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PRECOLONIAL ADMINISTRATION, COLONIAL ADMINISTRATION, INDEPENDENT CONSTITUTION AND THE ROLE OF LOCAL GOVERNMENT IN SELECTED COUNTRIES OF DRC CONGO, BELGIUM

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Abstract: Local government functions at the grassroots level, coordinating activities within communities and serving as the closest tier to the people. Its origins predate colonialism, with various forms existing before colonial rule. Under colonialism, the British indirect rule system built on established local administrations in Belgium and Congo. The structure and organization of local government have since evolved. This study reviews the stages of local government development in Congo and assesses current conditions. Using a qualitative approach, the research draws on interviews with traditional leaders, senior local government staff, and relevant literature. Data were analyzed through context analysis. The findings indicate that local government administration in Congo and Belgium has faced persistent challenges, particularly a lack of autonomy. The study concludes with recommendations to enhance local government performance and service delivery.

Keywords: Local; Administration; Belgium; DRC congo, independent, constitution, Tier; Colonialism.

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Introduction

Central Africa experienced increasing integration with the global economy through the Atlantic slave trade, followed by heightened activity from East African Swahili traders and Europeans during the nineteenth century. The official period of Belgian colonial rule in the Congo began in 1908 and continued until 1960, when the Congo attained independence. However, Belgian involvement commenced earlier. In 1885, the United States and several European states, including Belgium, recognized King Leopold II of Belgium as the sovereign of a vast territory approximately corresponding to the Congo River basin, known as the État Indépendant du Congo (EIC). Leopold II's colony is generally referred to as the Congo Free State in English, while the French term État Libre du Congo and the Dutch terms Onafhankelijke Staat Congo and Onafhankelijke Kongostaat are used less frequently. Although Leopold's rule from 1885 to 1908 was initially an international enterprise, it became increasingly dominated by Belgians as the white colonial population shifted to a Belgian majority. Many African communities within the EIC suffered severe abuses by both European and African colonial agents due to Leopold II's policy of resource extraction through coercion. Documentation by missionaries and others of these abuses led to humanitarian campaigns, international criticism, and eventually Belgian condemnation. Ultimately, Leopold ceded control of the colony to Belgium in 1908, after which it was administered as the Congo Belge (Belgian Congo) until 1960. Like other African colonies, with the exception of quasi-independent Liberia under significant United States influence, the Belgian Congo was a European construct; its borders and existence did not reflect African interests or indigenous ethnic, linguistic, or economic groups. Although Belgians never exercised complete control over the entire colony, they gradually expanded their administration, implemented reforms, and introduced European medical practices, Christianity, the French language, and other elements. Following World War I, Belgium acquired Ruanda-Urundi, which it governed in practice as a colony rather than as a League of Nations mandate. In 1960, the Congolese achieved independence, establishing the Democratic Republic of the Congo, which was renamed Zaire from 1971 to 1997. It is increasingly common to omit the definite article before "Congo," as in "Democratic Republic of Congo," although this article generally retains the definite article to reflect historical usage. The division of subsequent history into the Congo Free State period, the Belgian Congo period, and the postcolonial period is somewhat arbitrary. Although 1908 and 1960 were significant milestones, changes during these years were primarily legal, and in many respects, continuity outweighed transformation.

Review of Related Literature

Conceptual Clarification

Precolonial administration:

Pre-colonial local government systems varied across Belgium and DRC congo, often based on ethnic and cultural structures with traditional rulers like emirs, obas, and chiefs holding sway. Colonial rule introduced a system of indirect rule, utilizing these existing structures to administer and maintain control. Post-independence, local government structures have been

reorganized and restructured, facing challenges like state government interference.

Pre-Colonial Administration:

- **Diverse Structures:**

  Local governance was embedded within the social and political organization of various ethnic groups, such as the Yoruba, Hausa/Fulani, and Igbo.

- **Traditional Rulers:**

  Emirs, Obas, and Chiefs held significant power, making laws, maintaining order, and settling disputes within their domains.

- **Advisory Councils:**

  These leaders often had advisory councils or elders who aided in administration and tax collection.

Colonial Administration:

- **Indirect Rule:**

  The British colonial administration adopted a system of indirect rule, leveraging existing traditional structures and leaders to govern.

- **Native Authorities:**

  Traditional rulers were incorporated into the colonial administration as Native Authorities, responsible for maintaining law and order and implementing colonial policies.

- **Focus on Control:**

  The colonial system aimed to establish control and extract resources, often prioritizing British interests over local needs.

- **Centralized Control:**

  While using local leaders, colonial administration ultimately maintained centralized control, with British officials overseeing the system.

Role of Local Government Post-Independence:

- **Restructuring and Reorganization:**

  After independence, local government structures underwent significant changes and restructuring, influenced by different political regimes and ideologies.

- **Challenges:**

  Local governments faced challenges, including interference from state governments, lack of autonomy, and limited resources.

- **Functions:**

  Modern local governments are expected to perform various functions, including infrastructure development, sanitation, public health, and local economic development.

- **Democratic Governance:**

Local governments are also seen as a means to promote democratic self-governance and citizen participation at the grassroots level.

Colonial Administration

Colonial administration refers to the system by which a ruling power governs a colony, often involving direct or indirect control over the colony's political, economic, and social structures. This control frequently serves the interests of the colonizing power, with the colony's resources and labor being utilized to benefit the colonizer.

- **Direct Rule:**

  This involves the colonizing power directly administering the colony through its own officials and institutions.

- **Indirect Rule:**

  This system utilizes existing indigenous structures and leaders to administer the colony, often under the supervision of colonial officials.

- **Exploitation of Resources:**

  Colonial administrations often focused on extracting resources and wealth from the colony for the benefit of the colonizing power.

- **Imposition of Legal and Political Systems:**

  Colonizers often introduced their own legal and political systems, sometimes disrupting or replacing existing structures.

- **Cultural Influence:**

  Colonial administration often involved the imposition of cultural norms, language, and education systems, leading to cultural assimilation or resistance.

- **Economic Development (Often skewed):**

  Colonial administrations might introduce infrastructure projects and economic development initiatives, but these were often designed to serve the needs of the colonizing power rather than the colony's overall development.

Examples of Colonial Administration:

- **British Colonial Administration in Nigeria:**

  Britain utilized both direct and indirect rule in Nigeria, with the latter involving the use of traditional rulers under the supervision of British officials.

- **French Colonial Administration:**

  The French colonial administration in Africa employed a system of assimilation (encouraging Africans to adopt French culture) and association (maintaining some degree of local autonomy).

Consequences of Colonial Administration:

- **Political Instability:**

  The imposition of colonial rule and the disruption of existing political structures often led to instability and conflict in the post-colonial era.

- **Economic Dependence:**

  Colonial economic policies often left colonies economically dependent on the former colonizer, hindering their development.

- **Social and Cultural Disruption:**

  Colonial administration led to significant social and cultural changes, sometimes leading to the suppression or loss of indigenous traditions and practices.

- **Legacy of Inequality:**

  The structures and systems established under colonial rule often contributed to ongoing inequalities in post-colonial societies.

Local Government

According to Oni (1993), local government is that "level of government exercised through representative councils, established by law to exercise geographical area with common social and political ties." These powers should give the council substantial control over local 28 affairs as well as the staff and institutional and financial powers to initiate and direct the provision of services and to determine and implement projects so as to complement the activities of the state and federal governments in their areas.

The local government system can be defined as government at the local level exercised through representative councils established by law to exercise specific powers within a defined area. These powers should give the council substantial control over local affairs as well as the staff and institutional and financial powers to initiate and direct the provision of services and to determine and implement projects so as to ensure, through devolution of functions to these councils and through the active participation of the people and their traditional institutions, that local initiative and response to local needs and conditions are maximized. (Awa, 2006:96).

These definitions are rooted in the meaning of local government by the United Nations Office for Public Administration, which defines local government as a political division of a nation or (in a federal system) state, which is constituted by law and has substantial control of local affairs, including the powers to impose taxes or to exact labor for a prescribed purpose (UN Report, 1960:3). The governing body of such an entry is elected or otherwise locally selected. (Quoted in Ola, 1984:7). The common denominator in these definitions is that local government is a subordinate system of government and has the authority to undertake public activities (Eneanya, 2012:15). This authority has structures and functions, collects revenue, experiences some challenges, and is controlled by central authority. These definitions are encompassing and most widely accepted and have theoretical implications. From the definitions, certain characteristics of local government stand out.

Conceptual Framework

Conceptual Discourse

General Overviews

Until near the end of the twentieth century, surveys of Belgian colonialism in Central Africa clearly centered on Europe and the colonial administration, and scholars acted as if African history began with the arrival of Europeans in the nineteenth century. In the early twenty-first century, one can say that overviews fall into two categories: those centered on Belgium, the colonial administration, and the colonial experience from a European viewpoint, and those focused on Central Africa, the Congo, Congo's peoples, and the variety of ways in which Africans experienced and resisted foreign domination. In the former category is Buelens 2007, which examines colonial companies and colonial finance in great detail. A quite different kind of work focused on Belgium is Ewans 2003, a brief article providing a quick overview of Belgium's overseas expansion, including how it fits into Belgian history and memories. Among Afrocentric works is Africanist Jean-Luc Vellut's collection of carefully researched and wide-ranging essays in Vellut 2017—they are essential reading. Manning 1998 provides a concise but necessarily broad-ranging history of all of Francophone Africa south of the Sahara between 1880 and 1995, including the Belgian Congo. Also among those works focused on Africa is Nzongola-Ntalaja 2002, whose subtitle, "A People's History," indicates its deliberate focus on common people. Van Reybrouck 2014 also fits into this latter category, drawing as it does on everyday Africans' experiences with and memories of the colonial era, drawn from David van Reybrouck's work as a journalist, historian, and traveler in Africa. Early academic histories of Belgian imperialism, as opposed to popular or nostalgic works, were written mainly by non-Belgians, such as Slade 1962 (cited under Congo Free State Period) and Anstey 1966 (cited under Belgian State Rule Period). Generational change, additional archival resources becoming available, and the appearance of Hochschild 1998 (cited under Red Rubber) have led to a growth in history writing among Belgians and Congolese, among others. This has resulted in such fine syntheses as Vanthemsche 2012 and Ndaywel è Nziem 2012, both of which advance our knowledge and show us that more work needs to be done. Recent history writing and generational change also contributed to Goddeeris et al. 2024, a state-of-the-art work drawing together a plethora of expertise. In addition to the overviews listed here, see others in the Precolonial Period, Congo Free State Period, and Belgian State Rule Period sections.

