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A HAZARDOUS ROAD TOWARDS DEMOCRACY
DEMOCRATISATION AND STATE BUILDING IN THE
DEMOCRATIC REPUBLIC OF THE CONGO

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[D]emocratic institutions [...] prudently introduced into society so as gradually to mix with the habits and to be interfused with the opinions of the people, might subsist in other countries besides America.

Alexis de Tocqueville, *Democracy in America* (1835)

Democracy substitutes election by the incompetent many for appointment by the corrupt few.

George Bernard Shaw, *Maxims for Revolutionists* (1903)

I couldn't help asking him once what he meant by coming here at all. "To make money, of course. What do you think?" he said scornfully.

Joseph Conrad, *Heart of Darkness* (1902)

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Acronyms

| | |
|------------------|--|
| AFDL | Alliance of the Democratic Forces for Liberation (Alliance des Forces Démocratiques pour la Libération), armed group led by Laurent-Désiré-Kabila |
| AMP | Alliance for the Presidential Majority (Alliance pour la Majorité Présidentielle), coalition of parties led by Joseph Kabila |
| AU | African Union |
| BDK | Bunda Dia Kongo, a religio-political group originating in Bas Congo province |
| CEI | Independent Electoral Commission (Commission électorale indépendante) |
| CENI | National Independent Electoral Commission (Commission électorale nationale indépendante) |
| CIAT | International Committee in Support of the Transition (Comité international d'accompagnement de la transition) |
| CNS | National Sovereign Conference (Conférence nationale souveraine), reform conference during the Mobutu presidency |
| DDR | Disarmament, Demobilization and Reintegration |
| DDRRR | Disarmament, Demobilization, Rehabilitation, Reintegration and Resettlement |
| DRC | Democratic Republic of the Congo |
| EISA | Electoral Institute for the Sustainability of Democracy in Africa |
| EU | European Union |
| EUPOL (RD Congo) | European Union police mission in the Democratic Republic of the Congo |
| EUSEC (RD Congo) | European Union mission to provide advice and assistance for security sector reform in the Democratic Republic of the Congo |
| FAC | Congolese Armed Forces (Forces Armées Congolaises), national armed forces created by Laurent-Désiré Kabila |
| FAR | Rwandan Armed Forces (Forces Armées Rwandaises), Rwandan national armed forces before July 1994 |
| FARDC | Armed Forces of the Democratic Republic of the Congo (Forces Armées du République Démocratique du Congo) |
| FAZ | Armed Forces of Zaire (Forces Armées Zairoises) |
| FDLR | Democratic Forces for the Liberation of Rwanda (Forces Démocratiques de Libération du Rwanda), anti-RPF Hutu armed group active in the DRC (at its inception made up mostly of ex-FAR and Interahamwe) |
| HAM | Media High Authority (Haute Autorité des Médias) |
| HDI | Human Development Index |
| ICC | International Criminal Court |
| ICD | Inter-Congolese Dialogue |
| ICJ | International Court of Justice |
| IFI | International Financial Institutions, i.e., World Bank, IMF and associated institutions |

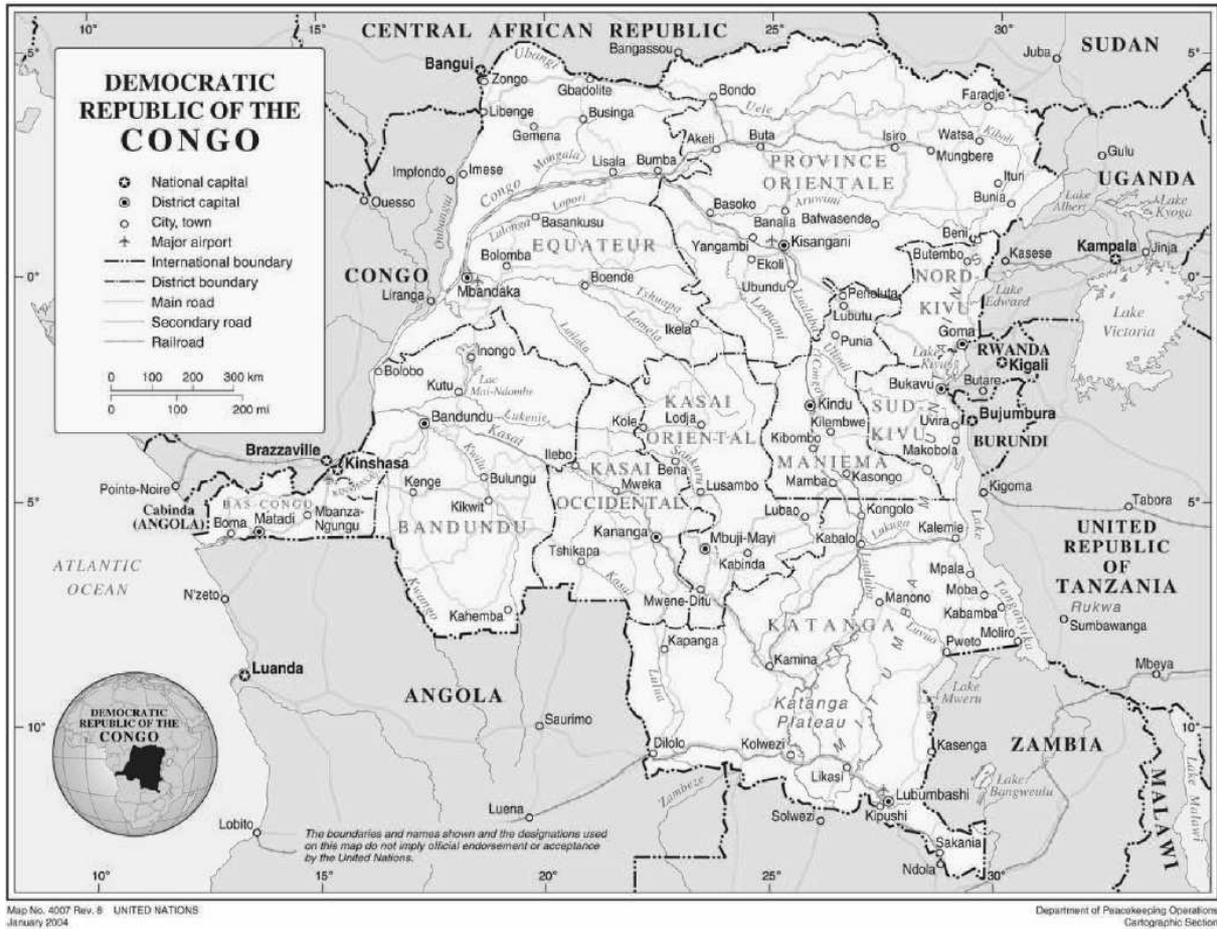
Acronyms

| | |
|-------------|---|
| IMF | International Monetary Fund |
| Interahamwe | Hutu militia of President Habyarimana's party in Rwanda that committed many of the crimes during the Rwandan genocide of 1994 |
| IO(s) | International Organisation(s) |
| Kinyarwanda | Official language in Rwanda |
| LRA | Lord's Resistance Army, Ugandan armed group notorious for its atrocities and crimes against humanity |
| Mai-Mai | Umbrella term for local armed (self-defence) groups operating independently or loosely organised in the eastern provinces of the DRC |
| MLC | Movement for the Liberation of Congo (Mouvement de Libération du Congo), armed group led by Jean-Pierre Bemba that turned into a political party during the transition |
| MONUC | United Nations Organization Mission in the Democratic Republic of the Congo (Mission de l'Organisation des Nations Unies à la République Démocratique du Congo) |
| MONUSCO | United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, the new name of MONUC as of 1 July 2010 |
| NGO(s) | Non-Governmental Organisation(s) |
| ODA | Official Development Aid |
| PALU | Unified Lumumbist Party (Parti Lumumbiste Unifié), party created and led by Antoine Gizenga |
| PPP | Purchasing Power Parity |
| PPRD | Peoples' Party for Reconstruction and Democracy (Parti du Peuple pour la Reconstruction et la Démocratie), party led by Joseph Kabila and centerpiece of the AMP |
| RCD | Congolese Rally for Democracy (Rassemblement Congolais pour la Démocratie), Congolese armed group under Rwandan patronage (in time split into several factions); it turned into a political party during the transition |
| RCD-G | Congolese Rally for Democracy-Goma (Rassemblement Congolais pour la Démocratie-Goma), RCD splinter group closest to the original RCD |
| RCD-ML | Congolese Rally for Democracy-Liberation Movement (Rassemblement Congolais pour la Démocratie-Mouvement de Libération), RCD splinter group under Ugandan patronage |
| RCD-N | Congolese Rally for Democracy-National (Rassemblement Congolais pour la Démocratie-National) |
| RENOSEC | National Network for the Observation of the Elections in Congo (Réseau National pour l'Observation et la Surveillance des Élections au Congo) |
| RFI | Radio France Internationale |
| RPA | Rwandan Patriotic Army, Rwandan national armed forces after July 1994 |
| RPF | Rwandan Patriotic Front, political movement of Paul Kagame (President of Rwanda since July 1994) |
| RTNC | National Radio and Television of Congo (Radio-Télévision Nationale Congolaise) |
| SADC | Southern African Development Community |
| SADC-PF | South African Development Community - Parliamentary Forum |

Acronyms

| | |
|-------|---|
| UDPS | Union for Democracy and Social Progress (Union pour la Démocratie et le Progrès Social) party of Etienne Tshisekedi |
| UN | United Nations |
| UNDP | United Nations Development Programme |
| UNPOL | United Nations Police Division |
| UNSC | Security Council of the United Nations |
| UNSG | Secretary General of the United Nations |
| UPDF | Ugandan People's Defense Forces, Ugandan national armed forces |
| UpN | Union for the Nation (Union pour la Nation), Political alliance of the opposition centred around the MLC |
| U.S. | United States of America |

Map



Source: ICG 2010.

Introduction

"The sequence of introducing elections before either accountability or nation building has been fundamentally flawed. In the now-mature democracies, the sequence was reversed: critically, accountability was in place well in advance of competitive elections" (Collier 2009, 186).

The presidential and parliamentary elections of 28 November 2011 marked the first time in the history of the Democratic Republic of the Congo (DRC) that a full electoral cycle had been completed. The country experienced its second consecutive general elections. That is the good news.

However, when compared to the general elections of 2006, the most recent elections cannot be said to have advanced democratisation in the DRC. The 2006 elections - the first elections after decades of authoritarian rule and war - took place under close international scrutiny. However, after almost six years and despite the continuing presence of the largest United Nations peacekeeping operation to date and substantial donor support, there are few signs that the 2011 elections can be considered proof that democracy has finally asserted itself and prevailed in the DRC. Instead, concerns have been raised fearing that the achievements in democratisation during the years following the end of the war are increasingly being dismantled.

Such concerns exist even when not accounting for the high tensions in the midst of threats of looming violence that accompanied both elections. Each time some observers predicted a failure of the elections and a renewed outbreak of violence. This did not occur and, at the time of this writing, it seems rather unlikely to occur in the near future even though the process has amounted to balancing on a razor's edge on more than a few occasions. However, conflict between the camps competing in the elections and their possible resort to arms, while a serious concern, might not be the greatest for this war-weary country.

Equally dangerous for the DRC's fledgling democracy is the noticeable disappointment with the democratic transition that many in the DRC feel. The source of this discontent is not readily discernible yet. It may be directed against the ruling elites as a reproach for the failure to live up to democratic principles. Or, a prospect far more dangerous, it may be directed against democracy itself as a form of governance unsuited to the DRC, one which has failed to change the reality of life for the Congolese. Hopes had been high and some have been shattered in the struggle to introduce the elements of democracy against the resistance of powerful elites.

Despite the scale of the challenges still to be met, giant steps have been made on the road towards democracy. The DRC has seen nothing less than a new beginning, moving from a near failed state to holding elections in 2006 deemed to be free and fair. The elections of 2006

constituted a historical landmark and a high point of a democratisation process that the country had embarked upon after a long-lasting and crippling civil and international war.

Elections - these events receive all the headlines and are recorded as historical. Yet what role do elections really play in democratisation? Elections are little more than a process determining who is in power. They are an important part of democracy, but they may not be equated with it. Democracy is not defined merely through process; there must be substance as well: the respect for human rights, civil and political rights, the rule of law and the separation of powers - in short, liberal constitutionalism. Liberal constitutionalism introduces limitations to the power of those elected. Democracy is more than elections, it is *liberal* democracy. Without the limitations to central power, elections can lead to instability, uprisings and war-prone nationalism.

The seemingly counter-intuitive thesis that democratisation centred exclusively around the act of voting by itself is not only insufficient to root a democracy, but in fact may be a central cause for its corruption or even ultimate failure, has been studied and theories promulgated to explain it. Through analysis of the DRC's authoritarian and war-scarred history and following attempt to transition to a system of democratic governance, this paper examines whether the theoretical propositions formulated to address the problem of the democratic transition in former authoritarian countries may be applied to the DRC and offer possible solutions.

More specific, this paper is structured into three constitutive parts. The first part comprises chapters 1 and 2; chapter 1 gives an overview of the important historical developments in the DRC from independence to the eve of the 2006 elections, the events leading to the start of the democratisation process. Chapter 2 is dedicated to the theoretical framework. Therein, different theoretical approaches are presented, contextualised and combined in an effort to construct a coherent theoretical framework that allows for further analysis and prediction regarding the DRC's developmental course.

The second part, comprising chapters 3 to 5, examines the developments which have shaped the DRC's political transition. Political, economic, legal and social factors as well as the impact of interventions by the international community are discussed. Chapter 3 analyses the elections of 2006, a critical event revealing both the promise and dangers of democratisation. Chapter 4 examines the most important institutions in the context of state building and their competences, capacity and willingness to adhere constitutional liberal principles of democratic governance. The last chapter of the second part addresses the economic side of democratisation, focusing on the history of economic reforms in the DRC, including international donor intervention, and examines their impact on the democratisation process in the DRC.

The third part, chapters 6 and 7, joins together the first two parts and draws conclusions about the applicability of the principal theories to the case of the DRC (chapter 6). Chapter 7 turns to the recently held November 2011 elections and the author offers an outlook on possible developments in the DRC in near future in light of those elections as well as the responses of the Congolese people and international community to the election's outcome.

The relevant time period in this paper stretches from the fall of long-time autocrat Mobutu Sese Seko and the general elections of November 2011, with the principal focus on the time period between the peace accords of 2002 and the events following the elections of 2006.

Chapter 1: Historical Background

A. Independence to the Fall of Mobutu

The first ever elections in the DRC were held after the hasty and disorganised withdrawal of the Belgian colonial administration in May 1960. The DRC declared independence the following month. However, the country was soon destabilised by internal disturbances and drawn into the Cold War. The short and chaotic but, to a certain extent, democratic period between independence and the military takeover of power became known as the Congo Crisis. The new state was instantly faced with separatism: the wealthiest province, Katanga, declared independence and instantly received material support from the former colonial power Belgium, which still had extensive mining interests in the province. In the following, parts of Kasai province also seceded. The central government in Kinshasa split when the president dismissed the popular Prime Minister Patrice Lumumba, who thereupon tried to establish a rival government in north-eastern Congo. Belgium and the U.S. aggressively interfered in the internal affairs of the DRC. Reportedly with the consent of Belgium and the U.S. - according to some even with their assistance - Prime Minister Lumumba was murdered in 1961. On the request of the central government, the UN sent a force of up to 20,000 troops to restore order in 1962. The UN force actively fought the secessionists but was withdrawn in 1964 in a moment when peace seemed restored. That moment did not last long, however, and fighting continued.

Purportedly to restore order, the then chief of staff Joseph-Désiré Mobutu in 1965 staged a coup d'état with the backing of the military and installed an autocracy based on one-party rule. With his grip on power unchallenged, in 1971 Mobutu initiated the "Africanisation" of the country, renaming it "Zaire" in order to re-establish its African identity and henceforth referred to himself as Mobutu Sese Seko. In addition to destroying all semblance of democracy in the country, Mobutu's economic policies were equally disastrous for the country and resulted in a serious and prolonged recession from which the DRC has yet to recover (Fischer Staatenlexikon 2006; Palmowski 2008; Bellamy 2001).

With the end of the Cold War, Mobutu's regime outlived its usefulness as an ally of the Western Bloc, which ceased economic and military aid to the regime. As this principal pillar of revenue for the regime was crumbling, so was Mobutu's power, as it was based to a high degree on the ability to purchase the loyalty of the army and regional strongmen. Amid increasing pressure for change, Mobutu was forced to initiate reforms. Mobutu stalled, but his ever weaker position forced him to make concessions. The opportunity to force change emboldened the civil society opposition movement, headed by Étienne Tshisekedi and his party, the Union for Democracy and Social Progress (UDPS). The UDPS had been created in 1982 by thirteen members of parliament despite a ban on alternative political parties (ICG 2006a, 1). Between 1991 and 1992, the National Sovereign Conference (CNS), encompassing more than 2,800 delegates from civil society and fledgling political parties, worked on a new draft constitution (Bertelsmann 2003, 4). The CNS was a culmination of decades of resistance to Mobutu's autocracy and calls for reforms, which were slowly leading to a democratisation process in Zaire. When one-party rule was finally abolished, over 400 newly founded political parties registered. In 1992, the CNS elected a new parliament and government with Tshisekedi as prime minister.

Mobutu, however, was still president and had no interest in ceding real power. In order to torpedo the CNS process, Mobutu appointed his own parallel parliament and government (ICG 2006a, 1). Mobutu's delaying tactic was effective: to end the political deadlock, a deal was reached to merge his parliament and the elected parliament of the CNS in 1994, creating the "Parlement Transitoire" (Prunier 2009, 79). General elections were promised, but frequently delayed and never held. Mobutu lost control over large parts of the country, but he was able to cling to power in Kinshasa and officially remain head of state.

One of the root causes of the chronic instability lasting to this day in the DRC, in particular in its eastern provinces, is the Rwandan genocide of 1994 (Prunier 2009, 24f). After the (Hutu) perpetrators of the genocide - the Rwandan national armed forces (FAR) and the Interahamwe militia - were defeated by the (Tutsi) Rwandan Patriotic Front (RPF) militia, they fled across the border into neighbouring states, primarily into Zaire (Schicho 2005, 224, 234f). Large refugee camps spread just across the border in Zaire, where the perpetrators were able to regroup amongst the other refugees who had fled for fear of ethnically motivated retribution by the Tutsi. Soon, the refugee camps were under the authority of the FAR leadership. They posed a constant threat of invasion to the new Tutsi-backed government of Paul Kagame in Rwanda. Raids across the border were a frequent event throughout the following years. Mobutu, a sympathiser of the former Rwandan regime and thus an enemy of Kagame, welcomed the new arrivals in eastern Zaire because he planned to use them to re-establish his rule in the region (Prunier 2009, 27f). Mobutu even sent his army to support the Hutu against resistance by the native Congolese Tutsi living in the region, the Banyarwanda (Prunier 2009, 58).

North Kivu and South Kivu, the two Kivu provinces, situated in the DRC's east and bordering on Uganda, Rwanda and Burundi, have been a powder keg for a long time. Their similar yet unique ethnic mix had drawn the two provinces into both the Rwandan genocide and the Burundian civil war, reinforcing a split in society along the (ever-arbitrary) Hutu-Tutsi line (Prunier 2009, 46f, 50). The arrival of hundreds of thousands of refugees, fleeing the new government in Rwanda, had a severe impact on the stability of the region. The new arrivals clashed with the Kivus' Tutsi population, who in turn fled into Rwanda in large numbers. Mobutu added fuel to the flames by ordering the rwandophone Tutsi minority population, most of whom had migrated from Rwanda decades ago, to leave Zaire. This minority, the Banyarwanda, had always had a difficult relationship with neighbouring Congolese ethnicities (Schreiber 2006, 131).

The refugees fleeing Rwanda were not the only ones to set up camp in the eastern provinces of Zaire; the region was already used as a base of operations by a number of armed groups and militias from Angola, Burundi, Uganda, and even the Sudanese national army.¹ Most of these had Mobutu's connivance. This situation, however, caused frequent violations of the Zairian border by enemies of these armed groups in hot pursuit. These conflicts had next to nothing in common, except the region they were fought out on (Prunier 2009, 73-75). This geo-political reality is the principal reason why any major disturbance within the eastern region of the DRC is almost certain to have repercussions throughout the entire region.

In September 1996, Rwanda decided to go on the offensive to stop the cross border raids. President Kagame was certain to have the support of many regional heads of states, including those of Angola, Ethiopia Tanzania, Uganda, and Zimbabwe, all of whom had their reasons to support disposing Mobutu and his regime (Prunier 2009, 67). When Mobutu ordered the Banyarwanda to leave the country, Rwanda executed its invasion plans (Prunier 2009, 71f). Zaire was in no position to stop the onslaught. The Kivus, with their ethnically divided population, constituted the ideal entry point for an invasion. Reflecting its growing weakness, Kinshasa left the east practically to itself. The Mobutu regime lacked the means to defend the region. Also, Mobutu had other, more pressing and personal concerns, as he was terminally ill with cancer.

Shortly after the Rwandan invasion had been launched, a new Congolese armed group constituted itself, the Alliance of the Democratic Forces for Liberation (AFDL). The AFDL was a coming together of four minor armed groups that were put under the leadership of Laurent-Désiré Kabila. Kabila had at different times since 1964 been active in armed groups in the region, and in 1965 even collaborated with the small Cuban outfit led by Ernesto "Che" Guevara.

¹ NB: this paper uses the term "armed group" (as derived from international humanitarian law) to describe a group of combatants that has a minimum degree of inner organisation. This is done because the term "armed group" is neutral and avoids connotations that are associated with comparable terms such as, e.g., "rebel movement", "guerrilla", etc.

The Cubans left after a short and unsuccessful time, thoroughly disappointed with Kabila and his utter lack of ideological zeal. At the time, Kabila's group had more or less aligned itself with Mobutu and was occupied primarily with criminal activities such as extortion, robbery and smuggling (Dunn 2002, 55). Kabila was selected to lead the AFDL mainly because its sponsors, Uganda and Rwanda, could agree on him (Prunier 2009, 113-116). The AFDL was a thinly disguised effort to make the ongoing conflict appear to be an internal Congolese conflict when, in fact, the AFDL was entirely dependent on Rwanda (Prunier 2009, 131).

At first, the AFDL Rwandan-backed assault was aimed at the refugee camps across the border and the FAR remnants living there. Thousands of refugees fled the fighting in the western direction. Reports about mass killings of civilians called for an international intervention force, but this was inhibited due to disagreement between the members of the UN Security Council (UNSC) (Prunier 2009, 116-125).

Early successes against the opposing FAR and later the Armed Forces of Zaire (FAZ) emboldened the AFDL to press on. It was now recruiting massively from the Kivus' Tutsi, disregarding the fact that a large number of the new recruits were children. Although strong on paper, Mobutu's army, the FAZ, was disunited and uncoordinated and its soldiers underpaid and disaffected with the regime. Soon, it became obvious the Mobutu regime would not be able to repel the attack. Mobutu was now absent from Kinshasa for long periods of time to receive medical treatment in Europe.

By mid-April 1997, Kabila's forces had broken the resistance and Kabila declared himself president. One of his first official acts was to rename the country once more into Democratic Republic of the Congo (Prunier 2009, 128-135). Within a month, on 17 May 1997, the AFDL entered Kinshasa unopposed. Mobutu had fled to Morocco a day earlier, where he soon died (Prunier 2009, 136f).

B. The Presidency of Laurent-Désiré Kabila

With the Rwandan invasion, the DRC's incipient democratisation process and the CNS had come to a complete halt. While few were unhappy about Mobutu's downfall, no one in the DRC had a clue about the intentions of the new president.

Early hopes for democratic reforms were soon quashed as it became obvious that Kabila's rule was to be as authoritarian as Mobutu's. Kabila dissolved the Parlement Transitoire to rule by presidential decree, much like his predecessor (ICG 2006d, 3). Political parties were banned once more and Kabila clamped down hard on the freedom of expression (Freedom House 2002). He did not invite the former enemies of his enemy, the civilian opposition to Mobutu, to join his cause. Ministers and cabinet members were mostly personal friends and followers, many of

whom had lived in exile during the preceding years (Prunier 2009, 149). A new constitution concentrated comprehensive power in Kabila's hands.

Soon, Kabila's lack of a clear plan for the DRC's future became apparent. His style of governing has been described as secretive and paranoid, and his government lacked structure and transparency, which led to confusion about the competencies and responsibilities of its members (Prunier 2009, 149-154). An individual's influence depended on personal access to the president, which was extremely difficult to gain.

In an attempt to portray himself as a leader of a popular movement, Kabila introduced North Korean-style Committees for Popular Power (ICG 2000, 42f). But these and other bodies set up by Kabila only heightened public mistrust and eventually were silently dropped.

As a result of his style of governing, Kabila soon became extremely unpopular (Dunn 2002, 60). According to a poll conducted in Kinshasa, less than 20 per cent of the population would have voted for him in an election. The Congolese also deeply resented the Rwandan influence in his government. This influence was obvious; it did not need Kagame's public acknowledgment in 1997 that Rwanda had been in full control of the rebellion spearheaded by the AFDL. Kabila, aware that Kagame's announcement would undermine his authority in the DRC, could do little but contest the claim (Prunier 2009, 157).

By the end of 1997, Kabila took an abrupt strategic u-turn (Dunn 2002, 62-65). Observing how he was becoming more and more unpopular by his association with the Rwandans, he reshuffled his cabinet. He replaced ministers who represented the Rwandan interests with candidates from his home province of Katanga and family members, including his son Joseph. Also, to the increasing dissatisfaction of his former mentors and like Mobutu before him, Kabila did nothing about the remaining anti-Rwandan armed groups in the still unrestful and volatile eastern region of the DRC. These groups still had the power to violate the Rwandan border and did so frequently. Also, groups of Mai-Mai militiamen continued to resist the Rwandan occupation.

At the same time, the international community finally started caring about the fate of the thousands of refugees who had disappeared in the border region. The UN set up a few investigative missions, but the government actively engaged to obstruct their work.

It was against this backdrop that, on 27 July 1998, at midnight, just after his return from a short stay in Havana, Kabila made a game-changing public announcement. It was to have the most serious of consequences for the region. He thanked his allies for their support, then ordered the immediate withdrawal of all Rwandan and other foreign troops from the territory of the DRC (Prunier 2009, 173-178; Dunn 2002, 62-65). Kabila's popularity in the DRC rose

instantly, especially in the east. His former allies, reaching the conclusion that they had settled on the wrong man, began planning for his demise.

The consequence was a regional conflict on a scale never before seen in Africa, directly involving no less than 13 states. It became known as "Second Congo War" or "Africa's World War". Unlike what the names might suggest, it was in fact a collective name for a number of different, often completely unrelated, conflicts. The various actors engaged in the DRC, but each pursuing their own agenda.

Rwanda and Uganda together sought to oust Kabila and re-establish their control of the DRC. Angola's engagement was related to the civil war raging in the country. Zimbabwe's leadership primarily sought an opportunity for personal enrichment. Namibia was engaged to a lesser degree, mainly because of its commitment to its neighbours Angola and South Africa. Libya, Chad and Sudan got entangled in the conflict largely because of their mutual relations and their respective relations to some of the other parties, but they had no direct interest in the DRC whatsoever. Burundi, Congo Brazzaville and the Central African Republic were affected simply because of geographical proximity. South Africa's discreet involvement was motivated chiefly by economic considerations (Prunier 2009, 201f).

C. The Second Congo War

Within ten days of Kabila's announcement, the Rwandan armed forces (RPA) had occupied the Kivu provinces. In a brazen operation, airlifted Rwandan troops came close to occupying Kinshasa itself. Kabila had already fled the city when the Rwandans were repelled in the last moment by an Angolan intervention force marking Angola's entry into the conflict. A quick resolution to the conflict, to the extent such was possible, was thus precluded. Both Rwanda and Uganda were once more in full denial of any involvement, blaming intra-Congolese struggles for the violence.

In mid-August, a new Congolese armed group made its existence known, the Congolese Rally for Democracy (RCD). Like the AFDL before, the RCD was a coalition of very different groups. Its leadership included Mobutu revanchists and associates of Rwanda's President Kagame (Prunier 2009, 181-84).

At the outbreak of the conflict, the Southern African Development Community (SADC) met in an emergency session. Yet instead of acting as brokers between the parties, the member states actively took sides. Zimbabwe and Namibia announced their support for Kabila and soon thereafter started sending troops and material support. South Africa, by contrast, sought to maintain a neutral stance and refrained from openly denouncing the invasion. All eyes then set upon Angolan President José Eduardo dos Santos. As one of the strongest regional military

powers, both sides (pro- and anti-Kabila) vied for his favour. As noted, he sided with Kabila and dispatched an army detachment in Kabila's aid, which secured Kinshasa.

On 7 November 1998, Jean-Pierre Bemba, son of a senior official and businessman who had been close to Mobutu, decided to create a new armed group in the DRC, which he named the Movement for the Liberation of Congo (MLC). Bemba was outspoken about his motivations. "I had identified the possibility of launching an armed movement. So I went looking for serious partners. There were two countries in the region which were interested but I chose to present my dossier to the Ugandans. They liked it and so I went in" (Prunier 2009, 204f). "If they [i.e., former Mobutists] want to invest, now is the time. When I get to Kinshasa they'll have to queue up to reach my office."

Rwanda and Uganda had each created "their" Congolese armed group (the RCD and the MLC, respectively) as a front for their activities in the DRC. At their inception, these groups were too weak militarily to carry out military operations on a larger scale and relied heavily on the support of their overlords, the armed forces of Rwanda and Uganda (the RPA and UPDF, respectively).

Paradoxically, Kabila managed to position himself as defender of the homeland against the foreign invaders (Dunn 2002, 66). He skilfully played the ethnic and nationalist cards both at once, stirring up hatred against the Rwandans and Tutsi. His strategy worked, even though his new enemies had constituted his power base during his campaign against Mobutu.

