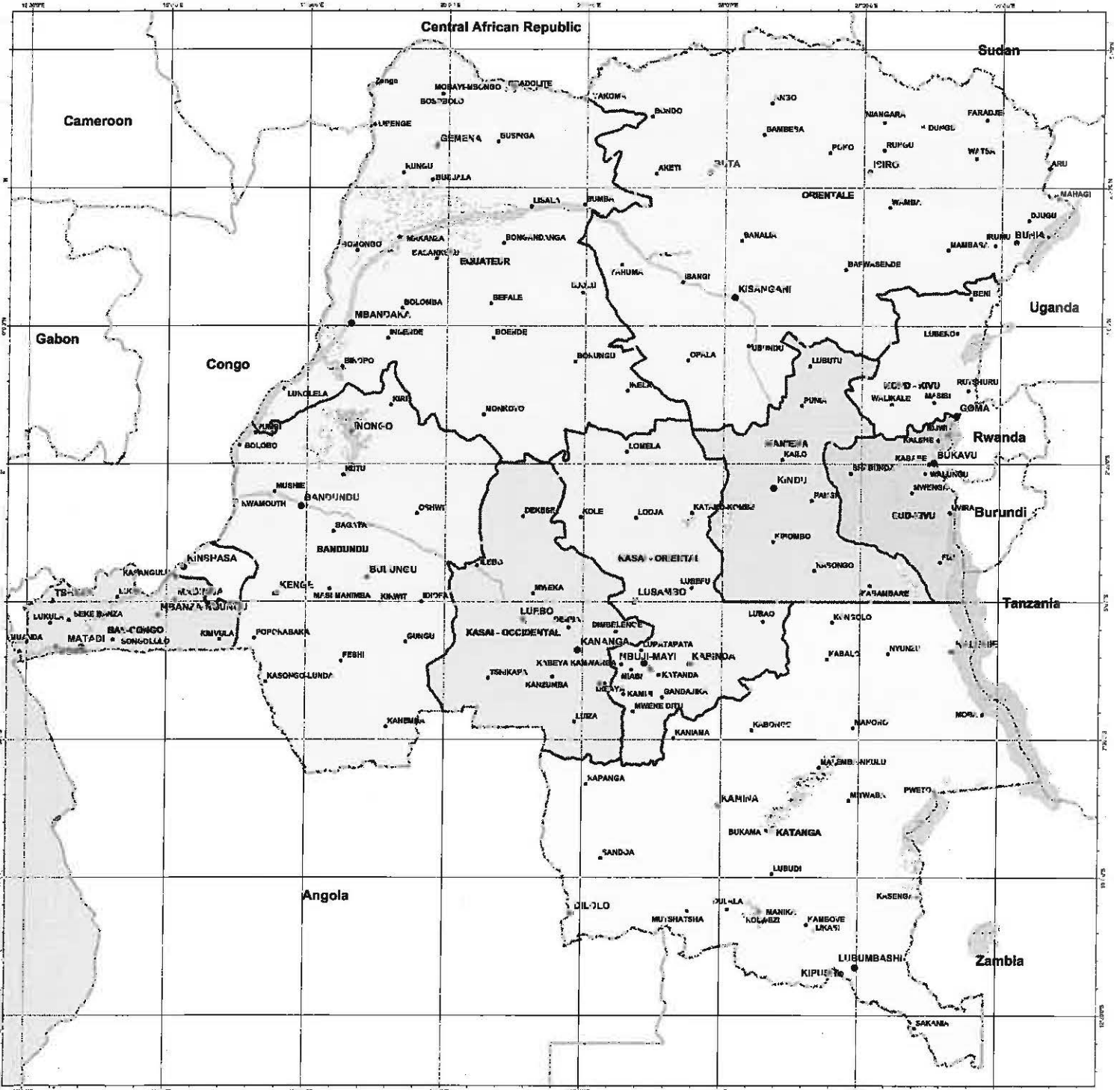Appendix i

Map of the Belgian Congo

Appendix ii

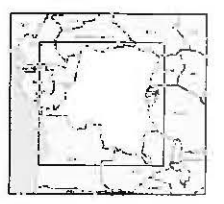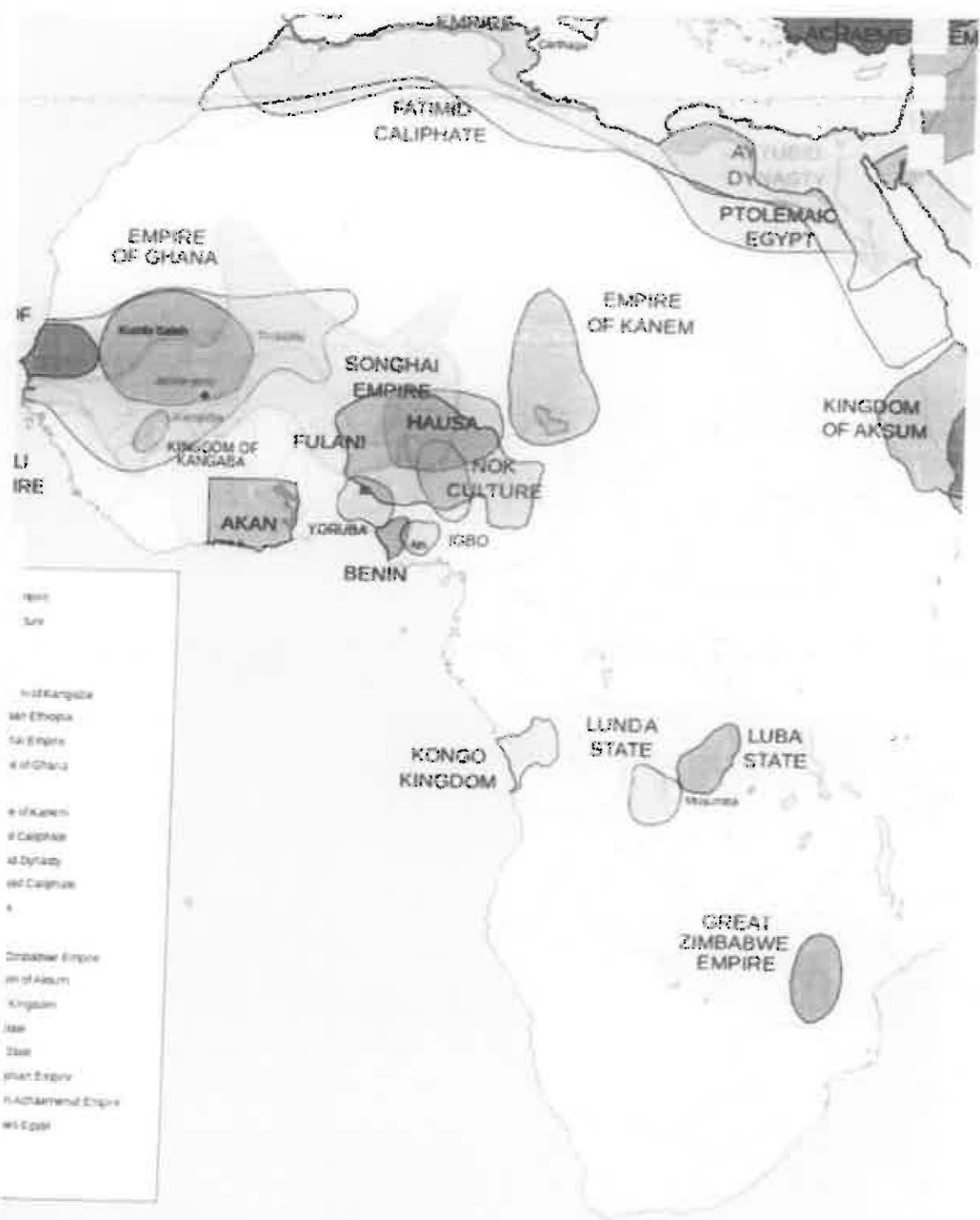Political Map of the Democratic Republic of Congo

DEMOCRATIC REPUBLIC OF CONGO

Central African Republic

Sudan

Cameroon

Zongo
MOSAYI-MBONGO
GBADOLITE
BOSOBOLO
YAKOMA
BONDO
AN3O
NIANGARA
DUNGU
FARADJE
LIPENGE
BAMBESA
PUKO
RUFIGU
WATSA
GEMENA
BUSINGA
ISIRO
ARU
KUNGU
AKETI
BUTA
BULUPA
LISALA
BUMBA
ORIENTALE
WAMBA
MAHAGI
HOMONGO
MAKANZA
BONGANDANGA
BANALIA
DJUGU
BUHI4
CALANGO
EQUATEUR
YAHUMA
IBANGI
MAMBASA
IRUMU
BOLOMBA
BEFALE
DJOLU
KISANGANI
BAFWASENDE
BENI
MBANDANA
BOENDE
Uganda
INGENDE
LUBEKO
BIKOPO
BOKUNGU
OPALA
UBUNDU
LUBUTU
NOID-KIVU
RUTSHURU
LUNGELA
KIRI
MONKOTO
IKELA
PUNIA
WALIKALE
MASISI
GOMA
YUMBI
LOMELA
MANIEMA
KALISE
KALIMA
BUKAVU
Rwanda
BOLOBO
KUTU
KINDU
BIG BINDY
WALUNGU
MWENGA
MUSHIE
KARO
PANISI
SUD-KIVU
UVIRA
Burundi
AWAMOUTH
BANDUNDU
OSHWI
DEKESE
KOLE
LODJA
KATAKO-KOMBE
KIBOMBO
KAPANGULU
KINSHASA
BAGATA
KASONGO
FI.
BANDUNDU
BULUNGU
ILEBO
MWEKA
KASAI - ORIENTAL
TSH-
LUKU
MADUMBA
KENGE
MASI MANIMBA
KINWIT
IDIOFA
LUBEFU
KASAMBARE
MBANZA-NGUNGU
LUSAMBO
Tanzania
LUKULA
SEKE BANZA
LUILU
KWILU
LUFBO
DIMBELENGE
LUBAO
KONGOLO
UMANGA
BAS-CONGO
KIMVULA
POPOKABAKA
GUNGU
KASAI - OCCIDENTAL
LUPATAPATA
KABAL2
NYUNZU
MATADI
SONGOLOLO
FESHI
KANANGA
KAPINDA
KABEYA KAMWANGA
MBUJI-MAYI
KASONGO-LUNDA
TSHIKAPA
MIABI
KATANDA
KANZUMBA
LUDAY
KANM
GANDAJIKA
MORA E
KAHEMBA
MWENE DITU
LUIZA
KABONGO
MANONO
KANIAMA
KALEMBI-NKULU
KAPANGA
MITWABA
PWETO
KAMINA
BUKAMA
KATANGA
SANDOA
LUBUDI
Angola
DILOLO
KASENG
MUTSHATSHA
DULHA
MANIKA
KAMBOVE
KOLWEZI
LIKASI
LUBUMBASHI
Zambia
KIPUSHI
SAKANIA

Legend

Localities
- Province Headquarter
- Chef Lieu Ky/sylar
- Main city
- Territorial Headquarter

General Map of DRC

1:3,000,000

Appendix iii

Map of the Democratic Republic of Congo Showing Pre-Colonial Empires

EMPIRE

Carthage

FATIMID
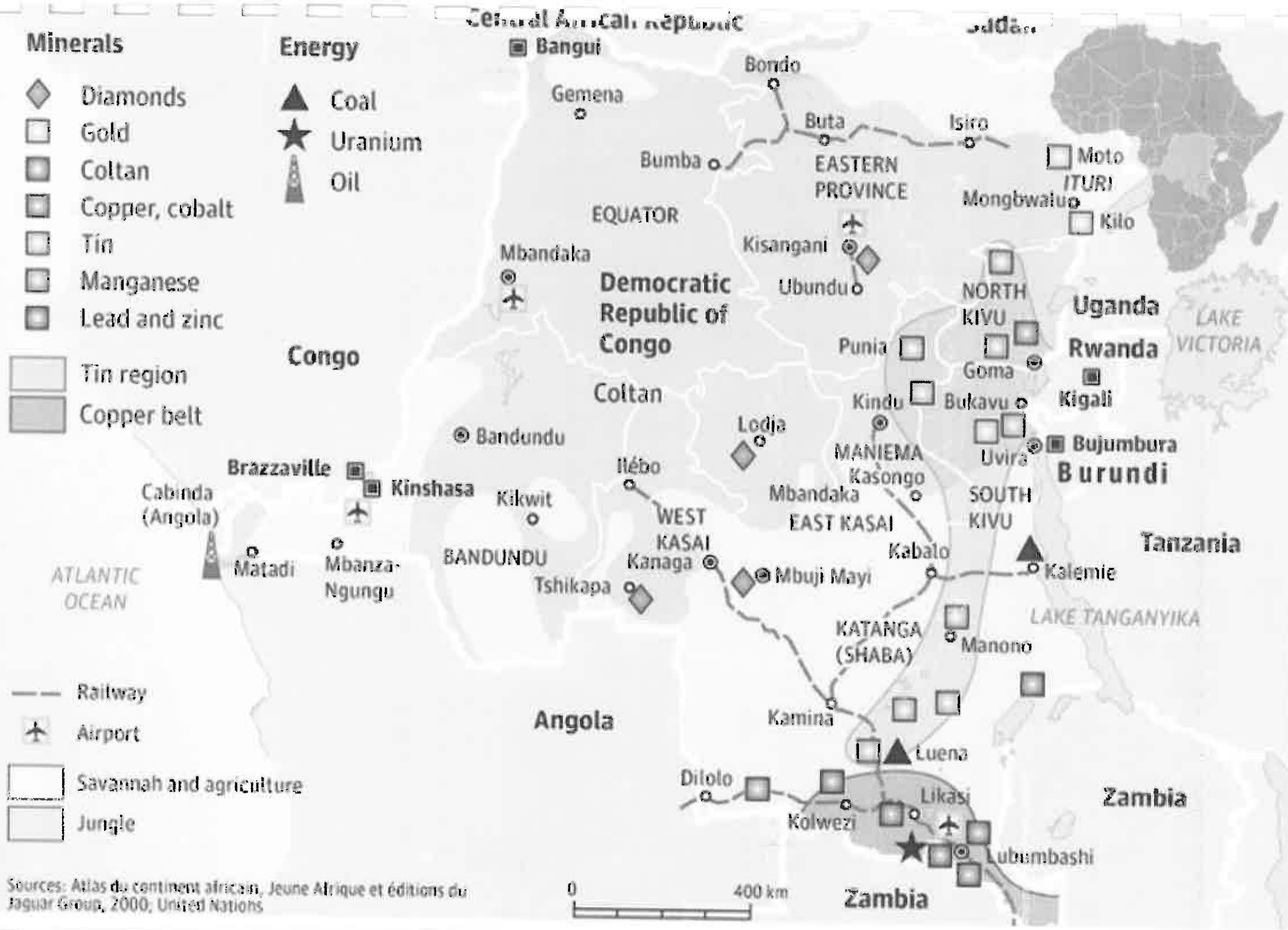CALIPHATE

AYYUBID
DYNASTY

PTOLEMAIC
EGYPT

EMPIRE
OF GHANA

Kumbi Saleh

Timbuktu

EMPIRE
OF KANEM

SONGHAI
EMPIRE

FULANI

HAUSA

NOK
CULTURE

KINGDOM OF
KANGABA

KINGDOM
OF AKSUM

AKAN

YORUBA

IGBO

BENIN

LUNDA
STATE

LUBA
STATE

KONGO
KINGDOM

Mbuamba

GREAT
ZIMBABWE
EMPIRE

Appendix iv

Map of the Democratic Republic of Congo Showing Important Minerals and Mining Zones

Minerals

◇ Diamonds
▢ Gold
▣ Coltan
▣ Copper, cobalt
▣ Tin
▣ Manganese
▣ Lead and zinc

▢ Tin region
▣ Copper belt

Energy

▲ Coal
★ Uranium
⚒ Oil

--- Railway
✈ Airport
▢ Savannah and agriculture
▢ Jungle

Sources: Atlas du continent africain, Jeune Afrique et éditions du Jaguar Group, 2000; United Nations

Central African Republic
▣ Bangui

Bondo
Gemena
Buta
Isiro
Bumba
EASTERN PROVINCE
Moto (ITURI)
Mongbwalu
Kilo

EQUATOR

Mbandaka

Democratic Republic of Congo

Kisangani
Ubundu

NORTH KIVU
Uganda
Rwanda
LAKE VICTORIA

Congo

Coltan

Punia
Goma
Kindu
Bukavu
Kigali

Bandundu
Lodja
MANIEMA
Uvira
Bujumbura

Brazzaville
Kinshasa
Kikwit
Ilébo
Kasongo
Mbandaka
SOUTH KIVU
Burundi

Cabinda (Angola)
WEST KASAI
EAST KASAI
Kabalo

Matadi
Mbanza-Ngungu
BANDUNDU
Kanaga
Mbuji Mayi
Kalemie
Tanzania

Tshikapa
LAKE TANGANYIKA

ATLANTIC OCEAN

KATANGA (SHABA)
Manono

Kamina

Angola

Luena

Dilolo
Likasi
Zambia

Kolwezi
Lubumbashi

0   400 km

Zambia

Appendix v

Speech by Patrice Lumumba on the Independence of the Democratic Republic of Congo,

30 June 1960

Patrice Lumumba

SPEECH AT THE CEREMONY OF THE PROCLAMATION OF THE CONGO'S INDEPENDENCE

June 30, 1960

Men and women of the Congo,

Victorious independence fighters,

I salute you in the name of the Congolese Government.

I ask all of you, my friends, who tirelessly fought in our ranks, to mark this June 30, 1960, as an illustrious date that will be ever engraved in your hearts, a date whose meaning you will proudly explain to your children, so that they in turn might relate to their grandchildren and great-grandchildren the glorious history of our struggle for freedom.

Although this independence of the Congo is being proclaimed today by agreement with Belgium, an amicable country, with which we are on equal terms, no Congolese will ever forget that independence was won in struggle, a persevering and inspired struggle carried on from day to day, a struggle, in which we were undaunted by privation or suffering and stinted neither strength nor blood.