Historical Background

The Democratic Republic of the Congo (DRC), formerly known as Zaïre, straddles the equator in Central Africa. With the Congo River in the west, a low-lying plateau in the center, and mountains in the east, the DRC is a vast country endowed with fabulous natural wealth. Roughly one-fourth the size of the United States (US), the DRC is Africa's second-largest country after Algeria. It is also the only country on the continent surrounded by as many as nine neighbors (Angola, Burundi, the Central African Republic, Congo-Brazzaville, Rwanda, South Sudan, Tanzania, Uganda, and Zambia).

Pre-Colonial and Colonial Times

The first inhabitants of the DRC were the Pygmies. Pygmies, locally known as "Batwa" or "Twa," lived in small groups on the outer limits of the Equatorial Forest and in other parts of the DRC. Subsequently, a second group, the semi-Bantus, entered the DRC from the northwest and established small kingdoms. The semi-Bantus attempted to subjugate the Pygmies, but the Pygmies fled deeper into the Equatorial Forest. A third group, the Bantus, arrived in the DRC from the north, went around the Forest, and settled almost everywhere in the DRC. They would either subjugate or chase the Pygmies and the semi-Bantus.

The migration of Bantus in the DRC lasted five centuries. They founded kingdoms and empires, including the Kongo, Kuba, Lunda, and Luba kingdoms. They created and followed their customary laws. Today, the descendants of these Bantu tribes still make up the majority of the Congolese people, estimated at 110

million as of July 2024. The DRC comprises no less than 450 ethnic groups.

The history of the Congo as a state has three milestones. First, the 1884-85 Berlin Conference consecrated the creation of the Congo as a "free state." A colonial charter (*Charte de l'État indépendant du Congo*) served as a constitution for the newly created state of the Congo. Notwithstanding its creation as "Congo Free State" (*État indépendant*), at the time, Congo was the sole property of the Belgian king, Leopold II. Systematic violence, massive forced labor, and the extermination of millions of innocent Congolese were the hallmarks of King Leopold II's horrid rule in the Congo.

In 1908, in accordance with the wishes of Leopold II, as expressed in his will, Belgium annexed Congo. The country became "Belgian Congo," a colonial territory. Another colonial charter replaced the older charter as the fundamental law of Congo. In the 1950s, mass movements for independence gathered momentum. The leader of one of those movements, Patrice Emery Lumumba, argued for a "calm and dignified" march towards independence and against the balkanization of Congo. On 30 June 1960, Congo won its independence from Belgium, with Joseph Kasavubu as President and Patrice Lumumba as Prime Minister.

After Independence

Shortly after independence, conflict and civil strife marred Congo. Belgium partly instigated the mayhem. Lumumba was assassinated on 17 January 1961. Later, on 24 November 1965, Mobutu Sese Seko staged a *coup d'état* by ousting Kasavubu. In its heyday, Mobutu's reign brought relative stability and economic growth, but, starting in the 1970s, it was punctuated by popular demands and actions for political change. Under Mobutu's rule, the country experienced a brutal dictatorship, the upsurge of corruption, and the downfall of public service. In 1989-1991, under domestic and international pressure, Mobutu conceded political pluralism and convened a national conference (*Conférence Nationale Souveraine*), with the declared aim of establishing a new political and constitutional order. The convention of the National Conference spelled the beginning of a difficult transition.

By the mid-1990s, it was clear that the political process had run into a dead end, an impasse that would only be broken by a protracted conflict fueled by security considerations, the competition for the control of strategic minerals, the fragility of the Congolese state, ethnic rivalries, and territorial ambitions. On 17 May 1997, a rebellion—backed by Burundi, Rwanda, and Uganda, which Laurent Désiré Kabila had set off in October 1996—toppled Mobutu. After Kabila decided in August 1998 that his Rwandan and Ugandan allies had to leave the country, another armed conflict erupted. Though a ceasefire agreement was signed in Lusaka in July 1999, all parties to the agreement violated it.

Admittedly, the first (1996-1997) and the second (1998-2003) Congo civil wars are the deadliest after World War II, causing directly and indirectly the death of more than 5 million people. In particular, throughout the Second Congo War, often referred to as "Africa's World War," Uganda and Rwanda each backed a major rebel group in Congo. On the other side, Angola, Namibia, Zimbabwe, Chad, and Libya intervened to support the government of Laurent Kabila in his fight against rebels in Congo.

President Laurent Désiré Kabila, while fighting the civil war that had broken out in August 1998, was gunned down by one of his bodyguards on 16 January 2001. In the wake of Laurent Kabila's death, his son Joseph Kabila was named head of state. In December 2002, all warring parties signed in Pretoria (South Africa) a peace accord, known by its French title as "*Accord global et inclusif*," to end the fighting. Following that agreement, a transitional government was formed in July 2003.

The Third Republic

The transitional government successfully organized a constitutional referendum for the adoption of a new constitution (on 18 and 19 December 2005) and elections for the presidency, national assembly, and provincial legislatures in 2006. Joseph Kabila promulgated the new constitution on 18th February 2006. In December 2006, Joseph Kabila was inaugurated president after winning the second round of the presidential elections. He formed his government on 7 February 2007.

Despite the country's reunification and the holding of democratic elections, intense rebel activities continued, mostly in eastern DRC, until 2013, when the Congolese army put a stop to the decade-long presence of foreign-backed rebels in Congo. However, in late 2021, the Rwandan-backed March 23 (M23) resurged and occupied huge swathes of territory in the North Kivu province of the DRC. This ongoing conflict has worsened the humanitarian situation, displacing and leading to the deaths of countless civilians in eastern Congo.

Provincial, legislative, and presidential elections occurred in December 2018. For the first time since independence in 1960, an opposition candidate won the presidential elections when Félix Tshisekedi defeated the candidate from the ruling party to become the DRC's fifth president in history. Tshisekedi got re-elected as president in 2023. He assumed office for his second term in 2024, continuing his leadership in a vast country facing myriad political dilemmas and ongoing issues related to governance and stability.

Overview of the Congolese Legal System

The DRC is a civil law country, and as such, the main provisions of its private law can be ultimately traced back to the 1804 Napoleonic Civil Code. More specifically, the Congolese legal system primarily rests on Belgian law. The general characteristics of the Congolese legal system resemble those of the Belgian legal system because the DRC received its law from the Belgian colonialists.

Customary law, or tribal law, also underpins the legal system of the DRC, where approximately 56% of the population lives in rural areas. Local customary laws regulate both personal status laws (like marriage and divorce laws) and property rights, particularly the inheritance and land tenure systems, in the diverse traditional communities of the country. Even though the Constitution subordinates customary laws to state laws, customary laws settle 75% of disputes in the Congo. "Customary law" does not refer to a body of rules merely stemming from usages and practices that have acquired over time the character of law. Rather, it refers to a general system of norms enacted by legitimate law-making organs (i.e., patriarchs, family councils, clan councils, and traditional or tribal chiefs). That normative system is "customary," not because it results from traditional customs, but because it finds expression in or through them. In other words, customary laws derive their authority from a legitimate law-making organ and exist independently of the individuals whose behavior they regulate. This characteristic of customary laws implies that, unlike state laws, ethnographic studies, as opposed to the usual (i.e., doctrinal) legal research methodologies, are necessary to ascertain the content of a given customary rule. Another distinctive characteristic of

customary laws is that they do not apply generally; they only apply to the traditional communities from which they originate.

Sources of Law

Congolese law draws its substance from at least seven formal sources, namely the Constitution, international treaties, legislation, administrative regulations, custom, case law, and doctrinal writings. At the apex of the legal system, the 2006 Congolese Constitution stands as the first source of law. It is the basic organic law of Congo with three components. It sets up the institutions and the apparatus of government, defines the contents and limits of government powers, and protects fundamental human rights and freedoms. The contents of the 2006 Constitution have been informed by Congolese constitutional law and history, comparative law, and international law. French and Belgian laws are the primary substantive sources of the Congolese Constitution, whose drafting also drew on constitutional experiences in Benin, Mauritius, Senegal, South Africa, and Togo.

International treaties and agreements are the second source of law. By Article 215 of the Constitution, treaties and international agreements that the DRC duly concluded must, upon publication in the government gazette Journal Officiel, prevail over Congolese legislation. Article 215 confirms the status of the Congolese legal system as a monist. Articles 214 and 216 limit the operation of Article 215 of the Constitution by subjecting the application of international law in the DRC to the Constitution and requiring domesticating legislation for specified types of international treaties. The application of international law is rare; still, military courts have relied on Article 215 to apply international law in a handful of cases.

As a source of law, legislation comes third. The Constitution distinguishes between organic laws and ordinary laws. Unlike ordinary laws (lois ordinaires), organic laws (lois organiques) exist as a special kind of legislation that organizes key areas of national life and requires absolute majorities to be passed and amended. As an additional requirement, the Constitutional Court must declare that the organic bill is consistent with the Constitution before the President of the Republic can sign the organic bill into law. Administrative regulations count as a fourth source of law. The Constitution confers on the President and the Prime Minister the power to issue administrative regulations, which they exercise using ordinances. Ministers and other administrative officials also have the power to issue ministerial and other regulations. Often viewed as the oldest source of law, custom (la coutume) consists of usages that have acquired the character of law after they have been widely observed over a long period by individuals who subjectively see them as binding. Custom is not to be confused with customary laws.