After initial progress, the RCD and MLC offensive was stopped by February 1999. The MLC was occupying most of Equateur Province, where it enjoyed popular support. The RCD was stuck in northern Katanga, unable to reach the diamond mines to the south which were one of the last economic resources in the possession of the Kabila government. Kabila's newly created national army, the Congolese Armed Forces (FAC), comprised mostly veterans of the former AFDL. Yet the FAC did not constitute the majority of combatants on Kabila's side. The RCD-RPA also faced units of the Zimbabwean army, remnants of the former FAR and other Hutu militias. The MLC was up against Chadian regular and former FAR troops who had Sudanese and Libyan logistical support (Prunier 2009, 205-209). In the occupied east, Mai-Mai groups, now overwhelmingly on Kabila's side, disrupted the RCD-RPA supply lines and operations (Prunier 2009, 211).

Rwanda consistently justified its presence in the DRC on security grounds. Mention of the genocide of 1994 was instrumental in silencing the international community's concerns. Accordingly, during the commemoration of the genocide's fifth anniversary, Kagame announced that "RPA troops will stay in the Congo as long as Rwanda's national security will be under

threat [...]. Militarily we have eliminated the insurgency from Rwanda but there is still a threat coming from the DRC [...]. We shall be in the Congo till a solution is found" (Prunier 2009, 218f).

The stalemate revealed an increasing rivalry between Rwanda and Uganda about the management and objectives of the war. As the mineral riches of the DRC were increasingly being exploited by the armed groups, skirmishes over the possession of natural resources occurred between the two allies. In May 1999, inner RCD tensions resulted in a split of the group into a pro-Uganda and a pro-Rwanda faction, the RCD-K (later renamed into RCD-ML) and RCD-G, respectively (Prunier 2009, 220-22).

The standstill on the main frontlines revived hopes for a negotiated settlement. On the initiative of Libyan leader Muammar Gaddafi, a limited peace agreement was concluded in April of 1999. It resulted in the disengagement of Libya and Chad from the conflict (Prunier 2009, 224).

On 24 June the same year, a meeting between the major parties to the conflict was convened at Lusaka, Zambia. Fifteen countries and some, but not all, armed groups were represented. The negotiation process dragged on and for a moment in August seemed to have failed altogether when the RPA and UPDF fought each other in a major battle over the mines at Kisangani. Possibly, the imminent break-up of their alliance made Rwanda and Uganda realize they would never reach their objectives if there was not a drastic change. Whatever the reason, the negotiations continued to 10 July 1999, when they were concluded with the signing of the Lusaka Ceasefire Agreement (Prunier 2009, 225). The Lusaka Agreement provided for the immediate cessation of all hostilities between the signatories (DRC, Namibia, Rwanda, Uganda, Angola and Zimbabwe), withdrawal of all foreign troops from the DRC and the disarmament of all armed groups (UNSC S/1999/790). The RCD and MLC acceded to the agreement a little later on 31 August 1999.

The Lusaka Agreement envisaged a national conference in the DRC, the "Inter-Congolese Dialogue" (ICD), between the government and the "armed" as well as the "unarmed" opposition. It was a renewed effort towards democratisation. Kabila had other plans, however, and showed little commitment towards observing the agreement or any intention of recognizing the ICD in more than just words. He continued the repression of the opposition and civil society, arresting key figures of the ICD. It took until February 2000 before Kabila created a Constitutional Assembly; even so, he staffed it exclusively with trusted partisans. National security needs served as an excuse for these unpopular measures (Prunier 2009, 235f).

Lusaka also provided for a UN deployment in the DRC. For this purpose, the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) was formally created in November of 2000 by UNSC Resolution 1279. The mission's mandate would be continually

extended over time, both in respect of scope and time. Renewed fighting and obstruction delayed the initial deployment of an envisaged 5,500 MONUC personnel. Thwarting MONUC's arrival was something Kabila and his enemies seemed to agree on (Prunier 2009, 247-49). The initial 5,500 troops were obviously insufficient and were reinforced to 17,000 by 2002. This troop level has been maintained since, making the DRC the UN's largest peace-keeping operation to date.

While the Lusaka Agreement had a noticeable effect on the main frontlines, the violence in the east continued with nearly the same intensity as before. The Mai-Mai and other armed groups had not been represented in the Lusaka negotiations and therefore rejected the agreement. As before, civilians suffered the most, resulting in further waves of refugees (Prunier 2009, 227-29).

The fallout between Rwanda and Uganda was symptomatic for the disintegration of the war into a myriad of smaller conflicts waged for an plethora of reasons. The "traditional" peace agreement of Lusaka had never been able to untangle the confused situation on the ground. Loyalties switched as fast as opportunities arose and the RCD-N emerged as the newest RCD splinter group (Prunier 2009, 229). In June 1999, the zone occupied by the RCD-ML disintegrated almost completely, as a smouldering conflict between the Hema and Lendu tribes over land flared up. Only an intervention by the UPDF saved the RCD-ML (Prunier 2009, 230).

In November, fighting continued even on the main frontlines. Despite further verbal commitments to a peaceful solution, the fighting continued unabated. Various initiatives to revive Lusaka failed, not least because of Kabila's recalcitrance. He oscillated between reaffirming commitment to Lusaka and declaring it null and void. Many of the other parties followed his example (Prunier 2009, 247f).

In spring 2000, the invaders achieved some success during a renewed offensive, making a military solution appear viable once more. Kabila had to plead with his allies for their sustained commitment by keeping their forces in the DRC (Prunier 2009, 231-235). Each side was again working towards a military solution. However, they were increasingly unwilling to be involved in an unending and costly conflict that was now under the surveillance of the international community. They saw the opportunity to secure their gains - having repelled the invasion and thus prohibited the spread of Rwandan and Ugandan influence in the region - by negotiating an agreement, but were unwilling to maintain their costly engagement for aiding Kabila to repossess his entire country by force. Angola in particular had become tired of Kabila's erratic manoeuvres, his secretiveness and his unwillingness to make peace (Prunier 2009, 247f).

D. The Inter-Congolese Dialogue and the Beginning of the Transition

An unexpected, sudden event finally overcame the deadlock. On 16 January 2001, Kabila was shot dead by one of his own bodyguards. The exact circumstances were never revealed. The following day, Kabila's inner circle made his son, Joseph, the "head of the interim government for the time being" (Prunier 2009, 249-50).

Joseph Kabila was chosen as interim president mainly because his late father's entourage and allies could agree on him and also believed him to be easily manipulated. The young Kabila had no constituency of his own in the DRC, since he had lived abroad nearly all his life (Prunier 2009, 255). He was also not considered a charismatic figure or well-known in public.

Joseph Kabila was officially appointed president on 25 January 2001, at age twenty-nine. Even though he became popularly known as "P'tit Joseph" because of his youth and apparent inexperience, his first speech the following day revealed a striking talent for finding the right words. He soon departed the DRC for an introductory mission to Washington, New York and Brussels, and managed to win the sympathy of the international community in the process. Lacking a constituency in his home country, Kabila made the international community his. He understood he would be universally welcomed as a fresh start after the brutal authoritarianism and confused policy of his father. The international community was relieved to see a more cooperative head of state in the DRC and saw in the young Kabila a new opportunity to resolve the perpetual crisis consuming the country.

Back in Kinshasa, Joseph Kabila had most of the political heavyweights who had been close to his father and who made up the government and the cabinet arrested. This came as a complete surprise. Many of the arrested were members of the Military High Command and close allies of Angola. The young Kabila sought to make clear that he would be no one's tool. The arrested were charged with involvement in the assassination of his father. Kabila then swiftly appointed trusted followers to head the secret service and other important government agencies. His newly-appointed cabinet and government consisted mostly of former exiles like himself, who - unlike many of his father's confidants - were competent and held a modern and pragmatic view. One manifestation of this change was in economic policy. The monopolistic structure of the economy was opened up. Soon, transnational mining companies were courting Kabila. The economic opening certainly also pleased Kabila's benefactors in the international community. The new beginning started so promising that nobody was interested in the fact that the presidency had become a hereditary position (Prunier 2009, 257-265).

In foreign policy, Joseph Kabila moved expeditiously to open diplomatic channels with the other parties to the conflict. The timing was good since, as noted, they had all become weary

of the war. For Angola, and by extension Namibia, the reason for their engagement in the war had ceased to exist; the Angolan government was close to crushing their opposition in the Angolan civil war. For the others, such as Zimbabwe and Uganda, their involvement had failed to produce the expected results. MONUC was finally able to start its deployment as a result of the improved relations with the new government in the DRC (Prunier 2009, 265-67).

Kabila went about cultivating the goodwill of the international community. He revived the ICD to facilitate a national debate about the future political order in the DRC. The UN was grateful for the effort, as is reflected in the Secretary-General personal visit to the DRC in September of 2001. A first meeting of the ICD in October failed to produce results. However, when South Africa put its weight behind the effort and convened a meeting in Sun City on 26 February 2002, the ICD began producing tangible results.

At the conclusion of the negotiations several months later, on 19 April 2002, Kabila and Jean-Pierre Bemba (the leader of the MLC) signed a power-sharing agreement (the "Sun City Accord"). The Accord provided for a transitional government with Kabila remaining president and Bemba receiving the position of prime minister (ICG 2002, 1), but it had a fatal flaw: the RCD-G (the Rwandan proxy) boycotted and tried to derail the Accord, insisting on Kabila's resignation or removal. The Accord also left out the contentious issues and was drafted in vague terms. The isolated position of Rwanda and its allies gave rise to the fear that the ICD would fail to produce an outcome endorsed by all parties, but now the blame was overwhelmingly put on Rwanda (Rogier 2004, 10). While President Kagame had enjoyed a special, privileged status with the international community, he was now being seen as the spoiler.

Perhaps it was for this reason that, on 30 July 2002, the DRC and Rwanda concluded an agreement in Pretoria providing for the withdrawal of all Rwandan troops, but also the "dismantling" of the ex-FAR and Interahamwe forces still present in the DRC (UNSC S/2002/914). Withdrawal of Rwandan forces was reported to be completed in record time. Still, doubts about the sincerity of Rwanda's commitment remained. Reportedly, RPA soldiers simply changed uniforms and joined the Rwanda-backed RCD-G (Prunier 2009, 274f).

Ugandan President Yoweri Museveni had no intention of assuming the spoiler-role from the Rwandans. He concluded a separate treaty with Kabila providing for a complete withdrawal of all Ugandan troops from the DRC under the auspices of Angolan President dos Santos in Luanda on 6 September 2002. Uganda had been subjected to heavy pressure by the international (donor) community, partly because of the bloated military budget, but also because the UN Panel Report (UNPR) and subsequent investigations into the plundering of resources by armed groups in the DRC had implicated key political and military figures of Uganda's inner circle of

power. In order to avoid losing any further international goodwill, the last UPDF units were ordered to leave the DRC in May 2003, completing withdrawal by June (Prunier 2009, 290-293).

The next important step towards a new political system in the DRC was taken a few months later. The negotiations within the ICD resulted in the "Global and All-inclusive Peace Agreement", which was signed on 17 December 2002 in Pretoria (hence also "Pretoria Agreement"). The Pretoria Agreement spelled out the principles of the agreements reached in Sun City in greater detail. Its conclusion can be considered a landmark achievement: after the formal withdrawal of all foreign occupation forces, the Congolese factions had reconfirmed their commitments made in Sun City to embark on a democratic transition. The Pretoria Agreement further set out a general roadmap for this transitional period and the reorganisation and reconstruction of the state. The transition would have a duration of two years, leading to a new constitution and general elections. Unlike the prior agreements, this time all parties of the ICD were signatories.²

A transitional polity structure would be created and charged with five pivotal responsibilities before general elections would be held:

- reconstruction of the country, re-establishment of the peace, restoration of territorial integrity and state control over the entire national territory;
- national reconciliation;
- formation of a restructured and integrated national army;
- organisation of free and transparent elections at all levels in order to create a constitutional, democratic government; and
- the setting up of structures that will lead to a new political order.

The Pretoria Agreement thus carved out the future political system, a presidential democracy with a transitional parliament consisting of a National Assembly and a Senate. The agreement deferred the decision on the judicial institutions. Joseph Kabila was made interim president until the elections, with four vice-presidents at his side, the respective leaders of the RCD-G and the MLC as well as one member of the Kabila government and a member of the unarmed opposition. The transitional government took office on 1 July 2003.

Ministerial and senatorial positions were parcelled out as well, an equal number going to each of the principal parties, fewer to the RCD-ML, RCD-N and the Mai-Mai. The way positions were being distributed as a privilege between and among the former parties of the war caused some negative headlines in the media; but more than anything people were happy the war had finally ended (Prunier 2009, 277). The transitional parliament comprised 620 seats (National Assembly 500, Senate 210) and 36 ministries were established, along with 25 posts as deputy minister. In addition, over 270 posts in state run enterprises were created and dispersed

² These included: the government, MLC, RCD-G, RCD-ML, RCD-N, Mai-Mai, political ("unarmed") opposition and civil society.

between the parties as well as hundreds in local administrations and about one hundred in a number of new institutions created in support of the democratic transition (ICG 2006a, 1; SC hahaha). A restructured and integrated national army was envisaged, but details of this critical issue were deferred as well.

In what was called the "Final Act" of the ICD, the delegates adopted a draft constitution and memoranda on army reform and the personal security of the members of the new institutions in Kinshasa. The draft constitution reflected the provisions of the agreements reached within the framework of the ICD, most importantly the Pretoria Agreement. Presidential and parliamentary elections were scheduled for the second half of 2005. Yet critically, the constitution was silent on important issues such as the requirements for having Congolese nationality (Rogier 2004, 37f).

The international community had taken an integral role in the ICD. Its efforts had been focused in the International Committee in Support of the Transition (CIAT), comprising the permanent members of the UNSC, the presidencies of the EU and the African Union (AU), MONUC, Angola, Belgium, Canada, Gabon, South Africa and Zambia as well as international NGOs.

Despite the agreements providing for full sovereignty of the DRC over all its territory, the troublesome situation in the eastern provinces remained largely unaffected by the ICD process. In the border region to Rwanda and Uganda, the lawlessness, skirmishes and exploitation of the natural resources continued largely unabated. At the time the transition officially commenced, at least nine more or less organised armed groups and seven to eight Mai-Mai groups fought each other in variable alliances without discernible pattern (Prunier 2009, 280-283).

The new integrated national armed forces (FARDC) were standing at the beginning of their (re-)construction. The MONUC's mandate did not provide for offensive manoeuvres or peace enforcement and it did not have the means carry-out such a mandate: barely half of the 8,700 troops authorised at the time had actually been deployed. On the other hand, a multinational force under EU command with appropriate mandate and means was dispatched to stop the violence in the city of Bunia in Ituri (Miskel/Norton 2003, 5-7). The mission was successful, but its scope was relatively limited.

The peace agreements were fiercely tested when, in mid-August 2004, 160 civilians were killed in Gatumba, a refugee camp in northern Burundi close to the border between the DRC and Rwanda. The crime, committed by anti-Tutsi fanatics, served as the perfect excuse for all those who wished for the continuation of the war. Transitional vice-president and leader of the RCD-G, Azarias Ruberwa, left Kinshasa and returned to the east, withdrawing the RCD-G from the transition process. At the same time, the RPA re-entered the DRC in pursuit of the Democratic Forces for the Liberation of Rwanda (FDLR), a Hutu armed group that emerged

from the ex-FAR and Interahamwe and that kept fighting the Rwandan government from the DRC's territory. At that moment, the compromise reached in Pretoria appeared to fall apart like the Lusaka Agreement before it.

Yet this time, the international community was determined to save the accomplishments reached. Heavy pressure was put on Rwanda to withdraw from the DRC. MONUC deployed a considerable force to the eastern border region. These measures proved successful as the fighting abated (Prunier 2009, 297-300). A few weeks later, Ruberwa returned to the transitional government. The peace agreements had survived the fiercest attack against them.

However, the crisis and the general lack of trust slowed down the transitional process so that not only CIAT started worrying about the agreed schedule (Prunier 2009, 301-303). In January 2005, the Independent Electoral Commission (CEI), which was tasked with organising the elections, triggered riots in Kinshasa by announcing the elections would be postponed. Nevertheless, over 24.5 million voters out of an estimated total population of 70 million registered with CEI by the registration deadline of 10 December 2005. Registration was required to vote in the national referendum on the constitution drafted by the ICD.

Delayed twice, the referendum eventually went forward in December 2005, with a turnout of 62 per cent. While the vote was evenly split in Kinshasa, the eastern provinces voted overwhelmingly in favour of the new constitution, thereby deciding the outcome. Over 84 per cent voted in favour. The vote was an indicator of the electorate's satisfaction with where the transition process was heading (EISA 2007, 5-6; Prunier 2009, 304). The new constitution was duly promulgated by President Kabila on 18 February 2006 (ICG 2006a, 2-3). In July, the presidential and parliamentary elections would be held, after which the period frequently referred to as the transition of the DRC would end.

Chapter 2: Theoretical Framework

A. Introduction

At the end of the Second Congo War, the DRC was not a democracy and had many elements of a failed state. The complexities and particularities of the DRC's history and socioeconomic realities merit the description of the country as a universe of its own. Perhaps that is why the country is rarely used as a case study for purposes of verifying theoretical approaches on state building or democratisation. Therefore, it should be interesting to see whether theories, derived from other case studies, can serve to analyse the situation in the DRC, too. This chapter's objective is to build a framework that will enable us to analyse the state building and democratisation process in the DRC and test theories for their applicability to this particular case. The framework is constructed by combining different theoretical approaches into a

coherent and comprehensive whole. The chapter is structured in a general overview of the main findings of the political theories used in this paper, followed by a more detailed presentation of each individual approach.

The more recent contemporary political idea of democratisation can be traced back to an article by Dankwart Rustow published in 1970.³ In the article, democratisation was defined in rather general terms: put simply, democratisation (i.e., democratic transition) commences with a faltering authoritarian regime and ends with a consolidated democracy. During the transitional period, old political and the newly emerging forces agree on a future democratic political system in an environment of uncertainty and increased political activity.⁴ Landmarks of this process may be the death or flight of an autocrat, "foundational elections" or the introduction of a new constitution. This may take a number of years, if not decades, to unfold. Implicitly, Rustow assumes a functioning nation-state as a pre-condition for democratisation (Whitehead 2001). This thought has serious consequences. What if no state exists that is able or willing to perform the functions that are generally associated with the nation-state? Rustow offers no revelation: the state must exist or be created (i.e., "built") first.

Snyder (2000, 27) distinguishes mature democracies and democratising states. Mature democracies feature (or at least should) all the attributes of a model liberal democracy. Democratising states, on the other hand, have recently implemented one or more democratic reforms but still have considerable nondemocratic features. Other scholars define a mature democracy purely by looking at elections: a state is considered a mature democracy when the government has changed two times as a result of free and fair elections. Another view puts forward that a mature democracy is reached when no significant group attempts to come to power by force or other undemocratic means. A shared aspect of all these approaches is their outsider perspective on the democratising state. It is, in essence, the perspective of a surgeon who looks upon a democratising state on the operating table. Frequently, the term "international community" is used to describe the surgeon, but in essence it has the meaning of outsider. One of the main questions therefore is whether the outsider possesses the necessary instruments and strategies to influence the democratisation process, whether they can be effective and whether they should be used at all.

Democratic peace theory serves as a starting point. As is well-known, its central assertion is that democracies do not go to war against each other. If democracies are peaceful vis-à-vis other democracies, then the question is how to achieve democratic rule in every state, that is, successful democratisation. However, it is important to remember that the theory does not state democracies were absolutely pacifist - in fact they wage as many wars as any other state

³ Rustow, Dankwart A., 1970. "Transitions to Democracy: Towards a Dynamic Model", *Comparative Politics*, Vol. 2, No. 3, pp. 337-363.

⁴ NB: For the purposes of this paper, it is important always to keep in mind that the historical transitional period of the DRC - beginning with the ICD and ending after the elections in 2006 - is not to be confused with the transitional period in theory.

- they are only pacifistic in their relationships to other democracies. Consequently, democratic states have an incentive to help or push others to democratise. To return to the above example: the surgeon can reasonably be expected to be a democrat.

But while democratic peace theory may answer the "why", it is silent on the "how". Returning to the Rustow's theory above, it is safe to say that, as a starting point, democracies need state institutions. By definition, creating state institutions is the subject matter of state building. After all, under the impression of witnessing the Washington Consensus fail, the new mantra of development policy became "institutions matter" (Fukuyama 2004a, 42f).

The theory on state building used in this paper is derived from the work by well-known academic writer Francis Fukuyama. Subchapter B. deals with Fukuyama's approach in more detail.

But democratisation is more than just (re-)building a state, it is about changing a political system. The essential theoretical background regarding democratisation used in this paper is the approach of Edward D. Mansfield and Jack Snyder. Mansfield and Snyder, professors of political science at the University of Pennsylvania and Columbia University, respectively, co-authored a series of articles on the topic of democratisation and how it can lead to conflict in scientific journals, which they later extended and elaborated into books.

Their rather sceptical approach with respect to democratisation lead to debates in the political science community, as it questioned the conventional consensus. Mansfield and Snyder explain that countries in democratic transition are more likely to become involved in warfare or civil strife than countries at any other state of development. Certain intrinsic conditions of the transitional process make conflict particularly likely to occur at this stage. The core of their message is that even though in the long run, well-established democracies diminish the danger of conflict, in the short run, developing democracies have a tendency to spark conflict (Snyder 2000, 20).

In democratising countries, domestic coalitions are unstable as mass politics of high intensity develop (Mansfield/Snyder 1995a, 88). There is what Huntington (1968) called a "political development gap between high levels of political participation and weak integrative institutions to reconcile the multiplicity of contending claims". Political elites realize they are in need of a loyal constituency or will be so shortly. They find it readily available, taking the form of nationalism or ethnicity. This approach is the easiest and quickest because these constituencies already have a group identity, are unified and have a certain degree of organization. Moreover, concentrating on nationalism or ethnicity does not require a political programme. In appealing to nationalism or ethnicity, however, elites create or reinforce

cleavages cut through society, which, in turn, can lead to or exacerbate existing instability and conflict.

Yet there must also be a reason why citizens would be satisfied with political leaders offering little more than feelings of a common identity. Then again, a state of emergency, a situation of siege or a supposed struggle for survival would make all other concerns secondary. For elites courting nationalistic or ethnic zeal, therefore, a fierce power struggle between nations or ethnic strife within a country helps them gain support. If citizens' loyalties lie exclusively with the respective nation or ethnicity, the consequence can be a state of identity-based conflict. The developments that can result in the described situation are analysed in subchapter C.

What is more, the short-term increase in the risk of conflict is not the only hazard - the political system could become locked in a system that might feature elections, but where all the other aspects commonly associated with a (functional) democracy are missing. When group-based identities take over, individual rights and freedoms take back seat. Fareed Zakaria (1997) draws attention to the distinction between democracy and constitutional liberalism. Democracy in the narrow sense is a formal process, an arrangement for making decisions. It is the procedure by which individuals are elected to positions of power. In effect, it simply ensures the rule of the majority, resulting from free, fair and open elections. Constitutional liberalism, on the other hand, imposes limitations on governmental power: imposition of the rule of law, the separation of powers and the protection of civil rights. Indeed, limitation of governmental power is the essence of liberalism. Zakaria warns that this distinction between democracy and constitutional liberalism tends to be overlooked, particularly in the West. The reason lies in its history, which never experienced democracy without constitutionalism (as manifestation of liberalism in a political system). In Europe, liberal constitutionalism preceded democracy by as much as a century (Zakaria 1997, 23). Indeed, truly universal suffrage in much of Western Europe was not adopted until after the Second World War while the catalogues of civil rights, which constitute the core of liberal constitutionalism, were typically adopted in the late 1840s. Thus, Zakaria (1997, 25) concludes, "the 'Western model' is best symbolized not by the mass plebiscite but the impartial judge".

In sum, Zakaria makes the point that elections, however free and fair, are not enough to ensure stability because they, by themselves, cannot guarantee individual rights associated with political democracies in the West. In confusing democracy and liberal constitutionalism, prospective "state builders" are kept from applying effective policies. Zakaria's analysis of what has gone wrong in democratising states, therefore, needs careful consideration.

Still, the question remains how the contributions of Fukuyama, the warnings of Mansfield and Snyder as well as of Zakaria, can be put to practical use. In other words: What can be done about the pitfalls following from violent political competition in democratising states?

"Sequentialists" argue that the rule of law and basic civil rights (i.e., constitutional liberalism) need to be established *before* politics are opened to electoral competition, since the transitional process risks being derailed as a whole if being pushed too hastily by holding "premature elections". Such elections would result in the exact opposite of the desired outcome. Sequentialism is elaborated upon in subchapter D.

A final, but equally important element, which exerts a decisive influence on democratisation is the economy. Economic aspects merit detailed examination and economic analysis must be part of the analysis. This part of this paper draws upon the work of Paul Collier, professor of economics at Oxford University and former senior official at the World Bank. Collier's work - as could be expected - relies heavily on quantitative research. His impressive collection of data enables him to test the plausibility of certain assertions by using statistics. His work stands out for its colloquial style, because the list of references is quite slim (it is based to two-thirds on the author's own research) and because the author does not always observe citation rules, which improves readability. Collier offers important insights into the economic conditions of low-income, democratising countries. Economic hardship and poverty feed instability and contribute the conditions which have the potential to spark conflict. The "resource curse" as a notion of specific relevance for the DRC will also be part of the economic analysis. Subchapter E. elaborates on this topic.

What the various theories and approaches on state building and democratisation have in common is that they are not of purely academic interest, but can serve as - and indeed are meant to provide - policy advice to decision-makers. These theorists and academics have issued a warning to the international community, particularly in the West, to mind the prevailing socio-economic conditions and nationalistic and ethnic divisions in a country carefully before pushing authoritarian regimes to hold free and fair elections. The DRC is a case in point. The country has held elections yet still hosts the largest UN peacekeeping operation in history and continues to suffer from significant internal insecurity. The success of intervention by outsiders, even if well-meaning, has to be measured by its results.

Finally, democratisation has dynamics of its own. A sudden reversal of the process and return to authoritarian rule is not a viable alternative; there seems to be no going back once the democratisation project as a matter of process (as opposed to liberal constitutional governance) has started as the increased risk of violent conflict is irreversible (Mansfield/Snyder 1995b, 6f). All the more important is it, then, to take the appropriate steps in the right time.

As an outline of the issues discussed in the subchapters below, the four guiding parameters and crucial determinants which, according to the theorists examined in this paper, decide the outcome of the democratisation process, are as follows:

- The foundation of state building is the establishment of state institutions, most importantly a central authority, and enforcing its monopoly on the use of force. Thereupon, institutions must become self-sustaining and able to provide quality services.
- The democratisation process is a particularly dangerous period. The use of nationalistic rhetoric by elites to secure a power base or the break-up of society along ethnical cleavages can lead to violence in the form of international conflict or civil war.
- State building and democratisation have a higher chance for success when implemented in the correct order on a step-by-step basis. Before elections are held, rules and institutions that limit the power of the government, such as the rule of law, need to be already implemented. Elections *per se* are no useful indicator for success democratisation.
- Economic conditions, such as dependency on the exportation of natural resources, low income- and low growth levels, are an indicator for the chances of success of state building and democratisation.

B. State Building

State weakness as the lack of state capability is one of the main issues on the security agenda of developed countries today (Fukuyama 2004c, 18). The terrorist attacks of 11 September 2001 have been the waking call of a threat that had largely been considered a local problem: failed states. As a counter-strategy, the concepts of nation-building and state building have been put forward.

Nation building and state building have to be distinguished. The former encompasses all the necessary elements that hold a nation together, for example a common identity or culture. State building has a narrower scope encompassing only the construction of state institutions such as the armed forces, police, judiciary and central bank (Fukuyama 2004b, 2). The scope of this paper is limited to state building.

Fukuyama (2004a, 135-141; 2004b, 2) breaks down state building into three consecutive phases. The objective of the first phase - post-conflict reconstruction - is to provide stability, humanitarian assistance and disaster relief to countries that recently escaped from violent conflict. If successful, (re-)construction of self-sustaining national institutions and the economy should follow as a second step. The final phase consists of empowering state institutions to achieve self-sustainability and the capacity to provide quality public services and enforcement of the law. Outside assistance can be brought to an end after the last phase has been completed.

In practice, implementation of the first phase has at times been fairly successful, but the international community has struggled with achieving the subsequent two phases. The process of passing through the three phases is likely to take longer than the local population or voters in developed states participating in the international effort are prepared to tolerate, resulting in pressure for premature withdrawal of support (Fukuyama 2004a, 135-141). In addition, at least the appearance of self-governance must be sustained during the transitional period, adding further constraints. International tutelage over a state is unwelcome over extended periods of time, as it contradicts the principle of sovereignty under international law.

Furthermore, statistical evidence confirms that while internationally peacekeeping significantly reduces the risk of a post-conflict country descending back into war, the trouble often starts with implementation of phase two: self-sustaining national institutions (Collier 2009, 83). A form of "crowding out" takes place when international agencies and other external actors take over the role of state institutions. The consequences can be that local capacity does not have a chance to develop as a result and that the local population might in time come to see the outsiders as illegitimate (Fukuyama 2005). Constructing a long-term dependency must be avoided; what is needed instead is "local ownership" of both process and institutions. This term has been used extensively in recent development theory and practice, but usually means - in short - to transfer design, implementation and responsibility for projects to the recipients of aid on the local level. Local ownership is not without its difficulties. Much can go wrong and there might be a lack of even the most basic local capacity. Local decision-makers might pursue vested interests. Despite all this, Fukuyama argues that local institutions should be implicated in the democratisation process as soon as possible, as it will increase their chances in the long-term.

Before the international community fully understood the importance of a strong and functional state sector, the prevailing roadmap brought about undesired consequences in many developing countries. The fall of communism triggered a revival of liberal ideas (Fukuyama 2004a, 5-7). The "Washington Consensus" envisaged limiting and reducing the state sector, particularly in the economy. It had been the guiding policy in both developed and developing countries until its shortcomings became obvious after the East Asian economic crisis of 1997/98 and the experience of the Russian economy (Fukuyama 2004c, 27f). The policy failed to materialise its promises, with dire consequences for developing countries. For Fukuyama, it did so because in its oversimplified version - less state is always better - it did not take notice of the different "dimensions of stateness".