It was filled with tears, fire and blood. We are deeply proud of our struggle, because it was just and noble and indispensable in putting an end to the humiliating bondage forced upon us.

That was our lot for the eighty years of colonial rule and our wounds are too fresh and much too painful to be forgotten.

We have experienced forced labour in exchange for pay that did not allow us to satisfy our hunger, to clothe ourselves, to have decent lodgings or to bring up our children as dearly loved ones.

Morning, noon and night we were subjected to jeers, insults and blows because we were "Negroes". Who will ever forget that the black was addressed as *"tu"*, not because he was a friend, but because the polite *"vous"* was reserved for the white man?

We have seen our lands seized in the name of ostensibly just laws, which gave recognition only to the right of might.

We have not forgotten that the law was never the same for the white and the black, that it was lenient to the ones, and cruel and inhuman to the others.

We have experienced the atrocious sufferings, being persecuted for political convictions and religious beliefs, and exiled from our native land: our lot was worse than death itself.

We have not forgotten that in the cities the mansions were for the whites and the tumbledown huts for the blacks; that a black was not admitted to the cinemas, restaurants and shops set aside for "Europeans"; that a black travelled in the holds, under the feet of the whites in their luxury cabins.

Who will ever forget the shootings which killed so many of our brothers, or the cells into which were mercilessly thrown those who no longer wished to submit to the regime of injustice, oppression and exploitation used by the colonialists as a tool of their domination?

All that, my brothers, brought us untold suffering.

But we, who were elected by the votes of your representatives, representatives of the people, to guide our native land, we, who have suffered in body and soul from the colonial oppression, we tell you that henceforth all that is finished with.

The Republic of the Congo has been proclaimed and our beloved country's future is now in the hands of its own people.

Brothers, let us commence together a new struggle, a sublime struggle that will lead our country to peace, prosperity and greatness.

Together we shall establish social justice and ensure for every man a fair remuneration for his labour.

We shall show the world what the black man can do when working in liberty, and we shall make the Congo the pride of Africa.

We shall see to it that the lands of our native country truly benefit its children.

We shall revise all the old laws and make them into new ones that will be just and noble.

We shall stop the persecution of free thought. We shall see to it that all citizens enjoy to the fullest extent the basic freedoms provided for by the Declaration of Human Rights.

We shall eradicate all discrimination, whatever its origin, and we shall ensure for everyone a station in life befitting his human dignity and worthy of his labour and his loyalty to the country.

We shall institute in the country a peace resting not on guns and bayonets but on concord and goodwill.

And in all this, my dear compatriots, we can rely not only on our own enormous forces and immense wealth, but also on the assistance of the numerous foreign states, whose co-operation we shall accept when it is not aimed at imposing upon us an alien policy, but is given in a spirit of friendship.

Even Belgium, which has finally learned the lesson of history and need no longer try to oppose our independence, is prepared to give us its aid and friendship; for that end an agreement has just been signed between our two equal and independent countries. I am sure that this co-operation will benefit both countries. For our part, we shall, while remaining vigilant, try to observe the engagements we have freely made.

Thus, both in the internal and the external spheres, the new Congo being created by my government will be rich, free and prosperous. But to attain our goal without delay, I ask all of you, legislators and citizens of the Congo, to give us all the help you can.

I ask you all to sink your tribal quarrels: they weaken us and may cause us to be despised abroad.

I ask you all not to shrink from any sacrifice for the sake of ensuring the success of our grand undertaking.

Finally, I ask you unconditionally to respect the life and property of fellow-citizens and foreigners who have settled in our country; if the conduct of these foreigners leaves much to be desired, our Justice will promptly expel them from the territory of the republic; if, on the contrary, their conduct is good, they must be left in peace, for they, too, are working for our country's prosperity.

The Congo's independence is a decisive step towards the liberation of the whole African continent.

Our government, a government of national and popular unity, will serve its country.

I call on all Congolese citizens, men, women and children, to set themselves resolutely to the task of creating a national economy and ensuring our economic independence.

Eternal glory to the fighters for national liberation!

Long live independence and African unity!

Long live the independent and sovereign Congo!

Appendix vi

Excerpt from the Lusaka Accords on the Democratic Republic of Congo

Accord de cessez-le-feu en République démocratique du Congo

PREAMBULE

Nous, les Parties à cet Accord,

Considérant l'article 52 de la Charte de l'Organisation des Nations Unies relatif aux arrangements régionaux concernant les questions relatives au maintien de la paix et de la sécurité internationales dans le cadre d'une action régionale appropriée;

Réaffirmant les dispositions de l'article 3 de la Charte de l'Organisation de l'Unité Africaine (OUA) qui, entre autres, garantissent à tous les Etats membres le droit à leur souveraineté et à leur intégrité territoriale;

Réaffirmant en outre la résolution AHG/16/1 adoptée par la Conférence des Chefs d'Etat et de Gouvernement de l'OUA en 1964 au Caire (Egypte) sur l'intégrité territoriale et l'inviolabilité des frontières nationales telles qu'héritées à l'indépendance;

Rappelant le Communiqué du Sommet de Pretoria tel que contenu dans l'Annexe 2 du document NEC/AMB/COMM (L) de l'Organe central de l'OUA réaffirmant que tous les groupes ethniques et nationalités dont les personnes et le territoire constituaient ce qui est devenu Congo (présentement RDC) à l'indépendance doivent bénéficier de l'égalité des droits et de la protection aux termes de la loi en tant que citoyens;

Déterminée à assurer le respect, par toutes les Parties signataires du présent Accord, des Conventions de Genève de 1949 et des Protocoles additionnels de 1977 ainsi que de la Convention sur la prévention et la répression du crime de génocide de 1948, tel que réitéré lors du Sommet régional d'Entebbe du 25 mars 1998;

Déterminées en outre à mettre fin immédiatement à toute aide aux forces négatives déterminées à déstabiliser les pays voisins, cesser immédiatement toute collaboration avec ces forces ou de leur accorder un sanctuaire;

Soulignant la nécessité de veiller au respect des principes de bon voisinage et de non-ingérence dans les affaires intérieures des autres pays;

Préoccupées par le conflit en République Démocratique du Congo et ses conséquences négatives sur le pays ainsi que sur d'autres pays de la région des Grands Lacs;

Réitérant l'appel lancé lors du deuxième sommet de Victoria Falls tenu du 7 au 8 septembre 1998, pour la cessation immédiate des hostilités, tel que contenu dans le communiqué commun du Sommet;

Conscientes du fait que la résolution des problèmes de sécurité de la République Démocratique du Congo et des pays voisins est essentielle et devrait contribuer au processus de paix;

Rappelant le mandat, contenu dans le Communiqué commun de Victoria Falls II, confié aux Ministres de la Défense et à d'autres fonctionnaires, d'élaborer, en étroite collaboration avec l'OUA et l'ONU, les modalités de mise en œuvre d'un cessez-le-feu immédiat et de créer un mécanisme pour assurer le suivi du respect des dispositions du Cessez-le-feu;

Rappelant la Résolution 1234 du 9 avril 1999 ainsi que les autres résolutions et décisions du Conseil de Sécurité des Nations Unies sur la République Démocratique du Congo, prises depuis le 2 août 1998;

Rappelant en outre les efforts de paix déployés pour la résolution du conflit en RDC lors des Sommets de Victoria Falls I et II, Prétoria, Durban, Port-Louis, Nairobi, Windhoek, Dodoma ainsi que lors des réunions des Ministres de Lusaka et de Gaborone;

Rappelant en outre l'Accord de paix signé le 18 avril 1999 à Sirte (LIBYE);

Reconnaissant que le conflit en RDC a une dimension à la fois interne et externe qui trouvera sa solution dans le cadre des négociations politiques inter-congolaises et de l'engagement des Parties à la mise en œuvre de cet Accord;

Prenant acte de l'engagement du Gouvernement congolais, du RCD, du MLC ainsi que de toutes les organisations politiques et civiles congolaises à organiser un dialogue national sans exclusive, visant à aboutir à la réconciliation nationale et à l'instauration d'un nouvel ordre politique en RDC;

CONVENONS DE CE QUI SUIT :

ARTICLE 1

DU CESSEZ-LE-FEU

1. Les Parties conviennent d'un cessez-le-feu entre toutes leurs forces en République Démocratique du Congo.

2. Le Cessez-le-feu signifie:

a. la cessation des hostilités entre toutes les forces des Parties en République Démocratique du Congo, comme prévu dans cet Accord de Cessez-le-feu (ci-après appelé « l'accord »);

b. la cessation effective des hostilités, des mouvements et renforts militaires ainsi que des actes hostiles, y compris la propagande hostile ;

c. la cessation des hostilités dans un délai de 24 heures après la signature de l'Accord de Cessez-le-feu.

3. Le Cessez-le-feu implique la cessation de:

a. toute attaque aérienne, terrestre et maritime ainsi que tout acte de sabotage ;

b. toute tentative d'occupation de nouvelles positions sur le terrain et de mouvement des forces et des équipements militaires d'un endroit à l'autre sans accord préalable des parties ;

c. tous les actes de violence contre les populations civiles par le respect et la protection des droits humains. Ces actes de violence incluent les exécutions sommaires, la torture, le harcèlement, la détention et l'exécution des civils basés sur leur origine ethnique, le recrutement et l'utilisation des enfants soldats, la violence sexuelle, le bombardement et le massacre de populations civiles, la propagande et l'incitation à la haine ethnique et tribale, l'armement des civils, la détention et l'exécution des prisonniers d'opinion, les coupures d'eau et d'électricité, la formation et l'utilisation des terroristes ;

d. toute autre action qui peut entraver l'évolution normale du processus de cessez-le-feu ;

e. tout ravitaillement en munitions et en armes des magasins de guerre au front ;

ARTICLE II

DES PREOCUPATIONS EN MATIERE DE SECURITE

4. Dès l'entrée en vigueur de cet Accord, les Signataires s'engagent à trouver immédiatement des solutions aux préoccupations de sécurité de la République Démocratique du Congo et des pays voisins.

ARTICLE III

DES PRINCIPES DE L'ACCORD

5. Les dispositions du paragraphe 3 (e) n'excluent pas le ravitaillement en nourriture, habillement et services médicaux destinés aux forces militaires sur le terrain.

6. Le Cessez-le-feu garantira la libre circulation des personnes et des biens sur l'ensemble du territoire national de la République Démocratique du Congo.

7. Dès l'entrée en vigueur de cet Accord, les Parties libéreront les personnes détenues ou prises en otage et leur accorderont la liberté de se réinstaller

dans toute province de la République Démocratique du Congo ou dans tout autre pays où leur sécurité pourra être garantie.

8. Les Parties à cet Accord s'engagent à échanger les prisonniers de guerre et à libérer toutes autres personnes détenues en raison de la guerre.

9. Les Parties permettront l'accès immédiat et sans réserve au Comité International de la Croix Rouge (CICR)/Croissant Rouge (CR) afin de permettre les arrangements pour la libération des prisonniers de guerre et autres personnes détenues en raison de la guerre ainsi que l'évacuation et l'inhumation des morts et le soin des blessés.

10. Les Parties faciliteront l'acheminement de l'aide humanitaire grâce à l'ouverture de couloirs d'aide humanitaire et la création de conditions favorables à la fourniture de l'aide d'urgence aux personnes déplacées, aux réfugiés et autres personnes concernées.

11. a. Le Conseil de sécurité des Nations Unies, agissant conformément aux dispositions du chapitre VII de la Charte des Nations Unies et en collaboration avec l'OUA, sera appelé à constituer, faciliter et déployer une force de maintien de la paix en RDC afin d'assurer la mise en œuvre de cet Accord, et prenant acte de la situation particulière de la RDC, lui confiera le mandat de poursuivre tous les groupes armés en RDC. A cet égard, le Conseil de sécurité des Nations Unies définira le mandat de la force de maintien de la paix.

b. Les parties constitueront une Commission Militaire Mixte qui sera chargée d'exécuter, immédiatement après l'entrée en vigueur de cet Accord en collaboration avec le groupe d'observateurs de l'ONU et de l'OUA, les opérations de maintien de la paix jusqu'au moment du déploiement de la Mission de maintien de la paix des Nations Unies et de l'OUA. Sa composition et son mandat seront conformes aux dispositions du chapitre 7 de l'Annexe « A » de cet Accord.

12. Le retrait définitif de toutes les forces étrangères du territoire national de la République Démocratique du Congo sera effectué conformément au Calendrier figurant à l'Annexe B du présent Accord et au programme de retrait qui sera arrêté par les Nations Unies, l'OUA et la Commission Militaire Mixte.

13. La pose des mines, quel qu'en soit le type, est interdite.

14. Le désengagement des forces sera immédiat dans les zones où elles sont en contact direct.

15. Rien dans cet Accord ne devra, en aucune manière, nuire à la souveraineté ni à l'intégrité territoriale de la République Démocratique du Congo.

16. Les Parties réaffirment que tous les groupes ethniques et nationalités dont les personnes et le territoire constituaient ce qui est devenu Congo (présentement RDC) à l'indépendance doivent bénéficier de l'égalité des droits et de la protection aux termes de la loi en tant que citoyens.

17. Les Parties à cet Accord devront prendre toutes les mesures nécessaires à la normalisation de la situation le long des frontières internationales de la République Démocratique du Congo, y compris le contrôle du trafic illicite des armes et l'infiltration des groupes armés.

18. Aux termes de cet Accord et à l'issue des négociations politiques inter-congolaises, l'autorité administrative de l'Etat sera rétablie sur l'ensemble du territoire national de la République Démocratique du Congo.

19. Dès l'entrée en vigueur de cet Accord, le Gouvernement de la République Démocratique du Congo, l'opposition armée, à savoir le Rassemblement Congolais pour la Démocratie et le Mouvement pour la Libération du Congo, et l'opposition politique s'engagent à entrer dans un dialogue national ouvert. Ces négociations politiques inter-congolaises, associant également les Forces Vives de la Nation, mèneront à un nouvel ordre politique et à la réconciliation nationale en République Démocratique du Congo. Les négociations politiques inter-congolaises seront menées sous l'autorité d'un facilitateur neutre, accepté par toutes les Parties congolaises. Les Parties s'engagent à soutenir ce dialogue et veilleront à ce que les négociations politiques inter-congolaises s'effectuent conformément aux dispositions du chapitre 5 de l'Annexe A.

20. Aux termes de cet Accord et à l'issue du dialogue national, il y aura un mécanisme pour la formation d'une armée nationale, restructurée et intégrée, incluant les forces des Parties congolaises signataires du présent Accord, sur base des négociations entre le Gouvernement de la République Démocratique du Congo, le Rassemblement Congolais pour la Démocratie et le Mouvement pour la Libération du Congo.

21. Les Parties affirment la nécessité de trouver des solutions aux préoccupations de sécurité de la République Démocratique du Congo et des pays voisins.

22. Un mécanisme sera mis en place pour désarmer les milices et les groupes armés, y compris les forces génocidaires. Dans ce contexte, toutes les Parties, s'engagent à localiser, identifier, désarmer et assembler tous les membres des groupes armés en RDC. Les pays d'origine des membres des groupes armés s'engagent à prendre toutes les mesures nécessaires pour faciliter leur rapatriement. Ces mesures peuvent comprendre l'amnistie, dans les pays où cette mesure a été jugée avantageuse. Toutefois, cette mesure ne s'appliquera pas dans le cas des suspects du crime de Génocide. Les Parties assument pleinement la responsabilité de veiller à ce que les groupes armés opérant avec leurs troupes ou sur les territoires qu'elles contrôlent se conforment aux termes du présent Accord en général aux processus menant au démantèlement de ces groupes en particulier.

23. Les Parties veilleront à l'application des termes de cet Accord et des Annexes « A » et « B » qui font partie intégrante de celui-ci.

24. Les définitions des termes communs utilisés dans cet Accord sont à l'Annexe « C ».

25. Cet accord entrera en vigueur 24 heures après sa signature.

26. Cet Accord pourra être amendé avec l'accord de toutes les Parties ; tout amendement devra être fait par écrit et signé par toutes les Parties de la même manière que cet Accord.

En foi de quoi les représentants dûment autorisés des Parties signent cet Accord dans les langues française, anglaise, et portugaise, étant entendu que tous les textes font foi.

L'accord a été signé par des représentants

de La République d'Angola,

de la République Démocratique du Congo,

de la République de Namibie,

de la République du Rwanda,

de la République de l'Ouganda,

et de la République du Zimbabwe.

Sont témoins :

des représentants de la République de Zambie,

de l'Organisation de l'Unité Africaine,

de l'Organisation des Nations Unies

et de la Communauté pour le développement de l'Afrique australe.

ANNEXE « A »

MODALITES DE MISE EN ŒUVRE

DE L'ACCORD DE CESSEZ-LE-FEU EN

REPUBLIQUE DEMOCRATIQUE DU CONGO

CHAPITRE 1

DE LA CESSATION DES HOSTILITES

1.1 Les Parties annonceront la cessation des hostilités devant entrer en vigueur 24 heures après la signature de l'Accord de Cessez-le-feu. La cessation des hostilités sera diffusée par les Parties par l'intermédiaire de leurs chaînes de commandement et elle sera simultanément communiquée à la population civile par la presse écrite ainsi que par la radio et la télévision.