Case law, or judicial precedents (la jurisprudence), do not constitute a binding source of law, even if they carry persuasive authority. The same holds for doctrinal writings (la doctrine). The writings of individuals whose job is to study the law (e.g., professors, judges, legal practitioners, etc.) do not bind anyone; they only enjoy persuasive authority.

Divisions of Law

The Congolese legal system may be divided into three branches: public law, private law, and economic law (see also the classification of the legal system by Droit Congolais, a leading portal on Congolese law). Public law regulates legal relationships involving the state; private law regulates relationships between private persons; and economic law regulates interactions in such areas as labor, trade, finance, mining, and investment.

The distinction between public law and private law undergirds Congolese law as in all civil law systems. Public law (droit public)—which includes constitutional law, administrative law, tax law, criminal law, and the organization of the judiciary—regulates relationships to which the state, or a subdivision of the state, is a party. Public law therefore regulates relationships between public bodies and private persons and between public bodies among themselves.

Private law (droit privé) applies to relations among citizens or private groups. It comprises civil law, which in turn comprises the law of obligations, the law of persons, family law, property law, and succession law. Private law also encompasses the law of business organizations, private international law, and certain areas of commercial law.

Latest Developments

The past few years have witnessed ongoing efforts by the government to reform the law, modernize public administration and administrative law, and strengthen and stabilize the macroeconomy. Since 2019, the Congo has enacted several significant laws and legal reforms, such as the law on credit institutions and legislation combating money laundering and terrorism financing. In the field of human rights, the President promulgated a law that protects and promotes the rights of the indigenous Pygmy peoples in 2022 and an ordinance law that criminalizes gender-based intimidation and stigmatization in 2023. Likewise, Parliament legislated on the protection and the liability of human rights defenders. Furthermore, following the National Assembly, the Senate passed on 15 November 2023 its first-ever bill on land-use planning (l'aménagement du territoire). However, some reforms, particularly the Digital Code endorsed in March 2023, have aroused misgivings about its restrictive effects on freedom of expression and press freedom.

The DRC's gross domestic product (GDP) grew at a relatively rapid clip after the COVID-19 pandemic caused it to drop. In 2023, growth was accelerated by activities in mining and infrastructure construction. The government has undertaken a series of initiatives to enhance the DRC's competitiveness. Particularly, the government adopted an Emergency Reform Plan in 2023. In the preceding years, it had approved a value-added tax, the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, the OHADA Treaty, a one-stop shop for the creation of businesses, and another for external trade. Crucially, the DRC signed the African Continental Free Trade Area (AfCFTA) Agreement on 21 March 2018 and ratified it on 23 February 2022. It then joined the East African Community on 11 July 2023.

Over the period running from 2019 to 2024, four major developments impacted the law and politics in the DRC. First, in January 2023, President Tshisekedi announced a new agreement with the Chinese-backed Sicomines consortium, increasing infrastructure development investment from three billion to seven billion US dollars.

Second, President Tshisekedi initiated a controversial push for constitutional reform. On 23 October 2024, he announced that he would have a commission assembled to review the 2006 Constitution, arguing that it no longer mirrors the country's realities. This initiative has sparked strong opposition, with critics accusing Tshisekedi of attempting to remove term limits to extend

his presidency beyond his current second term. The opposition leaders have called on Congolese citizens to resist what they describe as a ploy to consolidate dictatorship through a life presidency.

Third, the Rwandan-backed M23 armed group resurged in North Kivu in late 2021. Since then, that province of eastern Congo bordering Rwanda has suffered conflict pitting the M23 against the Congolese military, supported by local militias (the so-called "Wazalendo") and regional allies, such as SADC and Burundi. The conflict has resulted in human rights violations, mass atrocities, and large-scale population displacements, with the provincial capital, Goma, and surrounding areas struggling to support the displaced people adequately.

On 17 December 2024, the Congolese government filed criminal complaints against Apple subsidiaries in France and Belgium. The lawsuit accuses Apple of sourcing "blood minerals" from conflict zones controlled by armed groups, especially the M23, within the DRC for use in its devices, such as smartphones. This action aims to hold global firms accountable for their role in fueling conflict and exploitation in mineral-rich regions of eastern Congo.

Overall, notwithstanding significant government policies and legal reforms, factors—such as lack of infrastructure, weak institutional capacity, serious resource limitations, and corruption—undermine the effectiveness, stability, and predictability of the legal system.

Constitutional Law

The 18th of February 2006 Congolese Constitution is the fundamental organic law of the DRC. It heralds the Third Republic. In the decades before the promulgation of the 2006 Constitution, the DRC had passed a recital of constitutions and constitutional laws. Some of these fundamental laws were tailor-made to suit the government of the day, some had not been applied, and others had altogether been ignored by the very people mandated to enforce them. For the Third Republic, the Senate proposed, the National Assembly adopted, the Congolese people approved during the constitutional referendum organized in December 2005, and the President promulgated in 2006 the Constitution. To guard the democratic principles engraved in the 2006 Constitution against political vicissitudes and untimely amendments, the Constitution entrenches some of its provisions. Thus, no one may amend the republican form of the state and the representative form of the government, the principle of universal suffrage, the number and duration of presidential terms, the independence of the judiciary, political pluralism, and freedom of association (Article 220). The Constitution entrenches these provisions by setting up an amendment procedure that requires either a national referendum or a supermajority (three-fifths) of both houses of Parliament, voting collectively as a congress (Article 218).

Constitutional History

The 2006 Constitution marks the latest installment in a long, painful series of concerted efforts to define and redefine the Congolese state. The first act took place from 20 January to 20 February 1960 in Brussels, Belgium, where various stakeholders participated in a historic conference, the Conférence de la Table Ronde. Representatives of Congolese political parties and traditional communities, as well as representatives of the Belgian government and Parliament, attended the conference. The representatives decided on the date of independence of Congo and adopted several resolutions on the organization of the future state of Congo and on the transitional legal regime that would be obtained before independence on 30 June 1960. Most importantly, on 19 May 1960, the Belgian Parliament passed, and the Belgian King Baudouin promulgated, a constitution for the Belgian Congo called the Fundamental Law on the Structures of the Congo (Loi fondamentale relative aux structures du Congo). The 1960 Fundamental Law remained in force till its repeal in 1964.

The second act in the Congo's constitutional history unfolded in the wake of the country's independence and in the midst of great political upheavals. After the secession attempts of the Katanga and South Kasai provinces in 1960, the assassination of Independence Prime Minister Patrice Lumumba in 1961, and a rebellion in 1964, the Congolese people adopted a constitution, the so-called "Lualabourg Constitution," on 1 August 1964. The Lualabourg Constitution, the First Republic Constitution, stood out as the first constitution written by the Congolese people and submitted to a constitutional referendum. The Lualabourg Constitution repealed the 1960 Fundamental Law when it entered into force.

On 24 November 1965, Mobutu staged a coup d'état. That date ushered in a dictatorship spanning thirty-two years, the radical curtailing of constitutional rights, and the erection of a one-party state in Congo. Mobutu promulgated on 27 June 1967 a new constitution for the Second Republic, also known as the "Constitution révolutionnaire" (the "Revolutionary Constitution"). Even though the 1967 Constitution was also submitted to a referendum, it had been amended several times. For instance, it provided for at least two political parties, but in practice only one political party operated, Mobutu's Mouvement Populaire de la Révolution (M.P.R.). In 1978, a constitutional law went further and removed presidential term limits. On 27 October 1971, Mobutu renamed the country "Zaïre." The country retained that name until 17 May 1997, when Laurent Kabila reverted the name of the country to the "Democratic Republic of the Congo."

After the fall of the Berlin Wall in 1989, erstwhile Western allies exerted pressure on Mobutu—a key player in Africa during the Cold War—to open up the political space in Congo. In February 1991, a national conference (Conférence nationale souveraine) began work and initiated a project for a new constitution for the future Third Republic. The start of the national conference is a watershed as it also signifies the start of the transitional period in the Congo's constitutional history. On 9 April 1994, the then-Congolese government adopted a Constitutional Act. Likewise, the national conference produced a constitution, but it would never be implemented such that the 1994 Constitutional Act applied until 17 May 1997.

From 1996 to 2003, the DRC was in the throes of two civil wars. In May 1997, upon deposing Mobutu, Laurent Désiré Kabila issued a decree-law that performed the function of a constitution. On 17 December 2002, a year after Laurent Kabila's assassination by one of his bodyguards, Congolese political parties and belligerents sealed a peace agreement sponsored by the international community, the Accord Global et Inclusif (Global and Inclusive Agreement on Transition in the Democratic Republic of the Congo), signed in Pretoria, South Africa. The 2002 Pretoria peace agreement established a constitution of national unity, the Transition Constitution

(https://www.leganet.cd/Legislation/JO/2003/numeros/jos.05.04.2003.pdf). The Transition Constitution laid down a few cardinal principles that endure in the 2006 Congolese Constitution, such as

the unity of the country and several fundamental human rights and freedoms.

Joseph Kabila promulgated the Constitution of the Third Republic on 18th February 2006. His swearing-in as president in December 2006, following his victory in the presidential elections, formally ended the decade-long transition period that started in 1991. The 2006 Congolese Constitution provides for institutional law and human rights law, as explained in the next section of this article, 4.

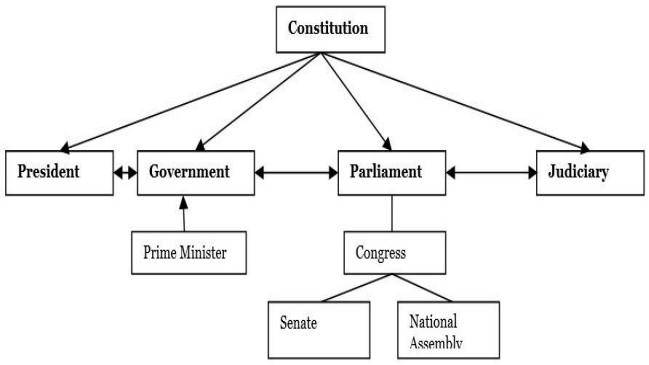
Institutional Law

Institutions of the Third Republic

The Constitution's Exposé des Motifs calls to mind that one of the root causes of the recurrent political crises that the DRC has been confronted with since independence on 30 June 1960 was the challenges relating to the legitimacy of the country's political institutions and actors. The wars that lasted from 1996 to 2003 put those challenges in sharp relief. It is that chronic legitimacy crisis suffered by political institutions that the framers of the Congolese Constitution intended to end when they negotiated, drafted, and adopted the Constitution.