Fukuyama distinguishes two dimensions of stateness: the *scope* and the *strength* of a state. The scope captures the different functions and objectives of governments, while the strength concerns capability, i.e., the ability of a state to enforce policies and the law. At the core of state strength lies the monopoly on the legitimate use of force. To Fukuyama, the perennial

problem in developing countries is that state activity often has an extensive scope, but only at the expense of state strength. Economists argue that in order to foster economic growth and thereby political stability, the situation needs to be reversed. Greater strength in the most critical areas of politics is more important than a wide scope. For example, tax extraction is a good measurement of institutional capacity: only a strong state can enforce tax regulations and extract higher taxes. Accordingly, there is a strong correlation between the level of tax extraction and the level of development (Fukuyama 2004a, 7-20; 2004c, 21, 28f).

The situation in sub-Saharan Africa after what Huntington described as the "Third Wave" was marked by states that moved in the direction of both less scope *and* less strength, towards a neoclientelistic system where personal networks serve as the main pillars of power and order. In such states, political power is (ab-)used for the exclusive benefit of the members of such networks. Consequently, in many countries, the Third Wave did not create the internal prerequisites for democratic institutions or a general acceptance of democratic rules (Nuscheler 2005, 411; Fukuyama 2004c, 25f). Worse still: with its focus firmly on liberalisation, structural adjustment programmes of the 1980s and 1990s had a noticeable, corrosive effect on the bureaucracy (and thus local capacity), which itself was often not more than what was left over from colonial times.

On the other hand, the dimension, power, and competences of the presidency were continuously extended. Not surprisingly, public services deteriorated while sovereign expenditures, controlled by the presidency increased. Through this process, the office of the president becomes the heart of a system based on clientelism.

In addition, demand for institutional change is often missing, particularly in developing countries. It can be encouraged in two ways: directly through control of local authorities or indirectly by making it a prerequisite for aid. The former can be achieved by occupation (state building after military intervention). However, there are in fact only a few cases of successful state building following that strategy (Fukuyama 2004a, 47f; 50f). Trying to generate local demand for institutions is a tricky enterprise. When donors provide services directly, instead of through the local bureaucracy, even the best intentioned measures might cause more harm than good. While the local bureaucracy is often viewed as incompetent and corrupt, it never even has an opportunity to evolve and improve when being sidelined. Achievement of self-sustaining institutions would remain a far off goal (Fukuyama 2004a, 53, 56; 2005, 85).

In short, Fukuyama believes there is no way around the modern nation state, and points out the trouble of weak and failing states as sufficient proof (Fukuyama 2004a, 162f). In order to determine in which phase of state building the DRC is standing today, the conditions and developments of the important institutions of the DRC is discussed in detail in chapter 4.

C. Democratisation and Its Possible Side-Effects: Elite Persuasion and Ethnodemocracy

For prospective state-builders guided by democratic peace theory, the objective must not purely be to construct viable state institutions, but also to ensure that the state is governed democratically. However, the transition towards democracy can risk the very foundation that state building seeks to achieve. As has been noted, democratic transitions are dangerous: they encourage civil strife and international conflict. A democratising state stands out as a high-risk, strife-prone place, especially in a post-conflict situation. This historical precedence bodes ill for the DRC, which, at the beginning of its transition, did not emerge from just one, but many conflicts.

Statistics show that post-conflict situations are particularly prone to revert to violence and civil war in the short or medium term (Collier 2009, 75-82). In 40 per cent of cases, this happened within a decade. The reasons are many. To begin with, the conflict often is not entirely or comprehensively resolved. Secondly, the type of government seems to play an important role: when comparing available data⁵, polities that do not employ or use little repression were at a 70 per cent risk of falling back into violence, whereas the risk appeared to be lower for more repressive regimes. Also, while the risk of violent eruptions appears to recede in the run-up to elections, in the year following the elections, the data shows this risk increases greatly. Overall, elections seem to have a negative impact on the risk.

Collier (2009, 75-82) finds the explanation in the fact that for the loser, the choice is either to face the unrestrained power of the election-winning rival, or to resort to violence and at least preserve the *status quo* previous to the elections. In states that do not guarantee individual freedoms and civil rights (where liberal constitutionalism has not taken root), the latter choice would appear as the rational choice.

Snyder (2000, 29) presents calculations that show similar levels of risk. His data relates to interstate warfare: in any given decade, the chances of being involved in interstate warfare is one in six for any particular state, whereas if that state is a democratising state, the chances are one in four. The statistics also show that the democratising state was the aggressor more often than not. Most dangerous are democratising states with weak institutions and where popular participation in politics is not yet sufficiently regulated. Mansfield and Snyder offer two explanations for these observations, the concepts of "elite persuasion" and "ethnodemocracy".

⁵ Collier uses the Polity IV index as a basis.

C.1 Elite Persuasion

Generally speaking, the larger and the more diverse a community becomes, the more difficult it gets to promote collective action (Snyder 2000, 48f). To succeed in this task, therefore, elites need to offer a unifying idea that creates a community almost anyone can be a part of, be it out of a cost-benefit analysis or feelings of moral obligation. This unifying idea can be a form of nationalism. Snyder (2000, 24) uses a broad definition of nationalism. To him, it is the doctrine that a group of people who see themselves as distinct in terms of culture, history or principles aims to rule by themselves in a state that implements those common characteristics. The group is often also a distinct ethnical group, but that is not a precondition.

The elite persuasion model holds that nationalism is usually weak at the onset of the democratisation process. In the course of the process, however, elites drum up nationalistic sentiment to rally popular support. This is done entirely out of self-interest, not in the interest of the "nation" as claimed by the elites. The political elite can encompass both members of the old authoritarian regime and new elites who acquired their position during a previous push for democratisation (Mansfield/Snyder 1995b, 19). They "persuade" the public that ethnic or national divisions are more important than any other concerns, e.g., economic disparities. Conflicts of interest between the elites and the people are concealed (Mansfield/Snyder 2007a, 2; 1995b, 28f). Elites use their control over the media, state institutions and the economy to advance their interests. The lack of an independent media facilitates this control.

Nationalism is a convenient narrative in this situation for a further reason: national self-determination does not necessarily imply democratic rule (and thus leaves the option of reverting to authoritarian rule once the elections are won). However, once elites succeed in rallying the people around the nationalist banner, they may find the nationalistic fervour difficult to control (Snyder/Mansfield 1995b, 7).

Thus nationalism can render elites politically popular without requiring them to act in the popular interest, be it social, political or economic (Snyder 2000, 36-42; 52). Nonetheless, elites in a democratising state are confronted with demands for political participation from their own constituency. To silence such demands, elites associate such voices with purported enemies abroad. Branding political opponents as traitors and enemies of the nation in this way is an effective tool. Allegations that such political opponents are in alliance with foreign powers and thus an existential threat to the nation, is an effective means of excluding the opposition from political participation. That way, the rights and influence of such "enemies within" can be curtailed rather easily; at the same time, the inner coherence of the entire group is strengthened. Snyder labels this tactic "exclusionary nationalism". The tactic works best in poor societies, where political institutions are absent or weak and where independent journalism is unheard of.

As already mentioned, elites can construct and exaggerate a supposed threat to the nation posed by outsiders and traitors and the need of working together to defend against such alleged enemies. If the other side - the alleged enemy - responds with the same mindset, a violent clash appears to be only a matter of time. Exclusionary forms of nationalism make enemies out of the excluded group and, by extension, their brethren and sympathizers abroad. In turn, the excluded group will, if capable, resist the attempts of domination or marginalisation by the dominant group and seek the assistance of their brethren abroad. This way, the elite persuasion propaganda can become a dangerous self-fulfilling prophecy. Alternatively, political opponents within the same group may want to deflect the impact of the elite persuasion strategy by joining the game and respond with even more nationalistic fervour than the (ruling) elites. Snyder (2000, 52) calls this a "nationalist bidding war" between the factions.

Certain conditions are conducive to elite persuasion (Snyder 2000, 54). The elites often control the most powerful governmental institutions, the major components of the economy and the media. There is little organised, much less institutionalised opposition and the elites' considerable influence over the media ensures their version of nationalist "persuasion" is aired. This situation differs significantly from that in mature democracies, where voters can generally rely on accurate information issued by independent experts, who would also reveal the true costs of jingoistic policies. Mature democracies also have "internalised" the practice of peaceful settlement of conflicts. Consequently, it would be much more difficult to achieve the same results by elite persuasion in such an environment.

Snyder distinguishes four types of nationalism: counterrevolutionary, revolutionary, ethnic and civic. They are distinct in the way that elites perceive their interests threatened by the process of democratic transition and in the opportunities that may arise from engaging in an exclusionary nationalistic debate. Which of the four types of nationalism applies is influenced to a large degree by economic circumstances.

In the case of the DRC, ethnic nationalism was the relevant type. Ethnic nationalism prevails in culturally diverse states where even the most basic political and administrative institutions are nonexistent. Informal institutions and adherence to cultural practices and rules are of great importance (Snyder 2000, 49). Elites appeal to traditional popular culture and ethnic loyalties. Ethnic nationalism is the most exclusionary of the four types of nationalism, as ethnicity is an absolute and inalterable. Ethnic segmentation might be based on traditional divisions within society or be a legacy of colonial divide-and-rule policies. Probably the most infamous example of the latter is the distinction drawn between Hutu and Tutsi in Rwanda and beyond. When elites employ ethnic nationalism successfully, the interest of the state becomes indistinguishable from the interest of the dominant ethnical group. In its most extreme form,

the dominant ethnic group will attempt to attack and conquer neighbouring states' territories inhabited by its ethnic brethren.

Thus, elite persuasion can spark conflict in several different ways, depending on which a civil or international conflict might ensue. The elite persuasion model accounts for both possibilities.

C.2 Ethnodemocracy

Ethnic forms of nationalism may in time result in a political system where the formal aspects of democracy are observed (i.e., elections are held), a system Snyder terms "ethnodemocracy". Snyder (2000, 352f) argues that democratic peace theory only applies to what he calls "civic democracies", but does not apply to "ethnic democracies". In civic democracies, civil and political rights are provided to all members of society on an equal basis, democratic procedure is well established, notably in the settlement of disputes. If, however, a democracy is based on ethnicity, civil rights are at maximum accorded to the members of the dominant ethnic group and democratic process leads to the tyranny of the majority (the majority being the dominant ethnical group), to the exclusion of all other groups from the political process. In Snyder's view, only a balance of power between the different ethnical groups might stabilise such a political system. In addition, any two ethnodemocratic states never share a common identity; therefore, they might be hostile to each other. On the other hand, differences between any two civic democracies do not play such a defining role, since they share common principles rather than a common ethnicity: individual rights, democracy, and peaceful resolution of disputes.

Collier (2009, 26-28) also addressed the question of ethnicity and democracy in his work. According to him, societies in the most developing states overwhelmingly vote along ethnical lines. As most of these states are multiethnic, ethnicity can be the most important trait for rallying support.

When ethnicity becomes the central political determinant, election results do not reflect the performance of the incumbent government but simply indicate the relative strength between different ethnicities. When results and performance of a government are not reflected in election results, politicians who could actually provide such services will hardly stand for election. Instead, the motivation for seeking public office is driven by the perks of holding office, in particular the power and immunity from prosecution, breeding corruption. It is therefore not surprising that candidates in such states often have criminal records.

In Collier's view, ethnic identity is much stronger than national identity. The effect is that irrespective of which group is dominant, its representatives will feel morally obliged to use the

public purse for the exclusive interests of that group. For politicians "playing the ethnic card" in an election campaign is practically a requirement for victory. It appears as well that contenders with extremist views are more successful than more moderate ones: in the absence of any other distinction, voting for the candidate or party with the most extreme views is the strongest way of expressing ethnic identity.

If elections are held in states where ethnicity is the main political rallying point, ethnical or similar cleavages within a society become integral parts of the emerging political system. For example, in Bosnia after the Dayton Peace Accord, each of the major political parties represented one of the three ethnic groups. To this day, politics are aligned in this way, blocking progress. Similarly, the elections in Iraq in 2005 reinforced the ethnical divide (Mansfield/Snyder 2005). Mansfield and Snyder invoke further examples of this pattern, such as the break-up of Yugoslavia, the Nagorno-Karabakh conflict in the Caucasus, Kashmir after the end of the Pakistani military dictatorship and the war between Ethiopia and Eritrea after the collapse of the Dergue regime.

An important element in both the elite persuasion and the ethnodemocracy concept is media control. It is widely believed that state monopoly over the media is the worst-case scenario. However, in this scenario, the addressees (i.e., the public) know of the monopoly and are sceptical, understanding such programmes are propaganda, as happened in the case of the former Soviet Republics. According to Snyder (2000, 58-60), the segregation of the media along ethnical lines is less obvious but far more dangerous. In that scenario, each ethnic group maintains its separate media outlets, which broadcast exclusively their respective partisan messages. As a result, the members of the respective ethnical groups receive only the messages intended for their group. Thus, public debate on the domestic level may appear to be open and competitive, but in fact it is not: each group exclusively consumes the programme of "their" elites. Thus even if freedom of speech is guaranteed, it does not mean that differing standpoints are actually shared, heard and acknowledged across the country. The lack of control over factual claims made in the media also ensures that the partisanship is hardly ever challenged. While the media market appears to be open and a competitive exchange of ideas, there is, in fact, a high degree of stratification dressed up as an open and free information marketplace.

D. The Avoidance of Side Effects: Sequentialism and Its Critics

The approaches presented above warn of dangers and possible pitfalls of democratisation. They would be incomplete, however, if they did not also offer solutions to these problems. One possible strategy to avoid or circumvent a degeneration of the democratisation process into violent conflict is offered by the same authors who have already been introduced. Their solutions are alike in the main points, so they can be captured as a single strategy that, in the

following, is called "sequentialism": it is where Zakaria, Collier and Mansfield and Snyder converge in their respective approaches. As the term itself implies, sequentialism is about the sequencing of reforms during democratisation.

The term itself was coined by Carothers (2007a), who is in fact a critic of Mansfield and Snyder. Nevertheless, the term is adopted here because it captures the underlying ideas in a memorable, single word that is free of negative connotation. Carother's points of criticism will be discussed in more detail at the end of this sub-chapter.

The idea that democratisation has to follow a certain sequence was already voiced by Huntington (1968). However, his advice was to first establish order, then economic development and then democracy. Snyder and Mansfield have a slightly different approach, but it must be seen in this tradition.

As already mentioned in the introduction to this chapter, democratic peace theory is silent on the question of how democratisation can be achieved. Nevertheless, U.S. foreign policy during the Clinton administration explicitly referred to democratic peace theory (Mansfield/Snyder 1995b, 5). Spreading democracy abroad became almost a defining element of U.S. foreign policy after the attacks of 11 September 2001. Undeniably, the question is of great practical importance. In this sense, sequentialism can be seen as a reaction to a foreign policy based on democratic peace theory, trying to ensure the effectiveness of that foreign policy.

An assumption that can frequently be observed in the West is that democracy will inevitably lead to peace and ethnic harmony (Zakaria 1997, 29). Yet in fact, without liberal constitutionalism (that is, the separation of powers, the rule of law and protection of individual rights and freedoms), democracy (in the purely procedural sense) may very well lead to nationalism, ethnic conflict and war. This is also why Aristotle and Kant, for example, considered democracies to be tyrannical, while Tocqueville warned of the tyranny of the majority (Zakaria 1997, 26). Zakaria terms a system of (purely procedural) democracy without liberal constitutionalism as "illiberal democracy".

Liberal constitutionalism often leads to democracy, but the reverse case can be observed less frequently (Zakaria 1997, 25). In Africa, elections have been more frequent since the beginning of the 1990s, but, more often than not, individual rights and freedoms did not follow in their wake. According to Zakaria, multiparty elections have been overemphasized to the detriment of the requirements of liberal constitutionalism. In his view, democratic peace theory needs to be reformulated: it should be called theory of liberal peace. The ideal is liberal democracy; people seem to be aware of the relationship between the two: a survey in sub-Saharan Africa found that citizens perceived states as democratising particularly when in that state the rule of law was increasingly being observed (Bratton/Chang 2006, 1080).

Collier (2009, 186) harshly criticises attempts at democratisation that failed to take constitutionalism into account. He (2008, 147) formulates, "elections determine who is in power, but they do not determine how power is used". When competitive elections are held in the absence of the rule of law, Collier (2009, 15) considers this to be "democracy". When the power of the winner is virtually unconstrained by constitutionalism, winning the elections becomes a matter of life and death. An elected government tends to believe it has absolute legitimacy. Presidential systems in particular often see the president bypass all checks and balances by "going to the people" (Zakaria 1997, 27). Strong and centralised states have served as a role model for many developing countries. But if checks and balances are circumvented or ignored, neither order nor good government have a chance to develop. "[T]he trouble with these winner-take-all systems is that, in most democratising countries, the winner really does take all" (Zakaria 1997, 32). Collier (2009) further observes that leaders in ethnically diverse and poor societies quickly developed strategies to win elections. Exploiting the absence of checks and balances, ethnical divisions or post-conflict situations, he claims the incumbent frequently relies on criminal practices to retain power. In comparison, the U.S. political system incorporates a myriad of checks and balances, some even in the form of unelected institutions such as the Supreme Court. These institutions are to guarantee that minorities are protected and have a fair share of power.

Therefore, Mansfield and Snyder (2007a, 3) specifically stress the importance of the sequence of democratic reforms. They assert that certain elements of liberal democracy must already be in place by the time political participation of the public is allowed. This view is also shared by Dankwart Rustow, Robert Dahl and also Lyons (2002), Paris (2004) and several others.

In more detail, Mansfield and Snyder (2007a, 17-19; Snyder 2000, 41) propose the following sequencing: first, a strong administrative apparatus, which acts rationally and impartially and offers security, must be created. Then, a constituency that would profit from democratisation and is strong enough to replace the old regime needs to be empowered. In parallel, the antidemocratic factions within society must be sidelined. Thereupon, institutions that can guarantee the rule of law, the surveillance of political power and fair electoral competition - an independent judiciary and a professional mass media - have to be created. Therefore, prior to holding the first free elections, an impartial bureaucracy, civil rights, the rule of law and a professional media must already be a part of the system. Only after all these steps have been taken should representative institutions, such as political parties, be strengthened. According to Mansfield and Snyder, the members of the former regime must be spared from prosecution for international crimes, such as crimes against humanity and war crimes, in the interest of successful transition. Apparently, it had proven effective to hand the old elites a "golden parachute" by letting them keep their material wealth while ensuring they remain weak

politically. The transition is easier if the old elites do not perceive an existential threat should they relinquish power.

The correct sequence is much more important than the duration of the transitional period. If the foundations have been laid, steps can be skipped or implemented rapidly: In the cases of Czech Republic and South Africa, the transition was concluded rapidly and successfully. As Fukuyama (2007) points out, most of the successful transitions took place in East Asia, owing to the strong state and bureaucracy these countries already had in place.

By contrast, the policy approach advocated by many IOs, human rights NGOs and academics calls for steady pressure on autocratic regimes to democratise and hold election as soon as possible. Yet, as we have seen, if states are unprepared for mass plebiscites, the potential damage caused by failed democratisation outweighs the potential benefits. Attempting "democratisation backwards" (Rose/Shin⁶ cited in Bratton/Chang 2006, 1059; 1062) - holding elections before a stable political system based on the rule of law is operational - is ignoring the findings of sequentialism.

Zakaria (1997, 31) laments that in the contemporary discourse, any idea criticising the priority that is given on elections is regarded with suspicion. His advice would be not to try spreading democracy around the world but to consolidate it wherever possible and instead promote constitutional liberalism. He is generally critical about an outsider's chances to introduce democracy and pleads for more humility when promoting liberal democracy in the world. Elections generally received too much attention, yet without a solid institutional and legal base, elections can be a step in the wrong direction. There is no denying that elections, especially first-time elections, are popular landmarks for prospective state-builders and, most importantly, can be sold as a major or even the final breakthrough. This observation is also made by Collier (2008, 147). Effective checks and balances take a long time to develop and introduce, while elections need less preparation time. Obviously, elections are the predominant events that receive coverage in global news. However, Collier also points out that countries might get stuck in a charade of democracy when elections are held in the absence of the basic conditions.

Zakaria (1997, 22f) has a rather pessimistic view about democratisation processes in recent decades: democracy was on the rise, liberalism was not. At the time his article was published, half of the new democracies were of the illiberal type. Illiberal democracy is a reasonably stable form of government, which means that it cannot be considered a mere transitional phase on the way to liberal democracy.

⁶ Rose, R., and D. C. Shin, 2001. "Democratisation backwards: The problem of third-wave democracies." *British Journal of Political Science*, 31, 331-354.

Illiberal democracy is the result of flawed democratisation; it bears a further long-term danger: the illiberal type of democracy can discredit any form of democracy, including the liberal type. Rushed elections in disregard of the necessary prerequisites might see illiberal and anti-democratic factions win the elections. Then, the problem of democratically elected anti-democratic governments may arise (Zakaria 1997, 22): as Richard Holbrooke mused on the eve of the 1996 elections in Bosnia: what if "the election was declared free and fair" and those elected were "racists, fascists, separatists"? The exact same dilemma was faced after the parliamentary elections for the Palestine Authority in 2006, for example (The Economist, 26 January 2006).

The ideas of sequentialism are not without their critics who believe liberal constitutionalism and democracy cannot or should not be separated. Marc F. Plattner (1998) believes that liberalism is easier established in a democracy even if it was illiberal. Plattner's main argument is that there have been very few cases of a political system that can be described as a stable, liberal autocracy. Seemingly, Hong Kong used to be the only example. Therefore, Plattner can see no benefit in trying to promote constitutionalism in authoritarian regimes.

With respect to Snyder and Mansfield, critics believe that elections and the rule of law reinforce each other and should be implemented simultaneously. Their common denominator is that democratisation and elections should not be put off in the hope of a more auspicious time. Carothers (2007b, 18) further rejects Snyder and Mansfield's central premise that the democratisation process initiated violence.

The main point of contention is the argument that democratisation should be deferred until the preconditions, are established. For Carothers (2007a, 15) there is little hope that liberal constitutionalism can develop in an authoritarian regime. Autocrats have no interest in encouraging such developments, as these could threaten their rule by limiting their authority. On the other hand, a democracy would be a much more promising environment for the liberal reforms. That is also true for state building. It is indeed the result of decades of autocratic misrule that formed many of the ills democratising states have to deal with. However, Carothers (2007a, 19) points out a caveat: when a state has completely collapsed, then expedient elections "make no sense". At the minimum, the monopoly on the use of force of the government and a minimal administrative capacity have to be well established.

A second fallacy of sequentialism, according to Carothers (2007a, 20), is the premise that the initial reason for democratisation in many countries had been outside intervention, e.g., in the form of Western pressure to hold elections. Carothers identifies the citizens of democratising countries as the main driving force of democratisation. If elections are held at an early stage in the democratisation process, then this is the result of popular will, not the work of some nagging outsider. Outsiders can at best aid citizens in their efforts, but it is wrong to think that

they could initiate a move for democratisation independent from local support. Again a caveat: unless outsiders intervene by force. If that happens, Carothers acknowledges elections were often rushed in order to have a reason to declare success and move out again. However, even if there has been an intervention, citizens would still be supportive because they simply want elections. In any case, Carothers considers it wrong on a moral level to deny citizens - even if only in theory - their say in politics by putting elections off in the hope that conditions will improve in time.

Carothers developed an alternative approach, "gradualism". Gradualism advocates advancement towards democracy on many levels simultaneously, i.e., working towards free and fair elections while at the same time pursuing the rule of law. The idea is that the different steps reinforce each other. Gradualism rejects "shock therapy". Specifically in post-conflict situations, change should not be implemented too hasty, but has to be incremental (Carothers 2007a, 25). Allowing a few years to pass so that negotiations between rival factions can be concluded and actors accustomed to the set of rules necessary for democratic competition may be necessary before potentially divisive elections are arranged.

In short, even Carothers acknowledges in principle that there can be situations when elections do more harm than good. However, he is much more positive about early elections than the sequentialists.

Berman (2007) has an entirely different approach. She can see no use in observing sequentialism since she is of the opinion that violence in democratising states cannot be avoided at all, irrespective of when and how reforms are implemented. Berman refers to her research on the developments leading to democracy in the Western world, which consisted of a series of failed attempts, revolutions and wars. In her view, these events, however unedifying, are the unchanging result of any overthrow of old elites. She contradicts Snyder and Mansfield and claims that these events do not inhibit democratisation in the long term. In essence, Berman's argument is that states have to go through a series of violent developments in order to achieve democratic rule. If this is true, every particular moment to start with the transition is as good as any. Berman's rather fatalistic view makes all thoughts about sequencing reforms moot. While the approach is interesting, it does not provide more detailed parameters allowing analysing the situation in a particular case. Therefore, it will not be discussed further.

Mansfield and Snyder (2007b) state in response to their critics that they had never claimed that building the necessary institutions under authoritarian rule was easily achieved. They also have little confidence in autocrats to implement rule of law reforms - but that part is played by moderate but influential groups who work towards curtailing the reach of the regime, but who at the same time fear "the chaos of mass politics" (Mansfield/Snyder 2007b, 8). To achieve

their aims these reformers emphasize individual rights and freedoms, thereby laying the foundations of liberal democracy.

Mansfield and Snyder agree with Carothers that outsiders will rarely manage to impose their will. But there is still a role for outsiders: they can make all the difference by giving the right impulse in the right moment.

E. The Economy – Natural Resources, Economic Growth and Conflict

The linkages between the economy and violent conflict merit a closer look. Numerous studies link the dire economic situation in the DRC to the chaos and widespread violence in the country. It is widely believed, in particular also in the DRC itself, that the war was waged for the single reason of plundering the DRC's wealth of natural resource. This topic has been extensively researched and several - domestic and international - commissions of inquiry investigated the allegations of plundering and war profiteering. The best-known of these are the reports of the UN Panel of Experts (UNPR). The matter was also heard at the International Court of Justice (ICJ) in a case brought by the DRC against Uganda for the alleged illegal exploitation of natural resources on its territory (ICJ 2005, *Armed Activities* case). The ICJ affirmed the illegal exploitation and ruled that Uganda had to pay damages to the DRC.

Prima facie, the DRC is a classic example of a country haunted by the resource curse - low economic growth despite rich endowment with natural resources. However, a detailed analysis of the resource curse hypothesis would far exceed the scope of this paper. For this reason, this sub-chapter is limited to presenting the relationships between economic parameters and the risk of conflict, i.e., the findings of quantitative research.

Collier (2008, 21f) points out that dependence on the export of primary commodities (natural resources) increases the danger of civil war. Extraction, smuggling and export of natural resources finances armed groups. It may even become a business model that motivates creation of private armed groups in the first place. The resource curse fuelled civil wars in Liberia (timber) and Sierra Leone (diamonds, often referred to as "blood diamonds"). The DRC boasts an even greater wealth of resources: copper, gold, diamonds, coltan and timber.

Statistical evidence (Collier 2008, 19f) shows that if income in any given country is cut by half, the likelihood that a civil war will occur in this country is doubled. The relationship is true in both directions; logically, civil war in turn effectuates income losses. These are the ingredients forming a vicious circle. The rate of growth of an economy is a further factor in this calculation. A slow rate or even economic decline increases the risk; Collier calculated that at zero growth, in 14 per cent of cases civil war broke out within a five-year period. Every additional per centage point of growth reduces the risk by one per cent.

In what Collier (2008, 32) terms the "Conflict Trap", a low growth, low income country highly dependant on the export of natural resources has a 20 per cent risk of sliding (back) into civil war within a five-year period. This has been the economic situation prevalent in the DRC for a long time (Collier 2009, 125).

There is a further relationship between economic parameters and the impact that elections have on the security situation in a country. In theory, elections should warrant accountability and legitimacy, ensuring the electorate's will is implemented - and thus eliminating the motivation for rebellion. However, that assumption seems to be true in high-income countries only. In low-income countries, elections increase the risk of political violence (Collier 2008, 18-22). The threshold between low- and high-income is around USD 2,700 (in current USD) per capita and year (i.e., about USD 7 per day). Whereas in high-income countries, elections bring accountability and legitimacy, which in turn diminish political violence, elections in low-income countries for some reason fail to do so; they even have the opposite effect.

Snyder (2000, 72) also analysed economic factors. He concludes that a more prosperous economy indeed reduces the likelihood of conflict. Thus it increases the chances of successful democratisation. Transitions to democracy have been successful in most cases when the average annual income amounted to at least USD 12,000. At this income level, a large middle class can be expected. The importance of such a middle class for democracy has frequently been elaborated in democracy theory. Conversely, in countries with a low income-level (Snyder mentions the amount of less than USD 2,000), a middle class regularly does not exist. Politics is then dominated by patronage networks and elections are decided not by performance, but by other factors such as ethnicity. In turn, patronage politics further undermine the economy. When socioeconomic development falls under a certain level, however, collective action itself may become impossible: patronage networks then focus on small-scale relationships between personal cronies and regional strongmen (Snyder 2000, 71).

The relationships and linkages presented above explain why a dysfunctional economy poses a severe risk to successful state building and democratisation. However, reviving the economy is a very time consuming process, likely to take much longer than a political transition (Collier 2009, 88f). This is relevant when the transition was set off by outside intervention: rebuilding the economy may take longer than it is politically viable to have e.g., peacekeepers in the state in transition.

Chapter 3: The Elections of 2006

A. Introduction

After the constitutional referendum and voter registration, voters were to decide in presidential, parliamentary and provincial elections.⁷ Elections on the local level were to be held at a later stage.

In the original schedule agreed to in the ICD and included in the Pretoria Agreement, the transitional period was to be completed by elections in June 2005 (EISA 2007, 4-5). However, the Pretoria Agreement and the new constitution included provisions that this schedule could be extended by a maximum of 12 months if circumstances required. In April 2005, at the CEI's request, both chambers of parliament invoked these provisions and approved of a delay until 30 June 2006.

This chapter takes a close look on the presidential and - to a lesser degree - the parliamentary elections on the national level and the provincial elections between July and October 2006. The manner and circumstances surrounding these events should allow collecting relevant information for an assessment as to whether the political elites pursued an elite persuasion strategy and as to whether the DRC was in danger of turning into an ethnodemocracy. The elections are a good starting point for the assessment, since they require candidates to show flag, i.e., reveal a nationalistic standpoint by employing exclusionary nationalistic rhetoric. The results of the elections would show whether the votes were cast based on ethnical affiliation, which would hint to ethnodemocracy.

Theory would predict that candidates focus on nationality to rally supporters and that their campaigns, boosted by a biased and partisan media, would take an exclusionary approach. The availability of several election observer reports is a clear advantage for the analysis as these reports should offer a sufficiently impartial assessment.