Appendix vii

The Global and Inclusive Accords on the Democratic Republic of Congo, Pretoria

DIALOGUE INTERCONGOLAIS

NEGOCIATIONS POLITIQUES SUR LE PROCESSUS DE PAIX ET SUR LA TRANSITION EN RDC

ACCORD GLOBAL ET INCLUSIF SUR LA TRANSITION

EN

REPUBLIQUE DEMOCRATIQUE DU CONGO

Signé à Pretoria (République d'Afrique du Sud)
le 16 Décembre 2002

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Préambule

Nous, Composantes et Entités du Dialogue inter-congolais, Parties au présent Accord:
le Gouvernement de la République Démocratique du Congo, le Rassemblement Congolais pour la Démocratie (RCD), le Mouvement de Libération du Congo (MLC), l'Opposition politique, les Forces vives, le Rassemblement Congolais pour la Démocratie/Mouvement de Libération (RCD/ML), le Rassemblement Congolais pour la Démocratie/ National (RCD/N), les Maï-Maï;

Conscients de nos responsabilités devant le Peuple Congolais, l'Afrique et la Communauté internationale;

Considérant l'Accord pour un cessez-le-feu en République Démocratique du Congo signé à LUSAKA les 10, 30 et 31 juillet 1999;

Considérant les Résolutions pertinentes du Conseil de sécurité des Nations Unies relatives au conflit en République Démocratique du Congo;

Considérant les Résolutions du Dialogue inter-congolais tenu à Sun-City (Afrique du Sud) du 25 février 2002 au 12 avril 2002;

Prenant à témoin son Excellence Monsieur Ketumile MASIRE, Facilitateur neutre du Dialogue inter-congolais; Son Excellence Monsieur Kofi ANNAN, Secrétaire général de l'Organisation des Nations Unies, représenté par Son Excellence Monsieur Moustapha NIASSE, Envoyé spécial du Secrétaire général des Nations Unies pour le Dialogue inter-congolais, Son Excellence Monsieur Thabo MBEKI, Président de la République d'Afrique du Sud et Président en exercice de l'Union Africaine;

Concluons le présent Accord global et inclusif sur la transition en République Démocratique du Congo, en convenant de ce qui suit:

I – De la cessation des hostilités

1. Les Parties au présent Accord et ayant des forces combattantes, à savoir le Gouvernement de la RDC, le RCD, le MLC, le RCD-ML, le RCD-N, et les Maï-Maï renouvellent leur engagement, conformément à l'accord de Lusaka, au Plan de désengagement de Kampala et au Sous-Plan de Harare, et aux résolutions pertinentes du Conseil de sécurité, de cesser les hostilités et de rechercher une solution pacifique et équitable à la crise que traverse le Pays.

2. Les Parties au présent Accord et ayant des forces combattantes acceptent de s'engager dans le processus de formation d'une armée nationale, restructurée et intégrée conformément à la Résolution adoptée le 10 avril 2002 adoptée par la Plénière du Dialogue inter-congolais (DIC) de Sun-City.

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intégrée conformément à la Résolution adoptée le 10 avril 2002 adoptée par la Plénière du Dialogue inter-congolais (DIC) de Sun-City.

3. Les Composantes et Entités au DIC Parties au présent Accord (les Parties), à savoir le Gouvernement de la RDC, le RCD, le MLC, l'Opposition politique, les Forces vives, le RCD-ML, le RCD-N et les Maï-Maï, acceptent de conjuguer leurs efforts dans la mise en application des Résolutions du Conseil de sécurité des Nations Unies pour le retrait de toutes les troupes étrangères du territoire de la RDC et du désarmement des groupes armés et des milices, et de sauvegarder la souveraineté et l'intégrité territoriale de la RDC.

4. Les Parties acceptent de conjuguer leurs efforts en vue d'aboutir à la réconciliation nationale. A cet effet, elles décident de mettre en place un Gouvernement d'union nationale qui permettra d'organiser des élections libres et démocratiques dans les meilleurs délais.

5. Les Parties acceptent de prendre toutes les mesures nécessaires à la sécurisation des populations et des dirigeants de la transition tant à Kinshasa que sur l'ensemble du territoire national. A cet effet seront arrêtées des dispositions visant à garantir la sécurité des populations, des Institutions, de leurs animateurs et des principaux cadres dirigeants des Parties au présent Accord et ayant des forces combattantes.

II – Des objectifs de la transition

Les objectifs principaux de la transition sont:

1. 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;

2. la réconciliation nationale;

3. la formation d'une armée nationale, restructurée et intégrée;

4. l'organisation d'élections libres et transparentes à tous les niveaux permettant la mise en place d'un régime constitutionnel démocratique;

5. la mise en place des structures devant aboutir à un nouvel ordre politique.

différentes sensibilités au sein des forces politiques et sociales. En particulier, il faudrait prévoir une représentation appropriée des femmes à tous les niveaux de responsabilité.

2. En vue d'assurer la stabilité des Institutions de la transition, le Président, les Vice-Présidents, le Président de l'Assemblée nationale et le Président du Sénat restent en fonction pendant toute la durée de la transition, sauf en cas de démission, décès, empêchement définitif, condamnation pour haute trahison, détournement des deniers publics, concussion, ou corruption.

3. Les Parties réaffirment leur adhésion à la Déclaration universelle des droits de l'homme, au Pacte international des droits civils et politiques de 1966, au Pacte international des droits économiques et socio-culturels de 1966, à la Charte africaine des droits de l'homme et des peuples de 1981, et aux conventions internationales dûment ratifiées. Dans cette perspective, elles prennent l'engagement de lutter pendant la période de la transition pour un système respectueux des valeurs de la démocratie, des droits de l'homme et des libertés fondamentales.

4. Les Institutions de la transition reposeront sur le principe de la séparation des pouvoirs entre l'exécutif, le législatif et le judiciaire.

5. Les Institutions de la transition fonctionneront selon les principes de la consensualité, de l'inclusivité et de la non-conflictualité.

6. La répartition des responsabilités au sein des Institutions de la transition et à différents niveaux de l'Etat se fait sur la base du principe de l'inclusivité et du partage équitable entre les Composantes et Entités au Dialogue inter-congolais selon des critères de compétence, de crédibilité, d'honorabilité et dans un esprit de réconciliation nationale. Les modalités de mise en application du principe de l'inclusivité sont prévues à l'Annexe du présent Accord inclusif.

7. La répartition entre les différentes Parties des postes au sein du Gouvernement de la transition, et en particulier au sein des commissions gouvernementales, devra être aussi juste que possible en termes de nombre, de poids des ministères et des postes gouvernementaux. Un équilibre devra être recherché entre les commissions elles-mêmes. La répartition des postes au sein de chaque commission se fera par les Parties signataires dans un ordre de priorité garantissant un équilibre général entre les Parties.

8. Afin de réaliser la réconciliation nationale, l'amnistie sera accordée pour les faits de guerre, les infractions politiques et d'opinion, à l'exception des crimes de guerre, des crimes de génocide et des crimes contre l'humanité. A cet effet, l'Assemblée nationale de transition adoptera une loi d'amnistie conformément aux principes universels et à la législation internationale. A titre provisoire, et jusqu'à l'adoption et la promulgation de la loi d'amnistie, l'amnistie sera

promulguée par Décret-loi présidentiel. Le principe de l'amnistie sera consacré dans la Constitution de la transition.

IV – De la durée de la transition

La période de transition prend effet à compter de l'investiture du Gouvernement de la transition. L'élection du nouveau Président marque la fin de la période de transition. L'élection du Président a lieu après les élections législatives. Les élections se tiennent dans les 24 mois qui suivent le début de la période de transition. En raison de problèmes spécifiquement liés à l'organisation des élections, cette période peut être prolongée de 6 mois, renouvelable une seule fois pour une durée de 6 mois, si les circonstances l'exigent, sur proposition de la Commission électorale indépendante et par une décision conjointe et dûment motivée de l'Assemblée nationale et du Sénat.

V – Des Institutions de la transition

Pendant la période de la transition, il est créé un Exécutif de la transition, un Parlement de la transition composé d'une Assemblée nationale et d'un Sénat, un pouvoir judiciaire constitué notamment des Cours et Tribunaux existants, et des Institutions d'appui à la démocratie, dans les conditions déterminées dans la Constitution de la transition.

Les Institutions de la transition sont :

- Le Président de la République,
- Le Gouvernement,
- L'Assemblée nationale,
- Le Sénat,
- Les cours et les tribunaux.

En plus des Institutions ci-dessus, sont créées les Institutions d'appui à la démocratie suivantes :

- La Commission électorale indépendante,
- L'Observatoire national des droits de l'homme,
- La Haute autorité des médias,
- La Commission vérité et réconciliation,
- La Commission de l'éthique et de la lutte contre la corruption.

1 - Le Pouvoir exécutif

A . Le Président

a. Le Président de la République est le Chef de l'Etat. Il représente la Nation. Il veille au respect de la Constitution de la transition. Le Président de la République est le Commandant suprême des Forces Armées. Il préside le Conseil supérieur de la Défense. Il convoque et préside le Conseil des Ministres une fois tous les quinze jours. Le Président de la République demeure en fonction pour toute la durée de la transition.

b. Le Président de la République exerce les fonctions et pouvoirs suivants:

b/1. Il promulgue les lois.

b/2. Il nomme et révoque, sur proposition des Composantes et Entités, les Ministres et les Vice-Ministres.

b/3. Il accrédite les Ambassadeurs et les Envoyés extraordinaires auprès des puissances étrangères et des organisations internationales. Les Ambassadeurs et les Envoyés extraordinaires sont accrédités auprès de lui.

b/4. Conformément aux dispositions du présent Accord et de ses Annexes, il nomme:

    (i) Les hauts fonctionnaires de l'Etat;
    (ii) Les officiers de l'Armée et de la Police après délibération en Conseil Supérieur de la Défense;
    (iii) Les Gouverneurs et Vice-Gouverneurs de Province;
    (iv) Le Gouverneur et les Vice-Gouverneurs de la Banque centrale;
    (v) Les Ambassadeurs et les Envoyés extraordinaires;
    (vi) Les membres d Conseil supérieur de la Magistrature;
    (vii) Les mandataires de l'Etat dans les entreprises publiques et para-étatiques.

b/5. Sur proposition du Conseil supérieur de la Magistrature, il nomme et révoque les magistrats du Siège et du Parquet après en avoir informé le Gouvernement.

b/6. Il confère les grades des Ordres nationaux et les décorations conformément à la loi.

b/7. Il a le droit de grâce et peut remettre, commuer et réduire les peines après en avoir informé le Gouvernement.

b/8. Il déclare la guerre, l'état de siège et d'urgence sur décision du Conseil des Ministres après avis conforme des deux Chambres du Parlement.

c. Les fonctions de Président de la République prennent fin par démission, décès, empêchement définitif, condamnation pour haute trahison, détournement de deniers publics, concussion ou corruption. En cas de cessation de fonctions, la Composante à laquelle appartient le Président de la République présente son remplaçant à l'Assemblée nationale pour entérinement, endéans sept jours. Le Vice-Président qui relève de la Composante Gouvernement assurera l'intérim. Les conditions de mise en oeuvre de cette disposition seront déterminées dans la Constitution de la transition.

B. La Présidence

d. La Présidence est composée du Président et des quatre Vice-Présidents.

e. Le Président assure, avec les Vice-Présidents, un leadership nécessaire et exemplaire dans l'intérêt de l'unité nationale en RDC.

f. Le Président de la République traite avec les Vice-Présidents de toutes les matières relatives à la gestion du Gouvernement, ainsi que des matières mentionnées aux points A/b/b4 (i) et (v).

g. Les réunions entre le Président et les Vice-Présidents se tiennent régulièrement, au moins une fois toutes les deux semaines, et dans tous les cas avant chaque Conseil des Ministres. Les réunions entre le Président et les Vice-Présidents peuvent aussi être convoquées par le Président de la République à la demande d'un Vice-Président. En cas d'absence du Président de la République, celui-ci désigne à tour de rôle le Vice-Président qui présidera les réunions.

C. Les Vice-Présidents

h. Il est créé quatre postes de Vice-Présidents. Les Vice-Présidents seront issus des Composantes Gouvernement, RCD, MLC et Opposition politique. Chaque Vice-Président sera en charge d'une des quatre commissions gouvernementales suivantes:

- Commission politique (Composante RCD);
- Commission économique et financière (Composante MLC);
- Commission pour la reconstruction et le développement (Composante Gouvernement);
- Commission sociale et culturelle (Composante Opposition politique).

i. Les Vice-Présidents exercent les fonctions et pouvoirs suivants:

i/1. Ils convoquent et président les réunions de leur commission.

i/2. Ils présentent les rapports de leur commission au Conseil des Ministres.

i/3. Ils coordonnent et supervisent la mise en application des décisions du Conseil des Ministres en rapport avec leur commission respective.

i/4. Ils proposent au Président de la République les grades dans les Ordres nationaux et les décorations, conformément à la loi.

j. Les fonctions de Vice-Président prennent fin par démission, décès, empêchement défitinif, condamnation pour haute trahison, détournement de deniers publics, concussion ou corruption. En cas de cessation de fonctions, la Composante dont est issu le Vice-Président concerné présente son remplaçant à l'Assemblée nationale pour entérinement. L'intérim ainsi que les conditions de mise en application de cette disposition seront déterminés dans la Constitution de la transition.

D. Le Gouvernement

k. Le Gouvernement est composé du Président de la République, des Vice-Présidents, des Ministres et Vice-ministres. Les portefeuilles ministériels sont répartis entre les Composantes et Entités du DIC dans les conditions et selon les critères déterminés dans l'Annexe 1 du présent Accord.

l. Le Gouvernement définit et conduit la politique de la Nation conformément aux Résolutions du DIC.

m. Le Gouvernement est pleinement responsable de la gestion de l'Etat et répond de celle-ci devant l'Assemblée nationale dans les conditions définies par la Constitution de la transition. Toutefois, pendant toute la durée de la transition, l'Assemblée nationale ne peut voter une motion de censure contre l'ensemble du Gouvernement.

n. Les réunions du Gouvernement, ou Conseil des Ministres, seront présidées par le Président de la République, et en son absence, ou s'il en décide ainsi, par un des Vice-Président, et ce à tour de rôle.

o. Le Gouvernement doit être consulté par le Président de la République sur les matières mentionnées aux points A/b/b4 (i) et (v) ci-dessus.

p. Durant leurs fonctions, les membres du Gouvernement ne peuvent, ni par eux-mêmes ni par personne interposée, rien acheter ou louer qui appartienne au domaine de l'Etat. Ils sont tenus, dès le jour de leur entrée en fonction et à l'expiration de celle-ci, de faire sur l'honneur une déclaration écrite de tous leurs biens à l'Assemblée nationale.

q. Les fonctions des Ministres et Vice-ministres prennent fin par démission, révocation, décès, empêchement définitif, condamnation pour haute trahison,

8

détournement de deniers publics, concussion ou corruption. En cas de vacance, la Composante ou l'Entité du DIC dont est issu le Ministre ou Vice-ministre concerné présente son remplaçant au Président de la République. Les conditions de mise en application de cette disposition seront déterminées dans la Constitution de la transition.

r. Un Secrétariat général du Gouvernement assiste le Président et les Vice-Présidents dans la coordination de l'action gouvernementale. Il prépare les réunions, travaux et tous les dossiers devant faire l'objet de discussions entre le Président et les Vice-Présidents, et au niveau du Conseil des Ministres.

s. L'Exécutif de la transition fonctionne d'une manière solidaire, conformément à l'esprit d'un Gouvernement d'union nationale et sur la base d'un programme commun de Gouvernement fondé sur les Résolutions adoptées au DIC.

2 - Le Pouvoir législatif

Le Parlement de la transition est composé de deux Chambres: l'Assemblée nationale et le Sénat.

a. L'Assemblée nationale est l'institution législative pendant la période de la transition. Elle exerce les pouvoirs et fonctions déterminés dans la Constitution de la transition qui est partie intégrante du présent Accord.

b. L'Assemblée nationale comprend 500 membres. Les membres de l'Assemblée nationale portent le titre de Député. L'âge minimal pour être député est de 25 ans révolus à la date de désignation. Les députés ont droit à une indemnité mensuelle et équitable qui leur assure l'indépendance et une sortie honorable au terme de leur mandat.

c. Les députés seront désignés par leurs Composantes et Entités du DIC dans les conditions déterminées dans le document annexé au présent Accord. Toutes les Composantes et Entités doivent assurer une représentation provinciale équilibrée dans leur groupe.

d. Le Bureau de l'Assemblée nationale sera composé d'un Président, de trois Vice-Présidents, d'un Rapporteur et de trois Rapporteurs-adjoints. Chacun d'eux sera issu d'une Composante ou d'une Entité différente.

e. Le Sénat jouera le rôle de médiateur en cas de conflit entre les Institutions. Il élaborera l'avant-projet de Constitution devant régir le Pays après la transition. Il exercera la fonction législative concurremment avec l'Assemblée nationale en matière de nationalité, de décentralisation, de processus électoral, et en ce qui concerne les Institutions d'appui à la démocratie.

f. Le Sénat comprend 120 membres. Les membres du Sénat portent le titre de Sénateur. L'âge minimal pour être Sénateur est de 40 ans révolus à la date de désignation. Les Sénateurs ont droit à une indemnité mensuelle et équitable qui leur assure l'indépendance et une sortie honorable au terme de leur mandat.

g. Les Sénateurs sont désignés par leurs Composantes et Entités du DIC dans les conditions déterminées dans le document annexé au présent Accord inclusif. Le Sénat est constitué de manière à assurer la représentation de toutes les Provinces.

h. Le Bureau du Sénat sera composé d'un Président, de trois Vice-Présidents, d'un Rapporteur et de trois Rapporteurs-adjoints, comme prévu dans le présent Accord. Chacun d'eux sera issu d'une Composante ou d'une Entité différente.

i. Les fonctions de Président de l'Assemblée nationale et de Président du Sénat prennent fin par démission, décès, empêchement définitif, ou condamnation pour haute trahison, détournement des deniers publics, concussion ou corruption.

3 - Le Pouvoir judiciaire

a. Les Parties réaffirment la nécessité d'avoir un pouvoir judiciaire indépendant. Le Conseil supérieur de la magistrature est la juridiction disciplinaire des magistrats. Il veille sur la carrière des magistrats et la sauvegarde de leur indépendance.

b. L'organisation du pouvoir judiciaire sera déterminée dans la Constitution de la transition et dans une loi.

c. Le premier Président de la Cour suprême de justice, le Procureur général de la République et l'Auditeur général des Forces armées seront désignés et mis en place aussitôt après la signature du présent Accord global et inclusif, dans le respect des équilibres nationaux, selon un mécanisme qui sera défini par les Parties.