The 2006 Constitution defines the DRC as an independent state, united and indivisible, social, democratic, and secular, where the rule of law prevails, and whose territorial borders are those that existed upon the country's independence on 30 June 1960 (Article 1). National sovereignty belongs to the people (Article 5). All power emanates from the people, who exercise it directly by referendum or elections and indirectly through elected representatives.

The Congolese Constitution provides for a clear separation of powers into three national institutions (the government, or the executive; the legislature; and the judiciary) and checks and balances. The institutions of the Third Republic are the President of the Republic, the government, the Parliament, and the judiciary.



Caption: The four institutions of the Republic

The first institution of the Republic is the National President, who, as of 2024, is Félix Antoine Tshilombo Tshisekedi. The president, elected by universal suffrage, serves a term of five years, renewable only once. The President is the guardian of the Constitution, national independence, territorial integrity, and national sovereignty. He ensures the performance of international treaties entered into by the state and the running of national institutions, together with the government. The Constitution obliges the President to cooperate with the Prime Minister in the areas of foreign affairs, security, and defense. These areas previously constituted the exclusive preserve of the president.

The second institution of the Republic is the national government, led by the prime minister. On 1 April 2024, President Félix Tshisekedi appointed Judith Tuluka Suminwa as Prime Minister, the first woman to ever occupy that position in the DRC. The Prime Minister leads the government and defines national policy, which she formulates in consultation with the President. The national budget (2025 budget) translates policies and the programs of the government into monetary form. The Prime Minister is accountable to the Parliament, which has the power to sanction her by a motion of censure.

Thirdly, the Parliament in the DRC (the *Palais du Peuple)* has its seat in the capital, Kinshasa. It is bicameral, consisting of a lower house (the National Assembly) and an upper house (the Senate). The National Assembly comprises 500 seats, and the Senate has 109 seats. Jean-Michel Kyenge Sama Lukonde is the President of the Senate, and Vital Lwa Kanyiginyi Nkingi Kamerhe is the Speaker of the National Assembly.

The National Assembly and the Senate acting collectively (i.e., the Congress) have the power to institute legal action before the Constitutional Court against the President and the Prime Minister for high treason (in theory, the International Criminal Court (ICC) has complementary jurisdiction to try the President, the Prime Minister, and senior government officers for genocide, war crimes, and crimes against humanity).

The Parliament can also sanction individual ministers using a no-confidence vote. Whereas the Parliament enjoys legislative supremacy and the power of oversight over the executive, parliamentarians do not rank above the law:Their immunity can be waived, and the president can dissolve the National Assembly in the event of persistent conflict between the National Assembly and the executive.

Last but not least, the judiciary is the fourth institution of the Republic. The Constitution ensures the independence of the judiciary. The Constitution molds the judiciary into three separate hierarchies of specialized courts, the so-called *ordres de jurisdiction* (which translate as "court systems"): the constitutional, the ordinary (civil and criminal), and the administrative court systems. Each court system has its supreme court, namely the Constitutional Court (*Cour constitutionnelle*), the Court of Cassation (*Cour de cassation*), and the Council of State (*Conseil d'État*), respectively.

Democracy-Supporting Institutions

Over and above the constitutional bodies outlined in the preceding section, the Constitution has created three institutions to support democracy in the DRC. The first of these institutions is the Economic and Social Council (*Conseil économique et social*), whose role consists of advising on economic and social issues submitted to it by the President, the National Assembly, the Senate, or the government (Article 208). The second institution is the Independent Electoral Commission, or the *Commission Électorale Nationale Indépendante* (CENI). Thirdly, the Media and Communication Council, or the *Conseil Supérieur de l'Audiovisuel et de la Communication* (CSAC), discharges the mission of protecting press freedom and all means of mass communication within the parameters of the law (Article 212 of the Constitution and the provisions of the CSAC law).

Elections and Political Parties

The Independent Electoral Commission (*Commission Électorale Nationale Indépendante*, CENI) oversees the electoral process, especially the enrollment of voters, the keeping of the electoral registry, voting, vote counting, and the holding of referenda (Article 211). It ensures the regularity of the electoral process. The 2011 amendment to the 2010 CENI law reduces the rounds of presidential elections from two to one. An organic law sets up the organization of the CENI. The current president of the Electoral Commission is Denis Kadima.

The Constitution recognizes political pluralism (Article 6) and political opposition (Article 8), and it criminalizes the institution of a one-party system (Article 7). The Constitution holds "sacred" the rights related to the existence and activities of the political opposition, as well as the opposition's quest to access power by democratic means (Article 8). A 2008 law obliges the government to give, through budgetary allocations, some funding to political parties to supplement their own financial resources.

Moreover, the Constitution only permits such restrictions as are imposed by the Constitution and the law on all political parties and activities. Finally, the Constitution mandates the Parliament to pass an organic law to determine the status of the political opposition. The 2007 organic law on the status of the political opposition is an innovation in the Congolese political system.

The 2007 law creates the position of the Spokesperson of the Political Opposition (*Porte-parole de l'Opposition*), who represents the political opposition within and outside Parliament. However, since the law was instated in 2007, the spokesperson position has remained vacant. The arrest of Jean-Pierre Bemba in 2008, the refusal of Étienne Tshisekedi after the 2011 elections and Martin Fayulu after the 2018 elections to recognize the legitimacy of political institutions arising from those elections, and the ongoing divisions among opposition leaders after Tshisekedi's son got re-elected as president have all contributed to this vacancy.

Three coalitions of political parties figured prominently in the National Assembly after the presidential elections in December 2018. These coalitions comprised FCC (*Front commun pour le Congo*), Lamuka, and Cach (*Cap pour le changement*). During those elections, the FCC supported the candidate put forth by outgoing President Joseph Kabila, Lamuka supported the opposition candidate Martin Fayulu, and Cach supported the opposition candidate Félix Tshisekedi.

The results of the presidential and legislative elections held in December 2018 have produced three outcomes. For the first time in the history of Congo, an opposition candidate won the presidential elections. Those elections also represent the first time the DRC witnessed a peaceful transfer of power. Thirdly, although the former political opposition won the presidential elections, the present political opposition, the FCC, controlled the government and Parliament.

However, in a dramatic reversal, President Félix Tshisekedi deftly gained control of government and Parliament by forging a coalition of political parties called the "Union Sacrée" ("Sacred Union") to oppose the FCC. Along the way, Tshisekedi secured the allegiance of the DRC's security apparatus built by his predecessor, including notably the leadership of the army, the Presidential Guard, and the national intelligence agency.

National Human Rights Commission

Though the Constitution does not envisage it, in 2023, Parliament approved a law establishing the National Human Rights Commission law, known by its French acronym CNDH (*Commission Nationale des droits de l'homme*). The CNDH monitors the government's compliance with human rights obligations and receives annual reports from state organs on the realization of socio-economic rights. A new law on the protection of human rights defenders adopted in 2023 requires defenders to register with the CNDH to obtain an identification number. The CNDH also maintains relations with human rights organizations and produces human rights reports for government authorities.

Human Rights

The Congolese Constitution protects and promotes human rights, fundamental freedoms, and the duties of citizens. The grave human rights situation and the fragile social context in the DRC bear witness to the necessity of constitutionalizing and enforcing human rights. The preamble of the Constitution reaffirms Congo's adherence to human rights and the equal representation of women and men in state institutions. It reaffirms the country's adherence to the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights ("the Banjul Charter"), and the UN conventions on the rights of children and women. The DRC has ratified all the main international instruments on human rights and humanitarian law, including the UN Convention on Civil and Political Rights and the UN Convention on Social, Economic, and Cultural Rights.

The Bill of Rights in the 2006 Constitution applies to all public authorities and every person (Article 60), and some human rights (like life and the prohibition on cruel, inhuman, and degrading treatment) are non-derogable. Drawing from the Banjul Charter, which the DRC ratified on July 20, 1987, the Constitution protects the three generations of human rights (civil and political rights; social, economic, and cultural rights; and peoples' rights) and imposes individual duties on citizens.

Title II of the 2006 Constitution embodies a bill of rights enshrining fifty-six human rights provisions. Title II subdivides into four chapters on (1) civil and political rights; (2) economic, social, and cultural rights; (3) group rights; and (4) duties of citizens. The first chapter lists civil and political rights. It opens by declaring that all human beings are equal in dignity and rights but confines political rights to Congolese citizens exclusively unless otherwise provided by law (Article 11). The first chapter promotes equality and prohibits discrimination in other areas (Articles 12, 13, 14, and 15). Article 16 proclaims that the human person is sacred and that the state must respect and protect it. Article 15 states that public authorities must ensure the elimination of sexual violence used as a weapon to destabilize or dislocate families. Article 15 gains weight from Article 14, which is an innovation in the DRC as it formalizes the right to equality between women and men.

The Constitution protects fundamental freedoms, including opinion, conscience, and religion (Article 22); expression (Article 23); information, press, and communication (Article 24); privacy (Articles 29 and 31); movement (Article 30); assembly, demonstration, and petition (Articles 25, 26, and 27, respectively); asylum (Article 33); and the protection of foreign nationals and their property (Article 32).