With UN assistance, 2,074 international election observers were accredited for the elections on 30 July and about 2,693 for the elections in October (EISA 2007, 36; Malu Malu 2004, 595).

⁷ The Electoral Law of 9 March 2006 set out the specifics of the ten elections provided for in the constitution:

On the national level:

Presidential (direct);
Members of the National Assembly (direct);
Senators (indirect by Provincial Assembly);

On the provincial level:

Provincial Assembly (direct, 10% reserved to traditional chiefs);
Governors and vice-governors (indirect, by Provincial Assembly);

On the local urban level:

Conseillers municipaux (direct);
Bourgmestres/conseillers urbains (indirect, by conseillers municipaux);
Majors and vice-majors (indirect, by conseillers urbains);

On the local, rural level:

Conseillers de secteurs et chefferies (direct);
Chefs de secteurs and vice-chefs de secteurs (indirect, by conseillers de secteurs);
(Malu Malu 2004, 591f).

Organisations dispatching observers included the EU, the African Union (AU), the Southern African Development Community (SADC) including through the SADC-Parliamentary Forum (SADC-PF), the Organisation of La Francophonie, the South African Election Observer Mission and the Electoral Institute for the Sustainability of Democracy in Africa (EISA). Congolese NGOs also sent observers. Congolese civil society indeed contributed extensively to the elections (SADC-PF 2006b, 22). Congolese NGOs sent election observers even to places that were difficult to reach. Civil society groups even set up a network for coordination, RENOSEC (Réseau National pour l'Observation et la Surveillance des Élections au Congo), which had offices in every province. Their contributions to the fairness of the elections were very important since the international observers were concentrated in the major cities.

In the logistical nightmare that the DRC was and still is, voter registration was astonishingly elaborated and effective. Voter lists and cards, which doubled as an official ID even for later use, were produced with the help of so-called "kits", comprising among other things a scanner and printer of fingerprints and a digital camera. Photo and fingerprints were collected electronically to avoid double-counting (Malu Malu 2004, 593). Teams carrying these kits were dispatched throughout the country to register voters. The phase of voter registration lasted from June 2005 until February 2006 (due to delays caused by logistical difficulties the registration process was still in progress by the time of the constitutional referendum).

It was clear from the beginning that the presidential elections would matter most. The presidency has been the most important position since independence from Belgium and even under the new constitution, a powerful position for the president was envisaged. The first round of the presidential elections coincided with the parliamentary elections and a possible run-off presidential election would coincide with the provincial elections.

The Pretoria Agreement tasked the Independent Electoral Commission (CEI) with the organisation of the elections. The CEI was headed by the Reverend Apollinaire Malu Malu, a former delegate to the ICD drawn from civil society and the director of the Catholic University Graben in Butembo (Kennes 2008, 134). It comprised representatives of all groups that were involved in the ICD (EISA 2007, 11f). The CEI was to prepare, manage and supervise the elections in an independent and non-partisan manner (Malu Malu 2004, 592).

The CEI is credited with having registered a full 90 per cent of the potential electorate (ICG 2006a, 2-3) - members of the police and the armed forces were not eligible for voting (EISA 2007, 14). It further registered 269 political parties out of which 197 competed in the elections (EISA 2007, 20). 33 presidential candidates and 9,709 candidates for the 500 member National Assembly were running. Only the President's party - the Peoples' Party for Reconstruction and Democracy (PPRD) - was able to field a candidate in every constituency all over the country. A

number of 13,474 candidates for 632 seats were eligible in the provincial elections, scheduled for October 2006.

The legislative framework for the organisation of the elections was set out in the Electoral Law, which was not promulgated until 9 March 2006 (EISA 2007, 8). On the basis of this law, the CEI worked out further details on implementation.

The elections were funded in the main part by the international community. At the latest in 2006, the elections became the focus of all its efforts in the DRC. The elections soon became its "Holy Grail". As a forum for technical assistance, the main actors bundled their efforts in the CIAT, which had electoral experts on its roster (EISA 2007, 38, 39). CIAT's mandate was to end directly after the elections. The financial side was covered by a common fund, managed by UNDP. In total, the fund distributed about USD 478 million, the government of the DRC contributed USD 40 million and MONUC provided essential logistical support with an estimated worth of USD 103 million.

B. The Election Campaigns

Of the 33 presidential candidates, seven were serious contenders. From that group, Joseph Kabila and Jean-Pierre Bemba were given the best chances by far (Prunier 2009, 310). They were well known across the country, had access to the necessary financial resources and controlled armed personnel to ensure their security (EU Report, 38f). Only Kabila, Bemba and Azarias Ruberwa - all former warlords and former vice-presidents during the transition - were able to tour the country during their campaign. Kabila also carried the bonus of incumbency.

Kabila and Bemba had each their respective power base. Kabila was exceedingly popular in the eastern provinces of the country, where he was celebrated as the "creator of peace" after the many years of war. In the western provinces, including Kinshasa, Jean-Pierre Bemba had the upper hand (EU report, 17).

The Electoral Law stipulated a fixed campaigning period starting 60 days before and ending 24 hours before the ballot on 30 July (EISA 2007, 24-26). These limits, however, were completely ignored by the campaigners. In an ingenious move to start an election campaign in serious, Kabila married his long-time girlfriend Marie-Olive Lembe da Sita on 17 June 2006. A good public speaker herself, she supported his candidacy by campaigning in the western provinces - an important asset considering his unpopularity there (Prunier 2009, 310). It also opened him to the blessings of the Roman Catholic cardinal of Kinshasa. This cannot be underestimated, considering the considerable influence the Roman Catholic Church still exercises in the DRC. Indeed, the Church worked towards a national consensus and was a voice of moderation regarding the conduct of the elections.

Campaigning started slowly. There was no increase in the number of acts of violence; still, candidates requested the government to provide them with personal security in order for them to campaign effectively. A problem for most candidates was lack of financial means. Campaign funding remained intransparent throughout the process (the draft law on campaign finance had not been completed in time [ICG 2006a, i-ii]). Lack of funds was also the reason why only the major parties, the PPRD, MLC and RCD, were present in the public space with banners, posters and billboards - the smaller parties had a regional reach at most (ICG 2006a, 2). In addition, some campaign manifestos and statements were distributed. Some public rallies were held in the larger cities, which were generally well organised. However, the final rally of Bemba on 27 July in the stadium of Kinshasa, which attracted over 100,000 supporters, degenerated into violence: a mob burned down the headquarters of the Media High Authority (HAM), supposedly because of its pro-Kabila bias. Interfering police received gunfire and sustained casualties (Prunier 2009, 311-313; EU Report, 39f).

Election observers noted an alarming lack of policy issues in the campaigns. From the candidates for the legislative bodies, most were without party affiliation or even a political programme (Kennes 2008, 136f). Their campaigns were either regionalist or had a historical nexus; plenty of candidates referred to themselves as "Lumumbists" or "Mobutists".

Bemba centred his campaign on the issue that "the homeland [has been] sold to foreign interests". Bemba also denounced Kabila to be a foreigner, who had been raised in Tanzania and was ignorant even of the regional language in the western provinces, Lingala. Conversely, Bemba put the emphasis of his campaign on "la congolité" (EU report, 17f), styling himself "son of the country" (EU report, 40); Bemba's further campaigning slogans had a clear nationalistic slant: "vote for a native son", "100% Congolese" and "vote for the chicken and not the bird, as the bird will fly away." Rumours that Kabila was actually a national of Tanzania or Rwanda were taken up and spread actively during the campaign (ICG 2006b, 5; Prunier 2009, 310). These were efforts to portray Kabila as a puppet of foreign interests - the international community and the hated Rwandans in particular. Bemba's campaign clearly had a xenophobic slant, directed not just against his rival, but all foreigners. The allusion to the popular opinion that the DRC was being robbed of its natural resources by foreigners connected well with the electorate.

Xenophobic tones came also from other side: Vice-President Yerodia Ndombasi, a member of Kabila's camp, called on the residents of Goma (in the province of North Kivu) to chase the Kinyarwanda-speakers out of the country (ICG 2006b, 5). Once again, the inflammatory, nationalistic rhetoric was directed against the Rwandans and their ethnic brethren in the DRC.

In the rural parts of the country, Kabila's supporters made use of material handouts (taken from state coffers) in their efforts to convince the population, a tactic amounting to massive

vote-buying (EU Report, 40). Kabila's main strength in the east was, however, his reputation as creator of peace.

Apart from the presidential elections, where it is obvious, even the parliamentary election campaigns concentrated on individual candidates. Much less attention was given to the respective parties: According to the EISA mission (2007, 9f), the electoral framework was complex but adapted to the DRC's political structure. A system of open lists in the legislative elections, i.e., voters could vote for a particular person instead of just a party, decreased the power of parties and party discipline. It can be said that the parties often were little more than a cover for the respective candidate.

C. The Presidential and Parliamentary Elections of 30 July

On 30 July 2006, about 18 million voters out of a registered 25 million went to cast their ballot (Prunier 2009, 311-313). The results of the presidential elections were announced on 20 August: President Kabila had received 44.81 per cent of the vote, Bemba 20.03 per cent. Antoine Gizenga, veteran politician and leader of the PALU party, was third with a share of 13 per cent. The share of votes of the other candidates was considerably smaller: Joseph François Nzanga Mobutu, a son of the late dictator, received five per cent - almost exclusively from Equateur province, where he came as second after Bemba; and Azarias Ruberwa, former vice-president and former warlord of the RCD-G (considered to be a Rwandan stooge) received merely two per cent of the vote.

Since Kabila did not meet the constitutional threshold of 50 per cent of the vote in the first round, he would have to win against Bemba in a second round. The second round was set on 29 October 2006 - even though the constitution stipulated it had to be held within 15 days after the first. The constitutional timeframe was organisationally and logistically impossible, however.

The losing presidential candidates could now choose to support either candidate - or none, as Azarias Ruberwa and Etienne Tshisekedi did. Whichever candidate Gizenga would support had a vital advantage in the second round (Prunier 2009, 311-313). Gizenga's power base was Bandundu province in the west, where he got more votes than all the other candidates combined.

The results of the parliamentary elections for the five hundred seats in the National Assembly had the President's party PPRD win 21 per cent and Bemba's MLC around 13 per cent of the votes (Prunier 2009, 311-313). The electoral system favoured small parties to the detriment of the larger parties and the independents. Eleven medium to small parties received several seats each; however, the vast majority of the seats were taken by a great number of small or tiny

"parties" - often not more than the candidates themselves - or else by independents; the smaller parties hardly ever received more than one seat each.

Kabila was quick to form a coalition, co-opting Gizenga, Nzanga Mobutu and others; its programme was largely expressed through (and restricted to) its name: Alliance for the Presidential Majority (AMP); it was largely an anti-Bemba alliance (Prunier 2009, 311-313). This way Kabila sought to secure himself enclaves of support in the otherwise solidly pro-Bemba western regions, while the losing candidates speculated on a position in a Kabila government. Bemba was less successful in getting support of unsuccessful candidates, so his strategy for the run-off election relied on fostering high turn-out in the west (ICG 2006b, 2f). Nevertheless, Bemba, too, created an alliance: the Union for the Nation (UpN) (EISA 2007, 29f).

Frustrated with not winning in the first round directly, the PPRD put pressure on the CEI to revise the announced results and declare Kabila to be the winner outright (Prunier 2009, 311-313). The CEI resisted these attempts, but this conduct of the president's partisans raised suspicion and tension.

D. Balancing on the Verge of the Abyss – a Resort to Force Under Obscure Circumstances

According to the terms of an agreement reached in June 2003 during the ICD, each presidential contender was allowed to bring 108 bodyguards to the capital for personal security. The agreement was quiet on the Presidential Guard, the elite unit under Kabila's orders. Its strength was estimated at about 14,000 of which up to 6,000 were barracked in the capital. Bemba, choosing not to adhere to the agreement, brought about 800 loyal MLC fighters to Kinshasa with him (ICG 2006b, 3). He was not the only one bringing additional support: Azarias Ruberwa of the RCD-G had about 300-400 men in the capital. As the day for the announcement of the results came closer, rumours of conspiracies and destabilisation became stronger.

CIAT worked tirelessly to make the elections a success, mediating between the candidates, easing tension and trying to bring them to refrain from violence (EISA 2007, 4). The efforts seemed to be rewarded: The polls on 30 July 2006 were conducted relatively undisturbed by violence (EISA 2007, 41). Isolated incidents were reported in Mbuji-Mayi and Mweka (in either of the two Kasai provinces), where a number of polling stations were destroyed. There were further incidents of violence in parts of Equateur Province and Province Orientale. Voters had rushed into polling stations and accused staff of irregularities, whereupon they were forcefully removed by the police. In another incident, a number of polling stations were burned down. The CEI reacted by postponing the elections in the affected regions. Considering the circumstances, these were rather minor incidents (EISA 2007, 56, 57)

It almost seemed as if the voices of moderation had won when - just hours before the final results were to be officially declared in the late afternoon on 20 August - skirmishes between the Presidential Guard and militiamen loyal to Bemba broke out in the capital. The exclusionary political rhetoric, reinforced by partisan reports in the media, had led to an atmosphere of suspicion between the two presidential rivals (EU report, 40f).

The violence started when police units surrounded two of Bemba's TV stations, Canal Kin and CCTV (ICG 2006b, 2f). The stations had broadcasted programmes rigorously attacking Kabila and accusing him of election fraud. On one of the stations, a run-off round had been announced even before the official results were known. Kabila allegedly ordered the shutting down of Bemba's channels (ICG 2006b, 2f; Prunier 2009, 311-313). When the shooting started, the Presidential Guard intervened in support of the police. MONUC had to escort the head of CEI, Malu Malu, to the national broadcaster to allow him to announce the final results. Intense diplomatic pressure was able bring the parties to agree to a cease-fire.

The following day, 21 August, heavy weapons and tanks were on the streets of Kinshasa. Suddenly, Bemba's residency and office were attacked by soldiers of the Presidential Guard. At the moment of the attack, 14 ambassadors of CIAT and the head of MONUC were present in Bemba's residency, discussing the violence of the previous day. All of them were caught in crossfire for six hours before finally being rescued by EUFOR and MONUC. Kabila later claimed he had had no hand in the event, blaming overzealous supporters - a claim widely thought not credible. Interviews by HRW (2008, 13) with officers of the Presidential Guard revealed their orders had been to "neutralise" Bemba and the MLC. On 23 August, after intense pressure by South African President Thabo Mbeki and UNSG Kofi Annan, representatives of the adversaries met at a MONUC site and agreed to garrison their troops involved in the fighting, and to set up an investigation commission. Following the incident, Kabila refused to personally attend further meetings with his rival and MONUC and CIAT representatives of the kind that had worked well before several times and further refused to sign a proposed agreement between the candidates on the rights of the loser of the run-off election (EU report, 18).

Violent clashes were also reported from the provinces. In the cities of Bukavu and Lubumbashi, Bemba's campaign leaders were assailed, rescued only by MONUC (EU report, 40f). MONUC forces had to intervene several times to protect party activists.

On 18 September, fire broke out in the building of a Bemba TV station. The cause was unknown, but in the still tense situation, arson was a probable cause (ICG 2006b, 2f). Bemba had his militia in the city reinforced. Degeneration into civil war was still a distinct possibility; no one knew whether the loser of the second round would not resort to force.

On 30 August, the PPRD and MLC concluded a further agreement, expressing their commitment to fair elections, guaranteeing peaceful conduct and the provision of security during the electoral process as well as acceptance of the final results (EISA 2007, 26-28). Representatives of the two camps met regularly under the auspices of MONUC in order to uphold contact and try to decrease mutual suspicion. While peace was temporarily restored in the capital, it was entirely unclear whether the elections would continue in relative calm or degenerate into renewed fighting. Neither MONUC nor EUFOR had been able to prevent the violence of August or end it quickly (ICG 2006b, 4f). The main force of MONUC was operating in the east at the time, and the soldiers left in Kinshasa were occupied with guard duty at UN installations. EUFOR had 4,000 troops on paper, but only 1,100 of those were actually present in Kinshasa and those included only 130 combat troops ready for intervention. Its main force stayed in Europe and Gabon as a reserve.

On 23 September Kabila and Bemba concluded yet another agreement, agreeing to demilitarise Kinshasa and to bar defamation and hate speech in the run-off election campaign.

E. The Run-Off Presidential Election

The campaign period formally started on 28 September 2006 (EISA 2007, 26-28). It was marked by much more nervousness on the part of the contenders. They did not, for example, tour the country as they did in the first round. The campaigns really took place almost without the candidates, because neither held any public rallies or toured the country. Concerns about personal security were given as explanation. Kabila and Bemba each tried to fashion himself as victims of the perfidy of the other. They had their campaign managers and wives take the initiative and holding rallies in their stead (EU report, 41). Despite the many agreements, the mistrust between the two candidates seemed to have reached a level bordering on paranoia.

In the tense atmosphere, campaign activities in the strongholds of the respective other candidate were difficult and frequently disturbed, if not made impossible: public rallies in favour of the political adversary were not tolerated there. Campaign activities, as little as there were, often ended in violent clashes between supporters. In one particular incident, a relay broadcasting station owned by Bemba in Lubumbashi was destroyed. Another of Bemba's radio stations got damaged in a shoot-out between supporters of Bemba and Nzanga Mobutu's bodyguards in Gbadolite (Equateur province) on 26 October 2006. Again, MONUC had to intervene, rescuing Mobutu. The son of the late dictator was also Bemba's brother-in-law. Since he joined Kabila's alliance, he was seen as a traitor in Bemba's camp. In October, Kabila stopped cooperation with the MONUC, arguing the MLC had violated the agreements.

It was only two days before the day of the run-off ballot that Kabila finally unveiled an at least rudimentary political programme - his "Five Projects" plan for reconstruction and economic

recovery, comprising infrastructure, health and education, water and electricity, and housing and employment (ICG 2010, 2). There is no clarity as to why the programme was presented that late.

Pressured by CIAT, the two candidates concluded an agreement in the last minute, on the day of the elections, the 29 October 2006. It set out the rights of the loser (earlier, Kabila had declined to sign such an agreement) and committed them to abstain from premature or false statements on the results of the election (EU report, 19).

F. Final Results and Aftermath

Before the announcement of the results on 15 November 2006, each side had already spread rumours about the victory of "their" candidate throughout the country (EU report, 19), so many in the western provinces heard the official announcement of the results with disbelief: that Kabila had won with 58 per cent of the vote to Bemba's 42 per cent. Turnout was 65.4 per cent.

The election results of the first round had already revealed a sharp division cut across the country (EU report, 17). In the run-off, Kabila received near-absolute majorities in the Swahili-speaking east and south. Bemba prevailed in the Lingala-speaking west and north; Kabila received less than five per cent of the vote in these regions (only two per cent in Bemba's stronghold Equateur) (Prunier 2009, 311-313). The east-west divide was less pronounced in the central Kasai provinces. There, in the heartland of Tshisekedi's UDPS, turnout was low and those who did go to the ballots voted predominantly for Bemba (EU Report, 19).

The division can best be observed in the following table, which shows the results in each province:

| Province | Registered voters | Voters | Voter Turnout % | No of votes | | % of votes | |
|--------------------|-------------------|-------------------|-----------------|------------------|------------------|--------------|--------------|
| | | | | Bemba | Kabila | Bemba | Kabila |
| Kinshasa | 2,913,313 | 1,681,250 | 57.71 | 1,122,231 | 528,045 | 68.00 | 32.00 |
| Bas Congo | 1,227,775 | 633,463 | 51.59 | 452,409 | 157,809 | 74.14 | 25.86 |
| Bandundu | 2,925,126 | 1,480,921 | 50.63 | 877,560 | 571,840 | 60.55 | 39.45 |
| Equateur | 2,923,680 | 2,468,917 | 84.45 | 2,372,326 | 69,563 | 97.15 | 2.85 |
| Province Orientale | 3,241,470 | 2,069,325 | 63.84 | 406,532 | 1,574,552 | 20.52 | 79.48 |
| North Kivu | 2,451,475 | 1,888,975 | 77.05 | 65,373 | 1,776,660 | 3.55 | 96.45 |
| South Kivu | 1,651,262 | 1,388,001 | 84.06 | 23,115 | 1,340,854 | 1.69 | 98.31 |
| Mariema | 626,327 | 502,487 | 80.23 | 8,296 | 488,410 | 1.67 | 98.33 |
| Katanga | 3,473,936 | 2,625,458 | 75.59 | 161,378 | 2,424,975 | 6.24 | 93.76 |
| Kasai Oriental | 1,975,430 | 842,926 | 42.67 | 556,088 | 268,796 | 67.41 | 32.59 |
| Kasai Occidental | 2,010,405 | 1,033,756 | 51.42 | 774,514 | 235,275 | 76.70 | 23.30 |
| Total | 25,420,199 | 16,615,479 | 65.36 | 6,819,822 | 9,436,779 | 41.95 | 58.05 |

Source: EISA Election Observer Mission Report, 2007.

Bemba rejected the results and on the following day announced he would challenge them at the Supreme Court on the ground of alleged irregularities. MLC party agents claimed that according to their calculations and contrary to the CEI announcement, Bemba had actually received 52.2 per cent of the vote (EISA 2007, 58, 59). Furthermore, some party agents alleged they had not been admitted to enter certain polling stations in the east of the country and there were rumours about fake polling stations. The special voters' lists were also considered suspicious.⁸

Bemba promptly filed a complaint on 18 November. At the same time, his militiamen took positions around the Supreme Court building, so doubts whether it was able to work unimpeded under these conditions were raised. However, Bemba's actions did not stir up popular upheaval, not even in Kinshasa (EU report, 42). Seemingly, the results announced by CEI were accepted by most of the voters, even if their preferred candidate had lost. Indeed, under the circumstances in which the elections were held, they were close to being free and fair. There had been intense monitoring by different international actors and extensive rigging would have been hard to organise (Prunier 2009, 313f)

⁸ See subchapter H. for details on the allegations of election fraud.

The Supreme Court rejected Bemba's motion only ten days later on 28 November for lack of evidence. Things were moving out of control when Bemba's fighters burned down the Supreme Court building after the ruling. Kabila reacted swiftly and issued an ultimatum to Bemba to remove his militia from Kinshasa. Yet Bemba himself conceded defeat on the same day and vowed to become leader of the opposition. After a few days of tense waiting, Bemba also agreed to withdraw his militia, though he did not fully comply and withdrew only a fraction of his men from Kinshasa (Prunier 2009, 314). After this, the situation relaxed significantly (EU report, 20). Bemba was elected senator in January 2007 (HRW 2008, 15).

The peace did not last, however. In March 2007, Kabila issued another ultimatum to Bemba to remove his remaining forces from Kinshasa. Kabila referred to a presidential decree of 13 November 2006, stipulating that all of the fighters of the former vice-presidents had to merge with the FARDC (ICG 2007b, 11). The decree had the support of CIAT, which considered it a confidence-building measure. Bemba again rejected to comply. A week after the end of the ultimatum, the Presidential Guard launched an attack and prevailed after heavy fighting in the streets. The Guard showed little restraint in its use of heavy weapons in the city and even hit several diplomatic premises; the Nigerian ambassador for instance was seriously wounded (ICG 2007b, 11). Bemba took refuge in the South African embassy and left the country for Portugal on 11 April (Prunier 2009, 315f).

The general prosecutor of the DRC unsuccessfully requested the Senate to lift Bemba's immunity so he could bring charges of treason and inciting rebellion (The Economist 29 May 2007). According to Bemba, the charges were politically motivated and intended to deter him from ever returning to the country (HRW 2008, 34).

Subsequently, several prominent figures of the opposition were arrested, many without a warrant. They were brought before a military court on charges of insurrection and treason. The MLC headquarters and two television and one radio station of Bemba were occupied and ransacked, in effect shutting them down (ICG 2007b, 11).

To disperse unavoidable criticism and pressure from the international community, the government then struck a more conciliatory tone vis-à-vis the opposition (ICG 2007b, 12). For example, a new organic law on the status of the political opposition was adopted, aimed at guaranteeing the freedom of information, meeting and expression and fair access to the media. Also, the opposition was given chairmanships of parliamentary committees (HRW 2008, 46f). The new position of "Coordinator of the Opposition" in the rank of a minister was introduced. Kabila also set up a judicial commission of inquiry to investigate alleged arbitrary arrests and detentions. Its report found many of the arrests were illegitimate and in violation of the law; some of the detainees were subsequently released (HRW 2008, 32).

G. The Media During the Election Campaigns

The enormous size of the country and the limited financial assets of many candidates and parties (only a few were able to tour the country) made the media the most important relay for their message. The radio was the most important and common media, followed by television. Newspapers appeared irregularly and reached only four per cent of the population, mostly the urban elites (EU report, 42f).

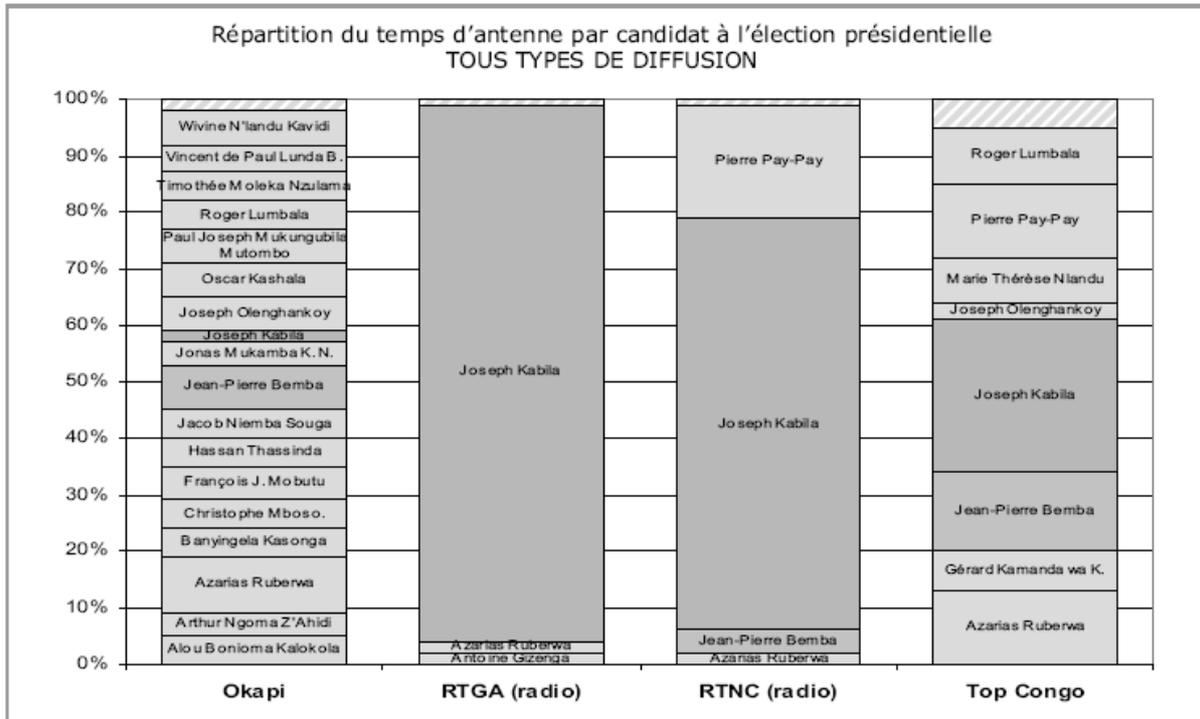
However, most of the about 200 radio stations, 50 TV channels and 170 newspapers operating in the DRC at the time were controlled by politicians either directly or through close associates. Extreme partisanship and simplification of facts was common and the general journalistic standard generally low (Freedom House 2007; ICG 2006b, 5). The serious lack of media neutrality has always been a cause for concern. Even so, the Electoral Law provided for equal access to all media for all candidates and equal airtime on radio and television (EISA 2007, 30-33). The Media High Authority (HAM) was the institution set up to supervise the media and ensure adherence to regulations. It issued strict rules and guidelines to guarantee fair conduct in the election campaign and to prevent hate speech that had, e.g., played an infamous role in the Rwandan genocide.

However, the HAM's regulations were often violated during the campaigns (EU report, 39-43). They could not prevent personal attacks on candidates (Freedom House 2007). Nor was the objective of equal access to media achieved. The dominant and state-owned public broadcaster Radio-Télévision Nationale Congolaise (RTNC) blatantly favoured the president. Its director had been named by Kabila, whereas Kabila never signed the letter of appointment for the deputy director because this would have put one of Bemba's trustees into the directorate of RTNC. On the day before election day in July 2006, RTNC aired a sympathetic report on Kabila, while by law it was supposed to broadcast a live debate between some of the candidates. The debate was actually taking place but not being broadcasted - a fact the participants found out in the middle of their debate.

While stations such as RTNC, Digital Congo, Horizon 33 and RTG@ reported favourably of Kabila and criticised Bemba, the reverse was true for the stations owned by Bemba, such as CCTV and Canal Kin TV. The one outstanding source of impartial information was Radio Okapi, which was run by MONUC.

The following table on the allocation of time slots for candidates in different radio stations:

RADIOS



Source: EU report.

The HAM did try to fulfil its mandate, sanctioning different media numerous times for transgressions (ICG 2006b, 6), but it lacked efficient means of enforcement. While it could theoretically order temporary shut-downs of stations, it had to rely on the courts to enforce its decisions. In the short time period of the campaigns, this system was very ineffective. Both sides accused each other of violating HAM regulations.

Between the first and second round of the presidential elections, some of Bemba's broadcasting stations were physically attacked.⁹

As was provided for in the Electoral Law, a televised debate between Kabila and Bemba was scheduled to take place three days before the ballot. However, the two sides could not agree on the parameters of the debate. Kabila did not accept a live broadcast, Bemba refused to hold the debate at the RTNC headquarters. Hence, the debate never materialised.

Despite the provisions in the HAM regulations and the Electoral Law regarding equal access to media, in fact only those who had held office in the transitional government or owned media stations themselves disposed of the means required for conducting a media campaign (EU report, 38f). Parties and candidates had no legal means to profit from state funding for their

⁹ On 20 August 2006 fighting started around two of his stations in Kinshasa; on 18 September a Bemba station in Kinshasa burned down under uncertain circumstances; on 12 October his station in Lubumbashi was destroyed; on 26 October his station in Gbadolite was damaged.

campaigns (a bill on campaign finance was blocked in the National Assembly) (EISA 2007, 21). Thus, only the former members of the transitional government were able to collect money, often through mandatory contributions taken from the salaries of their partisans who had been given positions in politics or in state-run enterprises. In the end, Kabila and Bemba were the only candidates coming close to a truly national reach.