4 - Les Institutions d'appui à la démocratie

a. Il est créé les Institutions d'appui à la démocratie suivantes:

- La Commission électorale indépendante;
- La Haute autorité des médias;
- La Commission vérité et réconciliation;
- L'Observatoire national des droits de l'homme;
- La Commission de l'éthique et de la lutte contre la corruption.

b.   L'organisation, le fonctionnement et les pouvoirs des Institutions d'appui à la démocratie seront déterminés par la loi.

c.   Les fonctions de Présidents des Institutions d'appui à la démocratie revient à la Composante Forces vives. Les Présidents des Institutions d'appui à la démocratie ont rang de Ministre. Les Institutions d'appui à la démocratie fonctionnent indépendamment du Gouvernement de la transition. Les fonctions de Présidents des Institutions d'appui à la démocratie prennent fin par démission, décès, empêchement définitif, ou condamnation pour haute trahison, détournement de deniers publics, concussion ou corruption. En cas de cessation de fonctions, la Composante à laquelle appartient un Président de l'une des Institutions présente son remplaçant à l'Assemblée nationale pour entérinement, endéans sept jours.

VI – De l'armée

a.   A l'issue du Dialogue inter-congolais, il y aura un mécanisme pour la formation d'une Armée Nationale, restructurée et intégrée incluant les Forces Armées du gouvernement de la République Démocratique du Congo, les Forces Armées du Rassemblement Congolais pour la Démocratie et les Forces Armées du Mouvement de Libération du Congo, conformément au point 20 l'article 3 des principes de l'accord de Lusaka.

b.   Dans un souci de paix, d'unité et de réconciliation nationales, le mécanisme précité devra inclure le RCD-ML, le RCD-N et les Mai-Mai, selon des modalités à définir par les institutions politiques de la transition issues du Dialogue inter-congolais.

c.   Une réunion des Etats-Majors FAC, RCD, MLC, RCD-N, RCD-ML et Mai-Mai sera convoquée avant l'installation du gouvernement de la transition. Elle procédera à l'élaboration du mécanisme militaire chargé de la formation des autres Etats-Majors jusqu'au niveau des régions militaires.

d.   Il est créé un Conseil supérieur de la Défense. Le Conseil supérieur de la Défense est présidé par le Président de la République et, en cas d'absence, par le Vice-Président ayant la Défense dans ses attributions.

e.   Le Conseil Supérieur de la Défense est composé comme suit:

  - Le Président de la République;
  - Les quatre Vice-Présidents;
  - Le Ministre de la Défense;
  - Le Ministre de l'Intérieur, de la Décentralisation et de la Sécurité;
  - Le Ministre des Affaires Etrangères;
  - Le Chef d'Etat-Major Général de l'Armée (ses adjoints peuvent y être invités);

- Le Chef d'Etat-Major des Forces aériennes, le Chef d'Etat-Major des Forces terrestres et le Chef d'Etat-Major des Forces navales.

f. Le Conseil supérieur de la Défense donne un avis conforme sur la proclamation de l'état de siège, la proclamation de l'état d'urgence et la déclaration de guerre.

g. La loi sur l'armée et la Défense nationale détermine les attributions et le fonctionnement du Conseil supérieur de la Défense.

h. Le Conseil supérieur de la Défense donne un avis notamment sur les matières suivantes :

- La formation d'une armée nationale, restructurée et intégrée;
- Le désarmement des groupes armés;
- La supervision du retrait des troupes étrangères;
- L'élaboration de la politique de défense.

i. Les conditions de mise en application des dispositions relatives à l'armée seront déterminées par la loi.

VII – Dispositions finales

a. La Constitution de la transition est élaborée sur la base du présent Accord inclusif sur la transition en RDC et en fait partie intégrante.

b. Les Parties acceptent comme ayant force obligatoire les Annexes ci-après, qui font partie intégrante du présent Accord.

c. Les Parties conviennent de créer un mécanisme de mise en oeuvre du présent Accord.

d. Le présent Accord global et inclusif entre en vigueur à la date de son adoption par le DIC. La Constitution de la transition, qui sera adoptée par le DIC, entre en vigueur à la date de sa promulgation par le Président de la République.

e. Les Parties s'engagent à exécuter le présent Accord de bonne foi, à respecter ses dispositions, à prendre part à toutes les Institutions, structures et commissions qui seront créées conformément à ses dispositions. Elles s'engagent à tout mettre en oeuvre pour veiller au respect et à l'application du présent Accord.

VIII - ANNEXES

Annexe I: De la répartition des responsabilites

Annexe II: Des entreprises publiques

Annexe III: De la Commission de suivi de l'Accord

Annexe IV: De la garantie internationale

Annexe V: Des questions sécuritaires

ANNEXE I: De la répartition des responsabilités

A. Gouvernement

1.La participation des Composantes et Entités du DIC au Gouvernement de la transition est fondée sur le mode de leur participation au DIC de Sun-City.

2. Le Gouvernement de la transition sera composé des Ministères suivants:

Intérieur, Décentralisation et Sécurité;
Affaires Etrangères et Coopération Internationale;
Coopération Regionale;
Défense Nationale, Démobilisation et Anciens Combattants;
Condition Féminine et Famille;
Justice;
Droits Humains;
Presse et Information;
Plan;
Budget;
Finances;
Economie;
Industrie et Petites et Moyennes Entreprises;
Mines;
Energie;
Commerce Extérieur;
Portefeuille;
Fonction Publique;
Agriculture;

Développement Rural;
Poste, Téléphone et Télécommunications;
Recherche Scientifique;
Travaux Publics et Infrastructures;
Transports;
Culture et Arts;
Environnement;
Tourisme;
Affaires Foncières;
Urbanisme;
Santé;
Enseignement Supérieur et Universitaire;
Enseignement Primaire et Secondaire;
Travail et Prévoyance Sociale;
Affaires Sociales;
Jeunesse et Sports;
Solidarité et Affaires Humanitaires.

3. Le Gouvernement de la transition comprendra également les Vice-Ministres chargés des portefeuilles suivants:

Affaires Etrangères;
Intérieur;
Intégration de l'Armée;
Coopération Internationale;
Défense;
Anciens Combattants et Démobilisation;
Sécurité et Ordre Public;
Justice;
Presse et Information;
Plan;
Finances;
Budget;
Portefeuille;
Mines;
Energie;
Commerce;
Agriculture;
Travaux Publics et Infrastructures;
Fonction Publique;
Transports;
Santé;
Enseignement Supérieur et Universitaire;
Enseignement Primaire, Secondaire et Professionnel;
Affaires Sociales;
Travail et Prévoyance Sociale.

4. Il sera attribué 7 Ministères et 4 postes de Vice-Ministres à chacune des Composantes suivantes: Gouvernement, RCD, MLC et Opposition politique (Voir tableaux ci-dessous).

5. Il sera attribué 2 Ministères et 3 postes de Vice-Ministres à la Composante Forces vives (en plus de la Présidence des 5 Institutions d'appui à la démocratie). (Voir tableaux ci-dessous).

6. Il sera attribué 2 Ministères et 2 postes de Vice-Ministres à chacune des Entités suivantes: RCD-ML, RCD-N, et Mai-Mai. (Voir tableaux ci-dessous).

Tableau 2: Des Vice-Ministres

ommission	Gouvern.	RCD	MLC	Opposition politique	Societe civile	RCD-ML	RCD-N	Mal-Mal
ommission litique	1. Affaires Etrangères 2. Intégration de l'Armée	1. Coop. Internati onale 2. Securité et Ordre Public	1. Intérieur 2. Defense		1. Démobilisation et Anciens Combattants	1. Justice	1. Presse et Information	
ommission onomique financière	3. Mines	3. Budget 4. Travaux Publics et Infrastructures	3. Finances 4. Portefeuille	1. Plan 2. Fonction Publics	3. Commerce 4. Agriculture			
ommission ur la onstruc n et le velopt.				3. Energie				1. Trans-ports
ommission ciale et lturelle	4.Enseignement Primaire, Secondaire et Professionnel			4. Santé		2. Enseignement Supérieur et Universitaire	2. Affaires Sociales	2. Travail et Prévoyance Sociale

B. Assemblée nationale

1.   La participation des Composantes et Entités du DIC à l'Assemblée nationale est fondée sur le mode de leur participation au DIC de Sun-City. L'Assemblée est composée de la manière ci-après:

Composantes/Entités	Nombres de députés
RCD	94
MLC	94
Gouvernement	94
Opposition politique	94
Forces vives	94
RCD-ML	15
RCD-N	5
Maï-Maï	10
Total	500

2.   Le Bureau de l'Assemblée nationale est composé de la manière ci-après:

- Président: MLC;
- Premier Vice-Président: Gouvernement;
- Deuxième Vice-Président: RCD;
- Troisième Vice-Président: Opposition politique
- Rapporteur: Maï-Maï;
- Premier Rapporteur adjoint: Forces vives.
- Deuxième Rapporteur adjoint: RCD-N
- Troisième Rapporteur adjoint: RCD-ML

C. Sénat

1.   La participation des Composantes et Entités du DIC au Sénat est fondée sur le mode de leur participation au DIC de Sun-City. Le Sénat est composée de la manière ci-après:

Composantes/Entités	Nombre de sénateurs
RCD	22
MLC	22
Gouvernement	22
Opposition politique	22
Forces vives	22
RCD-ML	4
RCD-N	2
Maï-Maï	4
Total	120

2.	Le Bureau du Sénat est composé de la manière ci-après:

- Président:	Forces vives;
- Premier Vice-Président:	RCD;
- Deuxième Vice-Président:	Opposition politique;
- Troisième Vice-Président:	Gouvernement;
- Rapporteur:	RCD-ML;
- Premier Rapporteur adjoint:	RCD-N;
- Deuxième Rapporteur adjoint: MLC;
- Troisième Rapporteur adjoint:	Maï-Maï.

D. Administration provinciale

1.	Les Gouverneurs et Vice-Gouverneurs en fonction restent en place jusqu'à la nomination des nouveaux Gouverneurs et Vice-Gouverneurs par le Gouvernement d'Union Nationale.

E. Diplomatie

1.	Le Gouvernement de la transition procédera à la nomination des Ambassadeurs au cours du premier semestre en tenant compte de la proportionnalité des sensibilités politiques au sein du Gouvernement.

2.	Il sera tenu compte, dans les nominations, des Ambassadeurs de carrière.

ANNEXE II: Des entreprises publiques

1.	Le Gouvernement d'Union nationale procédera à la mise en place des gestionnaires des entreprises publiques et d'économie mixte, en prenant en compte les critères de moralité, de compétence et d'expérience. En attendant, les gestionnaires en place restent en fonction.

ANNEXE III: De la Commission de suivi de l'Accord

1. Il est créé une Commission de suivi pour la mise en oeuvre du présent Accord, ci-après dénommée Commission de suivi de l'Accord.

2. La Commission de suivi de l'Accord est présidée par le Président de la République Démocratique du Congo, Son Excellence le Général-Major Joseph Kabila.

3. La Commission de suivi de l'Accord est composée de deux Hauts-Représentants par Composante et d'un Haut-Représentant par Entité, non-compris le Président de la Commission lui-même.

4. La Commission de suivi de l'Accord exercera les fonctions suivantes:

    a. Assurer le suivi de l'application effective des dispositions du présent Accord.

    b. Veiller à l'interprétation correcte du présent Accord.

    c. Concilier les points de vue et aider à résoudre les désaccords pouvant surgir entre les signataires.

5. La Commission de suivi de l'Accord est créée dès l'entrée en vigueur du présent Accord. Sa mission prend fin après la présentation de son rapport au Gouvernement de la transition, au plus tard un mois après la mise en place dudit Gouvernement.

ANNEXE IV: De la garantie internationale

1. Il est prévu un Comité international visant à garantir la bonne mise en oeuvre du présent Accord et à soutenir le programme de la transition en RDC, conformément aux présentes dispositions;

2. Le Comité international apportera son soutien actif à la sécurisation des institutions de la transition issues du DIC et à l'application effective des dispositions du Chapitre 8.2.2 de l'Annexe A de l'Accord de Lusaka, en ce qui concerne notamment, la neutralisation et le rapatriement des groupes armés opérant sur le territoire de la RDC.

3. Le Comité international arbitrera et tranchera tout désaccord pouvant survenir entre les Parties au présent Accord.

4. Le Comité international assistera la Commission de suivi de l'Accord dans l'accomplissement de son mandat.

ANNEXE V: Des questions sécuritaires

1. La sécurité des dirigeants politiques à Kinshasa sera réglée comme suit:

    a. Chaque dirigeant politique aura 5 à 15 gardes du corps pour assurer sa sécurité personnelle.

    b. Aucune force armée congolaise supplémentaire ne pourra être acheminée à Kinshasa afin d'éviter toute possibilité de confrontation armée.

    c. La reunion des Etats-Majors FAC, RCD, MLC, RCD-N, RCD-ML et Mai-Mai pourra proposer des mesures de sécurité additionnelles pour certains dirigeants selon les besoins.

2. Les mesures de sécurité intérimaires suivantes seront mises en place:

    a. Une force de police intégrée sera chargée d'assurer la sécurité du Gouvernement et de la population.

    b. La Communauté internationale apportera son soutien actif à la sécurisation des institutions de la transition.

Signé à Pretoria le 16 Décembre 2002

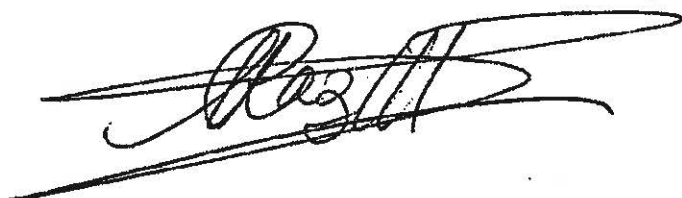⇒ pages de signature des parties au présent Accord et des Témoins (5 pages)

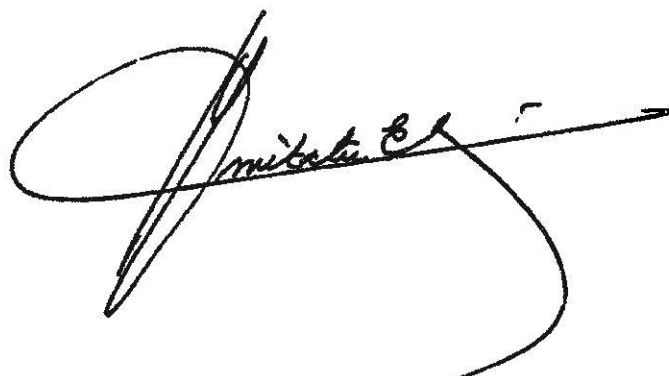## PARTIES SIGNATAIRES

Pour le Gouvernement de la République Démocratique du Congo:

Sous réserve.

Pour le Rassemblement Congolais pour la Démocratie (RCD) :

Pour le Mouvement de Libération du Congo (MLC) :

PARTIES SIGNATAIRES

Pour les Forces vives :

1. Rév. Dr. Kuye-Ndondo wa M. Kuye-Ndondo

2. Docteur Pierre Anatole MATUSILA

3. Prof. BAHATI LUKWEBO

4. Gertrude BIASA-NDAYA K.

5. MBELU - BIOSHA Hervé

6. MUCILA KAYEMBE

7. Ellysé DIMANDJA A. FEZA

8. Marie - Madeleine KALALA

9. Gervais CHIRHALWIRWA Nkunzimwami (Sud-Kivu)

10. Sylvain DELMA MBO

11. Georges KORBO NTONGA Booché

12. Bernard-Gustave TABIBI PENE-MBOY

13. Yves MOBANGO-YOGO

14. Léon BATOMA DIBUNDU

15. Marie BAPU BIDIBONDU

16. Mlle VICKY KATUMWA

17. Abbé MUHOLONGU MALUMALU

18. Batamin MOKA NolO

19. Juvénal MABU ba-Bolongo

20. Alexandre MAYOEI Rwamahina

PARTIES SIGNATAIRES

Pour l'Opposition politique :

1. Denis KATALAY   GNPO   ...
2. Joseph Olenghankoy ...   FON   ...
3. BEMBE MATIRO ...
4. Christophe TSHIMANGA-   PDPI COPACI
5. BINDA PHUMU MALONDII   UODC/US
6. AZIZ KUMBIKIA-LYNDZILG NG.   FOPC
7. Mme NLUZI-WA-NBORBO   N.P.R./Haut Pr.
8. RAYMOND TSHIBANDA   CODE...
9. EUGENE DIOMI NDONGALA F.S.D/C.
10. Z.Alindi Arthur V.   SBO
11. GÉRARD KAMANDA wa KAMANDA   C.AD.FC...
12. Cléophas KAMITATU-VASSAMBA   TPI...
13. Patrice-Aimé SESANGA   RDV.
14. André Bo-Moliko Lokonga   ...
15. INGELE IFOTO   R.G...
16. Christophe LUTONDULA APALA Peu'Apola MSDD
17. VENANT TSHIPASA DCF/COFEDEC
18. F. LUMUMBA MNCII ...