The second chapter lists economic, social, and cultural rights. It begins by asserting that private property is sacred (Article 34). It continues by laying down the right to work (Article 36) and freedom of association (Article 37), the right to form trade unions (Article 38), and the right to strike (Article 39). The second chapter also protects rights relating to the family. It recognizes that the family, the basic cell of the human community, is organized to ensure its unity, stability, and protection (Article 40). It declares that everybody has the right to marry, to choose a person of the opposite sex as a spouse, and to raise a family (Article 40). It protects the rights of the child (Articles 41 and 42), the elderly, and the disabled (Article 49). Other important socio-economic rights in the 2006 Constitution include the right to health and food security (Article 47); the right to housing, water, and electricity (Article 48); and the right to culture and intellectual, artistic, scientific, and technological creation (Article 46). The Bill of Rights provides for the right to free education (Articles 43, 44, and 45).

The third chapter of Title II of the 2006 Constitution contains a protection regime for groups' or peoples' rights. It protects the rights and legitimate interests of Congolese citizens and confers on foreign nationals legally on Congolese soil the same rights and freedoms as Congolese citizens, except for political rights (Article 50). The state ensures the harmonious and peaceful coexistence of ethnic groups in the DRC (Article 51). It protects the rights of Congolese citizens to peace and security (Article 52), a clean environment (Articles 53 and 54), the enjoyment of their national resources (Articles 58, 56, and 57), and the common patrimony of humankind (Article 59).

The fourth chapter of Title II imposes individual duties on citizens. It charges citizens with the duty to know and respect the Constitution and legislation (Article 62), to defend the country and its territorial integrity, and to defeat any individual or group of individuals who takes power by force or who exercises it in violation of the Constitution (Article 64). The latter duty—to defeat unconstitutional access or exercise of state power—may justify popular revolt, if not insurrection, against an illegitimate government. The fourth chapter further imposes on citizens the duty to fulfill their obligations vis-à-vis the state, including the payment of taxes (Article 65); to work (Article 36); to treat fellow citizens without discrimination to preserve national solidarity (Article 66); and to protect public property and respect private property (Article 67).

Administrative law

Administrative law closely relates to constitutional law because administrative law concerns itself with administrative efficiency and respect from the Congolese administration for citizens' fundamental rights, as provided for in Title II of the Constitution. However, it is not always easy to distinguish between constitutional law and administrative law.

Introduction

Administrative law is the branch of public law that defines and regulates public administration. It embodies the corpus of norms governing the organization, functioning, interrelations, and control of public authorities (excluding political and judicial authorities). It also denotes the set of norms regulating the relationships between the administrative authorities and private individuals.

Article 193 of the Constitution defines the administration as comprising the civil service as well as all affiliated organs and services. Administrative law thus applies to, among other areas, the management and delivery of public services, government contracts (2010 law on government contracts), and the status and conduct of civil servants (law on the conduct of civil servants).

The Constitution proclaims the Congolese public administration apolitical, neutral, and impartial. Further, Article 194 of the Constitution mandates the state to enact an organic law on national, provincial, and decentralized administrative entities. The Parliament obliged in 2008 (organic law on the organization and function of national, provincial, and decentralized entities).

The principal beneficiary of public service and the provision of administrative law is the Congolese citizen. The Constitution lays down that Congolese citizenship is either by origin or by *acquisition individuelle* (naturalization) (Article 10). It mandates the Parliament to pass an organic law on the conditions of recognition, loss, and revival of Congolese citizenship. A 2004 nationality law attaches those conditions to citizenship and its granting.

The DRC has about 250 languages and dialects. French is the official language: administrative bodies and officials use it in official correspondence. The DRC has four national languages, namely Kikongo, Lingala, Swahili, and Tshiluba. The other languages belong to the country's cultural patrimony, whose protection the state ensures.

Sources

The primary sources of administrative power stem from the Constitution; duly ratified and published international treaties; primary legislation (organic and ordinary laws); subordinate legislation like ministerial regulations, decree-laws (*décrets-loi*), or municipal by-laws; and general principles of administrative law. The Court of Appeals (*Cour d'appel*) and the former Supreme Court developed through interpretation some of these principles (*principes de bonne administration*), which the administration must respect in the administrative process. Those courts formulated those principles despite the absence of legislation elaborating on them.

Fundamental Principles and Privileges

The fundamental principles of administrative law in the DRC are the principle of citizens' equal access to public services (equality), the principle of legality of administrative acts, and the principle of continuity of public services. The Constitution elevates political neutrality and impartiality into fundamental principles of administrative law. These principles express the intention of the drafters of the Constitution, as set out in the latter's Preamble, to fight certain ills plaguing public administration in the DRC. The Preamble of the Constitution considers that injustice with all its corollaries—impunity, nepotism, regionalism, tribalism, clan-based politics, and patronage—caused the general loss of values and the ruin of the country. The DRC still grapples with high levels of corruption.

Importantly, administrative legality requires the administration to observe the rules particular to the type of administrative acts that a given administrative body performs. Another general principle of law prevents administrative bodies from performing retroactive administrative acts. However, exceptions to this principle exist. An administrative decision may be retroactive if the law explicitly or implicitly envisages it. The nature of certain decisions and situations may also require retroactivity.

In addition, administrative law has conferred on the administration two special privileges. The first privilege (*privilège du préalable)* empowers the administration to issue to itself the enforceable instruments it needs to fulfill its mission. This power enjoys a rebuttable presumption of legality. The onus rests on citizens, or anyone aggrieved by the exercise of that power, to prove that the administration acted unlawfully. The second privilege (*privilège de l'exécution d'office)* empowers the administration to enforce acts it has itself adopted against the persons concerned.

Congolese administrative law can be organized in more than one way. For present purposes, administrative law breaks down into three sub-branches: the organization, the functioning, and the control of the administration.

The Administrative Organization of the State

In terms of the 2006 Constitution, the DRC is short of a federal state, a highly decentralized unitary state. The Constitution establishes a government and a legislature at both national and provincial levels. To consolidate national unity and create local centers of development, the Constitution has structured the Congolese state into twenty-five provinces and the capital city, Kinshasa, which has the status of a province. Coming under the provinces are the decentralized territorial entities, which comprise the city (*ville*), the town (*commune*), the *secteur*, the *chefferie*, and other administrative constituencies (*circumscriptions administratives*), in descending order of importance.

The organic structures of an administrative body or public institution (*établissement public*) consist of the board of directors, management, and the college of auditors (*collège des commissaires aux comptes*).

The Functioning of the Administration

Administrative Acts

For the administration to function, it needs people to perform certain acts and the means to do it. Congolese law distinguishes between two types of administrative acts: unilateral and bilateral administrative acts. In unilateral administrative acts, the administration makes binding decisions through its legal authority, without requiring agreement from affected parties. Developed by doctrinal writings, these acts, whether written or unwritten, fall into two categories. The first category encompasses unilateral administrative acts defined in terms of the procedure for adopting—and the administrative bodies or officials performing—these acts (*classification formelle*). The second category encompasses unilateral administrative acts defined in terms of their contents (*classification matérielle*).

Bilateral administrative acts refer to the contracts that administrative bodies may conclude. These contracts may be private or public. In private contracts, the administrative body is acting in a commercial capacity. Ordinary courts mediate disputes arising from such contracts. By contrast, the administrative body or official acts with state authority when entering public contracts (*contracts administratifs*). For instance, the state enters several public contracts in the area of government procurement.

Administrative Means

Administrative officials have two sorts of means at their disposal: legal and material. In addition, officials may proceed in two ways: administrative policing and public service. On the one hand, with administrative policing (*police administrative*), officials regulate the behavior of private individuals within the limits dictated by the need to keep public order and prevent any behavior that may compromise peace, sanitary conditions, and security. In short, administrative policing is the complete set of legal and material means regulations, authorizations, defenses, injunctions, and other forms of coercion.

On the other hand, with public service, officials take it upon themselves to satisfy the needs of the population through services that private initiatives cannot adequately fulfill. Public service is one of the fundamental concepts of Congolese administrative law. The concept comes from the combination of two elements: the state structures and public interest.

Control of the Administration

A valid administrative act requires that the author of the administrative act have competence in terms of the subject matter (*ratione materiae*), geographical restrictions (*ratione loci*), and time requirements (*ratione temporis*). The general principle entitles only the administrative body or official entrusted with administrative power (*compétence d'attribution*) to perform an administrative act.

For an administrative act to be legally binding, the administration must first enact it. Second, the administration must publish the act after it has enacted it. Different additional publication requirements apply depending on the nature of the administrative act.

Administrative controls and judicial review of administrative acts seek to safeguard the principle of legality of administrative acts. Administrative controls are internal in that they operate inside the administrative structure, whereas judicial review of administrative acts is external in that it starts on the initiative of the citizens or other persons aggrieved by an administrative act. One must exhaust administrative controls before one can resort to the judicial review of an administrative act.

Administrative controls entail, first, demanding that the administrative official who performed the administrative act review her own decision (*recours administratif gracieux*) and, second, demanding that a superior official within the same administrative body review the act of the official who performed it (*recours administratif hiérarchique*). Should the administrative controls fail, the aggrieved party can commence legal action before the competent courts (*contrôle juridictionnel*).

The 2006 Constitution ushered in an administrative law regime with specialized administrative courts. The Administrative Court of Appeals (*Cour administrative d'appel*) and the Council of State (*Conseil d'État*) have replaced the administrative sections of the Court of Appeals and the former Supreme Court in adjudicating administrative law disputes.

Decentralization

The Provinces

Decentralization is a most important and taxing reform that the government has embarked upon. The Congolese legislature passed a law (Loi N 08/012) that outlines the fundamental principles underpinning the complex decentralization process. The law lays down principles for the provinces regarding the management of human, economic, financial, and technical resources.

The twenty-five provinces and the city-province envisaged by the 2006 Constitution are Bas-Uele, Equateur, Haut-Lomami, Haut-Katanga, Haut-Uele, Ituri, Kasaï, Kasaï Oriental, Kinshasa (the city-province), Kongo Central, Kwango, Kwilu, Lomami, Lualaba, Lulua, Mai-Ndombe, Maniema, Mongala, North Kivu, North

Ubangi, Sankuru, South Kivu, South Ubangi, Tanganyika, Tshopo, and Tshuapa.