During the fighting in the streets of Kinshasa between 20 and 22 August 2006 (after the announcement of the result of the first round), the media did nothing to ease the situation; in fact, some of them preached recourse to violence. The EU report (p. 46) even refers to some of the stations as "real war machines".

Independent-minded journalists had a difficult time during the elections. Many received threats, some were even assassinated. This did not only affect domestic journalists: a reporter of RFI was expelled from the country because of supposed anti-Kabila bias (EU report, 46).

H. Excursus: Election Observers' Assessment of Alleged Irregularities

Technical and logistical difficulties were unavoidable in such a large operation (EISA 2007, 51). At some polling stations election materials, such as election lists, lists of omitted voters and lists of voters to be erased from the lists were not delivered in time. Due to technical problems, an estimated 1.3 million voters' details were lost during the registration phase. Their registration numbers were put on special "omitted lists", so they could be identified anyway. Yet this happened just a few days before Election Day and caused confusion at the polling stations (ICG 2006b, 6). If voters' names had unlawfully been struck from the voters' lists, no means to dispute or complain in a timely manner so as to participate anyway were available.

The observer missions did find a few indicators for possible manipulations, whereas the CEI did not (Carter Center 2006). The special voters' lists raised most suspicion. While the regular voter list was kept at the local polling station, there was an exemption list containing voters who would vote at another polling station than where they were registered. The median number of exemption ballots per polling station was 14, but in about 1,300 stations, over 100 of such ballots were cast, in several cases more than 500. In total, 400,000 votes by exemption ballot were cast.

In some areas, the turnout rate was suspiciously high in a number (3,500+) of polling stations. Turnout rate in those cases was as high as 95 per cent, a clear hint to possible manipulation. In some districts, the voters' lists for the presidential and those for the legislative elections differed by some 9,000 voters, even though the elections were held on the same day at the same polling stations (ICG 2006b, 6).

According to the EISA mission (2007, 47), the possible manipulations during the elections of 30 July could not have substantially affected the outcome. The Carter Center (2006) came to the same conclusion in respect of the 29 October elections, finding that irregularities were limited to some regions only. The EU report shares that opinion: an analysis of the recorded data on possible manipulations shows that the effects of manipulations by both camps would have equalled out. The SADC-PF mission (2006a) was "impressed by the peaceful manner in which the campaign was conducted". The EU report also drew a positive conclusion.

Chapter 4: The Institutions

A. Introduction

The following chapter analyses the state of the government institutions which have played a relevant role in the DRC state building enterprise since the beginning of the transition, to gain a comprehensive understanding of the government's institutional capacity during this period. A full accounting of this development process at all points in time is not always available, principally due to the absence of reliable information. However, available data permits rigorous analysis of the different parts of the bureaucratic puzzle so that a reliable picture of what the whole institutional framework might look like can be envisaged. Specific attention is paid to activities aimed at (re-)building the respective institutions.

The discussion leads with an analysis of the most important institutions - the three branches of the state, the political parties and the security forces. Secondly, there will be an account of the functional capacity of the (general) bureaucracy. Thirdly, the media requires examination, since as the "fourth power" it wields considerable influence on the political discourse. Finally, civil society, which has been an integral part of the ICD and at times stepped in to substitute for missing services of state institutions, will be considered. A subchapter is dedicated to the topic of corruption, as it affects and often undermines the institutions.

In the last years of the Mobutu regime, the DRC resembled a failed state. The central government's reach had been more or less reduced to the capital and the presidential palace in Mobutu's home town of Gbadolite. By 1994, the situation had deteriorated to a point that a senior official of the U.S. Department of State proclaimed: "[T]o say that [Congo-Kinshasa] has a government today would be a gross exaggeration" (Young 2002, 24). What was left of a state after Mobutu was not only wholly undermined by corruption - it was based on corruption. As can be expected, the subsequent wars inflicted further damage on the already fragile institutions. As a consequence of these events, the process of (re-)building state institutions in the DRC for effective governance had to start from a basic level.

B. Indicators of Institutional Health

For a basic assessment of the general situation and the performance of DRC institutions, the analysis is aided by examination of a diverse range of existing indices developed by respected international NGOs and civil society institutes that, in turn, measure a broad range of interrelated factors.

The "Freedom in the World" indicator reported by Freedom House, a U.S.-based NGO which monitors the exercise and protection of civil and political rights throughout the world, is one such indicator. While not directly measuring the strength or functioning of state institutions, as the provision of civil rights and political freedoms is one of the main pillars of any liberal democracy, the Freedom in the World report serves as an important performance indicator. In particular, the indicator measures purely individual freedoms and rights, leaving aside most aspects relating to democracy in the procedural sense. It measures political freedoms on a scale of 1 to 7, the highest (best) score being 1. A country falls in the category "not free" if it garners a score between 5.5 and 7. A not-free country is defined as one where "basic political rights are absent, and basic civil liberties are widely and systematically denied".

In the 2002 "Freedom in the World" report, the DRC scored 6 in the categories of "political freedom" and in "civil liberties". Five years later, in 2007, the DRC received a score of 5 in the category of "political freedom" and 6 in "civil liberties". The conclusion drawn from this index is that both at the start of the transition and one year following the first elections mandated by the new constitution, the DRC did not guarantee the rights and freedoms as a liberal democracy would be expected. While there was a slight improvement in the "political freedom" score, it appears that this amelioration was attributable largely to the holding of the elections, which, notably, had no apparent influence on civil liberties.

In the 2010 report, the DRC was downgraded again to 6 points on both indices. The political system was unable to profit from the promise of the elections. In the eight-year period covered by the "Freedom in the World" index, no lasting progress to liberal democratisation appears to have been achieved.

The findings of Freedom House are corroborated by the "Democracy Index" published by the Economist Intelligence Unit, a research and analytic arm of the journal *The Economist*. This index is comprised of five categories: "electoral process and pluralism", "functioning of government", "political participation", "civil liberties", and "political culture". The categories are themselves an aggregation of 60 sub-indicators. The index was started only in 2007, therefore does not allow for a direct comparison of the pre- and the post-election situation. The scale is from 0 to 10, 10 being the highest.

In the 2007 "Democracy Index", the DRC was ranked 144 of 167 countries compared. This puts the DRC squarely into the worst category, that of "authoritarian regimes". The DRC scored particularly low on the "functioning of government" category - an alarming 0.36 points. This category measures, *inter alia*, whether elected representatives hold real power, whether checks and balances are in place, whether there is undue influence by certain groups, and whether democratically-reached decisions are implemented in practice. The category also assesses voters' confidence in the government. In the "civil liberties" category, the results resemble those of the Freedom House indicator. The DRC fared relatively better in the categories "political participation" and "electoral process and pluralism". Based on the criteria measured for these indicators, the results reflect the presence of an active civil society and popular support for the elections.

Congruent with Freedom House, the DRC regressed in its ranking in the 2008 "Democracy Index", dropping to 154, mainly due to a severe weakening in the "political participation" and "electoral process and pluralism" categories. This could indicate a change in the electorate's attitude toward elections resulting from widespread disappointment with the new system and/or from the government's crackdown on civil society. The score in the "functioning of government" category improved almost by 100 per cent, but the significance is questionable, as the DRC embarked from such a low baseline. Despite this improvement, the DRC was not even on par with Zimbabwe.

Freedom House and the Economist Intelligence Unit seek to measure civil and political rights. Transparency International examines corruption and its influence on government and the citizenry since 1993. To test whether the corrosive practices inherited from the past could be contained during the transition period, Transparency International's "Corruption Perceptions Index" provides reliable answers. The DRC was not included in the Index for many years, not until the transition period. In 2004, it ranked 134 out of 146 countries in the survey published that year. Two years later (in the 2006 survey), the country ranked slightly lower, falling to 156 out of 163 countries. The ranking improved slightly in 2009, when the DRC was placed at 162 out of 180 countries. Despite this marginal improvement, the DRC stayed firmly within the ten per cent of countries with the most crippling corruption.

The "Freedom of the World", "Democracy Index" and "Corruption Perception Index" all reveal a DRC where basic democratic principles associated with liberal constitutionalism are largely absent and the country crippled by entrenched corruption. With regard to only indicators, the future of the DRC looks bleak. In the following subchapters, an analysis exceeding the mere aggregated data of the indicators is provided of each institution in turn.

C. The Condition of State Institutions

C.1 The Executive, Legislative and the Political Parties

Stability of the political system depends on the stability of the core institutions of the state - the executive and the legislative branch.

While the transitional constitution and the present constitution of 2006 envisaged a textbook liberal democratic system, the way they are implemented and the actual practice leave room for concern. The Third Republic, based on the present constitution and born of the elections of 2006, is a semi-presidential system similar to the French model, but features a high degree of decentralisation. The constitution interdicts any change of its core provisions, which include democracy and decentralisation. Overall, it devised an exemplary balance of powers. Presidential elections are held every five years, with the president serving as head of state. The government is comprised of the prime minister, appointed by the president, and the council of ministers. The legislative branch is bicameral comprised of a 108-seat Senate and a 500-member National Assembly. Senators and members of the National Assembly also serve five-year terms.

In his inaugural speech on 6 December 2006, President Joseph Kabila pledged to strengthen institutions and state capacity while respecting the political opposition. He also promised to adhere to the values of good governance, democracy and the respect for human rights, and to fight corruption (ICG 2010, 3). The President's speech was coherent with the mandate of the constitution, yet history suggests a different outcome. After all, keeping institutions weak that might interfere with presidential power had been a political strategy in the DRC for so long it could almost be called a tradition (ICG 2006d, 13f).

The transitional period had ended with a concentration of power in the hands of the presidency and an unstable alliance of more than 30 parties with little common ground within the National Assembly. Large constituencies felt marginalised and disappointed by the outcome. While the transition had followed a detailed plan drawn up by the ICD and the international community, no such plan existed for the aftermath of the elections (ICG 2007b, 7).

Kabila emerged as the clear winner of the transition, while the opposition found itself outmanoeuvred and on the sidelines of political power. From its inception, the transition had been skewed in Kabila's favour. As appointed president of the transitional government, he could always count on the loyalty of at least two of the four vice-presidents, namely the vice-president representing the former government (which Kabila had led) and the vice-president representing the unarmed political opposition). The RCD as the most influential former rebel group and civil society were each represented by one of the two other vice-presidents (ICG 2007b, 2). In addition, Kabila had acquired *de facto* power over key security forces and the

judiciary. He also monopolised foreign policy and the international community was more or less openly on his side. By contrast, the other parties to the ICD and the transitional government did not fare so well. Some lost all power in the elections, and most had never been in a position to pose a serious challenge to the president. The National Assembly had a completely different look after the 2006 elections. Only 45 of the 500 members of the transitional National Assembly were able to retain their seat (ICG 2007a, 2).

Two incidents suggest that there is a limit on the power of the presidency in the DRC, and that there exists potential still for parliamentarians and ministers to assert themselves and exercise some of the powers accorded to them. Reflecting his dominance, Kabila faced serious domestic criticism in two instances only. The first occurred in February 2007, when Angola occupied three villages along the border and laid claim on the area, even though the DRC had administered the region throughout the preceding decades. To the dismay of nationalists, Kabila's government accepted the Angolan claim. It was the first time the government was severely criticised by the media and afflicted by fierce internal fights (ICG 2007b, 9).

The second incident involved allegations of corruption and lack of transparency in a natural resource deal concluded with China in 2007, pursuant to which China was to receive certain mining rights for the extraction of copper and cobalt for a period of 25 years in return for Chinese investment in the DRC's infrastructure (ICG 2010, 7). The contract was concluded by the presidency without consulting parliament. After a Congolese newspaper had published the text of the contract, protests erupted and the opposition condemned the deal as inequitable. A special session was convened in parliament where the president had to justify his actions. Ultimately, the deal had to be renegotiated, also due to pressure from the International Monetary Fund (IMF), which had threatened to freeze further loans.

Due to the power of the presidency, it attracts most of the attention thus it sometimes seems to be forgotten that there is a government as well. Kabila made Antoine Gizenga his prime minister as a reward for his support during the run-off elections. After months of negotiations regarding the assignment of ministerial and other key positions, Gizenga introduced the new government on 5 February 2007. In its final form, the government comprised a total of 60 ministers and deputy ministers. Clearly, this was a gesture to each party within the AMP (ICG 2007b, 8). Yet with so many different voices and interests at the table, the political reform process risked stalling.

The new government did not have a bad start, however. Prime Minister Gizenga presented a "Governance Contract" to parliament in February 2007, which was based on a "Governance Compact" proposed by the EU and the World Bank. It comprised many of the reforms suggested by the donors, including guidelines on building state institutions, while also promoting good governance (ICG 2007b, 24; ICG 2007a, 5).

Gizenga earned a reputation for integrity and competence and personally aimed at good governance. For example, he barred anyone accused of corruption from becoming minister in his government. He even applied this policy to fellow partisans of Kabila, which left him with many enemies in Kabila's camp (Kennes 2008, 138f; ICG 2007b, 8). Despite Gizenga's undeniably good intentions, he proved to be almost incapable to carry out his tasks. This was partly due to his old age (he was an octogenarian) and partly due to his inability to impose his authority in the huge council of ministers (ICG 2010, 6). Hence it did not take long until the prime minister's competences were steadily curtailed. Decisions legally within Gizenga's prerogative were in fact made by the president or officials in his cabinet. The council of ministers was equally sidelined by the president and his cabinet and advisers, who did not adhere to formal procedures of decision-making (ICG 2010, 6). At the same time, the divisions within the government and its sheer size alone risked causing paralysis of the political system (ICG 2007b, 9). For these reasons, many of the provisions and reforms stipulated by the constitution and the Governance Contract remained unimplemented. The president continued to accumulate power and a parallel governance system running exclusively through the presidency emerged (ICG 2010, 6).

Prime Minister Ginzenga resigned in September 2008, not least because of his health condition, but also because of his inability to defend the prerogatives of his government against the presidency. As stipulated by the constitution, Gizenga's resignation also meant dismissal of all ministers. This provision was adhered to. Gizenga was succeeded by his deputy within PALU, Adolphe Muzito, who is considered a technocrat. The reorganisation of the government took place later that year. The new council of ministers comprised a total of 37 ministers (Dept. of State 2010). Relations between president and prime minister remained strained, however (ICG 2010, 6).

In sum, since its inception, the post-transition government has lacked direction and organization as well as adherence to basic democratic principles. Little is known about the policy-making process within the council of ministers or the amount of power the prime minister actually holds over the other ministers, in particular those from other parties (Bertelsmann 2010, 17). To achieve lasting reform, it will be necessary for the government to emancipate itself from the presidency, to function independently and become a better coordinated and more effective actor.

The same can be said with respect to the legislative branch. The AMP has the majority in the National Assembly and the Senate, but the latter is chaired by Léon Kengo Wa Dondo, former prime minister under Mobutu, who is considered to be rather opposition-friendly (Bertelsmann 2010, 7).

A large number of those elected into parliament turned their success at the polls into economic profit by selling their allegiance to the highest bidder. Indeed, running for a political office was often perceived primarily as an investment. The president and the AMP profited the most from this "flexibility" of various parliamentarians. For example, during the gubernatorial elections of January 2007, the AMP was able to secure the governorship of three different provinces, including Kinshasa, even though the UpN had a clear majority in the three provincial assemblies concerned.¹⁰ Voting for a rival party's candidate was not uncommon - the price for such a vote reportedly varied between USD 1,000 and 10,000 (ICG 2007b, 9f). Such practices considerably weaken the political authority and reputation of parliamentarians.

In the area of legislating, the parliament had to deal with a substantial backlog of legislation quickly. The ICG determined that, given the range of provisions of the new constitution, a large number of implementing laws and dozens of statutes would have to be devised and promulgated (ICG 2010, 3). In the absence of parliamentary action, the void has been filled by presidential decree.

Naturally, the political weight of the two chambers of parliament also depends on the strength of the political parties. However, only two of the political parties are considered to be of a significance to actually deserve that name: the PALU and UDPS. Kabila's own party, the PPRD, lacked the organisation and political programme expected of a major party. Though it has improved in this respect, its function has been restricted to serving as an election vehicle for the president (Kennes 2008, 138). Indeed, Vital Kamerhe, the former speaker of the National Assembly and former member of the PPRD, was one of the few politicians to openly work towards establishing parliamentary control over the executive even while a member of the PPRD (ICG 2010, 7). After the China-natural resource contract affair, Kamerhe suffered severe criticism within his own party for failing to arrange an end to the inquiry in the National Assembly (ICG 2010, 8). The situation came to a head when Kamerhe later challenged Kabila's handling of a foreign policy issue, criticising Kabila for his military cooperation with Rwanda against FDLR remnants and demanding more transparency from the presidency. Kamerhe's political career within the party was effectively terminated and a confidant of the President took over Kamerhe's position as speaker of the National Assembly (ICG 2010, 8). The affair was perceived also as a warning to others; observers claim that the National Assembly has since lost much of its independence and any ambition to control government (Freedom House 2010a, 3).

Notwithstanding Kabila's stranglehold on power, the PALU was able to transform its electoral success into positions in the government. Most importantly, it secured the prime ministership for its head, Antoine Gizenga (Kennes 2008, 138f).

¹⁰ Governors are elected by the provincial assemblies.

The UDPS, despite its political standing prior to and during the transition, did not fare as well in the post-transition environment. The party had already become disenchanted with the transition process during the negotiations in the framework of the ICD, which had led to the Sun City and Pretoria Agreements, on account that the vice-presidency representing the unarmed opposition was not awarded to UDPS leader Étienne Tshisekedi, but rather to a Kabila ally. This proved too much for the old party that had been viewed as the great hope for political liberalisation under the Mobutu regime. Indeed, for the UDPS, the decisions of the CNS in the 1990s were the last true expressions of the will of the people (ICG 2006a, 1). The party decided to cease cooperation and withdraw from the ICD and the transition (ICG 2007b, 4). It instructed its supporters not to register with the CEI and boycott both the referendum and the elections of 2006 (EISA 2007, 5-6), denouncing irregularities and fraud in the electoral process. The party's decision to boycott the electoral process proved to be a major strategic error that resulted in a tremendous loss of political significance after the elections (Kennes 2008, 138-139). Before the boycott, the UDPS had had a realistic chance of becoming opposition leader.

Instead, the MLC, together with its allies, in particular the UpN, emerged as the strongest political opposition. However, it suffered from the forced exile and arrest of its leader, Jean-Pierre Bemba. The party was also stymied by President Kabila's anti-corruption campaign, which Kabila had introduced in his inaugural speech and launched soon thereafter. The campaign targeted many in, if not exclusively members of, the opposition. The opposition and some observers denounced the campaign as one-sided and in fact little concerned about the corrupt practices it allegedly targeted (ICG 2010, 10). At times, the government cracked down on the opposition in ways that can be described as political persecution. Since the government was largely unpopular in Kinshasa and the western provinces, it used repression to bring the region to heel (HRW 2008, 4f). People from Equateur province, the home of Bemba, were especially targeted. Hundreds were arrested without due process, some tortured while being detained at a detention centre, and several secretly executed by the Presidential Guard (HRW 2008, 18f). MONUC investigators discovered dozens of bodies in the Congo River. Denying any executions, the arrests were justified by claiming the imprisoned persons had been planning a coup.

With Kabila's crackdown and the future of the MLC hanging in the balance after Bemba's exile, key figures of the party defected to Kabila's camp (ICG 2007b, 4). Without Bemba, the MLC was rudderless, unable to agree on strategy or benefit from its relative strength in the Senate. Thus, the MLC could not stop the presidency's incursion into the parliament's turf (ICG 2010, 7).

Bemba has been in exile since 2007, currently facing criminal charges at the International Criminal Court (ICC) in The Hague where he was taken in July 2008. He has been indicted for war crimes and crimes against humanity committed by militiamen under his command in the

Central African Republic in 2002. The main trial commenced in November 2010 (ICC Case ICC-01/05 - 01/08). According to Human Rights Watch (2008), the timing of his arrest might have been politically motivated, as Bemba was reportedly about to return to the DRC to take up the position of "Coordinator of the Opposition", a newly created position in the rank of a minister and integrated into the council of ministers. The international community has always had its reservations about Bemba. When he left the country, few wanted him to return: "Kabila is much calmer now that Bemba is gone and the country is better off", one diplomat claimed (HRW 2008, 46f). At the same time, however, the international community was concerned about Kabila not leaving enough political space to the opposition.

Formally, Bemba is still leader of his party in the DRC (Freedom House 2010b). The MLC even made him its candidate for the presidential elections of November 2011. In August 2011, Bemba filed an application with the ICC for interim release to be able to travel to the DRC and register as a presidential candidate, but his application was dismissed (ICC Judgement of 9 September 2011), in effect barring him from standing in the elections.

Another opposition party to be noted is the RCD, the party that emanated of the former armed group of the same name. Seen as a proxy for the loathed Rwandans, the RCD was not a likely to come out as a winner of the transition. Indeed, the RCD was thoroughly marginalised in the elections of 2006 (ICG 2007b, 3). Of the party's original 94 seats in the transitional National Assembly, it was able to retain a mere 18. Only a single seat was given to a Tutsi, and just two in the Senate (Kennes 2008, 132). Several international actors had advocated for an electoral law that would reserve a portion of mandates for the rwandophone Tutsi minority in the east precisely for that reason. A stronger representation of that group would have undermined Rwanda's recurrent argument for interventions in the DRC, namely the need to end discrimination suffered by its ethnic kin (Kennes 2008, 131). In the end, the view prevailed that the new constitution should guarantee equality of all citizens regardless of ethnicity and therefore not favour any particular (minority) group (Freedom House 2010a, 6). As with the MLC, many RCD cadres were co-opted into Kabila's camp. Observers feared the RCD would return to arms. Even though this did not happen on a large scale, still several thousand RCD militiamen, those who had refused to integrate into the FARDC, started an insurgency in the eastern DRC led by former high-ranking officers of the RCD, including the later well-known Laurent Nkunda. As predicted, their campaign was based on real or perceived ethnically motivated discrimination against the minority.

The political opposition in the DRC, as the above attests, is in a dire state. Harassment of party activists and arbitrary arrests continue (HRW 2008). Criticism of the government can be enough to be arrested: in March 2009, the head of a small opposition party was arrested after he had initiated a demonstration against the presence of foreign troops in the DRC. In addition to

arrests, in a few cases opposition politicians were killed in what appeared to be politically motivated assassinations.

C.2 Devolution – an Option for the DRC?

Unlike the transitional constitution, the new constitution envisaged a less centralised state with increased competences for the provinces. While not going so far as to create a truly federal system, the constitution granted far-reaching regional autonomy (ICG 2010, 4). This was intended to provide a further separation of powers. The provinces were to be split up, creating 26 new provinces carved out of the territory of the existing eleven provinces. Interestingly, the planned new provinces mirrored almost exactly the order during the colonial administration, which had been abolished by Mobutu.

The new regional structure of the DRC was supposed to be established at the latest three years after the new Senate took office. This deadline had passed in May 2010 (ICG 2010, 4); at the time of this writing, implementation was still far-off. Even the boundaries between the new provinces have yet to be fixed. So, six years after the new constitution's coming into force, little has changed in practice. Centralisation remains pronounced. The budget allocation reveals the priorities: according to the ICG (2006d, 1), not even two per cent of the national budget was spent outside the capital in 2005. This situation is far from constitutional.

The decentralisation process came to a complete halt following the government reorganisation in 2008. Since the provinces do not collect any significant revenues, the provision in the new constitution providing that provinces were to keep a share of 40 per cent of their collected revenues has no scope of application. Only two provinces, Katanga and Bas-Congo, are able to collect revenues of any significance by imposing duties on cross-border trade. The others are largely unable to even draw up a budget due a lack in resources. Accordingly, the provinces do not pass on fiscal resources to the territorial entities of the lower level, as the constitution would require them to.

In the meantime, the national government in Kinshasa allocates grants to the provinces as in the past. The provinces received only between 6.5 (in 2007) and 10.5 per cent (in 2008) of the total revenues (ICG 2010, 13). In fact, they are completely dependent. The result is that the provinces are in no position to impose effective checks and balances on the central government. Kabila drew the consequences when he announced in December 2009 that the new provinces were not viable political entities and that the constitution ought to be changed (ICG 2010, 14).

Considering these fundamental difficulties, it is no wonder that delays have marred the first elections at the local level. By law, they would have had to take place before the second

general elections in November 2011 (ICG 2010, 4). Originally planned for 2007, the elections have been constantly postponed (ICG 2010, 16), even though the CEI's mandate had been extended specifically for the purpose of organising the local elections and MONUC was mandated to help with their organisation. Combining the local elections with the general elections of November of 2011 was deemed technically impossible. The continued delays could well be a tactic to factually call off the local elections altogether.

Kabila announced in December 2009 that a "fresh look" had to be taken on the constitution, further details were later revealed by his ministers. The proposals included strengthening the presidency by extending the president's term of office and abolishing his term limit. Provisions regarding the share of revenue to be kept by the provinces were to be erased from the constitution (ICG 2010, 18f). Each of these recommendations would result in an open violation of the constitution, which prohibits alterations to the core provisions of the Third Republic.

C.3 Security Sector

The performance of DRC security forces has been weak with regard to the main parameters on which their effectiveness is measured: protection of the national territory against external and internal threats and the respect of the rule of law and citizens' rights (ICG 2006c, 2).

Since colonial rule the basic conditions of the security forces have not changed much. The army appears to be everywhere but in fact is severely overstretched. Its main responsibility was to guard against external threats, but even more so it was to quell internal dissent and suppress unrest. The police force is notoriously unreliable. By the time the ICD convened, the security forces were still organised along the lines Mobutu had laid out.

This means an army consisting of a more or less reliable elite force, which is provided with good equipment and training and a neglected bulk force that has to live in very poor conditions and is routinely left to prey on the civilian population for supplies. The police has habitually been unable to perform its duties because of neglect and political interference. It is ill-disciplined, poorly trained, ill-equipped and highly fragmented and its reach throughout the DRC's territory is very limited. Also, it is considered to be one of the worst civil rights abusers. Outside Kinshasa, the police is active only in the major regional cities (ICG 2006c, 2f, 5).

In the negotiations leading to the 2002 Pretoria Agreement, security sector reform did not receive the amount of attention it would have deserved. At least some unspecific commitments to reform, including the build-up of a new national army (the FARDC), were made. The former adversaries and parties to the agreement did not trust each other and would have preferred to keep their armed groups intact and under their respective control, rather than integrating

them into a common (national) army under the control of the transitional government. Nevertheless, they agreed to do exactly that in the Pretoria Agreement (ICG 2006c, 3).

Even though Kabila is considered to be in control of the major part of the new FARDC, he does not entirely trust its loyalty and generally seems to have little faith in it. Soon after taking office, Kabila created his own "military office" for managing army-related issues, thereby building a parallel command structure, undermining the "official" command structure that runs up to the competent minister (ICG 2006c, 3). As a former military commander of the government during the Second Congo War, he had extensive experience in the matter.

Security sector reform was a focus of the Governance Contract signed in 2007 and received assistance from specialised missions of the UN (MONUC and attached "UNPOL") and the EU ("EUSEC" and "EUPOL") as well as bilateral assistance (ICG 2010, 14f). EUPOL, the EU police mission to Kinshasa, was created in December 2004 (ICG 2006c, 8). Its mandate was to advise, mentor and monitor a reliable elite police unit. The mission was dispatched in May 2005. "CIVPOL" is an international police division that is attached to MONUC. It consists of over a thousand police. Its mandate is to assist the national police of the DRC, mostly by providing training and advise (Badoreck/Müller 2004).

In the following, the police and the armed forces are presented in more detail:

The Police

The agreements reached within the ICD did not include provisions on the police force and no plan was made to integrate the different police units into a single force. While the transitional government issued decrees to eliminate some still-existing Mobutu-era police units, the police is still divided into an elite and a bulk force. The bulk police force is managed decentralised by the provinces, while the elite units are intended to operate on the national level (e.g., as Rapid Intervention Police). Policemen of the main force receive sometimes as little as six days of training, while the elite force undergoes at least three to six months of training. Although training is rudimentary at best, it still progresses only slowly (ICG 2006c, 6).

Police reform was identified as an important issue by some of the donors who were engaged in security sector reconstruction. However, a coherent strategy was never devised and so the programmes of individual donors have been little coordinated. Also, most of the efforts are centred on Kinshasa. Training and re-training of the bulk police force is carried out decentralised in the provinces, where the respective police are stationed. It receives far less attention in the training programmes managed by donors.

Different donors have different priorities in their training programmes. Angolan-trained police, for example, have been seen acting ruthlessly when dispersing crowds during street protests in

Kinshasa in 2005 (ICG 2006c, 7). Other main donors engaged in training of police are MONUC, the EU and France.

The police outside of Kinshasa is still in such bad shape that in case of civil unrest the army frequently has to intervene (ICG 2010, 16). The practice of concentrating the police in the larger cities and towns naturally resulted in a neglected countryside. When unrest breaks out in the provinces outside major cities, the army routinely has to intervene to restore order. Yet the army is not trained in dealing with civilian protesters, so its interventions often cause unnecessary bloodshed (ICG 2006c, 11).

Police reform is an ongoing process and much still needs to be done. For example, police infrastructure is in dire need of attention. In many police stations, even pen and paper are in short supply. Many do not even have a jail, or these are in a decrepit state (ICG 2006c, 5).

The Armed Forces

In the past, the national armed forces (i.e., the FAZ and the FAC) have frequently failed to stop and repel invasions originating from neighbouring countries unless they received outside support. Its role has traditionally been more to silence internal dissent than wage international wars. Among the civilians in the DRC, the army is seen rather as a cause of insecurity than of security (ICG 2006c, 12).