PARTIES SIGNATAIRES

Pour le Rassemblement Congolais pour la Démocratie/Mouvement de Libération (RCD-ML) :

Prof. Ernest WAMBA dia WAMBA [signature]

John Tibasima Atenyi [signature]

Lambert MENDE (P/MBUSA NYAMWISI) [signature]

S/Réserve : - Présidence Ass. Nat. MLC
- Déséquilibres du RCD-ML

Pour le Rassemblement Congolais pour la Démocratie/National (RCD-N) :
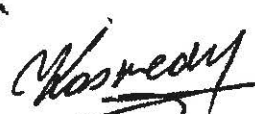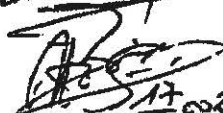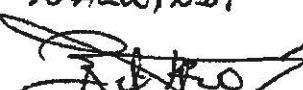
Dieu-donné KAHASA
S. G. [signature] $\frac{18}{12}$ 2002

Pour les Maï-Maï :

Sous réserve – Assemblée Nationale
1. Comd Anselme ENERUNGA, chef de la délégation Ansel- [signature]
2. Raphaël LUHULU, Rapporteur [signature]
3. Comd YAKA SWEDY KOSCO [signature]
4. Elias MULUNGULA HOBGERA NALWINDI [signature]
5. MBILIZI PIKO [signature] $\frac{17}{12}$ 2002

TEMOINS

Fur

Son Excellence M. Thabo Mbeki,
Président de la République d'Afrique
du Sud et Président en exercice de
l'Union Africaine:

SYDNEY MUFAMADI

Son Excellence M. Moustapha Niasse,
Envoyé spécial du Secrétaire général
des Nations Unies pour le Dialogue
Intercongolais, représentant Son
Excellence M. Kofi Annan, Secrétaire
général de l'ONU

Appendix viii

Pastoral Letters of the Catholic Church in Zaire During Mobutu's Rule

Le discours socio-politique de l'Eglise catholique du Congo (1956-1998)

Tome 1 :
Textes de la Conférence Episcopale

Textes rassemblés et présentés par
Léon de SAINT MOULIN s.j. et Roger GAISE N'Ganzi o.p.

FACULTES CATHOLIQUES DE KINSHASA
1998

Appendix ix

Excerpt from the Lualabourg Constitution

Il ne jouit des droits réservés aux Congolais par la présente Constitution que dans la mesure fixée par la loi nationale.

Titre III. De la répartition des compétences entre la République et les provinces.

Article 47.

La répartition des compétences entre la République et les provinces est fixée par la présente Constitution.

Les matières sont de la compétence exclusive de la République, de la compétence concurrente de la République et des provinces, ou de la compétence exclusive des provinces.

Article 48.

Sans préjudice des autres dispositions de la présente Constitution, les matières suivantes sont de la compétence exclusive de la République :

1° Les affaires étrangères comprenant les relations diplomatiques ainsi que les traités et accords internationaux ;

2° La réglementation du commerce extérieur ;

3° La nationalité, le statut et la police des étrangers ;

4° L'extradition, l'immigration, l'émigration et la délivrance des passeports et des visas;

5° La sûreté extérieure ;

6° La défense nationale ;

7° La police de la capitale ;

8° La fonction publique nationale ;

9° Les finances publiques de la République ;

10° L'établissement des impôts sur le revenu, des impôts sur les sociétés et des impôts personnels conformément à l'article 144 ;

11° La dette publique de la République ;

12° Les emprunts extérieurs pour les besoins de la République ou des provinces ;

13° Les emprunts intérieurs pour les besoins de la République ;

14° La monnaie, l'émission de la monnaie et le pouvoir libératoire de la monnaie ;

15° Les poids et mesure ;

16° Les douanes et les droits d'importation et d'exportation ;

17° Le code de commerce, y compris les assurances ;

18° La réglementation concernant les banques et les opérations bancaires ;

19° Le contrôle des changes ;

20° La propriété littéraire, artistique et industrielle et les brevets ;

21° Les postes et les télécommunications, y compris les téléphones et télégraphes, la radiodiffusion et la télévision ;

22° La navigation maritime et intérieure, les lignes aériennes, les chemins de fer, les routes et autres voies de communication, naturelles ou artificielles qui relient deux ou plusieurs provinces ou le territoire de la République à un territoire étranger ou qu'une loi nationale a déclaré d'intérêt

national bien qu'elles soient entièrement situées sur le territoire d'une province ;

23° Les universités et autres établissements d'enseignement scientifique ou professionnel supérieur créés ou subventionnés par le Gouvernement central ou par les gouvernements provinciaux et qu'une loi nationale a déclarés d'intérêt national ;

24° L'établissement des normes d'enseignement applicable dans tout le territoire de la République ;

25° Le code pénal, le régime pénitentiaire ;

26° La procédure suivie devant les cours et tribunaux ;

27° L'acquisition des biens pour les besoins de la République, sans préjudice des dispositions de l'article 43 ;

28° Les professions juridiques et médicales ;

29° La législation du travail comprenant notamment les lois régissant les relations entre employeurs et travailleurs, la sécurité des travailleurs, les règles relatives à la sécurité sociale et, en particulier, le règles relatives aux assurances sociales et au chômage obligatoire ;

30° La législation économique comprenant notamment les lois concernant les mines, minéraux et huiles minérales, l'industrie, les sources d'énergie et la conservation des ressources naturelles ;

31° La législation sur les arts et métiers ;

32° La législation médicale et l'art de guérir, la médecine préventive, notamment l'hygiène, la salubrité publique et la protection matérielle et infantile, la législation sur la profession de pharmacien, sur le commerce pharmaceutique, sur l'immigration et le transit, les règlements sanitaires bilatéraux et internationaux, la législation sur l'hygiène du travail, la répartition des médecins ;

33° L'élaboration des programmes agricoles et forestiers d'intérêt national et la coordination des programmes d'intérêt provincial ; les offices des produits agricoles et les organismes assimilés ainsi que la répartition du personnel de cadre conformément aux dispositions du statut général des agents de l'administration publique ; la législation générale sur les régimes agricoles et forestiers, sur la chasse et la pêche, sur la conservation de la nature (faune et flore), sur la capture, sur l'élevage, sur les denrées alimentaires d'origine animale et sur l'art vétérinaire ;

34° Le patrimoine historique, les monuments publics et les parcs déclarés d'intérêt national ;

35° Les services de la météorologie et la coordination technique des services de la géodésie, de la cartographie et de l'hydrographie.

Article 49.

Sans préjudice des autres dispositions de la présente Constitution, les matières suivantes sont de la compétence concurrente de la République et des provinces :

1° La mise en œuvre et la sauvegarde des droits fondamentaux consacrés dans la présente Constitution ;

2° Le droit civil et le droit coutumier ;

3° Les statistiques et le recensement ;

4° La sécurité intérieure ;

5° L'administration des cours et tribunaux, les maisons d'arrêt et les prisons pour peines ;

6° La vie culturelle ;

7° L'établissement des impôts, y compris les droits d'accise et de consommation, à l'exclusion des impôts visés à l'article 48 ;

8° l'exécution des mesures sur la police des étrangers ;

9° La recherche scientifique ainsi que les institutions de recherche scientifique ;

10° Les institutions médicales et philanthropiques, l'engagement du personnel médical et agricole de cadre.

Article 50.

Sans préjudice des autres dispositions de la présente Constitution, toutes les matières autres que celles qui sont énumérées aux articles 48 et 49 sont de la compétence exclusive des provinces et notamment les matières suivantes :

1° Les institutions politiques et administratives provinciales ;

2° La fonction publique provinciale ;

3° La loi électorale provinciale ;

4° Les finances publiques provinciales ;

5° La dette publique provinciale ;

6° Les emprunts intérieurs pour les besoins des provinces ;

7° L'octroi de concession et de baux sur les terres, mines, minéraux, huiles minérales, ressources hydrauliques, forêts et autres biens nationaux ;

8° Les travaux publics d'intérêt local ;

9° La police provinciale,

10° L'enseignement autre que celui qui est visé à l'article 48 ;

11° Les institutions locales ;

12° L'acquisition des biens pour les besoins des provinces sans préjudice des dispositions de l'article 43 ;

13° L'établissement des peines d'amende ou de prison pour assurer le respect des lois provinciales ;

14° les communications intérieures des provinces ;

15° Les taxes et droits locaux ;

16° Le placement des travailleurs et la fixation des salaires minima dans le respect de la législation nationale ; la discipline du personnel de l'inspection du travail conformément au statut des agents de l'administration publique ; la surveillance des services et des agents de l'organisme national de sécurité sociale conformément au statut de ces agents ;

17° L'affectation du personnel médical conformément au statut des agents de l'administration publique, l'établissement des programmes d'assainissement et de campagne de lutte contre les maladies endémo-épidémiques conformément au planning national, l'organisation des services d'hygiène et de prophylaxie provinciale, l'application et le contrôle de la législation médicale et pharmaceutique nationale, ainsi que l'organisation des services pharmaceutiques, la médecine curative, les entreprises médicales philanthropiques et missionnaires ainsi que les laboratoires médicaux ;

18° L'élaboration des programmes agricoles et forestiers et leur exécution conformément aux normes générales du planning national. L'affectation du personnel agricole de cadre conformément aux dispositions du statut général des agents de l'administration publique ;

l'application de la législation nationale en matière agricole, forestière, en élevage, en chasse et pêche, à la conservation de la nature et à la capture, sans préjudice des dispositions de l'article 48 (33°) ;

19° Le patrimoine historique, les monuments publics et les parcs autres que ceux visés à l'article 48 (34°) ;

20° Le contrôle administratif des services de la géodésie, de la cartographie et de l'hydrographie.

Article 51.

Une assemblée provinciale ne peut légiférer sur les matières de la compétence exclusive du Parlement. Réciproquement, le Parlement ne peut légiférer sur les matières de la compétence exclusive d'une assemblée provinciale.

Toutefois, le Parlement peut, par une loi, habiliter une assemblée provinciale à légiférer sur des matières de sa compétence exclusive. Lorsque le Parlement met fin à la délégation de pouvoir ainsi donnée à l'assemblée, les dispositions des lois provinciales promulguées en des matières de la compétence exclusive du Parlement, en vertu de cette délégation de pouvoir, demeurent cependant en vigueur dans la province intéressée jusqu'à ce qu'une loi nationale ait réglé ces matières.

Pareillement, une assemblée provinciale peut, par une loi, habiliter le Parlement à légiférer sur des matières de sa compétence exclusive. Lorsque l'assemblée met fin à la délégation de pouvoir ainsi donnée au Parlement, les dispositions des lois nationales promulguées en des matières de la compétence exclusive des assemblées, en vertu de cette délégation de pouvoir, demeurent cependant en vigueur dans la province intéressée jusqu'à ce qu'une loi provinciale les ait réglées.

Dans les matières relevant de la compétence concurrente de la République et des provinces, toute loi provinciale incompatible avec les lois et règlements d'exécution nationaux est nulle, ou abrogée de plein droit, dans la mesure où il y a incompatibilité.

Droit national prime droit provincial.

Article 52.

Sauf dispositions contraires de la législation nationale, les gouvernements provinciaux exécutent, par l'intermédiaire de leurs services, les lois et les règlements nationaux.

Titre IV. Des institutions nationales.

Article 53.

Les principales institutions nationales sont :
1° Le Président de la République ;
2° Le Gouvernement, dirigé par un Premier ministre ;
3° Le Parlement, composé de deux Chambres ;
4° La Cour constitutionnelle ;

Appendix x

Excerpt from the One-Party State Constitution of Zaire

Constitution du 1er août 1964

La Commission constitutionnelle ayant siégé à Luluabourg du 10 janvier au 11 avril 1964, a proposé ;

Le peuple congolais, par le référendum constitutionnel organisé du 25 juin au 10 juillet 1964, a adopté ;

Le Président de la République promulgue la Constitution dont la teneur suit :

Préambule.

Proclamant notre adhésion à la Déclaration universelle des droits de l'homme ;
Soucieux de sauvegarder les valeurs qui nous sont propres et de garantir à la famille, base naturelle de toute société humaine, une protection particulière des pouvoirs publics de manière à en assurer la cohésion et la stabilité ;
Affirmant notre détermination de consolider notre unité nationale dans le respect de nos particularités régionales, en vue de promouvoir, dans la voie de la justice, notre bien-être matériel, notre épanouissement moral et spirituel ;
Nous, Peuple congolais,
Conscient de nos responsabilités devant Dieu, la nation, l'Afrique et le Monde ;
Déclarons solennellement adopter la présente Constitution.

Appendix xi

Excerpt from the 2006 Constitution of the Democratic Republic of Congo

CONSTITUTION
DE LA
REPUBLIQUE
DEMOCRATIQUE
DU CONGO

SOMMAIRE

PRESIDENCE DE LA REPUBLIQUE

2006- 18 février

PRESIDENCE DE LA REPUBLIQUE

CONSTITUTION DE LA REPUBLIQUE DEMOCRATIQUE DU CONGO

EXPOSE DES MOTIFS

Depuis son indépendance, le 30 juin 1960, la République Démocratique du Congo est confrontée à des crises politiques récurrentes dont l'une des causes fondamentales est la contestation de la légitimité des Institutions et de leurs animateurs.

Cette contestation a pris un relief particulier avec les guerres qui ont déchiré le pays de 1996 à 2003.

En vue de mettre fin à cette crise chronique de légitimité et de donner au pays toutes les chances de se reconstruire, les délégués de la classe politique et de la Société civile, forces vives de la Nation, réunis en Dialogue intercongolais, ont convenu, dans l'Accord Global et Inclusif signé à Pretoria en Afrique du Sud le 17 décembre 2002, de mettre en place un nouvel ordre politique, fondé sur une nouvelle Constitution démocratique sur base de laquelle le peuple congolais puisse choisir souverainement ses dirigeants, au terme des élections libres, pluralistes, démocratiques, transparentes et crédibles.

A l'effet de matérialiser la volonté politique ainsi exprimée par les participants au Dialogue intercongolais, le Sénat, issu de l'Accord Global et Inclusif précité, a déposé, conformément à l'article 104 de la Constitution de la transition, un avant-projet de la nouvelle Constitution à l'Assemblée nationale qui l'a adopté sous forme de projet de Constitution soumis au référendum populaire.

La Constitution ainsi approuvée s'articule pour l'essentiel autour des idées forces ci-après :

1. DE L'ETAT ET DE LA SOUVERAINETÉ

Dans le but d'une part, de consolider l'unité nationale mise à mal par des guerres successives et, d'autre part, de créer des centres d'impulsion et de développement à la base, le constituant a structuré administrativement l'Etat congolais

en 25 provinces plus la ville de Kinshasa dotées de la personnalité juridique et exerçant des compétences de proximité énumérées dans la présente Constitution.

En sus de ces compétences, les provinces en exercent d'autres concurremment avec le pouvoir central et se partagent les recettes nationales avec ce dernier respectivement à raison de 40 et de 60 %.

En cas de conflit de compétence entre le pouvoir central et les provinces, la Cour constitutionnelle est la seule autorité habilitée à les départager.

Au demeurant, les provinces sont administrées par un Gouvernement provincial et une Assemblée provinciale. Elles comprennent, chacune, des entités territoriales décentralisées qui sont la ville, la commune, le secteur et la chefferie.

Par ailleurs, la présente Constitution réaffirme le principe démocratique selon lequel tout pouvoir émane du peuple en tant que souverain primaire.

Ce peuple s'exprime dans le pluralisme politique garanti par la Constitution qui érige, en infraction de haute trahison, l'institution d'un parti unique.

En ce qui concerne la nationalité, le constituant maintient le principe de l'unicité et de l'exclusivité de la nationalité congolaise.

2. DES DROITS HUMAINS, DES LIBERTES FONDAMENTALES ET DES DEVOIRS DU CITOYEN ET DE L'ETAT

Le constituant tient à réaffirmer l'attachement de la République Démocratique du Congo aux Droits humains et aux libertés fondamentales tels que proclamés par les instruments juridiques internationaux auxquels elle a adhéré. Aussi, a-t-il intégré ces droits et libertés dans le corps même de la Constitution.

A cet égard, répondant aux signes du temps, l'actuelle Constitution introduit une innovation de taille en formalisant la parité homme-femme.

3. DE L'ORGANISATION ET DE L'EXERCICE DU POUVOIR.

Les nouvelles Institutions de la République Démocratique du Congo sont :

- le Président de la République ;
- le Parlement ;
- le Gouvernement ;
- les Cours et Tribunaux.

Les préoccupations majeures qui président à l'organisation de ces Institutions sont les suivantes:

1. assurer le fonctionnement harmonieux des Institutions de l'Etat ;
2. éviter les conflits ;
3. instaurer un Etat de droit ;
4. contrer toute tentative de dérive dictatoriale ;
5. garantir la bonne gouvernance ;
6. lutter contre l'impunité ;
7. assurer l'alternance démocratique.

C'est pourquoi, non seulement le mandat du Président de la République n'est renouvelable qu'une seule fois, mais aussi, il exerce ses prérogatives de garant de la Constitution, de l'indépendance nationale, de l'intégrité territoriale, de la souveraineté nationale, du respect des accords et traités internationaux ainsi que celles de régulateur et d'arbitre du fonctionnement normal des Institutions de la République avec l'implication du Gouvernement sous le contrôle du Parlement.

Les actes réglementaires qu'il signe dans les matières relevant du Gouvernement ou sous gestion ministérielle sont couverts par le contreseing du Premier ministre qui en endosse la responsabilité devant l'Assemblée nationale.

Bien plus, les affaires étrangères, la défense et la sécurité, autrefois domaines réservés du Chef de l'Etat, sont devenues des domaines de collaboration.

Cependant, le Gouvernement, sous l'impulsion du Premier ministre, demeure le maître de la conduite de la politique de la Nation qu'il définit en concertation avec le Président de la République.

Il est comptable de son action devant l'Assemblée nationale qui peut le sanctionner collectivement par l'adoption d'une motion de censure. L'Assemblée nationale peut, en outre, mettre en cause la responsabilité individuelle des membres du Gouvernement par une motion de défiance.

Réunis en Congrès, l'Assemblée nationale et le Sénat ont la compétence de déférer le Président de la République et le Premier ministre devant la Cour constitutionnelle, notamment pour haute trahison et délit d'initié.

Par ailleurs, tout en jouissant du monopole du pouvoir législatif et du contrôle du Gouvernement, les parlementaires ne sont pas au-dessus de la loi ; leurs immunités peuvent être levées et l'Assemblée nationale peut être dissoute par le Président de la République en cas de crise persistante avec le Gouvernement.

La présente Constitution réaffirme l'indépendance du pouvoir judiciaire dont les membres sont gérés par le Conseil supérieur de la magistrature désormais composé des seuls magistrats.