In July 2015, the government reorganized the territory of the country into twenty-six provinces out of the original eleven. The partition affected six of the old eleven provinces: Bandundu, Équateur, Kasaï-Occidental, Kasaï-Oriental, Katanga, and Province Orientale. The partition elevated several districts of these six provinces to the status of province.

Every province consists of a provincial assembly and a provincial government. Provincial governments are composed of a governor, a vice-governor, and several provincial ministers, not exceeding ten. Governors and vice-governors are elected for a term of five years, renewable once. Every province possesses legal personality and performs powers, functions, and duties enumerated in the Constitution, while provincial assemblies legislate on matters that fall under provincial jurisdictions. Powers are either exclusive to provinces or shared by provinces with the central government. Exclusive powers include provincial planning, inter-provincial cooperation, provincial and local public administration, provincial public finance, primary and secondary education, provincial and local taxes, and the application of customary laws. The Constitutional Court resolves conflicts concerning the distribution of powers between the central government and provinces.

The Constitution has instituted a conference of provincial governors, *Conférence des gouverneurs.* It mandates the Congolese Parliament to enact an organic law on the Conference of Governors. Parliament passed the organic law in 2008. The Conference of Governors meets twice a year in each province on a rotational basis. The Conference of Governors is composed of the provincial governors, the President of the Republic, and the minister responsible for home affairs. The Conference can invite any other member of the government to one of its meetings. The Conference was created because of the complexity of the rules and mechanisms governing (1) the relationships between the central and provincial governments and (2) the relationships among the provinces. The Conference provides advice and puts forward concrete suggestions on relevant policies and legislation.

The Challenges

Decentralization is one of the most ambitious projects of the 2006 Congolese Constitution and one of the most challenging areas of administrative law in the DRC. The Constitution divides the former eleven provinces into twenty-six new provinces. Though the Constitution provided for the creation of the new provinces within thirty-six months of the installation of the political institutions in 2007, the government had not yet passed legislation installing the new provinces on 15 May 2010, the constitutional deadline. The government argued that the exercise would cost a few billion US dollars and promised to install the new provinces later. In the end, the Constitution was amended in 2011 to cancel the May 2010 deadline and mandate the Parliament to enact a law that will plan and set a timetable for the installation of the twenty-six provinces envisaged by the Constitution. Eventually, the government installed the provinces in July 2015.

A second challenge relates to fiscal decentralization. Article 175 of the Constitution allocates to the provinces 40% of national taxes, which is "retained at its source." The central and provincial governments disagree on what Article 175 truly means. The central government maintains that Article 175 means that provincial governments must collect national taxes and send them to the central government, which will then allocate 40% of those taxes back to the provinces. Provincial governments counter that such an interpretation of Article 175 contravenes the text of the Constitution, which provides that provincial governments should "retain" 40% of national taxes in the provinces and send the balance to the central government. Since the entry into force of the 2006 Constitution, the central government has favored its interpretation of Article 175. Between 2007 and 2013, the central government gave back to provinces only 6-7% of taxes instead of the 40% prescribed by the Constitution. As a consequence, question marks hang over the economic viability of most provinces.

Aside from the uncertain economic viability of most provinces, repeated internal wrangling has culminated in the removal or resignation of provincial governors in Bandundu, Equateur, Kasai-Occidental, Maniema, and South Kivu. From the promulgation of the 2006 Constitution till 2011, such controversies have dogged all provincial assemblies in Congo. These tense and sometimes chaotic situations were due to political inexperience and the absence of institutional safeguards. Therefore, to quell those recurrent tensions, the Parliament amended the Constitution on 20 January 2011 to empower the President of the Republic to remove a provincial governor from office or dissolve a provincial assembly when a serious political and persistent crisis weakens provincial institutions. The president may decide to remove the governor from office or dissolve the provincial parliament by ordinance after deliberating the question in Cabinet and consulting the National Assembly and the Senate. If the president dissolves a provincial assembly, the National Electoral Commission (the CENI) will organize provincial elections within a specified number of days from the removal or the dissolution. Speaking of the dissolution of a provincial assembly, the CENI may, in extraordinary circumstances, apply to the Constitutional Court to extend the deadline to 120 days.

The situation did not improve much after the 2011 constitutional amendment and the establishment of new provinces in 2015. Five years afterward, at least eight governors have been dismissed by their provincial assemblies, while four others faced censure motions.

The *École Nationale d'Administration*

To handle the sheer complexity and the enormous challenges posed by decentralization in particular and governance in general, Congo has created the *École Nationale d'Administration* (ENA). Following the lead of several French-speaking countries in Africa (e.g., Algeria, Senegal, and Niger), Congo launched in April 2013 the ENA, an elite school for senior civil servants, modeled after the prestigious school of the same name in France (1945-2021).

In creating the Congolese ENA, the government intended to rebuild the state, enhance its effectiveness, and strengthen the decentralization process. The ENA primarily aims to recruit and train senior civil servants on the design, implementation, and monitoring of public policies. High-ranking members of the Congolese civil service and the executive branches of foreign governments deliver the lectures. The ENA was inaugurated in June 2014.

Security Forces: The Police and the Army

The national police and the army occupy a central position because they protect democratic institutions, the security of persons and their property, and the territorial integrity of the country.

Nevertheless, after years of kleptocratic management and organizational decay under Mobutu Sese Seko, both the police and the army have encountered considerable difficulties in fulfilling their constitutional mandates, especially during the two Congo wars from 1996 to 2003. Since the political transition ended in 2006, the Congolese government has initiated a reform of its security sector with the assistance of bilateral and multilateral partners.

The United Nations mission in the DRC, MONUSCO (formerly MONUC), has received a clear mandate to assist the country in reforming its security sector and protecting civilians (see the MONUSCO mandate).

Background

The Constitution provides that both the Congolese police and army must select and appoint their members and commanding officers with due regard for the equitable representation of provinces and objective criteria based on physical aptitude, sufficient training, and moral probity. The police and the army fall under the jurisdiction of military courts and the ultimate responsibility of a national defense council (*Conseil supérieur de la défense*). A typical meeting of the Defense Council is attended by the President of the Republic, the Prime Minister, the minister responsible for national defense, the minister responsible for home affairs, the Chief of Staff of the Congolese Army, the national police chief, the chief of the army land forces, the chief of the army air forces, the chief of the army naval forces, and the Chief of the Military Staff of the President of the Republic. Occasionally, the president's advisor on national security and the head of the intelligence services get invited to the meetings. The President of the Republic heads the Defense Council and presides over its meetings.

The National Police

The Congolese Constitution puts the national police, the *Police Nationale Congolaise* (PNC), in charge of public safety, the security of persons and their property, law and order, and the enhanced security of senior government officers. The Constitution declares the police apolitical. With jurisdiction over the entire national territory, the police serve the Congolese nation, and no person can use the police for his or her purposes. The police are subject to the local civilian authority and are under the responsibility of the minister responsible for home affairs (https://interieur.gouv.cd/).

In 2011, the Parliament passed a law that reformed the national police (see the law on PNC). In passing that law, Parliament bore in mind that, in its organization and operations, the national police faced numerous challenges, prompting frequent complaints by the local population. Given this situation, the Congolese legislature reformed the police to respond to the pressing imperative to provide the country with a civilian, efficient, unified, apolitical, and professional police force capable of carrying out its mission regardless of the political context. The law entrusts senior officers within a single department with the responsibility of the administrative police (*police administrative*) and the judicial police (*police judiciaire*), which the law has unified. The law allows those two police units to draw their members from revamped police schools. One innovation of the new law is the express inclusion of gender considerations into the activities of the police.

The Police Council (*Conseil supérieur de la police*) sits at the top of the structures devised by the 2011 law. The Police Council is composed of the minister responsible for home affairs (https://interieur.gouv.cd/), the minister responsible for the administration of justice, the head of the General Office (*Commissaire général*) and his three deputies, the head of the General Audit Office (*Inspecteur général*), provincial police chiefs, and the Director of Training and Police Schools. Certain structures fall below the Police Council, for example, the General Office (*Commissariat général*), the General Audit Office (Inspection générale), provincial offices, and local and territorial units. Under the new law, the head of the General Office (*Commissariat général*) heads the national police. Benjamin Alonga Boni, who holds the position of *Commissaire général*, is the chief of the national police.

The Army

The Congolese army, the *Forces Armées de la République Démocratique du Congo* (FARDC), has the constitutional mission to defend the integrity of the national territory and borders. The army comprises the land force, air force, naval force, and auxiliary services. Within parameters set out by legislation, the Congolese army participates, in peace as in war, in the economic, social, and cultural development of the nation, and the protection of persons and their property. Like the national police, the Congolese army is republican, apolitical, in the service of the nation, and subject to civilian authority. Nobody can use the Congolese army for his or her purposes. Forming a military or para-military organization, a private militia, or an armed youth amounts to high treason.

The New Law

The government enacted a law in 2013 that restructured the army. Capitalizing on the recent and past history of the Congolese army and factoring in the geopolitical and geostrategic importance of the Congo, the 2013 organic law on the Congolese army overhauled the FARDC. In restructuring the army, the legislature sought to conform to the new constitutional dispensation brought about by the 2006 Constitution and realize the vision to put in place an army that is national, apolitical, and republican. Nonetheless, certain sections of the old 2004 organic law on the Congolese army remain in force. These include provisions on the organization, the manifold mission, and the guiding principles of the army.

The new army law draws a categorical distinction between the political institutions and the military structure of the national defense apparatus. The President of the Republic, the government, the National Assembly, the Senate, and the Defense Council, constitute the political institutions. On the other hand, the High Command (*Haut commandement militaire*) constitutes the military structure. Note that the Defense Council is, nevertheless, both a political institution and a military structure.

The political institutions intervene primarily in the appointment of military officers (the President of the Republic makes the appointments on recommendation by the defense minister during Cabinet deliberations), the management of national defense (the Prime Minister in collaboration with the President designs policies on matters relating to security and public order), the declaration of war (the National Assembly and the Senate authorize the declaration), and the implementation of the government policies on national defense (the defense minister is responsible for the application of those policies).