During the transition, Joseph Kabila was allowed to keep control over the Presidential Guard, the elite force within the army, consisting of 12,000 to 15,000 troops. It is ethnically rather homogenous, especially the higher ranks: they originate mostly from Katanga, the home province of L.-D. Kabila (ICG 2006c, 3). Whatever the official hierarchy, Joseph Kabila has been controlling the important logistics and intelligence divisions of the army through his military office. By contrast, the transitional vice-presidents and former leaders of armed groups had to manage with much smaller contingents under their direct control, while the rest of their groups were incorporated into the FARDC (ICG 2006c, 4).

Nobody knew the exact number of active combatants in the DRC at the end of the fighting in 2003, but most estimates numbered them at about 220,000-240,000. The new army's target size, however, was only about half that number (ICG 2010b, 16). A massive demobilisation and reintegration of former combatants had to be organized. In a first step, foreign fighters were to be separated and sent home through the process of DDRRR. Congolese combatants underwent the DDR process.

The integration process was geared towards the destruction of former command chains, by dispersing the members of former units. This way, it was hoped, reconstitution of the former

fighting forces would be impossible. This process, termed "*brassage*"¹¹, started by rallying former combatants at regroupment centres across the country. At the centres, they were disarmed and sent on to orientation centres, also situated at different locations. There, every able former combatant was given the choice to either demobilise or enlist in the FARDC. If they chose to remain soldiers, they were transferred to one of several integration centres to undergo a three-months training course. Upon conclusion of training, the soldiers of each integration centre formed one of the new, integrated brigades of the FARDC. Thereupon, each brigade was to be deployed in a different part of the country than where it had received training. The underlying intention was that the constant change of location would break-up any former bonds each individual combatant had. Every party that was part of the transitional government sent its combatants to the different centres according to agreed quotas.

To make sure enough former combatants chose to demobilise, each was offered financial incentives and training in a civilian profession (ICG 2006c, 22). The demobilisation package was so attractive that in some centres up to 80 per cent of ex-combatants chose to take it. In practice though, the starting help was not quite high enough to really manage a new beginning (Badoreck/Müller 2004). This way, a large part of the money earmarked for building the FARDC was spent on demobilisation (ICG 2006c, 22). There was a certain unwillingness of donors to engage in the building up of a force that was criticised for human rights' abuses. Yet all this left the FARDC with fewer resources.

The *brassage* system was a success overall, though at times, integration did not go smoothly. The leadership of the former factions did not always fully cooperate with the reform plans. By the end of 2005, the RCD still controlled two brigades directly, though on paper, they had already been integrated. Even battles between different units of the FARDC did occur. Also, when Kabila visited a place where FARDC units were stationed, the Presidential Guard would sometimes disarm the local FARDC troops (ICG 2006c, 15). Such feuds and mistrust show the FARDC was not yet fully reliable.

It must be borne in mind that integration of such diverse armed groups in such a large territory is an extremely difficult task. In this light, the process of integration was very successful, in particular as it was able to effectively cut most of the old command structures. The major part of the combatants of the MLC, RCD and Mai-Mai were successfully integrated or demobilized. Only parts of armed groups, primarily of the RCD-G, resisted integration and had the capacity to fight the government in the eastern provinces (ICG 2007b, 13).

However, by 2004, the FARDC still proved not strong enough to defeat remaining armed groups on the territory of the DRC. These groups were the FDLR, Nkunda's group, and the Lord's

¹¹ Literally: "mixing", "blending".

Resistance Army (LRA). Neither of these groups was a party to the ICD, hence they were termed the "negative forces" in diplomatic language. During joint operations with MONUC in South Kivu, the FARDC fared poorly against the armed groups and did not refrain from committing human rights' abuses against the local population.¹² Since the FARDC alone were unable to defeat Laurent Nkunda's Tutsi insurgents or the FDLR, Kabila asked Rwanda for help. The former enemies came to an agreement, which provided for the arrest of Nkunda and the integration of his armed group into the FARDC. Both parties also agreed to launch a coordinated military campaign against the remnants of the FDLR, which still posed a threat (ICG 2010, 11).

MONUC and other donors played a vital part in the reform of the security services. After the elections, MONUC's mandate was increasingly focused on DDRRR/DDR (Badoreck/Müller 2004). EUSEC was dispatched in June 2005 upon official request by the transitional government. A small team of about ten experts were to advise, assist and support the authorities in matters related to army integration and good governance (ICG 2006c, 19-22). Angola sent about 400 military instructors as part of a bilateral agreement. Further important contributors are Belgium, France, the United Kingdom, South Africa and the U.S. (ICG 2006c, 21f). An important financial contributor is the World Bank through a trust fund. However, the strict World Bank rules hampered progress. Not only were the national authorities slow to adapt to the World Bank rules when applying for financial aid, but the same rules also blocked the World Bank itself because they did not allow the bank to finance projects related to the armed forces.

Competition between different donors and a lack of political will on the part of the former adversaries caused repeated delays, threatening the integration process as a whole (ICG 2006c, 22). The delays can partly be explained by disagreements between the government and donors. The Ministry of Defence was preoccupied with acquisition of materiel and training some battalions to a level where they could be sent into battle against the remaining armed groups within the DRC. It paid too little attention to the comprehensive makeover of the army, in particular its downsizing. In addition, its plans for army reform up to the year 2025 reveal a lack of realism regarding its budget.

Despite the FARDC's shortcomings, a simple calculation proves the necessity for further investments into its build-up. EUSEC estimated that deploying a further twelve FARDC brigades to the east with better logistical support and equipment plus a six-fold pay rise for every soldier would account for as much as four days of MONUC's operating costs (ICG 2010b, 16; ICG 2006c, 26). Still, the poor performance of the FARDC requires MONUC to stay in the country.

¹² By the time, MONUC had started to actively enforce the peace.

C.5 Justice System (The Courts and Legal System)

Of the three branches of the state, the judiciary has been neglected the most. It continues to be subjected to manipulation and corruption, and it is unable to ensure the respect of even the most basic civil and constitutional rights by the executive (Freedom House 2002).

Apart from very poor funding, the main problem lies in political meddling. The courts are so unreliable that outside the capital and major cities citizens often resort to vigilante justice (Freedom House 2010a, 8). Not all failings can be blamed on the courts though: their judgements remain unenforced in about 70 per cent of cases.

The infrastructure of the judicial institutions has been in a state of decay. At the end of the transitional period, only 50 of the 180 courts on paper actually existed. Courts and prisons are in disrepair and - with increasing distance from the capital - in worse shape (Dahrendorf 2008, 83). In 2008, a total of only 2,000 judges served in the whole of the DRC. In the same year, a mere 1.27 per cent of the budget was allocated to the justice system (ICG 2010, 5). Even this tiny number constituted a considerable increase from the number in 2007, when it was a mere 0.75 per cent (Freedom House 2010a, 7). In 2005, the Ministry of Justice had to "survive" on a budget of only USD 2 million (ICG 2006d, 15).

Military Courts have to operate under the same constraints. At least some of the widespread ill-discipline within the armed forces must be attributed to the improbability of prosecution. Even gross abuses of civil rights can be expected to go unpunished. No serious criminal case was pending at the High Military Court between 2003 (the year of inauguration of the Court) and 2006. At the time of the elections, the Court had no legal library and not even a courtroom (there is no information if this has changed since).

Tracking cases often poses a problem, archives are convoluted. Further difficulties arise from the many changes in the legislator and a sequence of several constitutions: a large body of legislation and case-law that is simply obsolete or inapplicable. The result is a general non-application of the law and long-time detentions (Dahrendorf 2008, 83). A nation-wide training programme for judges is direly needed to increase effectiveness.

Apart from these more technical difficulties, the judiciary never managed to free itself from political interventions. Mobutu had reserved for himself the right to name and dismiss judges (ICG 2006d, 15). The constitution of 2006 stipulates the creation of a "High Council of the Judiciary", made up of judges, for appointing and dismissing judges. The Council was set up in August of 2008 (Freedom House 2010a, 7). However, a year later, it was far from operational. Even though the independence of the judiciary is guaranteed by the constitution and the High Council of the Judiciary is supposed to preside over personnel matters, judges are in practice

still named by the Ministry of Justice. Even the High Council's president can be dismissed by the president (ICG 2006d, 15f).

The judges of the Supreme Court for instance were hand-picked and appointed by Joseph Kabila. Consequently, observers agree he is in control of the Court (ICG 2006d, 16). Several irregularities point to this fact:

In 2005, the transitional parliament passed an amnesty law (ICG 2006d, 14). The law would have applied to the assassins of L.-D. Kabila, so Joseph Kabila filed a case at the Supreme Court. The Court ruled that in the case of regicide, the amnesty did not apply, even though the amnesty law itself was silent on the matter.

In another case decided in February 2006, the Supreme Court held that during the transitional phase parliamentarians abandoning their parties could be replaced by their former party, even though this finding evidently violated the transitional constitution (ICG 2006d, 14). The judgement made a huge difference, because no less than 130 deputies and 40 senators actually had changed their party allegiance. Allegedly, the Court had succumbed to political pressure.

In a further decision the following year, the Supreme Court overturned a ruling of the Court of Appeals of Bas-Congo province that ordered the gubernatorial elections to be rerun. The Court of Appeals had found that the elections, which made the AMP candidate governor, were invalid due to corruption and irregularities. A rerun would almost certainly have helped the candidate of the UpN.

The president also interfered more directly: in one instance, he summarily dismissed hundreds of judges or forced them into early retirement on charges of corruption, but without adhering to the proper procedures (ICG 2010, 9). Thereupon, he nominated their replacements. No evidence about the alleged corruption was ever produced. In July 2009, the president had another 165 judges and prosecutors dismissed for alleged abuse of office (Freedom House 2010). These episodes rather look like a purge and installation of favourable judges. The High Council of the Judiciary, the institutions actually responsible by law for nominations and dismissals of judges, was not even consulted. It is little surprising that under these circumstances, investigations into corruption scandals by the judiciary have never revealed any high-level involvement (ICG 2010, 9).

Judges know they cannot rely on their supposed independence. A senior military judge who acquitted presidential candidate Marie-Thérèse Nlandu from charges of plotting a coup d'état, was dismissed on the ground that he had rendered an "erroneous judgement". When the public prosecutor appealed the decision, Nlandu fled the country (HRW 2008, 22f).

The new constitution of 2006 does not include many provisions on the judiciary. It did provide for the replacement of the old Supreme Court by three new high courts, but so far, only one of these has been established - at least theoretically. The other two are still at a planning stage (ICG 2006d, 15f).

As with the other institutions, donors play a role in the efforts to re-establish a functioning judiciary. It has already been mentioned that important pieces of legislation, including the constitution, were drawn up with donor support. MONUC has a "Rule of Law Unit" that focuses on advising the government on several legal issues, including drafting key legislation, creation of rule of law institutions and programmes in capacity building for domestic personnel as well as advising on appropriate justice mechanisms. Another donor focus is on improving detention conditions for prisoners (Badoreck/Müller 2004; Dahrendorf 2008, 84f). MONUC even employed international experts for inspection of prisons. They achieved the release of a number of prisoners who had been kept without charges (Dahrendorf 2008, 83). NGOs such as Réseau Citoyen Network (Justice et Démocratie), Avocats Sans Frontières and Prison Fellowship International are also engaged in this sector. Their work undoubtedly has positive effects, but it cannot substitute for the lack of independence the judiciary is burdened with. Only independent and well-trained judges have a chance to stop violations of civil and political rights. But that is not enough: to have any effect at all, their judgements must also be enforced.

C.6 The Bureaucracy

Only limited resources were available on the state and performance of the general bureaucracy. An inquiry into its workings was made by Trefon (2008) but little information was available on the further developments since then. Nevertheless, the accounts that are available reveal that huge improvements in efficiency and effectiveness have to be made.

"The State is moribund, but not dead", thus is the assessment of the administration by a Congolese citizen (Trefon 2008, 145). The state is in a crisis characterised by the loss of legitimacy and its inability to absorb, mobilise or manage the state's resources (Trefon 2008, 146). Under these circumstances, it is almost surprising that the bureaucracy stayed intact to the degree it did (Trefon 2008, 147).

The state is not effective in collecting taxes and other revenues: in 2005, revenues accounted for only ten per cent of the national budget (ICG 2006d, 1). Inevitably, the resulting lack of resources leads to failure to provide services to the citizens. Therefore, IOs, NGOs, private businesses and, most importantly, families and clans substitute for the state in this respect. Welfare, public safety, even waste disposal is organised by a network of NGOs (Bertelsmann 2003, 7). But the NGOs are not universally available and they have resources to service a

limited number of locations only. Nevertheless, as noted, the bureaucracy is not entirely "dead".

Even before the war, citizens and civil servants had worked out a *modus vivendi* - which is based on constant negotiation. In the years of Mobutu's regime, everybody had an idea about what had to be done to obtain a certain state service. The system was corrupt but there was a certain amount of predictability; prices and waiting times for services were known. The change from Mobutu to L.-D. Kabila had no permanent effects on that system. Most of the civil servants of the lower echelons were able to retain their positions (Trefon 2008, 146-147).

Constant negotiation means a wide variety of arrangements can be made: a taxi driver, instead of carrying the required papers, simply purchased a "proof of the loss of documents", which was in fact a fantasy document (Trefon 2008, 160). According to Trefon (2008, 156), execution of administrative tasks depends on the daily condition, availability, needs and expectations of the respective civil servant. Civil servants might choose to follow a formal, an informal or a mixed approach. For example, whether a directive received from a superior is fully, partly or not executed at all is dependent on the content of that directive. To estimate which result is more likely, the interests of individual civil servants charged with implementing the directive cannot be disregarded. The position of civil servants can be understood as a sort of private business with certain advantages added through authority and status. Despite the corruption, popular belief into the authority and value of the symbols of the state did not entirely collapse (Trefon 2008, 149).

Since pay according to the official pay grade is low (actual need is ten times higher than the salary paid), it is not surprising that the administration operates in the way described. Civil servants cannot take it for granted to be supplied from official sources. Even basic equipment for the discharge of duties can be in short supply. Therefore, most civil servants need to have a second occupation to make a living or improvise, which often means petty corruption. School teachers, for example, habitually make up for their low official salary by collecting a premium from the parents. Consequently, services are primarily rendered to the highest bidder, alternatively to relatives or friends, or simply to whoever is the better negotiator (Trefon 2008, 157). The complete deterioration of the civil servants' reputation is a consequence of these practices. In a World Bank survey asking what people would do to the bureaucracy if it were a person, many answered that they would "kill it" (Trefon 2008, 150).

Formal hierarchies are often hollow constructs. By law, the police, the military and the different secret services respond to the Ministry of Defence. In reality, they are controlled by the presidency. The same is true for the agencies tasked with the collection of taxes, tariffs and international aid. The civil servants in charge of these agencies are part of a clientelistic network that runs up to the highest echelons of the state.

Officially, civil servants are employed following a transparent selection process depending on merit. In fact, it is a secretive process and its criteria are obscure. Information about public sector jobs is based on hearsay, friends, ethnic circles or clientelistic networks. There are no requirements regarding professional education and careers do not follow a fixed path. Integrity and scruples can even endanger a career: e.g., if kickbacks, which many superiors expect, are not paid (Trefon 2008, 158). These problems have been identified: initiatives aimed at employing civil servants according to their competence and to pay them appropriately were set (Trefon 2008, 151).

After all, there is a range of services that only the bureaucracy can and sometimes even does provide, for example electricity and water. The bureaucracy is also important to the international organisations. Civil servants can facilitate their activities but also have the power to bar or seriously hinder them. The public administration is also a main beneficiary of national ownership programmes of NGOs and IOs (Trefon 2008, 149).

The problem with administrative reorganisation and good governance programmes run by donors so far has been their approach of treating the problems as technical rather than political in nature (Trefon 2008, 152). This means that donors may teach about the best practices in combating corruption - but their influence stops when the interests of the higher echelons of the state are touched. This is not to say that technical assistance was ineffective - there is proof that targeted programmes can change the way things are done, sometimes spectacularly: while the DRC has an Office of Customs and Excises that collects up to a third of annual revenue, the UN estimated that between 60 and 80 per cent of payable custom duties were not collected at all (ICG 2006d, 5f). However, when the World Bank helped reforming the customs office at the ocean port of Matadi, revenues increased by 280 per cent within three years. This example illustrates the extent of the problems that have to be overcome.

Donors' interest in rebuilding the bureaucracy seems to have been rather low at the beginning (Kaplan 2007, p. 304). As evidence to this, Kaplan points out that programmes addressing environmental protection, empowering NGOs and political parties received comparatively far higher funding. For example, he calculates that the World Bank allocated just about USD 15 million to "institutional strengthening" from a budget of roughly USD 1.4 billion. Bilateral donors spent about USD 10.5 million for improving state institutions in recent years, while USD 170 million were spent on (mostly foreign) NGOs and civil society projects (Kaplan 2007, 305). While the exact numbers are open to debate, the tendency is clear: IOs and NGOs have to a large extent taken over the role of the bureaucracy, causing continued dependency in the foreseeable future.

C.7 Civil Society and Media

While there might be objections about the inclusion of civil society in a chapter dedicated to state institutions, it must be realized that civil society operates as a sort of "unofficial" institution that fills the void of otherwise unavailable services, which should be but are not provided by the state. The work of the media has already been discussed in chapter 3.G above, but there the focus has been on the election campaigns. This chapter has a few additions of a more general nature.

The transition undoubtedly triggered a renewal of civil society. Thousands of local and international NGOs started to take responsibilities into their own hands, providing basic services (Freedom House 2010a, 3). Thereby, they worked side-by-side with religious institutions, which traditionally have a major influence on society in the DRC and provide health, educational and social services.

To name but one example, the CEI received an enormous amount of support from civil society groups that provided competent and dedicated personnel. Even the directorate of the CEI was given to a distinguished member of the DRC's civil society. The success of the CEI in registering voters was in fact the achievement of these groups (Kennes 2008, 134). The CEI operated fully independent from the public administration; it had a completely parallel structure (Kennes 2008, 142). Apparently, this held political meddling at arm's length.

Even before the transition, civil society has been well established in the DRC. It considerably extended its activity during the CNS in 1991-92. According to Kennes (2008, 128), the main driving force behind democratisation efforts during Mobutu's presidency was civil society. Since then, its importance has been increasing. There are about 5,000 registered NGOs today, ten times as many as in the 1990s. While they often have a narrow focus and membership is often based on ethnicity, the democratisation process is all but unthinkable without them (Bertelsmann 2010, 9).

Many members of civil society entered the world of professional politics as soon as the elections enabled this step. Many joined one of the major political groups, a huge loss in terms of much-needed independent oversight. Communication between political parties and civil society groups is far from perfect and input by civil society groups is often disregarded (Bertelsmann 2010, 19). Even interest groups that in some countries hold considerable sway, such as the employers' association, lack direct links to political parties (Bertelsmann 2010, 9).

Certainly, the border between civil society and political activity is blurred. A civil society movement can quickly transform into a political force. In Bas-Congo - a provinces in the western DRC that overwhelmingly supported Bemba and which after the elections increasingly

became target of government harassment - the Bunda Dia Kongo (BDK), a religious group that was starting to play a political role by its promotion of more regional autonomy and its affiliation to the MLC, was crushed by security forces (Freedom House 2010a, 3; HRW 2008). The group had demonstrated against an obviously rigged election, which handed the position of provincial governor to the AMP candidate (despite a clear majority for the UpN).. Between June 2006 and March 2008, when the group was finally banned, several hundred followers had been killed by army and police in the course of demonstrations or police raids. There was even a pre-emptive raid against the BDK that MONUC observers considered to be an attempt to crush the movement. On the other hand, BDK activists had even forcibly taken over part of the local administration (ICG 2010, 10). Overall, the security forces showed little moderation. A MONUC investigation later concluded the source of the bloodshed lay rather in ruthless orders than in lack of training. Yet MONUC did not protest too loudly: publication of reports by MONUC investigators were delayed as "too sensitive" for several months not to risk negotiations with Kabila about the post-elections role of MONUC (HRW 2008, 48). The Congolese authorities never carried out a serious investigation into the conduct of the security forces in their actions against the BDK (HRW 2008). This episode leads to the conclusion that civil society activism is tolerated only to the extent as it does not challenge elite interests.

Just as civil society, the media has been an important actor in providing transparency to an often opaque political system. When standing up to elite interests, the media has also become target of countermeasures by the government. Also, it has its share of direct links to politicians and political parties. Though a functional media does not lie in the centre of state building theory, in fact it reveals a lot about the political culture and system.

Even long into the transition, after the elections, public criticism of the president or the government in the media is strongly discouraged. Although freedom of speech is guaranteed by the constitution, the actual situation on the ground can be very different. Intelligence services under the command of the president are implicated in measures aimed at silencing dissent, including in the media (ICG 2010, 11f). The pressure resulted in a media that engages in self-censorship (ICG 2010, 12). Critical journalists are harassed, sometimes threatened and attacked, sometimes even killed. Most of these attacks were carried out with impunity.

Not only unruly individuals can become targets: the government closed 40 radio and television stations in 2007, citing illegitimate licences (Freedom House 2010). The repressive policy continued in the following years, with decreasing restraint. In 2009, the well-known French public radio station Radio France Internationale (RFI) was banned from the DRC.

This is not to entirely disregard the fact that many media outlets played an infamous role during the election campaigns of 2006 (see chapter 3.G), when calls to violence were aired. This leads to the next problem - lack of independence and professionalism. Based on the

experience of the Fujimori regime in Peru, Collier (2008, 147-49) identifies the media as possibly the most important instrument of scrutiny over power. The corrupt practices of the Fujimori regime were meticulously recorded. Collier's studies indicate that television stations received ten to a hundred times the amount in bribes as did parliamentarians, judges and other functionaries. It is to be hoped that the voices of civil society and the media highlighting and condemning high-level corruption cannot be silenced altogether.

D. Excursus: Institutions, Good Governance and Corruption

Good governance is not a phrase that has been associated much with the government of the DRC over the last decades. The kleptocracy of Mobutu was not only tolerated as a necessary evil by the Western Bloc, but even actively promoted (Nuscheler 2005, 409f). Corruption was practically raised to the level of an "institution". The consequences are still eminent; it is a main factor in the failing of state institutions (Prunier 2009, 318), draining the state's resources to an exorbitant level to this day. Far from the petty corruption of everyday life, the corruption played out at higher levels threatens to undermine entire institutions.

Corruption was thriving also in the time of the government of the transition. Senior positions in administration and state enterprises were divided up between the parties to the Pretoria Agreement. State funds were embezzled on a large scale, in some cases they were later used for financing election campaigns (ICG 2006d, i). The more than questionable anti-corruption campaign launched by President Kabila after the elections certainly was not sufficient to contain the scourge (ICG 2007a, 6). No blame can be put on the legal framework: an anticorruption law was enacted in 2005, which is considered adequate (Freedom House 2010a, 9). The problems lie with implementation.

It is not that the ICD had not identified corruption as a major evil. Indeed, the Pretoria Agreement and the transitional constitution provided for the establishment of specialised agencies for combating corruption. The "Ethics and Anti-Corruption Commission" was created in 2003, but remained largely ineffective. It was quickly dropped: the new constitution did not refer to the Commission (Freedom House 2010a, 9). The "Committee on Ethics and the Fight Against Corruption", a body provided for in the Pretoria Agreement, was staffed only 14 months into the transition and had to operate on a paltry monthly budget of USD 2,400 (ICG 2006d, 17). It had not completed any investigation when it was itself charged with corruption. Donors thereupon stopped cooperation with the Committee and soon after, it was disbanded. Only the Court of Audit displayed discernible and relevant activities. In 2005, the Court dutifully reported excessive overspending in the budget controlled by the president and the vice-presidents of the National Assembly. However, it has no power to audit the spending of the President of the Republic. Apparently, budget allocations were routinely under- or overspent.

The lack of political will to fight corruption is tied with the general weakness even of critical state institutions, creating ample opportunities for corrupt practices. In 2004, the finance ministry had little idea about the accounts of enterprises controlled by the state (ICG 2006d, 4). Official accounts were never submitted. Between 2005 and 2006, an estimated quarter of the national budget was not properly accounted for and according to estimates an enormous 60 to 80 per cent of customs revenues were embezzled (Freedom House 2007). Similarly, an IMF and World Bank inquiry into the budget in 2004 disclosed the DRC fulfilled only three out of sixteen criteria for good governance (ICG 2006d, 4f).

The higher echelons of the state have - with few exceptions - successfully shielded themselves from inquiries into their accounting. A special provision in the constitution providing for the mandatory declaration of assets for the president and the members of the government has never been observed (Bertelsmann 2010, 18). Civil society has a hard time trying to make up for the missing supervision: NGOs, unions and whistleblowers risk harassment or even detention when touching on powerful interests (Freedom House 2010).

The international community's approach to fighting corruption seemed to favour technical help and expertise rather than political involvement. Donors are in a difficult position, as they have to work with the institutions that are in place. If too many corruption scandals involving their local partners are revealed, internal regulations might require them to stop cooperation.

In the following, two examples of serious corruption cases are discussed:

A scam that drew much attention was related to so-called "ghosts." Ghost workers in the administration and, even more often, ghost soldiers in the army were the subjects of one of the gravest corruption scandals (ICG 2006d, 4; Freedom House 2007). These ghosts were non-existent civil servants whose salaries were pocketed by their "superiors". An audit revealed there was no correlation between salaries paid and the civil servant roster.

Army commanders routinely embezzled their soldiers' pay. According to one estimate, between half and three quarters out of USD 8 million allocated as soldiers' pay never reached its proper destination (ICG 2006d, 10-12). In turn, the corruption had a negative effect on troop morale, frequent pay arrears - sometimes as high as three months pay - did not help. The performance of Mobutu's FAZ had actually revealed the consequences of soldiers going unpaid for lengthy periods of time. They prey on the population they are supposed to protect, but cannot be relied on when assigned to military operations. Even though the FARDC has an inspector general, he has never ordered an investigation into the corrupt practices. That is not surprising, as the office is underfunded and the officer is a close associate of the president.

The ghost soldier issue was addressed rather slowly. Even at the end of 2005, there was still no definite number of soldiers (ICG 2006c, 15). The parties to the peace agreements had intentionally blown up their troops' numbers to negotiate better terms and keep the money that was paid in supposed salaries. EUSEC suggested to break the link between the chain of command and payment. About 40 EUSEC experts joined the FARDC administration and personally overlooked the proper management of funds, which helped (ICG 2006c, 16, 18).

While the plundering of the DRC's natural resources has been a recurring theme, the government's own management of these resources received less attention. In 2007, after considerable international pressure, Kabila announced that 61 mining contracts with foreign companies would be reviewed. At its conclusion in 2008, it was announced that 26 of these contracts would be renegotiated and 21 contracts cancelled. However, even the review procedure had been intransparent. In December 2008, the government came to an agreement with most mining companies under review (Dept. of State 2010). An internal audit in the parastatal mining enterprises came to the conclusion that nearly 90 per cent of applicable laws were ignored and embezzlement was "daily business" (Tetzlaff 2004, 269-271). In the same year, following a World Bank-sponsored review, the government declared that also two thirds of logging contracts would be cancelled and set a three-year moratorium on new deals (Freedom House 2010). After an investigation into state-run enterprises, Kabila discharged almost the entire former management. Even 13 deputies of the National Assembly were removed from office on corruption charges in 2009 (Bertelsmann 2010, 18).

The examples above reveal how deep corruption is entrenched in state institutions. The irony is that anti-corruption campaigns were sometimes used to neutralise political opponents. Unless corruption is brought under control, the institutions cannot be relied upon to perform their duties.

Chapter 5: The Economic Angle

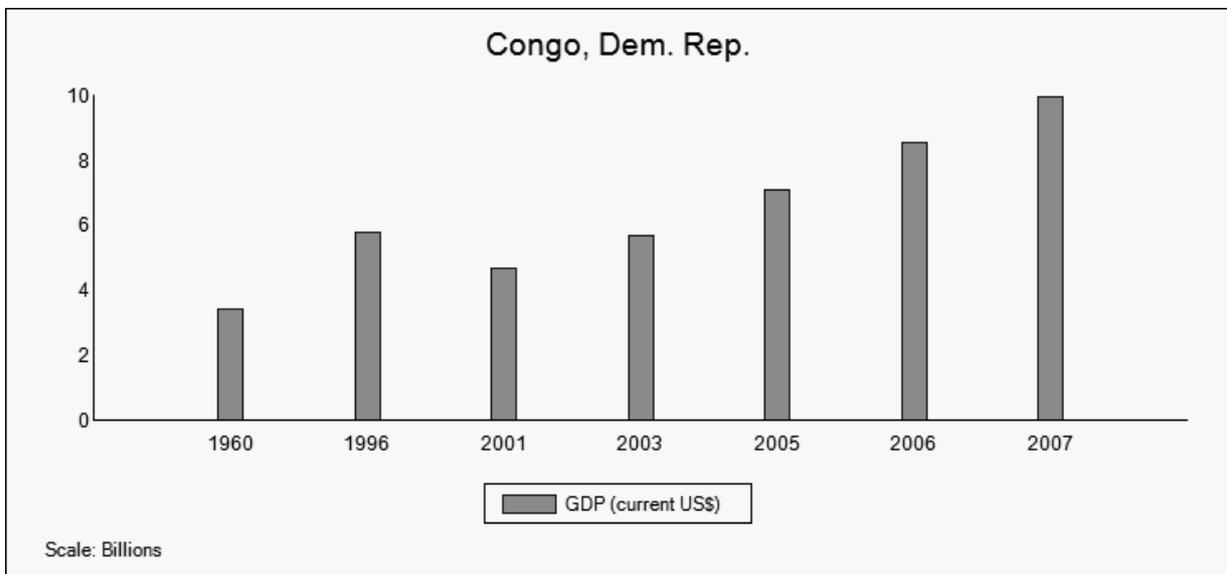
A. Introduction

The year-long civil and international war has left the DRC's economy crippled. Although richly endowed with natural resources such as diamonds, gold, copper, cobalt, tin and coltan, the Congolese population has never been able to profit from this.

On paper, the DRC is a market economy today (Bertelsmann 2010, 11). In reality, there is little to no competition and state regulation is burdensome yet ineffective. Personal access to informal networks is a precondition for economic success. A World Bank ranking ("Doing Business", 2007-2008) marked the DRC as the worst place for business out of 181 countries (Bertelsmann 2010, 11-13). In a 2009 report, the World Bank revealed enterprises would have

to pay 229 per cent of their profits in taxes if they adhered to regulations, while enforcing a contract in the courts can be expected to cost up to 150 per cent of the sum claimed. Starting a new business legally would require almost six months of dealing with the bureaucracy. There is little surprise in the fact that the informal sector and subsistence economy make up around 80 per cent of the DRC's GDP (Bertelsmann 2003, 8). Yet neither of these generate tax revenues.