Pour plus d'efficacité, de spécialité et de célérité dans le traitement des dossiers, les Cours et Tribunaux ont été éclatés en trois ordres juridictionnels :

- Les juridictions de l'ordre judiciaire placées sous le contrôle de la Cour de cassation ;
- celles de l'ordre administratif coiffées par le Conseil d'Etat et
- la Cour constitutionnelle.

Des dispositions pertinentes de la Constitution déterminent la sphère d'action exclusive du pouvoir central et des provinces ainsi que la zone concurrente entre les deux échelons du pouvoir d'Etat.

Pour assurer une bonne harmonie entre les provinces elles-mêmes d'une part, et le pouvoir central d'autre part, il est institué une Conférence des Gouverneurs présidée par le Chef de l'Etat et dont le rôle est de servir de conseil aux deux échelons de l'Etat.

De même, le devoir de solidarité entre les différentes composantes de la Nation exige l'institution de la Caisse nationale de péréquation placée sous la tutelle du Gouvernement.

Compte tenu de l'ampleur et de la complexité des problèmes de développement économique et social auxquels la République Démocratique du Congo est confrontée, le constituant crée le Conseil économique et social, dont la mission est de donner des avis consultatifs en la matière au Président de la République, au Parlement et au Gouvernement.

Pour garantir la démocratie en République Démocratique du Congo, la présente Constitution retient deux institutions d'appui à la démocratie, à savoir la Commission électorale nationale indépendante chargée de l'organisation du processus électoral de façon permanente et le Conseil supérieur de l'audiovisuel et de la communication dont la mission est d'assurer la liberté et la protection de la presse ainsi que de tous les moyens de communication des masses dans le respect de la loi.

4. DE LA REVISION CONSTITUTIONNELLE

Pour préserver les principes démocratiques contenus dans la présente Constitution contre les aléas de la vie politique et les révisions intempestives, les dispositions relatives à la forme républicaine de l'Etat, au principe du suffrage universel, à la forme représentative du Gouvernement, au nombre et à la durée des mandats du Président de la République, à l'indépendance du pouvoir judiciaire, au pluralisme politique et syndical ne peuvent faire l'objet d'aucune révision constitutionnelle.

Telles sont les lignes maîtresses qui caractérisent la présente Constitution.

Appendix xii

Excerpt from the United Nations Panel of Experts Report on the Democratic Republic of Congo 2001

United Nations

Security Council

S/2001/357

Distr.: General
12 April 2001

Original: English

Letter dated 12 April 2001 from the Secretary-General to the President of the Security Council

I wish to refer to the presidential statement dated 2 June 2000 (S/PRST/2000/20) in which the Security Council requested me to establish a Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of the Congo for a period of six months. The Council also requested that the expert panel, once established, submit to the Council, through me, its final report at the end of the mandate.

Further to my letter dated 2 April 2001, I have the honour to transmit to you the report of the Panel, submitted to me by the Chairperson of the Panel. I should be grateful if you would bring the report to the attention of the members of the Security Council.

(*Signed*) Kofi A. Annan

144. RCD-Goma has designed a fiscal system based mainly on the mining sector. About six different forms of tax exist in this sector, and they are applied on approximately eight different types of minerals, including the most important (coltan, gold and diamonds). From RCD official statistics the Panel notes that in 1999 on average 60 kg of gold was extracted every month from the area controlled by RCD. That is about 720 kg a year. In 2000, the extraction was higher, up to 100 kg a month. With regard to coltan, 27 tons were extracted every month in 1999, while 29 tons were produced every month in 2000. Given the number of *comptoirs* (19 for coltan), and the six types of tax, the Panel concludes that substantial revenues through tax collection are available to RCD. It is however difficult to estimate the figures, although some insiders have told the Panel that the financial situation has been improving since late 2000, and the prospects for a balanced budget are better than two years ago. Information obtained from documents and individuals suggests that, in addition to taxes levied and shares it holds in SOMIGL, RCD-Goma has given a monopoly of coltan to SOMIGL, in exchange for which it receives $1 million monthly.

145. **Illustration of the commercial activities of RCD.** A preponderance of information obtained from documents and individuals regarding the activities of RCD-Goma in the Democratic Republic of the Congo, Dar es Salaam, United Republic of Tanzania, and elsewhere during the current hostilities overwhelmingly suggests that RCD-Goma and others are marketing the natural resources of the Democratic Republic of the Congo — gold, diamonds and timber — through Dar es Salaam. Gold and diamonds belonging to RCD-Goma are shipped through their financial and logistical network, via Dar es Salaam, for sale on the international market. In order to facilitate the movement of the commodities and to give the appearance of legitimacy, RCD-Goma obtains documents to hide or cover their ownership. The documents covering the shipments of gold and diamonds are completed forms of the Democratic Republic of the Congo. The forms indicate issuance from a government organization, complete with the required stamps and signatures indicating approval and issuance in Kinshasa and Lubumbashi. RCD-Goma's representatives in Dar es Salaam coordinate the receipt, forwarding and sale of gold and diamond shipments. The gold shipments transit through Dar es Salaam international airport for sale to buyers in Sri Lanka and elsewhere. The diamond shipments are held at the Bank of Tanzania before being forwarded to Belgium, the Netherlands and South Africa.

146. The gold and diamonds are being sold by RCD-Goma in exchange for cash or bartered for armaments and medicines to support continuation of the current hostilities. RCD-Goma's representatives in Dar es Salaam also arrange for the purchase of foodstuffs and other logistical needs for the war effort. In addition, timber resources from the Democratic Republic of the Congo are being shipped through Dar es Salaam to Greece and Belgium. In the case of Greece, the timber transaction is being partially arranged by an import/export business located in Goma. The shipments of gold, diamonds and timber are also processed in Dar es Salaam in cooperation with RCD representatives by a company believed to be a covert business entity created for the purpose of facilitating support for the financial and logistical operations of RCD-Goma. It is important to note that the activities described above represent an RCD-Goma operation and are exclusive of operations handled by the Government of Rwanda, via Kigali.

147. The Panel concludes on this point that the major rebel groups are gradually becoming autonomous (MLC/FLC and RCD-Goma) in terms of supply of military equipment. They are capable of raising substantial amounts of cash, enough to buy the light equipment they use. Equally they have put in place their own network and contacts, which would allow them to purchase their own equipment when necessary. This growing autonomy has manifested itself recently as RCD-Goma has requested that money usually given to the Congo desk by diamond dealers be shared equally between both entities. Equally, RCD-Goma has initiated some military attacks on RCD-ML positions in order to occupy mineral-rich areas as shown earlier. As the need for an autonomous supply of weapons grows, so does the need to find additional resources, and therefore clashes for the control of mineral-rich areas will be recurrent; so goes the vicious circle of war and exploitation of natural resources on the side of the rebellion.

Democratic Republic of the Congo

148. The Government of the Democratic Republic of the Congo has relied on its minerals and mining industries to finance the war. Between 1998 and early 2001, the strategy for financing the war was based on

three pillars, namely (a) search for cash through the attribution of monopolies; (b) direct and indirect uptake of funds from parastatals and other private companies; and (c) creation of joint ventures between parastatals and foreign companies in countries allied with the Democratic Republic of the Congo.

149. **Search for cash.** The late President used different schemes to raise funds. He instituted the *tax parafiscale* (see para. 41) and also implemented schemes such as the creation of a monopoly for the commercialization of diamonds.

150. **Monopoly on diamonds granted to International Diamond Industries (IDI).** According to government sources, the objective of this monopoly was twofold: first, to have fast and fresh money that could be used for the purchase of needed arms, and address some of the pending problems with the allies. Second, to have access to Israeli military equipment and intelligence given the special ties that the Director of International Diamond Industries, Dan Gertler, has with some generals in the Israeli army.

151. This deal turned out to be a nightmare for the Government of the Democratic Republic of the Congo and a disaster for the local diamond trade as well as an embarrassment for the Republic of the Congo, which is currently flirting with illicit diamonds. According to different sources, IDI paid only $3 million instead of $20 million and never supplied military equipment.

152. President Joseph Kabila has expressed willingness to liberalize the diamond trade in the Democratic Republic of the Congo, and IMF and the World Bank are very supportive of this move. IDI is, however, threatening to sue the Government of the Democratic Republic of the Congo. The IDI deal also turns out to be a disaster for the local diamond trade. As the monopoly was granted to IDI, most diamond dealers operating in the Government-controlled area crossed to Brazzaville to sell their diamonds. It is estimated that during the first three months of the monopoly, $60 million worth of diamonds from the Democratic Republic of the Congo were sold on the international market, and the Republic of the Congo was mentioned as the country of origin. This smuggling of diamonds deprived the already ailing economy of the Democratic Republic of the Congo of substantial sums of money and the treasury of substantial tax revenues. This case shows that the desperate need for quick cash to finance the defence of

its territory has instead brought other problems to the Government and has paradoxically deprived the treasury of substantial revenue.

153. **Uptaking money from parastatals.** Another way of financing the war has been the direct and indirect uptake of money from parastatals and other private companies, mainly the Société minière de Bakwanga and the Générale des carrières et des mines (Gecamines). The Government has claimed from MIBA since August 1998 on average two fifths of their earnings. The Panel was told that in some cases three fifths, the equivalent of $4 million per sale, was sent to the President's office. The Panel has also confirmation that oil companies gave important sums of money as *taxes parafiscales* to the Government. In most cases, this cash in Congolese francs was delivered to Victor Mpoyo, who then reported to the late President Kabila. This money was used for the salary and bonuses of Congolese soldiers in the battlefield. According to some Congolese officials, the *taxes parafiscales* were never used for the purchase of weapons.

154. MIBA receives from the Government the equivalent of two fifths of its sales of diamonds in Congolese francs changed at the official rate, which is only one quarter of the black market rate. It is believed that about 75 Congolese francs for each dollar changed is unaccounted for and possibly used for defence needs.[6]

155. The contribution of Gecamines to the war effort appears to be on two levels. On the one hand, one third of the company's profit was taken directly by the Government in 1999 and in 2000. On the other, the Government contributed indirectly to the expenses of the Zimbabwe Defence Forces between May 1999 and October 2000.

A special case: Zimbabwe

156. Zimbabwe has financed its involvement in the conflict in two different ways: (a) by using the defence budget — the bulk of Zimbabwe's military expenses seem to be covered by the regular budget; (b) by indirect financing of the war through direct payment by some Congolese entities, mainly companies. According to two very reliable sources, during the tenure of Billy Rautenbach money from Gecamines paid bonuses to the Zimbabwean soldiers. These payments might be

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[6] In 2000, the official exchange rate was one dollar for 23 Congolese francs.

Appendix xiii

Excerpt from the United Nations Panel of Experts Report on the Democratic Republic of Congo 2003

United Nations

S/2003/1027

Security Council

Distr.: General
23 October 2003

Original: English

Letter dated 23 October 2003 from the Secretary-General addressed to the President of the Security Council

I have the honour to refer to Security Council resolution 1457 (2003) of 24 January 2003, by which the Council renewed the mandate of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo for a period of six months. The Council requested the Panel to submit to it a final report at the end of its mandate. I also refer to resolution 1499 (2003) of 13 August 2003, by which the Council further extended the mandate of the panel until 31 October 2003.

I have the honour to transmit to you the final report of the Panel, which was submitted to me by its Chairman, Mahmoud Kassem. I should be grateful if you would bring the report to the attention of the members of the Security Council.

(Signed) Kofi A. **Annan**

41. Uganda indicated that the establishment of the Porter Commission and Uganda's positive role and participation in the peace process in the Great Lakes region constituted the most significant step that that country had taken towards curbing illegal exploitation in the Democratic Republic of the Congo. Rwanda underlined that the withdrawal of its forces from the Democratic Republic of the Congo may be considered as its most significant step, but declined to volunteer recommendations, as it has neither the mandate nor the expertise to do so. Zimbabwe noted that it was "in no position to take any measures ... as neither itself nor its nationals were or are involved in any illegal deals in the Democratic Republic of the Congo". As for Zambia, no additional significant measures over and above the existing administrative and security border controls have been taken.

42. In terms of confidence and capacity-building measures, Uganda underscored the need to enhance conflict resolution in the region and re-establish effective government institutions, in particular effective control of trade and revenue, in the Democratic Republic of the Congo.

## V. Exploitation, arms flow and conflict

43. Since the Panel's last report of 16 October 2002, a number of significant developments have taken place in the Democratic Republic of the Congo. Following the withdrawal of foreign forces, the Congolese parties signed in December 2002 the Global and Inclusive Agreement, which provided for the establishment in July 2003 of the Government of National Unity. The new Congolese Parliament convened for the first time on 22 August. At the same time, that period also witnessed intensified fighting in the eastern Democratic Republic of the Congo, notably in the Ituri district.

44. Illegal exploitation remains one of the main sources of funding for groups involved in perpetuating conflict, especially in the eastern and northeastern regions of the Democratic Republic of the Congo. Over the last year, such exploitation has been characterized by intense competition among the various political and military actors as they have sought to maintain, and in some instances expand, their control over territory.

45. In that connection, the power vacuum caused by the withdrawal of the Rwandan Defence Forces (RDF) and later by the Ugandan People's Defence Forces (UPDF), spurred the proliferation of militias. Those militias have vied for control over strategic zones where lucrative resources are located, and which were formerly held by the foreign forces. The Panel is of the opinion that the deteriorating security situation in the eastern Democratic Republic of the Congo, which resulted from intensifying armed confrontations among the militias, has had a direct impact on the level and nature of resource exploitation, compared to previous years. Overall, the transition of control from foreign forces to the armed groups has led to a temporary reduction in the volume of illegally exploited resources.

46. Fact-finding and field inquiries into the actual situation on the ground were hampered by the fighting in the most bitterly contested areas. The Panel, nonetheless, understands, based on information from a variety of sources, that during the current period, much of the resource exploitation has concentrated on gold and diamonds. Those minerals have a high revenue yield per unit weight, are easily transported and can be used in lieu of hard currency in transactions. Sites for

artisanal mining of those precious minerals remain active in many regions: Ituri, other parts of Oriental province, North and South Kivu and Maniema. Combined with moneys raised at customs border posts, political and military actors have been able to fund their military activities, including the supply of arms, as illustrated in the diagram below.
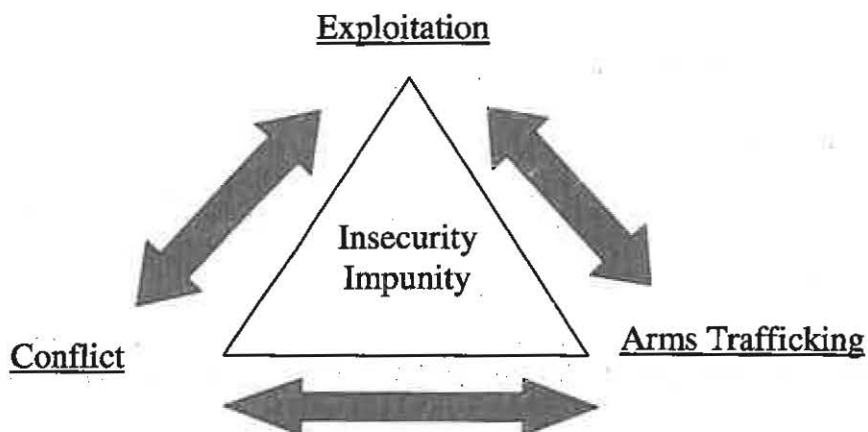
47. The Panel's fact-finding indicates that those relationships, which were analysed in detail in its earlier reports, continue to be as important as ever. In breaking that cycle, it is very difficult to stem or halt illegal exploitation without also tackling the issue of arms trafficking. Accordingly, the focus of the Panel's fieldwork and fact-finding has been on the patterns and trends in arms trafficking and the groups involved, including an analysis of their strategies and plans. The Panel has gathered detailed information and documents showing how those groups have been, and are adjusting to recent political developments, especially the establishment of the Government of National Unity. It is clear that they are developing strategies to build and extend their political and economic control in various parts of the Democratic Republic of the Congo, in particular the east and north-east. The details on exploitation and arms trafficking have been made available to the President and members of the Security Council. The Panel's information and documentation could be useful for an arms monitoring mechanism, should the Security Council decide to establish one.

VI. Next steps

48. While it has intensified during the recent conflict in the Democratic Republic of the Congo, the exploitation of natural resources that does not benefit the majority of the Congolese people is not a new phenomenon. It did not start with the establishment of the Panel three years ago, nor will it end with the conclusion of its mandate. In the absence of a strong, central and democratically elected Government that is in control of its territory, illegal exploitation will continue and serve as the motivation and the fuel for continued conflicts in the region, to the detriment of the Congolese people, who have suffered too much for too long.

49. The establishment of a transitional Government and institutions in the Democratic Republic of the Congo is a significant step in the right direction.

However, and for the reasons highlighted above, the process is not yet irreversible. Major obstacles will continue to be faced as the country moves from a state of conflict and division, to that of reunification, peace, security and economic recovery. There should be no illusion that the Congolese people will be able to carry out that colossal task on their own. Without the active engagement of the international community, the chances of success will be minimal. The international community has already demonstrated its political resolve and commitment with the adoption of resolution 1493 (2003) of 28 July 2003, which strengthened the mandate of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), as well as with the rapid deployment of the Interim Emergency Multinational Force to Bunia last June. However, the time has now come for the international community to demonstrate the same commitment by providing in a coordinated manner urgently needed technical and financial assistance in support of the transitional process. The Panel has consistently highlighted the need in its earlier reports for a strengthened national capacity to assume control and regulate the exploitation of the natural resources in the Democratic Republic of the Congo. Now is the time to pursue that objective.

50. Ensuring that a Central Government is in control of its natural resources for the benefit of the population will be a complex process with different phases. One of the most significant challenges is enabling the timely extension of the transitional authority throughout the national territory, in particular in such problematic areas as Ituri and the Kivus. The transitional Government, with the assistance of the international community, should consider that a high priority. Where possible, bringing the existing administrative structures in former rebel-held areas back under the management of the central authorities of the Government of National Unity could be a starting point. The extension of government authority should also be accompanied by a reform of the rule of law sector and the re-establishment of a criminal justice capacity in all its components: police, judiciary and corrections. MONUC and the international assistance will be vital in that regard, inter alia, by providing technical assistance in the reform of the legislative instruments, including the penal system and the penal procedure codes, with a view to tailoring those instruments to the needs of courts that function effectively and in harmony with the international legal instruments to which the Democratic Republic of the Congo is party. Material support will also be required for the training of a national integrated police force and the rehabilitation of criminal justice facilities.