The Military Structure

The High Command (*Haut commandement militaire*) is the military structure of the national defense apparatus. It shoulders a

threefold mission: to evaluate the operational capacities of military units, assess security threats, and determine budgetary constraints. The members of the High Command are the Chief of Staff of the Congolese Army, the Deputy Chiefs of Staff of the Congolese Army and their assistants, the chief of the land forces, the chief of the air forces, the chief of the naval forces, commanders of defense zones, the Commander of Military Academies, the commander of the medical corps, the commander of the corps of military engineers, the logistics commander, the commander of the media and information department, one commander responsible for civic education, and another responsible for transmission troops. The Chief of Staff of the Congolese Army (*Chef d'état-major general des Forces armées de la République démocratique du Congo*) heads the High Command. Gen. Jules Banza Mwilambwe is the Chief of Staff of the Congolese Army. He assumed the position from Christian Songesha Tshiwewe on 19 December 2024.

Criminal Law

Overview

To refer to a crime, Congolese law uses the concept "infraction" (*infraction*). Congolese criminal law, mainly codified in the 1940 Penal Codes, features two parts: the ordinary Penal Code for civilians and the Penal Code for the military. The corresponding Code of Penal Procedure and the Military Courts Code, respectively, regulate the implementation of the ordinary and the military Penal Codes. In April 2010, Parliament updated the Penal Codes. Over and above the Penal Codes, specific laws criminalize additional acts in branches of Congolese law other than criminal law.

Criminal law also covers attempts to commit a crime; recidivism; concurrence; participation of several persons in a crime; justification grounds and grounds of excuse; extenuating circumstances; and extinction of punishments. On 20 July 2006, the Parliament amended the Penal Code and the Code of Civil Procedure by providing for more progressive definitions of sexual offenses (sexual offenses amendments). Those amendments represent the government's reaction to the scourge of sexual violence, which had reached epidemic proportions in the troubled east of the country. To be sure, from 1999 to 2011, about 200,000 women and girls got raped in the DRC.

The Penal Code

The Penal Code has two books. The first book deals with infractions in general and the second book with specific infractions. In the opening section of the first book, the Penal Code expresses a central element of the principle of legality, the *nulla poena sine lege*, which states that no punishment can be meted out for an act without a pre-existing law criminalizing that act. Moreover, the Code punishes an "attempt" to commit an infraction. An attempt occurs when a person intends to commit an infraction through observable conduct that begins the execution of the infraction but that fails to produce the intended outcome because of circumstances beyond that person's control.

By Article 215 of the Constitution, which puts duly ratified international treaties above Congolese legislation, the provisions of the Rome Statute of the International Criminal Court complement the Penal Code and override conflicting provisions in the Code. Military tribunals in the DRC applied the provisions of the Rome Statute directly in some cases of war crimes and crimes against humanity.

The Infractions

Unlike Belgian and French law, Congolese law does not differentiate between felonies (*crimes*), misdemeanors (*délits*), and contraventions (*contraventions*). Congolese law refers to violations of the criminal or penal law, whether ordinary or military, as "infraction" (*infraction*). However, the gravity of infractions varies from case to case.

The second book (on specific infractions) groups infractions into eight titles, namely:

- Infractions against individuals
- Infractions against property
- Infractions against the faith and credit of the state
- Infractions against public order
- Infractions against public safety
- Infractions or family order
- Violations of individual rights
- Endangering the security of the state

Under the first title (infractions against individuals), the Penal Code criminalizes or provides for intentional homicide and bodily injury, unintentional homicide and bodily injury, superstitious and barbaric practices, duels, the duty of care towards third parties (*non-assistance à personne en danger*), the security of the person (*Attentat à la liberté individuelle*), the privacy of the home (*inviolabilité du domicile*) and the privacy concerning mail (*attentats à l'inviolabilité du secret des lettres*), the revelation of professional secrets, and defamation and insults made in public. A 2011 amendment to the Penal Code adds the prohibition against torture to the list of infractions punishable under the Code.

The second title governs infractions against property: theft, extortion, fraud, and damage to property. Fraud and damage to property comprise sub-infractions. The broad heading of fraud includes bankruptcy and similar situations, breaches of trust (*abus de confiance*), "poaching" employees from another firm (*détournement de main-d'oeuvre*), scams and deception (*l'escroquerie et la tromperie*), concealment of property obtained as a result of an infraction (*recèlement des objets obtenus à l'aide d'une infraction*), fraudulent concealment or delivery of property obtained by chance to third parties (*cel frauduleux*), and making off without payment (*grivèlerie*). Falling under the damage-to-property heading are arson (*incendie*); the destruction of buildings, machines, tombs, and monuments; the destruction and degradation of trees and crops (*récoltes*); the "destruction" of animals (*destruction d'animaux*); and the removal or displacement of boundaries (*enlèvement ou déplacement des bornes*).

The third title criminalizes counterfeiting, forgery, and/or the imitation of banknotes, seals, stamps, punches (*poincons*), and marks; the usurpation of public functions; and the illegal wearing of decorations (*port illégal de décorations*). It also criminalizes the falsification of written documents (*faux commis en écriture*), perjury (*faux témoignage*), and false swearing (*faux serment*). The next title levies sanctions against infractions against public order, especially rebellion, the breaking of seals (*bris de scéllés*), the obstruction of public works (*entraves apportées à l'exécution des travaux publics*), violations of the freedom of trade and navigation (*atteintes à la liberté du commerce et de la navigation*),

embezzlement (*détournements et concussions*), and infractions relating to marital status. The fourth title also forbids provocation and incitement to disobedience towards public authority (*manquements envers l'autorité publique*), offending or assaulting members of the National Assembly, the Government, or the security forces. The fourth title has a section dedicated to the criminalization of corrupt practices. It prohibits and punishes corruption, illegal earnings (*rémunérations illicites*) afforded to employees of private firms, influence peddling, and the unlawful withholding of public funds by civil servants (*abstention coupable des fonctionnaires*).

The fifth title (infractions on public safety) prohibits criminal gangs, threats of assault, and the escape of prisoners (*évasion de détenus*). The next title (infractions against family order) criminalizes abortion, rape and indecent assault (*atteinte à la pudeur*), sexual offenses (*attentats aux moeurs*), and offenses against public morality (*outrages publics aux bonnes moeurs*). In 2006, Parliament amended provisions on sexual offenses to insert into the Code progressive and gender-neutral definitions of sexual offenses in line with international law. The seventh title (violations of individual rights and freedoms) protects the freedom of religion (*la liberté du culte*) and freedom of conscience; and the right of individuals to administrative justice (*atteintes portées par des fonctionnaires publics aux droits garantis aux particuliers*). The last title (infractions against the security of the state) penalizes treason, infractions against the authority and territorial integrity of the state, participation in armed groups and insurrections, infractions against homeland security, and other infractions against the security of the state.

Sentences and Extenuating Circumstances

In its first book, the Code lists the possible sentences a judge may hand down. Depending on the facts of the case and the gravity of the infractions, judges may impose the death penalty, hard labor, imprisonment (*servitude pénale*), fines, forfeiture (*confiscation spéciale*), the obligation to stay away from certain places (*l'obligation de s'éloigner de certains lieux ou d'une certaine région*), forced residence in a given place (*résidence imposée dans un lieu déterminé*), and monitoring by the state (*mise à la disposition de la surveillance du gouvernement*). A judge may suspend a sentence he or she imposes. When one positive conduct constitutes several infractions, the court must, in punishing that conduct, pass the sentence of the infraction that carries the most severe sentence.

These sentences do not preclude plaintiffs in civil proceedings from claiming damages the accused may owe them. In such cases, the court in the criminal proceedings determines the amount of damages. If extenuating circumstances exist, courts may commute a death penalty to a life sentence and a prison term to a fine. Judges must expressly state in their judgments the extenuating circumstances, if any, they factored in when passing a sentence.

The President of the Republic determines by which means the state shall execute the death penalty. Hard labor must last one year at least and twenty years at most, and a judge may not exact it on a convicted person concurrently with a prison term. Prison terms must last one day (twenty-four hours) at a minimum. After convicting an accused, the judge must deduct from the prison term any time the accused spent in detention before conviction. If a convict fails to pay a fine imposed by a court in a criminal case, the court may replace the fine with a prison term not exceeding six months. Where an infraction is amenable to a minimum prison sentence of six months or where the circumstances warrant a maximum prison sentence of six months, the court may replace the prison sentence with an obligation to stay away from certain places or to reside in a given place for one year at most.

Where a person has committed, for a period of ten years, three infractions, each carrying a minimum prison term of six months, the court may sentence him or her to monitoring by the state (*mise à la disposition de la surveillance du gouvernement*). The repeat offender may be interned at a place chosen by the President of the Republic. If a judge sentences a person to two consecutive terms of monitoring by the state, the two sentences will run one after the other. If a convicted person is released on parole, the *surveillance du gouvernement* sentence starts to run from the date of the release. Lastly, if—during the *surveillance du gouvernement*—the convict is arrested, the *surveillance du gouvernement* will be suspended for the entire duration of the arrest.

Criminal Procedure

Several fundamental principles regulate criminal procedure, some of which are set out in the Constitution. These principles include guarantees of due process during arrest and detention, the prohibition of retroactive laws, the presumption of innocence, and the right to a fair trial. The Penal Procedure Code details the rules of criminal procedure.

Conduct defined as crimes under criminal law can also constitute a civil wrong, which in turn can give rise to a claim for damages. A victim wronged by such conduct has two options. The victim can file a civil action before the Office of the Public Prosecutor (*le Parquet*) and, at the same time, commence criminal proceedings. Alternatively, the victim can file a separate action before civil courts and tribunals (*cours et tribunaux*) independently from the criminal proceedings. However, to avoid mutually inconsistent outcomes in the court proceedings, a separate action for damages before a civil court will cause a stay of the civil proceedings until the criminal court issues a final judgment in the criminal proceedings. The choice of forum has decisive implications for the applicable rules of procedure.