The tax base may be as low as 4 per cent of GDP. As mentioned above, decentralisation of tax collection seems to be off the agenda, likely forever (the new constitution would require 40 per cent of taxes to be collected and kept by the provinces). Therefore the central government still manages the disbursement of revenues. The impact of the wars on the economy can be seen on the following chart:



Source: World Bank (www.worldbank.org), Sept. 2010.

Since the beginning of the transition, economic indicators have gradually improved. Economic growth in 2002 amounted to 3.5 per cent - the first year of positive growth in 13 years.

Income per capita and the rate of GDP growth are the indicators of economic performance as explained in chapter 2. The following table and chart should provide a first overview of the development of the two indicators throughout the transition:

| | 2001 | 2003 | 2005 | 2006 | 2007 | 2008 | 2009 |
|---|------|------|------|------|------|------|------|
| GDP growth (%) | -2.1 | 5.79 | 6.46 | 5.08 | 6.26 | 6.20 | 6.20 |
| Average income per capita (current USD) | 80 | 100 | 120 | 130 | 140 | 150 | 182 |

Source: World Bank (www.worldbank.org), Sept. 2010.

Average income should not distract from the fact that about 80 per cent of the population live below the poverty line of USD 2 per day (at PPP) (Freedom House 2010a, 2). Income disparity in the DRC is at its most extreme.

Economic stability also depends on the rate of inflation. A very high rate indicates economic meltdown. Such was the situation when Mobutu's regime crumbled. Improved economic policies introduced by Joseph Kabila and his advisers initially brought inflation under control, i.e., inflation came down to 4 per cent in 2004. However, the costs of the transitional government, the election campaigns and security expenses have since fuelled inflation again. Price hikes in oil and food since 2008 have had negative effects as well, pushing inflation in 2008 back to 17 per cent (Bertelsmann 2010, 12). Presently, there are no answers on how to stop the further depreciation of the Congolese franc.

The following table offers an overview on inflation:

| | 1994 | 1996 | 2001 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|-----------------------|--------|------|------|-------|------|-------|-------|-------|-------|
| Rate of inflation (%) | 26,762 | 638 | 384 | 13.04 | 6.12 | 21.56 | 13.09 | 21.11 | 17.30 |

Source: World Bank (www.worldbank.org), Sept. 2010, Nov. 2011.

Another frequently used measure of general well-being is the "Human Development Index" of UNDP. It measures, *inter alia*, life expectancy, education and income. As the following table shows, no real progress in improving these indicators in the DRC has been made. If anything, they moved in the wrong direction:

| Year (data of) | HDI Rank | GDP per capita (USD) | ODA per capita (USD) | GDP per capita (USD at PPP) |
|----------------|------------|----------------------|----------------------|-----------------------------|
| 2010 | 168 of 169 | N/A | N/A | N/A |
| 2009 (2007) | 176 of 182 | 140 | 19 | 298 |
| 2005 (2003) | 168 of 177 | 107 | 101.2 | 697 |
| 2003 (2001) | 167 of 175 | 99 | 5 | 680 |

Source: UNDP (www.undp.org), Sept 2010, Oct 2011.

GDP per capita is mainly responsible for the very low ranking. If only that were measured, the DRC in 2009 would take the second-to-last place. 1975 was the year with the highest GDP per capita ever recorded. The low income is the single most pressing concern for the future (Prunier 2009, 316-18).

B. Economic Reform Efforts

The catastrophic economic record of Mobutu's kleptocracy has been mentioned already. Unsettling economic decline set in with Mobutu's nationalisation policies. During the last years

of his regime, Mobutu resorted to the printing machines, causing inflation to climb several thousand per cent per year. Accordingly, the World Bank excluded the country from its data tables. By 1993, GDP per capita was just about one third as high as it had been at independence (Kaplan 2007, 301f). Periodically, the army could not be paid and engaged in looting the country, including ransacking the capital (Prunier 2009, 78f).

The government of L.-D. Kabila proved not only unable to stop the complete economic decline of the country (Prunier 2009, 161-167, 212f) - Kabila's outdated, purportedly "socialist" economic policies were disastrous. His attempts to centralise the export of commodities through a state agency led only to increased smuggling and even less customs revenue. L.-D. Kabila's ideological enmity towards the international community and frequent verbal attacks on "the imperialists" did not help the economy either. During the years of his presidency (1997 to 2001), a national budget did not even exist (ICG 2006d, 3). A fixed exchange rate with a grossly overvalued Congolese franc was introduced, the holding of foreign currency was prohibited. Foreign trade virtually halted as a consequence. The two Kasai provinces even boycotted the franc in 1997. They used their own, more stable currency, while inflation continued to ruin the rest of the country. By 2000, inflation still surpassed 500 per cent and GDP per capita had fallen to USD 100. Per capita income had over the years fallen to a level that was difficult to even measure, ranging from about USD 630 in 1980 to about USD 80 in 2001.

After the death of L.-D. Kabila in January 2001, the dismal economic situation slowly started to improve. Joseph Kabila inherited an utterly ruined economy: GDP had declined by as much as 40 per cent in the ten years before he took office. Exports had dropped by almost half since his father had taken over the country and inflation was out of control. Public debt was standing at USD 16 billion according to the World Bank, and not much less according to Kinshasa's own numbers. Nevertheless, Joseph Kabila ushered in an economic recovery by opening up the country to the world again. He enacted policies which were much more suited to foreign investors and donors than those of his father.

For example, Joseph Kabila floated the Congolese franc in 2001, causing a massive depreciation in the official exchange rate, but ending runaway inflation (Prunier 2009, 277-280; Bertelsmann 2003, 8). As foreign investment was now welcome again, a new law on investment was passed in 2005, followed by the creation of a National Agency for Investment Promotion (Bertelsmann 2010, 11).

Mining has been the main pillar carrying the rest of the economy. After decades of steep decline, the mining sector has been revived in recent years. In 2005, total revenues generated in the sector have tripled compared to 2000 (ICG 2006d, 3). With assistance of the World Bank, a new mining code was introduced in 2003. It was designed to encourage the multinational

mining companies to invest in the DRC once more. The price hike in commodities, which started in those years, helped to make the DRC an interesting investment opportunity for multinational mining companies now that the war was over (BMI 2007). The National Investment Promotion Agency was established as a one-stop-shop for international investors, lessening bureaucratic hurdles (Kisangani 2004, 117). The out-dated and defunct parastatal Congolese mining companies were coerced into forming joint-ventures with foreign investors, and vice versa (Tetzlaff 2004, 267-269). The mining code was designed with a view towards adopting international best practices; however, it only applies to the formal economy. Despite the fact that a licensing system based on a specific annual minimum turnover was introduced to curb it, artisanal mining is still important. There are other problems the code does not address. For example, it stipulates that only adult Congolese citizens may obtain an artisanal miner's card, yet there is no law on citizenship and a substantial number of artisanal miners are in fact children. In the end, the presidency retained actual power over the semi-state-run mining enterprises (ICG 2006d, 7f), as the presidency concluded new contracts and granted concessions.

To best profit from mining opportunities, the country's decrepit infrastructure will have to be overhauled. The sheer size of the country, of course, hampers such projects (Global Insight 2007). From roads to electricity and internet, basic infrastructure is in abysmal condition. In fact, only 14 per cent of the roads available in 1960 are passable today (Kaplan 2007, 302). Presently, under the "infrastructure for national resources" deal with China already mentioned in subchapter 4.C.1, Chinese companies are building a four-lane road from Katanga's capital to the border with Zambia (Braeckman 2006). It is meant to speed up transportation of minerals from Katanga's mines.

The ascent of China as a trading partner will certainly have great economic impact in the future. China exports to the DRC increased more than tenfold in less than five years, from USD 25 million in 2002 to 335 million in 2006. That was more than France or the U.S. had exported to the DRC. At the same time, imports from Belgium decreased by half from USD 911 million to 463 million (Tetzlaff 2004, 267-269). Over time, this shift will make the DRC's government more independent of Western donors and institutions. The debate whether this is to be embraced or feared has only just started. Certainly China's policy of non-interference that does not tie contracts to provisions of good governance makes it an even more attractive partner, but also fuels concerns in the West.

In summary, the economic problems have been close to insurmountable (Kisangani 2004, 99). While reforms have brought economic growth, the benefits have not been spread across the DRC. Without greater purchasing power across the population, there is little hope that Congolese businesses will start to turn to the domestic market.

C. Re-Engagement of Donors

The IFI were at different times active in the DRC. By the 1980s, they followed the Washington Consensus strategy. Recipient developing states were to liberalise their economy through "structural adjustment programmes", which were promoted by the World Bank between 1986 and 1990. This strategy implied fiscal austerity measures, devaluation of the currency and large-scale privatisation. Austerity measures intensified the economic strains of the population (Bertelsmann 2003, 4). Starting 1990, the World Bank tied economic assistance to good governance measures by recipient states (Paris 2004, 29f). As a result, in 1992, the IFI withdrew entirely from the DRC (Bertelsmann 2003, 4). The World Bank did not re-engage until 2001. The IFI exerted considerable influence on the DRC's economic policies during the transition.

By the time the IFI were back in the DRC they had learned that harsh adjustment-programmes often amount to what can be called a "peace penalty", instead of a peace dividend, at least in the short term. Pursuing such policies in a fractional and unstable polity had proven to be risky. Hastened privatisation programmes are more likely to entrench corruption and a clientelistic economy (Paris 2002, 202). In any case, large-scale privatisation was impossible in the DRC because functioning state-run enterprises simply did not "survive" through the war.

Public revenue in the DRC reportedly ranged between 5 and 8 per cent of GNP (Kobia 2002, 436). The overall economic situation made donor help unavoidable, and now that the new president was cooperative, it did not hesitate long before returning. The Paris Club, comprising the main creditors of the DRC, undertook a massive cancellation and rescheduling of debt in 2002, for example, while the IFI and state donors made sure the annual debt service of the DRC was kept within manageable limits (Prunier 2009, 277-280). In 2007, the DRC had a yearly debt service of about USD 220 million. The largest part of the debts by far had been accumulated during the Mobutu regime, so there was a great unwillingness to service it. After all, the creditors had profited from the corruption and financial irresponsibility of the regime. Yet acceptance of these old debts were necessary in order to secure further loans. From 2002 to 2005 the yearly loans granted through the World Bank increased from about USD 1.7 billion to 3.62 billion. The loans were earmarked mainly for poverty reduction and to Kabila's "Five Projects" programme.

However, the election campaign and the election itself had a severe impact on the budget: in the election year of 2006, the budget was overspent by 141 per cent. The sixth IMF review (an audit on whether the recipient has complied with IMF conditions) could not be completed, whereupon IMF and World Bank froze further commitments. The IMF re-engaged only when the DRC negotiated the minerals-for-infrastructure deal with China in November 2009. Thereupon,

a three-year programme to reduce poverty and public debt service was approved (Dept. of State 2010).

The International Financial Institutions (IFI) are also concerned about the rising money supply and public expenditures (Bertelsmann 2010, 12). Certain IMF programmes were frozen for this reason. In 2008, the current account deficit reached 10.5% of GDP, a number 40 per cent higher than in 2006.

The European Commission resumed direct cooperation with the DRC after a 10-year suspension (Kobia 2002, 432).¹³ After an agreement for the promotion of democratisation, good governance and the rule of law as well as poverty alleviation was concluded, EUR 250 million were made available over the course of 2-3 years under the framework of the Cotonou Agreement (Kobia 2002, 434f; 436). Funds were to be controlled by Brussels, but the Ministry for Economy, Budget and Finance was at least to be involved in the process, with a view towards delegating responsibility as soon as possible in order to re-establish a self-sustaining administration. However, no less than one third of the amount dedicated to administrative support was earmarked for environmental protection. The remaining two-thirds were allocated to revenue-creating state agencies and agencies tasked with implementation of development cooperation. Of the total EUR 250 million, only EUR 15 million was specifically reserved for democratisation, human rights and the rule of law (Kobia 2002, 367). EUR 28 million was allocated to the judiciary, rebuilding infrastructure of courts and legal materials.

After the elections, the international community did not prolong its coordinated assistance in the form of the CIAT, which had been successful but dissolved following the elections. No comparable framework was elaborated to succeed CIAT. Hence cooperation between donors became much more informal. Kabila seemingly welcomed this development as he openly discouraged new comprehensive programs or planning in favour of ad hoc bilateral negotiations with individual donors on a project-by-project basis (ICG 2007a, 5; ICG 2007b, 23-25).

D. Excursus: The Illegal Exploitation of Natural Resources

A recurrent theme in the analysis of the economy of the DRC is the issue of illegal acquisition of the country's natural riches to the profit of but a few, mostly outsiders. There is a wide body of literature on the topic and the role played by the neighbouring countries, therefore it is not elaborated in detail in this thesis. However, pertinent is the fact that many believe the pillaging was the main motivation for the interventions of many of the regional states in the Second Congo War. It is sufficient to note the importance of these resources to the war effort

¹³ The EU had never been fully absent, however. Even during suspension of direct cooperation, it had nevertheless continued to implement projects in the DRC, but sidestepped state bureaucracy.

of all parties to the conflict. It was, as Rwandan President Kagame put it, a "self-financing" war (UNPR 2001, recital 114).

The issue reached the highest levels of global governance. UNSG Kofi Annan commissioned a panel of experts to investigate the alleged looting of the DRC's natural resources in August 2000. The Panel produced a total of three reports and one addendum.¹⁴

The Panel's first report found many of the allegations to be true and recommended the freezing of assets belonging to the individuals incriminated and an embargo on the mineral coltan, which was experiencing a worldwide boom in demand due to its importance in the telecommunications industry. However, the report was also perceived as biased against Rwanda and Uganda, who dismissed it (Grignon 2006, 87f). It was true that the report had only investigated Rwandan and Ugandan actions, and not those of DRC government officials or their allies. Because of the credible allegations of bias, the report failed to be an effective tool for applying political pressure on the culprits. Accordingly, the Panel was assigned with writing an addendum to the first report. The Addendum softened the sharp recommendations of the first report, but the UNSC was in disagreement over the issue at the time, so it did not take action, but commissioned a second, final report. The Panel's Final Report was perceived as more balanced. It again recommended sanctions such as travel bans and freezing assets of individuals and companies identified as implicated in the illegal exploitation. The report also elaborated on the elite networks within the DRC who were still enriching themselves. Exploitation continued even after the withdrawal of foreign troops from the DRC.

However, all three reports were cautious in elaborating on the involvement of Western firms from countries which were permanent members of the UNSC. Nonetheless, the reports brought the DRC and the war to the attention of a worldwide audience. The Panel's findings even prompted the UNSC to adopt resolutions (e.g., S/Res/1457 of 2003) condemning the illegal exploitation and demanding the income generated by the exploitation of resources benefit the people of the DRC.

The Panel reports were also discussed in the Inter-Congolese Dialogue. Perhaps as a consequence of the attention the topic was receiving, all parties of the ICD committed themselves to ending the illegal resource exploitation and ensuring the resources were employed for the benefit of all Congolese as well as reviewing the legality of all contracts signed since the preparatory meeting of the ICD in Gaborone (Grignon 2006, 75). Consequently, a Congolese parliamentary commission was tasked with reviewing the mining contracts concluded by the armed groups or the government during the chaotic years of war between 1996 and 2003 (Prunier 2009, 318f; Bertelsmann 2010, 17; Review of African Political Economy 2006). It became known as the Lutundula commission after its head, opposition

¹⁴ See UNPR in the bibliography and resources section.

parliamentarian Christophe Lutundula (ICG 2006d, 8f). Despite obstruction by politicians criticised in the report, the commission submitted its report to parliament in June 2005. The report concluded that the state will profit little from the mineral wealth if the contracts were not revised. It further recommended cancellation of all contracts concluded since the beginning of the transition. However, instead of putting the report on the parliamentary agenda, it was shelved. The commission asked for extension of its mandate to review contracts signed after 2003, but the proposal was ignored.

To reclaim some of the stolen assets, the DRC filed an application at the International Court of Justice (ICJ) in The Hague against Uganda in June 1999 (ICJ 2005). A similar case against Rwanda had been dismissed because Rwanda had not subjected itself to the ICJ's jurisdiction. Judgement was rendered on 19 December 2005. The ICJ found Uganda guilty of illegally exploiting the resources and failure to prevent pillaging in the area under its occupation. Uganda was obliged to pay reparations, the exact extent of which was to be negotiated between the two parties. The court also condemned Uganda for its invasion and violations of international humanitarian and human rights law.

Chapter 6: Conclusions

A. Introduction

With the knowledge about the factual situation and the developments in the DRC gained from the previous chapters, conclusions can be drawn by applying the theoretical framework to the case of the DRC. For better readability, each theoretical approach is assessed in the same order as in chapter 2.

Rustow's assumption that the end of a democratisation process is reached when a functioning and democratically governed (nation-) state is established calls into question whether the transition to democracy of the DRC has been accomplished. When considering the view that democratisation depends on whether the government has changed peacefully at least twice by way of free and fair elections, the DRC has not completed the transition. While the historic transitional phase in the DRC started with the Inter-Congolese Dialogue (ICD) and came to an end after the elections in 2006, the transitional phase as defined in theory is far from completed. The results of the presidential and parliamentary elections of November 2011 will, as they unravel, shed more light into the question whether the DRC is moving in the right direction - that of a functioning democracy with reliable institutions.

B. State Building

To determine where the DRC is standing today in respect of state building, Francis Fukuyama's three-phases-approach to state building can be applied. As discussed in chapter 2, the first

phase of post-conflict reconstruction comprises the creation of stability in a country recently emerged from violent conflict. Stability is established by ensuring that the monopoly on the legitimate use of force is in the hands of government. Whether this first phase has been completed in the DRC depends on the exact definition of "monopoly". All foreign troops whose presence on the territory of the DRC did not have the consent of the DRC's government were withdrawn, while relations with the former chief adversary Rwanda have improved significantly (ICG 2007b, i). The important armed groups have been integrated into the national Congolese armed forces FARDC, while the still remaining and active "negative forces" have comparatively limited capabilities. It seems unlikely that the groups which had participated in the ICD and reconstituted themselves as political parties reconstitute again as armed groups. Even the RCD, despite its crushing defeat in the elections of 2006 and the consequential political marginalisation has not returned to arms on a large scale. This might surprise, but it reveals that this particular group has never had much support in the DRC and its important role during the transition was owed on its capacity as Rwanda's proxy in the DRC. Even the rather effective armed resistance to the DRC's government by the RCD splinter group led by Laurent Nkunda came to a swift end after Rwanda reconsidered its support.

The armed groups still holding out in the eastern provinces close to the borders are essentially reduced to two, the FDLR and the LRA. Their objectives, as far as they extend beyond self-preservation, are not directly related to the DRC though. They are more of an annoyance to the government than a serious military threat and owe their continued existence more to the vastness and density of the territory than on their own strength or the support of the local population, which they lack. For all this, the continued presence of armed groups means that the national territory is still not entirely under the control of the government. At the same time, the FARDC has to rely on close support from MONUC (now MONUSCO) and Rwanda (ICG 2007b, i; ICG 2010) when fighting the negative forces, and it is still regularly charged with committing human rights violations against the local population in the areas of its operation.

Weighing these facts, the conclusion must be that the monopoly on the legitimate use of force today is indeed vested in the government in Kinshasa. The territorial integrity of the DRC has been restored. Therefore, the first phase of state building can be considered accomplished.

The second phase of Fukuyama's approach concerns the (re-)construction of state institutions, their self-sustainability and the restart of the economy.

From the findings of chapter 4 above, the functionality of the main state institutions and whether they have been reconstructed to a level where they are fit to fulfil at least their basic tasks is doubtful. While the institutions required for a functioning state exist - there is a government and presidency, parliament, judiciary, bureaucracy and security forces - the problem is that many of the institutions drawn up by the constitution do not function in the

way they are supposed to or are too weak to exercise their functions. Symptomatically, the DRC was given just 0.36 points out of a possible 10 in the "functioning of government" category in the "Democracy Index" of 2007 by Freedom House. This indicates that elected representatives often do not hold real power, checks and balances are absent and democratically reached decisions often remain unimplemented.

The main problem lies with the institutions tasked with the oversight of the executive, especially the presidency. The weakness within the judiciary, parliament, the media and the polity on the provincial level allowed the presidency to accumulate undue competences and powers. These shortcomings have a number of different causes: shortage of financial means, corruption, lack of organisation and lack of training for officials. Instead of proper procedures, parallel networks of governance determine policy outcomes, thereby undermining the institutions which are circumvented. The president's "military office", exercising control over many aspects of the armed forces instead of the minister of defence, is just one example. Another example is the High Council of the Judiciary, which is supposed to make decisions about the appointment and revocation of judges but in practice is not even consulted when the president exercises these powers in the High Council's stead. The judiciary in general suffers from a considerable shortfall in capacity; it is substituted by the ICC on the higher level and by traditional forms of dispute-resolution and criminal justice on the lower level.

Self-sustainability of state institutions has not been achieved because of limited capabilities and ubiquitous corruption. Firstly, the institutions cannot be financed by the revenues generated within the DRC. Collection of taxes and customs is highly inefficient. Secondly, state institutions cannot acquire professional experience because they are "crowded out" by other actors, such as civil society, IOs, bilateral donors or NGOs. It is a vicious circle: widespread corruption within the state institutions is one of the main causes for the substitution. The DRC has consistently stayed with the lowest-ranking states in the "Corruption Perception Index" by Transparency International. For example, the issue of "ghost soldiers" could only be contained after EU experts took over the management of soldiers' pay. A precondition for progressing in the state building exercise, local ownership of state institutions is unattainable as long as local capacity is missing or because corruption has not been addressed sufficiently.

A further element to be addressed in phase two of state building is the economy. The dependency on donors for financing of the state institutions will not end in the short-to-medium term. However, the macroeconomic choices of the government and the peace dividend reaped following the end of the Second Congo War helped halting the rapid economic decline. Run-away inflation has been brought down to manageable levels in recent years and the average income per capita has been rising, albeit from an extremely low level. The sector of private business has to deal with abundant regulations, which are ignored and go unenforced on a daily basis (not least because it would simply be impossible to adhere to all of them).

According to a ranking done by the World Bank, the DRC was the worst place for doing business in the world in 2009. Business suffers from wrong incentives: there are strong arguments for businesses to remain in the informal sector. So while macroeconomic indicators may be moving in the right direction, the difficulties to participate in the market on the individual level must be addressed before the economy of the DRC can be restarted.

Overall, the numerous problems remaining prove that phase two of Fukuyama's state building concept has not yet been accomplished in the DRC. From Fukuyama's point of view, state building is completed after phase three, when quality public services are provided and the law is enforced. At present, the DRC is relatively far from attaining these objectives.

For deciding where to focus the effort in order to go beyond the remaining two phases of state building, Fukuyama's concept of the two dimensions of stateness, i.e., scope and strength, can be guidance. The concept shows whether the capabilities of a state correspond to its objectives and functions.

The transitional, and even more so the new constitution of 2006, introduced state institutions and functions that fit a model liberal democracy. However, the present constitution does not reflect the *status quo*, but encompasses a wide range of objectives and tasks instead, many of which clearly are beyond the capacity of the state to achieve. As we have seen, the devolution of power to the provinces and the accompanying provisions on tax collection at the provincial level are impossible to execute. Similarly, the constitution provided for unrealistic timeframes, with the result of frequent delays, for example the delays of the elections finally held in July of 2006. All the functions of a modern nation-state were attempted to introduce simultaneously. It is no surprise that the institutions were overburdened.

The best example for the enormous scope of state activity that does not account for capability is the enormous number of 36 ministers that formed part of the transitional government. The first government taking office after the constitution of 2006 had come into force comprised no less than 60 ministers and deputy ministers. This large number of ministerial portfolios point to an all-encompassing scope of government.

The donors, too, did not concentrate all their efforts on the essential functions of the state, but put a lot of resources into the "extended scope" of state activity. In this sense, donors sometimes tied aid to important but secondary objectives such as environmental protection. As has been noted in chapter 4, donors earmarked a relatively small amount of funds strictly for financing essential state institutions, such as the judiciary or the bureaucracy.

The scope vs strength dichotomy leads to the question in which direction the DRC is currently moving. Scope has been considerably extended with the beginning of the transition, but so has

strength. Fukuyama would advise to concentrate strictly on institutional strength, so that the most essential state institutions become more effective. Once these institutions are largely functional, they can become self-sufficient. Only then may the scope of state activity be extended. Until this objective is reached, the DRC would have to rely on outside assistance. The question is whether the international community will be ready to continue its commitment, now that a certain degree of stability has been achieved and general elections have been held twice. The UN will probably not be able to resist pressure by the re-elected Kabila to withdraw MONUC for much longer.

C. Elite Persuasion and Ethnodemocracy

At the centre of Mansfield and Snyder's elite persuasion and ethnodemocracy theories stands the assertion that the transition is a period of increased danger of violent conflict. According to Collier's findings, the fact that the DRC - at the beginning of the transition - had just escaped a major international war further adds to the risk. The starting for any analysis therefore has to be whether this risk has actually materialised. To give an answer is not as simple as it might seem.

From a global perspective, it seems there was a rather constant level of violent conflict in the eastern DRC throughout the transition and beyond. Even today, the region is not entirely pacified. Looking back to the time of the 2006 elections, short but severe outbreaks of election-related violence occurred notably in Kinshasa and in the western provinces, where the opposition is strongest.

Just after the elections of 2006, Kabila's and Bemba's forces clashed violently in Kinshasa. This would corroborate Collier's assumption about the increased risk of violence in the year following an election, except that the violence did not lead to prolonged conflict. The frequent interventions of the international community and their force on the ground, MONUC, saved the country from a possible renewed civil war. Had the entire electoral process not been accompanied by CIAT and MONUC, with constant pressure on the parties to negotiate and provision of impartial good offices and confidence-building measures, there is little doubt one of the armed clashes between the rivals would have likely gotten out of hand. The intervention by international peacekeepers prevented the catastrophe from happening.

The relations between the DRC and its neighbours, notably Rwanda, have improved since the transition, which makes an outbreak of interstate war less likely to occur. As noted above, the armed groups operating in eastern Congo presently do not pose a serious challenge to the government, but terrorise the population and are hard to root out, as their area of operations is an ideal terrain for an insurgency. In conclusion, a manifest *increase* in violence cannot be observed. Most of the violence appears to be committed for the same reasons as before the fall

of Mobutu - a smouldering conflict in the eastern DRC that had to do more with Rwanda than with the DRC itself.

Yet Mansfield and Snyder's theory does not assert that violent conflict will actually break out. It claims only that the risk for this to happen is increased. Therefore, it is necessary to take a closer look at the elite persuasion and ethnodemocracy approaches.

C.1 Elite Persuasion

The elite persuasion theory contends that political elites undergoing a transitional phase will try to stir up nationalistic sentiment among the electorate in an effort to form a supportive and powerful constituency. The process has a tendency to spark violent confrontation as nationalistic rhetoric aims at excluding supposed enemies of the nation from political participation, be it opposition groups or alien ethnic groups within the state.

The theory holds that nationalism among the population is rather weak on the onset of the elite persuasion process. During Mobutu's regime, the existence of a strong Zairian nationalism is more than questionable, despite Mobutu's efforts at creating a new African identity for the country. Mobutu himself apparently did not care too much about nationalism; he even sided against his own compatriots, the Banyarwanda, and demanded their expulsion when it seemed expedient after the Rwandan genocide. When a state is concentrated on a single person as in the case of Zaire, that person gets to be identified with the state itself. "Zairian" nationalism had no space beside the ubiquitous "Mobutism". Clearly, the FAZ was not distinguished by nationalistic sentiment, either. As it seemed, its soldiers wanted their commander (i.e., Mobutu) gone, too.

The invasion of the DRC in 1996, spearheaded by the AFDL but planned and executed by Rwanda, created deep resentment against Rwanda in the DRC. Thus Congolese nationalism received a patently anti-Rwandan slant. As a result, an external enemy supposedly threatening the nation did not have to be "invented" by Congolese elites - it was there already, ready to be seized. The first to openly and successfully exploit anti-Rwandan sentiment in this way was L.-D. Kabila.

The anti-Rwandan feeling was felt most by the rwandophone Congolese Tutsi, the Banyarwanda, who constituted the RCD's constituency. They were claimed to be in alliance with hostile Rwanda and thus branded as enemies. After the elections, the RCD was almost entirely excluded from politics. As the group undeniably had strong connections with Rwanda and was a minority population living far from Kinshasa, this exclusion could be executed rather easily. Since the Banyarwanda had always had differences with their compatriots and entertained what can be described as a pro-Rwandan ethnic nationalism, the dangers of violent

conflict are still very real. Nkunda's armed group, for example, was recruited from former RCD fighters. It justified its rebellion against the government by pointing to the exclusion of and threats against the Banyarwanda. Nkunda was later betrayed by his Rwandan backers, apparently in exchange for improved relations with the DRC and the international community. For now, the DRC and Rwanda have improved relations tremendously. Nevertheless, the ethnic conflict in the eastern DRC is far from resolved and might take on a violent form again in the future, especially if Congolese-Rwandan relations were to deteriorate again.

Minding this background, the elections of 2006 as the focus of attention relating to the elite persuasion theory, are analysed in the following. Elite persuasion theory would suggest that the election campaigns had taken the form of a "nationalist bidding war". However, this was not really the case.

As noted above, Rwanda was an external enemy easily denounced by the Congolese elites. Yet Kabila and Bemba did not attempt to outdo each other with anti-Rwandan rhetoric or even concentrate their campaigns on the topic. Since their election campaigns were not intended to whip up anti-Rwandan sentiment, there was none of the increased risk of violent conflict that the elite persuasion theory implies.