51. The most important factor in ensuring the reunification of the national territory will be the effective integration of the new armed forces. While the transitional partners have reached agreement on the command structure of those forces, its actual integration has yet to take place. In addition to the will of the parties, which, as demonstrated earlier, continues to be lacking, the success of that exercise will also require a national strategy for the armed forces that determines the size and structure of the forces as well as the national military headquarters to take effective control over all armed militias in order to create the new integrated forces. Again, the support of the international community will be vital for the training of the new forces as well as in the effective and timely demobilization and reintegration of the excess personnel.

52. Parallel to the extension of government authority, there are a number of institutional reforms that have to be initiated immediately in order to allow the democratically elected Central Government — once in place — to ensure the legal

exploitation of natural resources in the Democratic Republic of the Congo. They include the following recommendations:

- Effective control of the national borders is a prerequisite if the flow of illegally extracted natural resources and arms is to be stemmed. While the unified national army and police will have a major role in that regard, an effective customs administration can bring many benefits, including higher tax revenues and a reduction in smuggling. A comprehensive diagnostic review should therefore be undertaken of the customs service (Office des douanes et accises) in the Democratic Republic of the Congo, preferably with the assistance of recognized international consultants. Following that review, a comprehensive strategy, covering the medium-term, to upgrade the agency should be developed and implemented. Such a strategy would address training, equipment and, in particular, sound management issues

- The Democratic Republic of the Congo has traditionally been plagued with, at best, an inefficient accounting and auditing system. Strengthening and enlarging the government auditing function, the Cour des comptes, is required so that it has the capacity to undertake regular auditing of all government departments and agencies throughout the country. Auditing of natural resource revenues should also be undertaken by the Cour des comptes with the publication of annual and other more frequent reports. In that regard, accounting systems must be developed for the provinces, especially for conflict areas in the Kivus and Ituri, so that transparency of both revenues and expenditure can be established. Such transparency is necessary to ensure that all provinces receive their fair share of the revenues from national resources, as well as from mineral developments in their areas. Moreover, such disclosure should make local administrations more accountable for the management of public funds. Measures should also be taken to ensure that amounts due to the regional government administrations, including the Entités administratives décentralisées, from the Central Government in Kinshasa are paid on time. Spending that is not in the budget approved by Parliament should immediately come to a halt

- Serious consideration should be given to the break-up of the large State-owned mineral resource enterprises, such as Gecamines and MIBA (Société minière de Bakwanga). Those grossly inefficient entities have traditionally been the vehicles by which the wealth generated from Congolese resources has been channelled away from the rightful owner, the Congolese people. In that connection, the Panel assesses that overhauling and restoring sound management to many of those enterprises will not be cost-effective in view of the enormity of the task and the obstacles that they face. With the assistance of the international community, the Government of the Democratic Republic of the Congo should therefore consider selling off enterprises either as they currently are or in parts that are likely to be of interest to potential investors.

Widening the benefits from natural resource exploitation

53. Disclosure of revenues earned from the natural resource sector is an important step towards transparency in that highly lucrative sector. The "publish what you pay" initiative should be implemented in the Democratic Republic of the Congo. That would involve:

- Natural resource companies, both domestic and foreign, to disclose all the payments that they make to the Government (e.g. concession fees, taxes, fees and royalties)

- The Government to disclose what it has received from those companies and also how the receipts have been used, including amounts paid into the proposed natural resource fund (see below). It will be necessary to develop reporting/disclosure guidelines that are both as comprehensive as possible but at the same time streamlined. Within the Democratic Republic of the Congo, disclosure should not only be at the Central Government level, but also at the provincial level so that amounts accruing to each province/district, in accordance with mining and codes can be tracked. Responsible companies should benefit from a more level playing field in their activities in the Democratic Republic of the Congo

- The World Bank and the International Monetary Fund to consider making the implementation of the "publish what you pay" initiative a condition for further funding to the Democratic Republic of the Congo

- International stock exchanges to consider including in their listing requirements the mandatory disclosure of payments by companies involved in extractive industries in the Democratic Republic of the Congo

- The capacity of civil society should be enhanced through funding, training and partnerships to monitor the collection and expenditure of government revenues from the extractive sector. International donors and NGOs can probably play an important role in building such capacity among Congolese NGOs and associations.

54. One step in ensuring a more equitable distribution of the wealth generated from the exploitation of natural resources could be to establish a natural resources fund into which a portion of natural resource proceeds are paid. The fund would use its revenues in social and economic infrastructure projects, including job creation programmes and diversification initiatives to help regions reduce their dependency on natural resources. The fund should be managed by an autonomous government agency, with international technical assistance and monitoring that would be independent of the established ministries responsible for raising and spending government moneys.

55. Similarly, where a natural resource company operates in an area where local infrastructure is underdeveloped, and where the capacity to build schools and hospitals and other public facilities does not exist, consideration could be given to allowing the company to build such facilities in return for receiving tax credits. That could enable the local community to enjoy more quickly the benefits generated by the company's presence. To avoid abuse, it would be necessary to ensure that such facilities had been sanctioned as necessary and what level of tax credit was appropriate.

56. Large international mining and oil companies have been shown to contribute more to the countries in which they operate than their smaller competitors. In the Democratic Republic of the Congo, the artisanal mining carried out by rebel groups and militias has been particularly bad in the way local communities have been mistreated, land has been stolen for exploitation and environmental damage has been caused. Moreover, many workers have been forced to work in slave-like

conditions. Large mining companies have been shown to be generally much better employers than small or medium-scale mining firms. There may be very sizeable multiple effects in the jobs they can create both directly and in subcontracted firms that supply goods and services.

57. Backward linkages from foreign multinationals to domestic firms are important channels through which direct and indirect employment can be created. Foreign mining and oil companies operating in the Democratic Republic of the Congo should be encouraged to subcontract the provision of as many support services as possible to Congolese companies.

58. The measures outlined above will require substantial and coordinated assistance from the international community. In that connection, donors may wish to consider establishing a donor coordination mechanism that could identify with the Government of National Unity and MONUC the priority needs and allocate the required resources. The coordination mechanism could subsequently monitor the expenditure of those allocations to ensure its most effective use.

Immediate steps

Arms monitoring

59. The Panel realizes that the foregoing measures cannot be fully implemented in the immediate future and will require the sustained efforts over a long period of time of both the Congolese and international stakeholders. Immediate interim measures should therefore be considered to stem the illegal exploitation of natural resources until such time when a strong Government could assume that role. As elaborated earlier in the present report, the flow of arms, exploitation and the continuation of the conflict are inextricably linked. Each of those three elements thrives on the other two. Without the wealth generated by the illegal exploitation of natural resources, arms cannot be bought, hence the conflict, which almost always involves grave human rights abuses and large-scale population displacement, cannot be perpetuated. Without arms, the ability to continue the conflict, thereby creating the conditions for illegal exploitation of resources, cannot be sustained.

60. Breaking that vicious cycle will be key to ending both the conflict and the illegal exploitation of natural resources. Emphasis should therefore be placed on stemming and, if possible, halting the flow of illegal arms to the Democratic Republic of the Congo. That is the weakest element in the cycle, and the area where the international community can play an effective role. The Panel feels that the international community is cognizant of the threat posed by the illegal flow of arms, as demonstrated by the arms embargo imposed on Ituri and the Kivus by the Security Council in its resolution 1493 (2003). In that connection, the Council may wish to consider establishing a monitoring mechanism, as envisaged in paragraph 23 of its resolution.

61. Such a mechanism could complement the role entrusted to MONUC in the monitoring of compliance of the arms embargo by tracking the full scope of the arms flow supply chain, from manufacturer or supplier to the final beneficiary, including the financing of the process through the illegal exploitation of resources of the Democratic Republic of the Congo. The high risk of exposure that such a monitoring mechanism could create would contribute to deterring arms trafficking and curbing arms flows. It would serve to cut the links between exploitation, arms

flows and continued conflict by directing actions at all parties in the chain from manufacturing, brokering, financing and transporting to end-users and training.

62. Such a mechanism would provide a greater degree of mobility, flexibility and adaptability in monitoring the arms embargo compared with today, since having human resources on the ground would complement any air surveillance and interdiction capability. MONUC should have the capacity to make seizures on the ground. Undoubtedly, the success of the proposed monitoring mechanism will depend on close collaboration with MONUC.

Peace dividend

63. If the hearts and minds of the people living in conflict areas in the Democratic Republic of the Congo are to be won over, they will need to be quickly convinced that peace is better than conflict. It is vital to break the dependency link between armed groups carrying out natural resource exploitation and the local communities if their activities are to be brought to an end. Specific quick impact projects need to be undertaken to convince people of the advantages of peace. Hospitals, clinics and schools need to be reopened and local policing re-established. Massive job creation schemes involving the repair of roads, sanitation systems and public buildings should be devised to get adults back into the workforce. Farmers need to be encouraged to return to their fields and start farming again to produce food again. That requires a major reduction in the level of banditry.

64. Given that the population is spread out over large rural areas, projects are required that go down to the village level in conflict areas. They need to be designed to restore basic social services and security rapidly. Specially trained teams of civil servants with local knowledge should be tasked to undertake those projects supported by security personnel, as circumstances dictate.

Regional cooperation and confidence-building measures

65. None of the above recommendations can be sustained in the long term unless a regional solution can be found. The legitimate concerns of all regional actors must be addressed in a comprehensive manner to allow a culture of good neighbourly relations to evolve. The Principles on Good Neighbourly Relations adopted by the parties during the meeting convened in New York by the Secretary-General on 25 September is a step in that direction. In the immediate future, confidence-building measures are needed to take forward those principles. One such measure should tackle the issue of the foreign-armed groups in the Democratic Republic of the Congo from Burundi, Rwanda and Uganda, including the ex-FAR/Interahamwe. Also to be addressed are the status of the Banyamulenge and other ethnic groups, such as the Banyarwandans in North and South Kivu. In dealing with those issues, the Government of National Unity in the Democratic Republic of the Congo will require the cooperation of neighbouring countries and the support of the international community.

66. Regional economic cooperation bodies, especially the Common Market for Eastern and Southern Africa, in which the Democratic Republic of the Congo and its immediate eastern neighbours, Burundi, Rwanda and Uganda, are members, should work to bolster legal trade and investment that benefits all the countries. They should set up working groups to examine in detail how to enhance trade and economic cooperation that will bring win-win results to trading among the four

countries, in particular between the Democratic Republic of the Congo and its neighbours.

VII. Impact of the Panel's work and lessons learned

Impact

67. The work of the Panel was useful because it set a number of precedents. It developed a model that explains the links between illegal exploitation and the funding of armed groups, which have fomented conflict in the Democratic Republic of the Congo, including the arms they purchase. With the information provided by the Panel, the international community was made much more aware of the scale of the crisis in the Democratic Republic of the Congo.

68. The international community now has a deeper understanding of the illicit exploitation of natural resources in the Democratic Republic of the Congo, including the role of companies and business people involved. Moreover, there is an appreciation of the need to assist countries in managing their natural resources for the long-term development and welfare of their populations.

69. The Panel has made a major contribution to the progress of the peace process. That was, for example, evident in its role in encouraging the various actors to participate in the Inter-Congolese Dialogue and prompting the withdrawal of foreign forces, in particular from Ituri and the Kivus.

70. The Panel has breathed life into the OECD Guidelines for Multinational Enterprises and drawn attention to their applicability in developing countries and, especially, in conflict areas. A number of cases have been referred by the Panel to OECD National Contact Points in Belgium, Germany and the United Kingdom.

71. The Panel's work has spurred Governments, NGOs and other organizations or associations to pursue their own investigations into the plundering of resources. That has taken place within the Democratic Republic of the Congo as well as internationally. In Uganda, following his implication in exploitation in the Democratic Republic of the Congo by a government commission, the head of the defence forces, General Kazini, was relieved of his post. In Belgium, a number of diamond dealers have been indicted in connection, inter alia, with their activities in the Democratic Republic of the Congo. In that regard, it is important for the international community to support and strengthen the monitoring capacity of civil society, in the form of NGOs and other groups, so that they can play a greater and more effective role.

72. The enactment of the Forestry Code and the Mining Code benefited from recommendations included in the Panel's reports. Its reports also spurred reform of the diamond sector, including the fact that the Democratic Republic of the Congo has become a member of the Kimberley Process.

73. Consideration is being given in the Democratic Republic of the Congo to the establishment of a government body or commission to review and possibly revise all natural resource concessions and contracts signed since 1997. That was recommended in the last two Panel reports.

Lessons learned

74.   There have been several instances of the Panel's sources having to leave the region after being uncovered. Given the sensitive and vital nature of information they can provide, for future panels, some form of a witness protection programme should be established at the outset with the support of the Office of Legal Affairs of the Secretariat.

75.   Panels have served as very valuable contributors to the Security Council's work on peace and security issues. There is, nevertheless, a need to analyse and institutionalize and make available, as appropriate, the experiences and lessons learned from the investigations and findings of successive panels mandated by the Council on Afghanistan, Angola, the Democratic Republic of the Congo, Liberia, Sierra Leone and Somalia.

76.   To be effective, monitoring activities concerning arms and revenue flows in conflict situations should be institutionalized and cover longer periods. That would require high levels of expertise, flexibility in conducting fieldwork and adequate support of the relevant United Nations bodies and Secretariat.

(*Signed*) Ambassador Mahmoud **Kassem**
Chairman

(*Signed*) Andrew **Danino**

(*Signed*) Alf **Görsjö**

(*Signed*) Mel **Holt**

(*Signed*) Bruno **Schiemsky**

(*Signed*) Ismaila **Seck**

Appendix xiv

Excerpt from the United Nations Panel of Experts Report on the Democratic Republic of Congo 2005

Security Council

Letter dated 26 July 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council

On behalf of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo, and in accordance with paragraph 22 of resolution 1596 (2005), I have the honour to submit herewith the report of the Group of Experts on the Democratic Republic of the Congo.

I would appreciate it if this letter, together with its enclosure, were to be brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Abdallah **Baali**
Chairman
Security Council Committee established pursuant
to resolution 1533 (2004) concerning the
Democratic Republic of the Congo

Contents

commonality of purpose, in opposition to the Transitional Government, FARDC and MONUC. The Group has been unable to investigate the allegations independently, because of time constraints, but notes that such alliances are not new to Ituri district. In the past, the Group has documented negotiated settlements between FAPC, UPC and FNI over the sharing of territory and revenue sources.

37. On the basis of its collection of data, the Group notes new circumstances giving rise to joint arrangements. More highly mobile than in the past because of increased deployments of FARDC and MONUC, the dissident groups are utilizing overlapping corridors for access to needed supplies. In view of the extension of State structures at key border crossings, however weak and incomplete, former supply entry points are less effectual, resulting in a shift to more remote areas. Another result is the rise to prominence of experienced smugglers, such as the FNI commander Peter "Karim" Ugada, among the dissident forces.

38. The Group notes the progress being made to further weaken supply lines for some of the dissident militia. For example, PUSIC control over Tchomia and Kasenyi ports has been undermined, particularly with the arrest of Chief Kahwa, the leader of PUSIC. The movement of goods across Lake Albert at those junctures is to a limited degree better monitored, thanks to the slow introduction of central Government, Customs services, FARDC marine patrols, and the presence of MONUC.

39. Similarly, UPC-L, FNI and ex-FAPC dissident forces are no longer in direct control of major border crossings, including Aru and Mahagi. The Group documented heavy fighting between FARDC and UPC-L and ex-FAPC remnants in the region around Berunda, which serves as a major gateway between Mongbwalu and Mahagi and Aru territories. Progress is also being made in Mongbwalu, where some 120 peacekeepers have been deployed and have started inspecting incoming aircraft.

Connections with neighbouring States

40. According to reliable reports, leaders of dissident factions in conjunction with other Congolese dissidents have held operational meetings in Uganda and Rwanda for the purpose of resisting the transition and peace process in the Democratic Republic of the Congo. The Group asked the Governments of Uganda and Rwanda to investigate those allegations, including the activities of the individuals and other specifics. Both Governments assured the Group that no such meetings had been held on their territories.

41. The Group has asked the Government of Uganda in writing and orally over a period of three mandates to provide it with detailed information pertaining to meetings between Ugandan Government officials, Ituri armed group leaders and other dissidents, which Uganda claims were for the purpose of the peace process in the Democratic Republic of the Congo. The Group is still waiting for this information from Uganda.

42. Uganda has informed the Group that a number of former FAPC combatants, including Colonel Ali Mbuzi and Major Ramazani Barume Rams, are seeking political asylum. Their applications are being considered by an Eligibility Committee, which operates under the auspices of the Prime Minister's Office. The Group requested information on those asylum-seekers from the Government of Uganda. It has yet to be provided.

Appendix xv

Convention Document Establishing the Economic Community of the Great Lakes Countries

No. 16748

RWANDA, BURUNDI and ZAIRE

Convention establishing the Economic Community of the
Great Lakes Countries (CEPGL). Concluded at
Gisenyi on 20 September 1976

Authentic text: French.
Registered by Rwanda on 13 June 1978.

RWANDA, BURUNDI et ZAÏRE

Convention portant création de la Communauté économique des pays des grands lacs (CEPGL). Conclue à
Gisenyi le 20 septembre 1976

Texte authentique : français.
Enregistrée par le Rwanda le 13 juin 1978.