It is true that Bemba's campaign strategy was focused on nationalistic sentiment, as he was portraying himself as the "true son of the country". This was an attack on Kabila; there were rumours that Kabila was not actually Congolese, some even claimed he was not even L.-D. Kabila's son. Not speaking the regional language of the western DRC, Kabila was an easy target for such aggressive rumours. This strategy worked well for Bemba in the northern and western parts of the country, including the capital. He rallied support by "persuading" the electorate that Kabila was not really one of them, but an outsider who was giving away the DRC's natural riches for the benefit of his supposed foreign overlords. Bemba's campaign was not based on ethnic nationalism, though. It did not aim at excluding an entire group or constituency, but was directed against the political opponent as a person. Exclusionary ethnic nationalism nevertheless was an important factor for the elections (Freedom House 2010a, 6), but only for smaller regional parties and independents, who did not have a realistic chance to extend their constituency beyond their respective ethnical group. Such small parties and independents did not have the means to launch a nationwide "persuasion campaign" and even if they had, it would not have been successful. After all, over 250 ethnic groups live in the DRC (Freedom House 2010a, 6), so that the support of only one of them would not suffice for a nationwide victory. Considering all these elements, the DRC appears not to be a model case in respect of the elite persuasion theory.

There are reasons why nationalism and thus elite persuasion plausibly did not play a decisive role. Kabila undoubtedly was the preferred presidential candidate by the international

community so he had to consider the negative effects on his international goodwill if he had started an exclusionary nationalistic campaign. After becoming president following his father's assassination, he had worked towards ameliorating relations with the neighbouring countries, particularly Rwanda. Anti-Rwandan rhetoric would have put this work at risk. Finally, Kabila would not have been a credible nationalist, at least not in the western provinces, where he in fact was a "foreigner" - he does not speak their language and had mostly lived abroad before becoming president. Bemba was less restricted by such considerations. However, he was vulnerable to the argument that he had been the leader of a foreign-controlled armed group that tried to topple the DRC's government in the interest of its foreign sponsors. After all, he had worked together with the Ugandans and - by association - the Rwandans for a long time. So even though the two candidates together had control over most of the media and were constrained only by the HAM, no nationalist bidding war was fought.

The risk of violence did not seem to be increased in the way or for the reasons that Mansfield and Synder had in mind when developing the elite persuasion theory. In sum, the transition in the DRC can hardly be described as a clear-cut case of elite persuasion. While Congolese nationalism did play a role during the election campaigns, Kabila's "creator of peace" narrative, his incumbency-bonus, his greater financial and military resources and his greater support within the international community proved to be the decisive elements for his victory.

C.2 Ethnodemocracy

At first sight, the results of the 2006 presidential elections look like a textbook case of ethnodemocracy: the country is split almost exactly in half, the (south-)eastern part supporting Kabila and the (north-)western part supporting Bemba. The candidates received an overwhelming majority of votes in their respective "homelands", but next to no support in the regions attributed to their opponent. This result points to an election in which the electorate voted exclusively for the candidate of their respective ethnic group.

Such a conclusion is further corroborated with respect to the small-to-medium parties and independents, e.g., Antoine Gizenga and the PALU, Azarias Ruberwa and the RCD or Nzanga Mobutu, all of whom were very strong in their home provinces, but nowhere else. However, the conclusion is wrong. On the national level, with respect to candidates and parties of national reach, the election results do not reflect the ethnic map or texture of the DRC. The split between the eastern and western parts of the country concerning the support of either Kabila or Bemba did not follow any existing border between different ethnic groups. In addition, the high number - there are over 250 ethnic groups in the DRC, most of them regionally concentrated (Freedom House 2010a, 6) - contradicts the split in only two parts. If voters had really only voted for the candidate of their own ethnicity, the result would have looked differently.

There is an alternative explanation for the distinct split across the country that is less benign to the candidates and parties. The split resembles the division of the country during the Second Congo War; people who lived in the territory occupied by Bemba's MLC and its allies voted overwhelmingly in favour of Kabila, while voters who lived in the territory controlled by Kabila's government voted predominantly for Bemba.

Similarly, it is not ethnical segregation that split the media during the election campaigns. The most important radio and TV stations of national reach were not controlled by a particular ethnic group but by their owners, or, when state-controlled, by the government. The media outlets did not cater to just one ethnical group. While some media stations actively promoted violence during the elections, it was directed against unfavoured candidates and their supporters rather than particular ethnic groups.

As a result, the outcome of the elections scheduled for November 2011 concerning majorities and voter preferences was harder to predict than if the DRC were an ethnodemocracy - then it would be the simple arithmetical question of which ethnic group consists of the largest number of people.

As ethnicity was not overwhelmingly important for the results of the elections in 2006, it would be mistaken to consider the DRC an ethnodemocracy. The ethnodemocracy theory would perhaps apply to countries of less ethnic diversity, where there are fewer but larger ethnic groups that can each constitute a sizeable constituency. In the DRC, however, the theory does not describe the situation satisfactorily.

D. Sequentialism

D.1 The Correct Sequence

Advocates of sequentialism claim that democratisation has to follow a certain sequence. When the correct sequence of reform steps during a process of democratic transition is not adhered to, the political system might leave the path leading to democracy possibly for a long time. Most importantly, sequentialists assert that accountability of political elites must be established *before* elections are held and that such accountability can only be guaranteed by liberal constitutionalism. Liberal constitutionalism in a democracy comprises the separation of powers, the rule of law and the protection of individual rights and freedoms. When election winners are not constrained in their power by constitutionalism, the democratic transition may end in a pseudo-democracy, where elections are the only element reminiscent of liberal democratic rule.

As to the concrete steps to take, described in detail in chapter 2, Mansfield and Snyder consider the establishment of a strong and impartial administrative apparatus that can ensure

peace and security as the starting point. Thereupon, a constituency that profits from democratisation must be empowered. As a third step, the institutions most closely related to accountability and the rule of law, i.e., a professional media and the judiciary, need to be independent and fully functional. Only after implementation of all these steps, elections should be held to determine who is in power.

The question is whether these steps have been considered during the democratisation process of the DRC. The transitional process as devised by the ICD featured sequentialist policies, in that it was geared towards achieving peace and stability before holding elections. Basically, the agreements of Sun City and Pretoria had as their objectives national reconciliation and the establishment of peace and security within the territory of the DRC. An unelected, transitional government of national unity formed by the parties to the ICD would implement the policies within three years (the transitional period). Only then, elections would be held.

As discussed in subchapter B. above, peace and security have been established to a certain degree and the government is not existentially threatened by armed groups.

However, both the security forces and the general bureaucracy are far from acting impartially. In essence, they are controlled by the presidency, which uses them for its own objectives, be it mining contracts or imprisonment of opposition members. Partiality of this kind affects practically all state institutions, including the judiciary. The administrative apparatus of the DRC cannot be characterised as impartial at all. Therefore, the first step as prescribed by sequentialism has been partially completed at best in the DRC.

The second step of empowering a pro-democracy constituency is entirely inapplicable in the DRC; when making the argument, Mansfield and Snyder had a completely different starting point in mind. The democratisation process initiated by the ICD was not implemented against the resistance of the elites, but with their approval and support. The elites had more to gain from forming part of a government of national unity for the duration of a transitional process than from continuing their struggle as warlords. L.-D. Kabila, the only exception, was assassinated, which paved the way for the ICD. The moderate but influential group that, according to the theory, should be instrumental in toppling the authoritarian regime peacefully and in small steps - while at the same time fearing the chaos of mass politics - never existed in the DRC. No particular group of society, e.g., a civic middle class, was ever powerful enough to challenge the elites in a fight for participation in the political process. It is true that the Congolese civil society led a struggle for participation as part of the "unarmed opposition" during the transition, but its power was very limited when compared to that of the former warlords. As before the transition, any group of civil society is risking political persecution if it goes too far with its demands for participation. Only theoretically can the international community be considered as the constituency profiting from democratisation. Obviously, it

cannot form a constituency in a nation-state, nor could such a construct be a viable long-term solution for the DRC.

In the end, the warlords profited by pillaging natural resources during the Second Congo War, and they profited again during the transition: they gained international recognition and access to international financing. The threat of a resumption of the war accorded them a position of power, an opportunity to blackmail the international community (Kennes 2008, 127). Then again, the transition was a gamble, handing all cooperative parties lucrative positions and granting impunity for past human rights abuses in order to achieve peace. Consequently, the transition in the DRC was not a new start involving a change of elites. The transitional government and the government of the Third Republic were carried by the same political elites that had been in power before. Corruption and patronage networks remained largely unaffected (ICG 2007b, ii). President Kabila, for example, served as the nominated "interim" president after the assassination of his father, as president of the transitional government and finally as president of the Third Republic, in which function he recently commenced his second term. But Kabila is not the only example: the present chairman of the Senate, Léon Kengo Wa Dondo, had been prime minister for some time during Mobutu, and Antoine Gizenga - the first prime minister of the Third Republic - has been a prominent politician since the country's independence. The very same thing can be said about Étienne Tshisekedi. In short, the transition of the DRC so far did not bring about a change of the elites or the empowerment of a certain constituency other than the existing elites. This does not, of course, change the fact that the elections were widely popular and supported by almost everyone in the DRC. To have a say in politics for the first time in over forty years appeared to have trumped the fact that the great majority of serious candidates were former warlords in the Second Congo War. Since there was no change of elites, there was no need for a "golden parachute" given to the old elites in exchange for their relinquishing power.

The third and final step to be completed in Mansfield and Snyder's reform sequence before elections should be held is the establishment of the institutions of liberal constitutionalism. Individual rights and freedoms are guaranteed mainly by institutions which balance and countervail the power of the executive. As discussed in chapters 3 and 4, the judiciary and the media in the DRC suffer from severe shortcomings. Considering the judiciary, the gap between theory and practice is striking. For example, such a gap exists between the body of law in force and its implementation and enforcement. The constitution is a well-crafted document that qualifies as constitution for a model liberal democracy. It comprises inalterable basic provisions that should guarantee democratic rule. In practice, however, the provisions of the constitution can be ignored if necessary. For example, neither have the local elections been held, nor was the new provincial structure of the DRC implemented. Congolese ministers, probably under the

influence of the president, publicly advocated changes to the constitution that could potentially amount to a change in the basic provisions.

The best legal protection of civil rights is rendered useless when it is not respected. There are many examples of political prisoners, who were incarcerated for long periods of time without being charged. The engagement of the UN and NGOs to achieve their release cannot substitute for the dysfunctional justice system.

As long as the media lack independence and professionalism, it will not be able to evolve to an institution exerting control over the government, either. The only truly reliable media outlet that offers quality information seems to be Radio Okapi, which is run by MONUC. Radio Okapi does employ domestic reporters, but those are the lucky few who have a certain protection from government harassment. Once MONUC withdraws, however, their future will be unclear.

Taken together, these findings corroborate the "Freedom in the World" indicator by Freedom House in concluding that basic civil liberties are widely and systematically denied in the DRC. Whenever the executive's power is constrained in practice, this must be attributed to political pressure from the international community, not to restraints imposed by the judiciary or the media.

In conclusion, even though the transitional period was designed to ensure that the three steps, which sequentialism cautions should be taken before holding elections, would be implemented, it did not happen in practice. The institutions of constitutionalism have proven too weak to provide checks and balances.

D.2 Illiberal Democracy and Gradualism

The above findings lead to the assumption that the DRC has developed into the political system that Zakaria termed "illiberal democracy". It is a system where elections are held but where citizens are denied human and civil rights and individual freedoms. As discussed in chapter 2, illiberal democracy is the result of a flawed democratisation process where the prescriptions of sequentialism have not been observed. This is the case when multiparty elections are introduced before liberal constitutionalism is established, a condition Collier labelled "democracy". Indeed, elections and the denial of human and civil rights frame the present political system of the DRC. In addition, the prescriptions of sequentialism have not entirely been implemented. It seems the concept of illiberal democracy perfectly applies to the DRC.

Illiberal democracy is particularly tricky because it may become a political dead end, since according to Zakaria it is a very stable form of government. This conclusion seems debatable, however - it might well be that the electorate realises that elections without the rule of law can do no good. Or, equally possible, the president might use his power to terminate the

elections charade altogether and establish authoritarian rule. The latter option might not be feasible (yet) because the country is still under oversight by the international community. But there is a tendency; the abolishment of the need for a run-off presidential election (ICG 2011), which grossly favours the incumbent and the announcement by ministers that the presidential term limit ought to be erased from the constitution, must be seen in this context.

Thus, the elections might have been a Pyrrhic victory for the international community. The Congolese might come to reject democracy altogether if they mistakenly take illiberal democracy for the only form of democracy.

Concluding that sequentialism was not observed during the DRC's transition, Carother's "gradualism" theory might offer further insights. In short, gradualism asserts that it is easier to establish constitutionalism in a democratic DRC, even if it were illiberal, than following the time consuming roadmap as advocated by the sequentialists. The basic elements of gradualism, i.e., establishment of the monopoly on the use of force and a minimal administrative capacity, seem to be present in the DRC today. However, the Congolese decided on 28 November 2011 that Kabila should stay in power. The elections have changed nothing about the fact that Kabila has been consolidating his position to an extent that he is capable of turning the DRC into an authoritarian regime again without much effort. Kabila is also less dependent on the international community than he used to be, as can be told from fact that he asked MONUC to leave as soon as possible, and the fact that he was able to bring the IMF to resume cooperation by demonstrating he can find alternative sources of revenue (China, in the case of the mining contracts). Unless Kabila wished to respect constitutionalism, such as the independence of the judiciary, few scenarios are conceivable how it would otherwise materialise. Thus it is presently not foreseeable whether the predictions of gradualism will be verified in the case of the DRC.

E. The Economy

Unlike with the theoretical approaches discussed in the subchapters above, the economic circumstances are based less on theory than quantitative research of economic data. The research done on and conclusions drawn from that research must be taken as they are. Therefore, the discussion of the conclusions to be drawn from the economic data presented in chapter 5 and their impact on the transition made in the following can be rather short.

Even though economic reforms have brought about significant ameliorations in many sectors of the economy, the economic situation is still one of the most pressing problems on the transition towards liberal democracy. Engagement of the donors made many of the political reforms possible that would otherwise not have been financially feasible, the most prominent example being the 2006 elections. Economic aid remains a considerable part of the DRC's

income and there is little hope in the short or medium term that the DRC can find the means or the eventual withdrawal of donors.

However, the "Conflict Trap", as Collier referred to the situation of a country of low growth and low income that is at the same time highly dependent on the export of mineral resources was not triggered, at least not on a major scale. The Conflict Trap approach observes a five-year period after the end of a violent conflict, during which a renewed outbreak is particularly likely. Despite all the preconditions for the DRC to become locked in the Conflict Trap are present, no conflict of comparable intensity followed within five years after the end of the Second Congo War.

A cause for concern is the income per capita thresholds that Collier and Snyder defined as a threshold below which an election increases the risk of violence or as the minimum requirement for successful transition, respectively. Both thresholds are not nearly reached in the DRC. The majority of the people have to live on less than USD 2 per day, whereas Collier's threshold is USD 7 per day and Snyder set the minimum amount at USD 33 per day. Thus the quantitative research on which Collier and Snyder based their thresholds would predict a rather dark future amid increased violence and an economy based on patronage networks. At the income level prevalent in the DRC, a middle class usually does not exist - this is consistent with the findings about the lack of a specific constituency fighting for democratic reforms as discussed in subchapter D.1.

Average income has been growing at a rate of about 20 per cent per year between 2001 and 2003 and again in 2009. Even though this high growth indicates a positive trend, a good part of it is owing to the very low initial level. It is critical that average income continues growth. Despite continuing violence in the eastern DRC, the current situation seems to be that the armed groups operating in the region do not have the power to occupy areas of resource extraction for longer periods of time anymore. Therefore, it seems unlikely at the moment that any existing or new armed group might occupy larger parts of the country.

The DRC has for a long time been a textbook example of a country haunted by the resource curse. It has been proven that the Second Congo War was waged by some of the parties mainly for economic gains by plundering natural resources. While that might not have been the main reason for going to war, it surely was a reason for continuing when the stalemate on the frontlines set in. Different investigative commissions since have revealed the personal involvement of political elites and high-ranking officers.

While economic parameters might point out structural deficiencies and possible causes for renewed conflict, the question of how exactly the economy and economic growth could be restarted is an entirely different one. At this point, it is only possible to conclude that if

democratisation and the construction of viable state institutions are to be completed, the DRC will have to address the problem of low average income per capita and continue its economic growth.

Chapter 7: The Elections of November 2011 and Outlook

At the time the author began writing on this thesis, the second consecutive general elections in the DRC lay far in the future, and the possibility of their occurrence was not yet certain. Time has passed and the second presidential and parliamentary elections have been held, on 28 November 2011. It has now been two months hence and the country and international community are still attempting to discern what occurred and what it means for the future of the DRC. Accounts and data remain unreliable, and in some cases unavailable, as this history continues to be written. This chapter reviews the 2011 elections on the basis of the information available, and offers an outlook on what may lay ahead as the DRC continues its post-conflict transition.

Administration of the 2011 elections rested with the DRC's National Independent Electoral Commission (CENI), the successor organisation of the CEI. The UN had a far lesser role than in 2006, limiting itself to providing technical and logistical support. The CENI was not in an easy position as the schedule of 28 November seemed impossible to keep; CENI was attempting to compensate for a one-year delay in preparing for the elections. At the same time, CENI was under heavy pressure to stay within the constitutional time limits and not delay the vote notwithstanding the substantial logistical challenges, to avoid a potential constitutional dilemma when Kabila's first term ended on 6 December 2011. As a result, it was unclear whether the ballot would be held or delayed up to the last days before the scheduled Election Day. Even within CENI views diverged about whether the time limits would be met (Radio Okapi, 2011a, 2011b; CENI 2011a).

The elections did take place on time with over 18 million voters participating, representing 58 per cent of all registered voters. However, announcement of the results of the presidential elections, scheduled for 6 December, were delayed by over two days. The results of the parliamentary elections should have been published on 13 January 2012 (CENI 2011b), but by 24 January, only partial results were available.

Joseph Kabila was declared the winner and he officially began his second term as president of the Third Republic. This result should not be surprising to those knowledgeable of the DRC's history and polity. It certainly did not surprise the Congolese, possibly with the exception of hardcore UDPS activists (Girard 2011).

The feature that sets the 2011 elections apart from those of 2006 is the silence they have evoked within the international community. The only head of state present at Kabila's second inauguration ceremony was Zimbabwe's Robert Mugabe (BBC News, 2011d). Belgium cancelled initial plans to attend. The few comments on the elections that have been made do not convey a positive tone. Rather they have been cautious, speaking to concerns within the international community, betraying the doubts about the process but nonetheless muted given fears of potential violent responses. MONUSCO (formerly MONUC) restricted itself to providing technical assistance and did not comment on the results, while the UN Security Council (UNSC) congratulated the DRC on the achievement but "noted with concern the level of logistical and technical difficulties" (UNSC SC/10470 AFR/2299). The U.S. Department of State called for a review of the results, criticising a lack of transparency and noting reports about irregularities. The EU sent an election observer mission, deploring the "lack of transparency and irregularities in the collection, compilation and publication of results" in a first statement (EU EOM 2011). By contrast, the African Observer Mission to the Democratic Republic of the Congo, which comprised representatives of the AU, SADC and other regional organizations declared the elections a success. Most revealing of the general view may well be the South African reaction, which reportedly described the elections as "generally OK" (BBC News, 2011d).¹⁵

Detailed reports from observer missions are not yet available at this time. However, opposition parties in the DRC concur in their view that the elections were rigged. Reports indicate that the ballots were late arriving to a number of polling stations and ballot boxes were stuffed in some instances; there was widespread confusion over voter rolls and voter eligibility; and there were irregularities in the tabulation of votes, among other alleged anomalies. Four opposition candidates, including Kamerhe and Léon Kengo Wa Dondo, have called for the elections to be annulled as a result (BBC News, 2011c). It is undisputed that there were irregularities; even Kabila admits as much, conceding there were "mistakes" and "errors" (Peuchot 2011). To the extent that these flaws should undermine the credibility of the results, as the opposition and the some in the international community contend, remains an open question.

Other events of the 2011 vote bring to mind the 2006 elections, highlighting the continuing challenges of the DRC's democratic transition. First, the campaign period, just one month, was very short considering the size of the country. Second, election-related violence leading to several casualties occurred, though the violence this election cycle has not reached 2006 levels. Third, the election results were challenged in the Supreme Court by the opposition, this time lead by presidential candidate Vital Kamerhe. Again, the Court decided in favour of Kabila, endowing him with 48.95 per cent of the votes and thus victory (BBC News, 2011b).

¹⁵ South African standards for the observation of elections were questioned internationally when the country concluded that the 2008 presidential elections in Zimbabwe had been "free and fair".

What changed from 2006 was Kabila's main challenger. With Bemba out of the way, Étienne Tshisekedi, the 79-year-old leader of the UDPS who had boycotted the elections in 2006, emerged as Kabila's chief challenger. According to CENI, Tshisekedi polled 32.33 per cent of the votes. Like Bemba in 2006, Tshisekedi rejected the results outright. However, Tshisekedi went one step further, declaring himself the legitimate president and calling on the security forces and the bureaucracy to follow him, but his calls were not adhered to. As in 2006, few have been willing to risk openly supporting the opposition's cry of foul in response to the released results.

While vote-rigging presumably took place, it may not have been necessary. Kabila had already set the course for his victory by implementing changes to the Electoral Law which removed the requirement for a run-off election if the winning candidate attained less than 50 per cent of the vote (ICG, 2011; BBC News 2011a). Since the opposition could not agree on a single candidate to jointly nominate ahead of the election, President Kabila's victory was almost a certainty.

Joseph Kabila has completed his eleventh year as president of the DRC this month, and today, the Congolese are looking at five more years of Kabila. While the great hopes for change that accompanied the 2006 elections might have faded, the recent election reveal that Kabila still has significant support. Whether the same will be true in five-years' time is highly debatable, if not dubious. At his inauguration ceremony, Kabila pledged to create more jobs, build more hospitals, reduce reliance on the mining sector and revise the mining code, boost agricultural production, and improve the DRC's self-reliance by "rejecting our country's status as the world's supermarket" (BBC News 2011d). There appears to be few believers.

The record of the Kabila presidency has not lived up to expectations. Further trending towards authoritarian rule is feared, and for good reason: Kabila has been using his tenure as president to consolidate his own power. He controls the police, the army, and the secret services and has a decisive influence on the economy through his control over parastatal mining enterprises. Foreign affairs are handled by the president and he has taken to deciding on important affairs of the state without even consulting parliament. In the end, Kabila has at his disposal both the power to coerce and corrupt. He averts any possible curbs on presidential competences, be it by blocking institutional reforms, such as devolution, or by staffing institutions with partisans and protégés, as with the Supreme Court. As a result, though the institutions required to ensure constitutional liberalism do exist, they do not function as checks and balances to the government. Parallel chains of governance undermine their authority.

If the living conditions of the population do not improve, however, it might withdraw its support for Kabila. Even the international community, which has been at least partially in favour of Kabila, is bound to start wondering about Kabila's real intentions. It might be,

however, that the international community has tacitly accepted Kabila's political predominance in order to maintain a good working relation and have at least a certain degree of influence in the political system of the DRC. Another consideration might be stability: if Kabila's control of the security forces loosened, the central authority might fall apart. In the eyes of the international community, nothing could be worse than a renewed power struggle between equally strong opponents, leading the country back to the chaos of civil war. The largest and most expensive UN peacekeeping mission must at least attain the presentable achievement of having provided stability.

The window of opportunity for building a stable and democratic DRC that was flung far open with the ICD might be closing. The stakes for the DRC, the region and the international community are high and the final outcome of the democratisation process in the DRC is yet uncertain. One thing is certain: elections alone do not make a democracy. That is perhaps the most important lesson learned from the DRC.

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Annex I: Summary (in German)

Mit den am 28. November 2011 abgehaltenen Präsidenten- und Parlamentswahlen ging in der Demokratische Republik Kongo (DRK) - erstmals in der Geschichte des Landes - eine vollständige Legislaturperiode verfassungskonform zu Ende. Diese hatte mit demokratischen, freien und fairen Wahlen im Juli 2006 begonnen, den ersten freien Wahlen nach knapp vierzigjähriger autokratischer Herrschaft in der DRK.

Am Fallbeispiel der DRK zeichnet die vorliegende Diplomarbeit die Entwicklung von einem beinahe gescheiterten Staat in Richtung (Wieder-)Aufbau von staatlichen Institutionen (*state building*) und Demokratisierung (*democratisation*), des Übergangs von einem autoritären zu einem demokratischen politischen System, nach. Die untersuchte Zeitspanne erstreckt sich vom Ende der Herrschaft Mobutus bis zu den jüngsten Präsidentschafts- und Parlamentswahlen. Das Hauptaugenmerk liegt dabei auf der Zeit intensiven demokratischen Wandels zwischen dem Ende des Zweiten Kongokrieges 2002 und den allgemeinen und freien Wahlen im Juli 2006.

Konzeptuell die die Arbeit in drei Abschnitte unterteilt: einem Theorieteil, einem faktischen beziehungsweise Sachverhaltsteil und einem abschließenden Teil, der die beiden vorherigen zusammenführt und Schlussfolgerungen zieht. Dazu im Einzelnen: Zunächst setzt ein historischer Überblick der wichtigsten Ereignisse seit der Unabhängigkeit des Landes die weiteren Ausführungen in einen historischen Kontext (Kapitel 1). Kapitel 2 behandelt den für die Analyse verwendeten theoretischen Rahmen, der im folgenden Absatz näher beschrieben wird. Den faktischen Abschnitt bilden die Kapitel 3 bis 5 über die Wahlen im Juli 2006, die Situation der staatlichen Institutionen in der DRK und die volkswirtschaftliche Lage der DRK. Schließlich werden in Kapitel 6 Schlussfolgerungen aus der Anwendung der Theorie auf die faktischen Gegebenheiten gezogen. Im abschließenden Kapitel 7 wird auf die Wahlen im November 2011 eingegangen, gefolgt von einem kurzen Ausblick zu den möglichen weiteren Entwicklungen in der DRK aus Sicht des Autors.

Zur Analyse der Demokratisierungsbemühungen in der DRK werden mehrere theoretische Ansätze verschiedener Autoren herangezogen, die miteinander verknüpft werden um einen umfassenden, geeigneten und schlüssigen theoretischen Rahmen aufzustellen. Besprochen wird insbesondere Francis Fukuyamas *state building* Ansatz, demzufolge drei Schritte notwendig sind, um unabhängige und starke staatliche Institutionen aufzubauen. Edward D. Mansfield und Jack Snyder erklären in ihren *elite-persuasion* und *ethnodemocracy* Konzepten, dass die Phase der Demokratisierung besondere Gefahren in sich birgt; in dieser Phase bestehe ein wesentlich höheres Risiko, dass es zu (erneuten) zwischenstaatlichen Konflikten oder Bürgerkriegen kommt. Mansfield und Snyder sind der Auffassung, die internationale Gemeinschaft solle nicht versuchen, Demokratisierungen zu erzwingen, sondern müsse dafür sorgen, dass die erforderlichen institutionellen und politischen Voraussetzungen für die Abhaltung von Wahlen

in den betroffenen Staaten vorhanden sind. Das von Fareed Zakaria entworfene Modell der *illiberal democracy* beschreibt ein politisches System, in dem zwar Wahlen abgehalten, der Bevölkerung jedoch Bürgerrechte und persönliche Freiheiten vorenthalten werden. Die Situation von Volkswirtschaften mit geringem Wachstum und geringem Pro-Kopf-Einkommen, die auf den Export von wertvollen Rohstoffen angewiesen sind, analysiert Paul Collier anhand der Ergebnisse seiner quantitativen Forschung auf diesem Gebiet.

Die Analyse der Gegebenheiten in der DRK kommt zu dem Ergebnis, dass zwar die Voraussetzungen, die eine unbedenkliche Abhaltung von Wahlen gewähren sollten, bei den Wahlen im Juli 2006 in der DRK nicht gegeben waren, sich jedoch das erhöhte Risiko des Ausbruchs gewaltsamer Konflikte nicht verwirklichte. Die DRK hat sich aber stark dem Modell der *illiberal democracy* angenähert. Es besteht die Gefahr, dass das Land in diesem System verharrt und der Demokratisierungsprozess dadurch einfriert.

Es ist ein Fehler, die Abhaltung von allgemeinen und freien Wahlen mit Demokratie gleichzusetzen. Wahlen bestimmen, wer zur Leitung der Staatsgeschäfte ermächtigt wird, nicht hingegen, in welcher Weise diese Ermächtigung ausgeübt wird. Die staatlichen Institutionen, die die politische und juristische Verantwortlichkeit insbesondere des Präsidenten der Republik sicherstellen sollten, existieren in der DRK zwar, es fehlt ihnen aber die unbedingt notwendige Unabhängigkeit und Stärke. Solange die Rechte und Freiheiten der Bürger nicht vor dem unzulässigen Zugriff der - wenn auch frei gewählten - Staatsmacht geschützt werden, kann der Demokratisierungsprozess in der DRK nicht als abgeschlossen betrachtet werden.

Annex II: Author's CV (in German)

WOLFGANG LARS STRASSER

Persönliche Angaben

Geboren am 11. Jänner 1983 in Oberndorf

Staatsbürgerschaft: Österreich und Schweden

Berufserfahrung und Praktika

| | |
|---------------------------|--|
| Seit Okt. 2010 | Rechtsanwaltsanwärter bei Barnert Egermann Illigasch Rechtsanwälte, Wien |
| Okt. 2009 - 09. Aug. 2010 | Gerichtspraxis (Landesgericht für Strafsachen / Bezirksgericht Innere Stadt Wien / Handelsgericht Wien / Kartellgericht / Staatsanwaltschaft Wien) |
| Okt. 2008 - Sept. 2009 | Verwaltungspraktikum im Bundesministerium für europäische und internationale Angelegenheiten, Abteilung für Umwelt, Verkehr, Telekommunikation und Energie |
| 01. Juli - 30. Sept. 2008 | Praktikum im Office of the Legal Adviser, Organisation for the Prohibition of Chemical Weapons (OPCW), Den Haag |
| 01. - 31. Juli 2006 | Praktikum bei der Österreichischen Außenhandelsstelle Stockholm |

Ausbildung

| | |
|-----------------------|--|
| Okt. 2007 - Juni 2008 | Diplom (mit Auszeichnung), Diplomatische Akademie Wien, |
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Sprachkenntnisse

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| Französisch: | DALF C1, Juni 2008 |
| Schwedisch: | Fortgeschritten |