[TRANSLATION — TRADUCTION]

CONVENTION[1] ESTABLISHING THE ECONOMIC COMMUNITY OF THE GREAT LAKES COUNTRIES (CEPGL)

The President of the Republic of Burundi, the President of the Rwandese Republic, the President of the Republic of Zaire,

In accordance with the spirit of the agreements signed at Kinshasa on 29 August 1966, the Goma Declaration signed on 20 March 1967,[2] the resolutions signed at Bujumbura on 12 June 1969 and 12 June 1974, and the solemn declaration signed at Bukavu on 3 May 1975,

Considering the historical, geographical and cultural links between their States, their similar development problems, their common interests and their common aspirations for peace, security and progress,

In accordance with the principles embodied in the Charter of the United Nations, and in loyalty to the Charter of the Organization of African Unity,[3]

Resolved to consolidate and increase co-operation and trade, and to join forces in economic, cultural and social development endeavours,

Guided by their common desire to increase understanding between their peoples and co-operation between their States in order to consolidate their fraternity and integrated solidarity as part of a greater unity transcending national characteristics,

Convinced that the establishment of regional economic groups constitutes an objective approach and a realistic basis for African unity,

Desiring to promote mutual understanding and solidarity between the member States so as to foster in perpetuity a climate propitious to economic co-operation and the maintenance of friendly and peaceful relations between them,

Decide to establish the Economic Community of the Great Lakes Countries (CEPGL) and agree as follows:

PART I.   OBJECTIVES

Article 1. By this Convention the High Contracting Parties establish among them an Economic Community of the Great Lakes Countries (CEPGL), hereinafter referred to as the Community.

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[1] Came into force on 17 April 1978, the date by which the instruments of ratification of the signatory States had been deposited with the Government of Rwanda, in accordance with article 35. The deposit of the instruments of ratification was effected as follows:

State	Date of deposit of the instruments of ratification
Burundi	7 January 1977
Rwanda	13 January 1977
Zaire	17 April 1978

[2] See p. 31 of this volume.
[3] United Nations, *Treaty Series*, vol. 479, p. 39.

Article 2. The aims of the Community shall be:

1. To ensure, first and foremost, the security of the States and their people in such a way that nothing disturbs peace and order along their respective frontiers;

2. To devise, plan and encourage the organization and development of activities of common interest;

3. To promote and intensify trade and the movement of persons and goods;

4. To co-operate closely in the social, economic, commercial, scientific, cultural, political, military, financial, technical and tourist fields, and more particularly in legal, customs, public health, energy, transport and telecommunications matters.

Article 3. In order to attain these objectives, the member States solemnly undertake to initiate appropriate action on the problems involved, in particular, through the establishment of common agencies and services, and by the signing of understandings, agreements or conventions.

Article 4. Any member State which is or becomes a member of other organizations promoting economic co-operation shall inform the Community and communicate to it those provisions of the constituent instruments which may relate to the Community's aims.

PART II. INSTITUTIONS

Article 5. In order to achieve their aim, the High Contracting Parties have agreed to establish the following organs:

— The Conference of Heads of State;
— The Council of Ministers and the State Commissioner;
— The Permanent Executive Secretariat;
— The Arbitration Commission.

Section I. THE CONFERENCE OF HEADS OF STATE

Article 6. The Conference of Heads of State shall be the Community's supreme authority. It shall have decision-making power in all spheres, and in particular:

1. It shall promote unity and solidarity between the States;

2. It shall co-ordinate and develop their co-operation under the most favourable conditions possible, in order to ensure the happiness and prosperity of their peoples;

3. It shall determine general policy in all matters relating to co-operation;

4. It shall supervise the work of the Council of Ministers and the State Commissioner;

5. It shall determine the location of the Community's headquarters;

6. It shall draw up its own rules of procedure and approve those of the other organs;

7. It shall decide whether to establish specialized organs and common services;

8. It shall decide on the Community's annual budget, on the recommendation of the Council of Ministers and the State Commissioner;

9. It shall appoint the Executive Secretary and the Assistant Executive Secretaries;
10. It may, furthermore, on the recommendation of the Council, alter the structure, functions and activities of any organ;
11. It may delegate its decision-making power in designated matters to the Council of Ministers and the State Commissioner.

Article 7. The Conference shall hold a regular session once a year and special sessions as required. It shall be convened by the current President of the Community, who shall determine the date of and venue for the session.

Article 8. The Conference shall be presided over each year by a Head of State, chosen in rotation in the alphabetical order of the names of the States.

Article 9. Decisions by the Conference shall be taken unanimously. Each State shall be entitled to speak and to vote.

Article 10. The decisions adopted by the Conference shall be binding on all member States, which undertake to implement them.

Section II.   THE COUNCIL OF MINISTERS AND THE STATE COMMISSIONER

Article 11. The Council of Ministers and the State Commissioner of the Community shall comprise members of the Governments and Executive Council of the member States or plenipotentiaries designated by the States.

Article 12. The Council shall be presided over each year by a Minister or State Commissioner, in rotation. The Minister or State Commissioner may not be from the country which is currently presiding over the Conference of Heads of State.

Article 13. The Council shall hold a regular session twice a year; one of the sessions must precede the regular session of the Conference of Heads of State. It shall be convened by the current President, who shall determine the date of and venue for the session.

Article 14. At the request of a member State, the Council may meet in special session, subject to the consent of all the members. Special sessions shall be convened by the current President. The agenda of a special session shall, in principle, comprise only those matters for which it was convened.

Article 15. The Council shall be responsible for promoting any activities aimed at achieving the objectives defined in articles 1 and 2 above.

Article 16. The Council shall formulate and propose general development and co-operation policy measures for the States members of CEPGL. It shall be responsible to the Conference of Heads of State.

Article 17. The Council shall be responsible for preparing for the Conference of Heads of State. It shall consider any matter referred to it by the Conference and shall implement the policy of co-operation determined by the Conference of Heads of State.

Article 18. Council decisions under article 6, paragraph 11, shall be taken unanimously, and shall be binding on all member States, which undertake to implement them. Each member State shall be entitled to speak and to vote.

Section III. THE PERMANENT EXECUTIVE SECRETARIAT

Article 19. The Permanent Executive Secretariat of the Community shall be the responsibility of the Executive Secretary.

The functions of the Executive Secretary shall be:

— To formulate projects of common interest and to submit them to member States with specific proposals relating, in particular, to the establishment of industries, taking account of common criteria, mutual advantage and the volume of trade to be generated by such industries;

— To prepare for meetings;

— To monitor the implementation of current projects, to formulate proposals for possible changes or readjustments, to report on difficulties encountered and to propose solutions thereto;

— To make proposals relating to sources of finance;

— To prepare working papers for the competent authorities of the member States, to prepare drafts of agreements, understandings and conventions among the member States in all areas of co-operation and, if necessary, to update such instruments;

— To carry out any studies necessary to promote co-operation among member States, such as consideration of ways and means of implementing decisions taken by the competent authorities, as well as consideration of any matter referred to him by such authorities;

— To prepare annual reports for the authorities of the member States, and an annual report on his work;

— To maintain the records relating to co-operation among the States.

Article 20. The Executive Secretary shall be assisted by two Assistant Executive Secretaries and by administrative and technical staff.

The Assistant Executive Secretaries shall be responsible, respectively, for:

— Political, legal, social, cultural and scientific affairs;

— Economic, technical, financial and administrative affairs.

Article 21. The Executive Secretary and the Assistant Executive Secretaries shall be appointed for a four-year term, which may be renewed by the Conference of Heads of State on the recommendation of the Council.

Article 22. The statute of the Permanent Executive Secretariat and its staff shall be determined by decision of the Conference of Heads of State on the recommendation of the Council.

Article 23. In the performance of their duties, the Executive Secretary, the Assistant Executive Secretaries and the administrative and technical staff shall not seek or receive instructions from any State, nor from any national or international entity. They shall refrain from any action which might reflect on their position as international officials.

(c) Borrow;

(d) Institute legal proceedings;

(e) Accept donations, legacies and gifts.

The current President of the Conference of Heads of State shall be the Community's legal representative. He shall be competent to perform or delegate the above-mentioned juridical acts.

Article 34. The Conference shall determine the immunities and privileges to be granted to the Community, its representatives and the staff of the Executive Secretariat in the territories of the member States.

PART V. MISCELLANEOUS PROVISIONS

Article 35. This Convention shall enter into force upon its ratification by the signatory States in accordance with their constitutional procedures.

The instruments of ratification shall be deposited with the headquarters' country designated as the depositary State, which shall notify all the signatory States and the Permanent Executive Secretariat of the said act.

Article 36. This Convention may be acceded to by other States in the Great Lakes region.

Article 37. This Convention shall be registered with the United Nations and the Organization of African Unity.

Article 38. This Convention may be amended or revised by the Conference of Heads of State upon written request by a member State.

Article 39. Any member State may give notice of denunciation of this Convention to the current President, who shall immediately notify the other member States.

The Convention shall cease to apply to that State three years after the date of notification.

Article 40. Competence with regard to the dissolution of the Community shall lie exclusively with the Conference of Heads of State, which shall determine the procedure for apportioning assets and liabilities.

DONE at Gisenyi on 20 September 1976.

President of the Republic
of Burundi:

[*Signed*]

MICHEL MICOMBERO
Lieutenant General

President of the Rwandese
Republic:

[*Signed*]

JUVÉNAL HABYARIMANA
Major General

President of the Republic of Zaire:

[*Signed*]

MOBUTO SESE SEKO KUKU NGBENDU WA ZA BANGA
Army General

Appendix xvi

Charter of the Organisation of African Unity

OAU CHARTER

We, the Heads of African States and Governments assembled in the City of Addis Ababa, Ethiopia,

Convinced that it is the inalienable right of all people to control their own destiny,

Conscious of the fact that freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples,

Conscious of our responsibility to harness the natural and human resources of our continent for the total advancement of our peoples in all spheres of human endeavour,

Inspired by a common determination to promote understanding among our peoples and cooperation among our states in response to the aspirations of our peoples for brother-hood and solidarity, in a larger unity transcending ethnic and national differences,

Convinced that, in order to translate this determination into a dynamic force in the cause of human progress, conditions for peace and security must be established and maintained,

Determined to safeguard and consolidate the hard-won independence as well as the sovereignty and territorial integrity of our states, and to fight against neo-colonialism in all its forms,

Dedicated to the general progress of Africa,

Persuaded that the Charter of the United Nations and the Universal Declaration of Human Rights, to the Principles of which we reaffirm our adherence, provide a solid foundation for peaceful and positive cooperation among States,

Desirous that all African States should henceforth unite so that the welfare and well-being of their peoples can be assured,

Resolved to reinforce the links between our states by establishing and strengthening common institutions,

Have agreed to the present Charter.

ESTABLISHMENT

Article I

1. The High Contracting Parties do by the present Charter establish an Organization to be known as the ORGANIZATION OF AFRICAN UNITY.

2. The Organization shall include the Continental African States, Madagascar and other Islands surrounding Africa.

PURPOSES

Article II

1. The Organization shall have the following purposes:
    (a) To promote the unity and solidarity of the African States;
    (b) To coordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa;
    (c) To defend their sovereignty, their territorial integrity and independence;
    (d) To eradicate all forms of colonialism from Africa; and
    (e) To promote international cooperation, having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights.

2. To these ends, the Member States shall coordinate and harmonize their general policies, especially in the following fields:
    (a) Political and diplomatic cooperation;
    (b) Economic cooperation, including transport and communications;
    (c) Educational and cultural cooperation;
    (d) Health, sanitation and nutritional cooperation;
    (e) Scientific and technical cooperation; and
    (f) Cooperation for defence and security.

PRINCIPLES

Article III

The Member States, in pursuit of the purposes stated in Article II solemnly affirm and declare their adherence to the following principles:

1. The sovereign equality of all Member States.

2. Non-interference in the internal affairs of States.

3. Respect for the sovereignty and territorial integrity of each State and for its inalienable right to independent existence.

4. Peaceful settlement of disputes by negotiation, mediation, conciliation or arbitration.

5. Unreserved condemnation, in all its forms, of political assassination as well as of subversive activities on the part of neighbouring States or any other States.

6. Absolute dedication to the total emancipation of the African territories which are still dependent.

7. Affirmation of a policy of non-alignment with regard to all blocs.

MEMBERSHIP

Article IV

Each independent sovereign African State shall be entitled to become a Member of the Organization.

RIGHTS AND DUTIES OF MEMBER STATES

Article V

All Member States shall enjoy equal rights and have equal duties.

Article VI

The Member States pledge themselves to observe scrupulously the principles enumerated in Article III of the present Charter.

INSTITUTIONS

Article VII

The Organization shall accomplish its purposes through the following principal institutions:

1. The Assembly of Heads of State and Government.

2. The Council of Ministers.

3. The General Secretariat.

4. The Commission of Mediation, Conciliation and Arbitration.

THE ASSEMBLY OF HEADS OF STATE AND GOVERNMENT

Article VIII

The Assembly of Heads of State and Government shall be the supreme organ of the Organization. It shall, subject to the provisions of this Charter, discuss matters of common concern to Africa with a view to coordinating and harmonizing the general policy of the Organization. It may in addition review the structure, functions and acts of all the organs and any specialized agencies which may be created in accordance with the present Charter.

Article IX

The Assembly shall be composed of the Heads of State and Government or their duly accredited representatives and it shall meet at least once a year. At the request of any Member State and on approval by a two-thirds majority of the Member States, the Assembly shall meet in extraordinary session.

Article X

1. Each Member State shall have one vote.

2. All resolutions shall be determined by a two-thirds majority of the Members of the Organization.

3. Questions of procedure shall require a simple majority. Whether or not a question is one of procedure shall be determined by a simple majority of all Member States of the Organization.

4. Two-thirds of the total membership of the Organization shall form a quorum at any meeting of the Assembly.

Article XI

The Assembly shall have the power to determine its own rules of procedure.

THE COUNCIL OF MINISTERS

Article XII

1. The Council of Ministers shall consist of Foreign Ministers or other Ministers as are designated by the Governments of Member States.

2. The Council of Ministers shall meet at least twice a year. When requested by any Member State and approved by two-thirds of all Member States, it shall meet in extraordinary session.

Article XIII

1. The Council of Ministers shall be responsible to the Assembly of Heads of State and Government. It shall be entrusted with the responsibility of preparing conferences of the Assembly.

2. It shall take cognisance of any matter referred to it by the Assembly. It shall be entrusted with the implementation of the decision of the Assembly of Heads of State and Government. It shall coordinate inter-African cooperation in accordance with the instructions of the Assembly conformity with Article II (2) of the present Charter.

Article XIV

1. Each Member State shall have one vote.

2. All resolutions shall be determined by a simple majority of the members of the Council of Ministers.

3. Two-thirds of the total membership of the Council of Ministers shall form a quorum for any meeting of the Council.

Article XV

The Council shall have the power to determine its own rules of procedure.

GENERAL SECRETARIAT

Article XVI

There shall be a Secretary-General of the Organization, who shall be appointed by the Assembly of Heads of State and Government. The Secretary-General shall direct the affairs of the Secretariat.

Article XVII

There shall be one or more Assistant Secretaries-General of the Organization, who shall be appointed by the Assembly of Heads of State and Government.

Article XVIII

The functions and conditions of service of the Secretary-General, of the Assistant Secretaries-General and other employees of the Secretariat shall be governed by the provisions of this Charter and the regulations approved by the Assembly of Heads of State and Government.

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

2. Each member of the Organization undertakes to respect the exclusive character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

COMMISSION OF MEDIATION, CONCILIATION AND ARBITRATION

Article XIX

·Member States pledge to settle all disputes among themselves by peaceful means and, to this end decide to establish a Commission of Mediation, Conciliation and Arbitration, the composition of which and conditions of service shall be defined by a separate Protocol to be approved by the Assembly of Heads of State and Government. Said Protocol shall be regarded as forming an integral part of the present Charter.

SPECIALIZED COMMISSION

Article XX

The Assembly shall establish such Specialized Commissions as it may deem necessary, including the following:

1. Economic and Social Commission.
2. Educational, Scientific, Cultural and Health Commission.
3. Defence Commission.

Article XXI

Each Specialized Commission referred to in Article XX shall be composed of the Ministers concerned or other Ministers or Plenipotentiaries designated by the Governments of the Member States.

Article XXII

· The functions of the Specialized Commissions shall be carried out in accordance with the provisions of the present Charter and of the regulations approved by the Council of Ministers.

THE BUDGET

Article XXIII

INTERPRETATION OF THE CHARTER

Article XXVII

Any question which may arise concerning the interpretation of this Charter shall be decided by a vote of two-thirds of the Assembly of Heads of State and Government of the Organization.

ADHESION AND ACCESSION

Article XXVIII

1. Any independent sovereign African State may at any time notify the Secretary-General of its intention to adhere or accede to this Charter.

2. The Secretary-General shall, on receipt of such notification, communicate a copy of it to all the Member States. Admission shall be decided by a simple majority of the Member States. The decision of each Member State shall be transmitted to the Secretary-General, who shall, upon receipt of the required number of votes, communicate the decision to the State concerned.

MISCELLANEOUS

Article XXIX

The working languages of the Organization and all its institutions shall be, if possible African languages, English and French, Arabic and Portuguese.

Article XXX

The Secretary-General may accept, on behalf of the Organization, gifts, bequests and other donations made to the Organization, provided that this is approved by the Council of Ministers.

Article XXXI

The Council of Ministers shall decide on the privileges and immunities to be accorded to the personnel of the Secretariat in the respective territories of the Member States.

CESSATION OF MEMBERSHIP

Article XXXI

Any State which desires to renounce its membership shall forward a written notification to the Secretary-General. At the end of one year from the date of such notification, if not withdrawn, the Charter shall cease to apply with respect to the renouncing State, which shall thereby cease to belong to the Organization.

AMENDMENT OF THE CHARTER

Article XXXII

This Charter may be amended or revised if any Member State makes a written request to the Secretary-General to that effect; provided, however, that the proposed amendment is not submitted to the Assembly for consideration until all the Member States have been duly notified of it and a period of one year has elapsed. Such an amendment shall not be effective unless approved by at least two-thirds of all the Member States.

IN FAITH WHEREOF, We, the Heads of African States and Governments have signed this Charter.

Done in the City of Addis Ababa, Ethiopia,
25th day of May, 1963