As far as it concerns the initiation of the proceedings, the victim can file an action for damages by filing a complaint with a magistrate's court. The magistrate (*magistrat assis*) is generally passive and does not have the power to carry out investigations. As a general principle, the prosecution is at the instigation of the state, represented in court by a public prosecutor (*officier du ministère public* or *magistrat debout*). Except for infractions, the victim may also directly assign the perpetrator before the court by way of a writ of summons. However, using a writ of summons does not imply that the victim can prosecute the defendant. Only the *officier du ministère public* can prosecute people for violations of criminal law.

Before he or she can file a civil claim for damages, the plaintiff must have standing or the quality and interest to act. The first requirement is that only people harmed by the conduct that gave rise to the claim for damages can file an action for a civil claim. As the second requirement, the plaintiff must have an interest– a material or moral benefit deriving from the civil claim for damages and capable of redressing the plaintiff's grievances.

The Civil Code

While public law governs relationships involving the state, private law (*droit privé*) governs relationships between private persons,

whether natural or juristic. The main aspects of private law are covered by the Civil Code. "Civil Code" in this overview refers to the areas of law originally covered by the 1804 Civil Code, rather than to a "code" in the technical sense of the term.

Three parts make up the Congolese Civil Code: the law of persons (*droit civil des personnes*), property law (*droit civil des biens*), and the law of obligations (*droit civil des obligations*). The Code divides into books, which subdivide into titles, which in turn sub-divides into chapters, and sometimes chapters further subdivide into sections. The basic legislative units of the Civil Code are the articles, which are characteristically short, often no more than eight or ten words. The 1960 Civil Procedure Code regulates the court procedure in civil law litigation.

Persons and Families

The first part of the Civil Code is the Family Code, also called *droit civil des personnes* (the law of persons). The Family Code (*Code de la famille*) deals with the law of persons. The Family Code consists of five books on nationality, persons, family, succession, and ancillary matters. It addresses issues relating to status, legal capacity, domicile, marriage, inheritance, succession, and certain aspects of private international law.

According to the Family Code's *Exposé des Motifs*, the Family Code seeks to unify and adapt the rules regulating persons and families to the Congolese mentality. The Congolese Constitution institutionalizes the family as the "basic cell of the human community." Through the Family Code, the legislator intended to establish rules regulating families in accordance with the Congolese "philosophy" of *"authenticité"* (authenticity), as initiated by Mobutu, and the requirements of modern society. The Code is a complete legal document that provides for all matters relating to the rights of persons and their relation to the family.

The Family Code innovates by integrating the law of persons and family law into the same code. It integrated the two areas of civil law for two reasons. First, in the Congolese conception of life, human beings live in solidarity in the community and their family. Unlike the Western conception, which prioritizes the individual, in the Congolese conception, the individual can only actualize himself or herself through the social group in which he or she lives. It was to underline this communal sense of life that the legislator deemed necessary to codify this fundamental part of the law in a "Family Code" instead of a "Persons Code" (*Code des personnes*). Second, of all the areas of law about natural persons, the family emerges as the one in which the legislator introduced the most innovations dictated by the idea of *authenticité.*

The first book of the Family Code speaks to nationality. The 2006 Constitution supersedes the provisions of the nationality book. Article 10 of the Constitution stipulates that Congolese citizenship is exclusive, thereby ruling out dual citizenship. People can acquire Congolese citizenship by descent or naturalization. A Congolese by descent is anyone who belongs to any ethnic group whose members and territory constituted what would become the Congo at the country's independence in 1960. The nationality book removes the provision that allowed only fathers to pass on their citizenship to their children and replaces it with a provision that also enables Congolese mothers to pass on their citizenship to their children.

The second book of the Family Code focuses on the law of persons. This book emphasizes the fact that, according to the Congolese *authenticités* conception, names sum up the personality of each individual. In this spirit, the legislator adopted a flexible surname system that affords mothers and fathers complete freedom to give names to their children to express different traditional convictions. The book also provides for matters relating to the status of persons, like birth, death, and disappearance, and determines the residence of individuals. It fixes the age of majority at eighteen and the youngest age of emancipation at fifteen, and it organizes the custody and guardianship of minors.

Through the book on the law of persons, the legislator wanted to consecrate one of the primordial values of the African civilization, namely the respect and honor owed to parents, regardless of the age of their children. That primordial value originates from the important concept of "parental authority" (*autorité parentale*). The governing doctrine prescribes that a parent must take care of his or her child, failing which the family of the child must concern itself with that parent's fate by the duty of family solidarity. The state will only assume guardianship if the parent(s) have abandoned the child or lost guardianship. The second book of the Family Code addresses the legal capacity of persons. It requires, in tune with traditional mentality, that married women obtain permission from their husbands before performing a valid legal act. This provision is on its face a contravention of Article 14 of the Constitution, which prohibits all forms of discrimination against women.

The third book of the Family Code focuses on family and deals with marriages, filiation, adoption, and affinity. This section glances over provisions on marriage only. Article 40 of the Constitution entitles anyone to marry any person of the opposite sex and to find a family. The third book of the Family Code recognizes and regulates engagements and marriages, civil and customary. A customary marriage needs to be officially registered; a civil marriage is recorded at the local city hall, and a marriage certificate (*acte de mariage*) is issued to the newlywed.

The Code sets the minimum age of marriage at eighteen for boys and girls. It establishes bridewealth as a condition for marriage but subjects it to price ceilings. It prohibits bigamy, polygamy, adultery, and child marriages. It institutes three matrimonial property regimes, namely separate property *(séparation des biens)*, community of property (*communauté universelle*), and partial community of property (*communauté réduite aux acquêts*). A partial community of property is a regime composed of both property held in the community and property held separately by the spouses. The Code provides for the common management of household property, but, although married women have the right to hold separate property, they remain under the control of their husbands. The book provides for separation, irremediable breakdown of marriage (*destruction irrémédiable de l'union conjugale*), and divorce. The fourth and final book of the Family Code codifies norms relating to succession and inheritance.

Property

The second part of the Civil Code, the law of property, provides for matters relating to the acquisition, enjoyment, loss of movable and immovable property, and other ancillary aspects, such as usufructs and servitudes. The General Law on the Property Regime in the Congo has codified the law of property. The General Property Law grants individuals some property rights. It compiles in one document scattered old legal texts on the property and unifies land laws by turning lands known in the colonial days as Indigenous lands (*terres indigènes*) into state lands.

The Property Law gives the right to the state to delegate its power to administer state lands to public and private persons. It also clarifies legal texts by separating the provisions on land rights from immovable property rights. It further draws a cut between land-immovable property rights and non-land-immovable property rights. To facilitate the transfer and circulation of property and to prevent the risk of wrongful evictions, which can also endanger access to credit, Property Law maintains the principle of the unassailability of the property registration certificate (*certificat d'enregistrement*). The law provides for secured transactions. It contains rules and principles governing security interests, loans, publication of security interests, the priority of security interests as determined by the date of filing, and the security interest of the state treasury. It settles the question as to whether the state can take property, previously encumbered with a security interest, free of that interest when it passes to the state.

Obligations

The third part of the Civil Code deals with the law of obligations. It comprises contracts and delicts (referred to as "torts" in most common law countries). The law of obligations is contained in a general law of contracts and other obligations. This contract law breaks down into twelve titles. The first two titles consist of general provisions on contracts: (1) contracts and obligations in general, and (2) obligations created without contracts. The ten remaining titles provide for specific contracts, namely (3) sales, (4) exchange contracts (*échange*), (5) leases, (5 *bis*) partnerships (*contrat de société*), (6) loans, (7) escrows (*dépôt et séquestre*), (8) agency (*mandat*), (9) surety (*cautionnement*), (10) transactions, and (12) pledges (*gage*).

Contract law sets out four general requirements for a valid contract. It requires consent and capacity, and the satisfaction of some conditions relating to the subject matter of contracts and others relating to its lawfulness. It distinguishes between obligations to give and obligations to do or refrain from doing something. It determines the interpretation of contracts, damages for contract breaches, and effects on third parties. It also categorizes obligations into conditional, suspensive, and alternative obligations; obligations giving rise to joint and several liabilities; divisible and indivisible obligations; and obligations with penal clauses. Contract law also specifies the extinction of contractual liability. A contracting party may be discharged from contractual liability by payment/performance, novation, release by the creditor, set-off, merger, loss of the thing sold, and by court order (as a result of a successful action for the cancellation of the contract).

Economic Law

Many jurists consider economic law a part of private law, even though it does not strictly belong to this category. Economic law–which includes commercial law and other areas, such as the law of business organizations, employment law, mining law, insurance law, and investment law–is mixed in the sense that it exhibits features of both private law (predominantly) and public law.

Economic Outlook

According to the World Bank, the Congo is one of Africa's richest countries in terms of mineral, agricultural, and other resources as well as one of the continent's key engines for growth. The economy of the DRC–devastated by years of conflict, mismanagement, and institutional attrition–has since 2002 started to recover. In 2023, data show that GDP grew by 8.4 %. The Congolese economy ranked twentieth (out of fifty-four countries) in Africa in 2010; it became fifteenth in 2014. In 2024, IMF data now ranks the DRC, with a GDP of 72 billion US dollars, as the twelfth largest economy on the continent. The African Development Bank projects that this upward trend will continue, reinforced by three factors: mining investments, infrastructure reconstruction, and improved agricultural productivity.

Congo joined the Economic Community of Central African States (ECCAS) on 18 October 1983, the World Trade Organization (WTO) in January 1997, and the Southern African Development Community (SADC) on 8 September 1997. It ratified the African Continental Free Trade Area (AfCFTA) Agreement on 23 February 2022. Congo also plans to join the SADC Free Trade Area. The major industries in the DRC are mining, mineral processing, consumer products, metal products, processed foods and beverages, timber, cement, and commercial ship repair. The DRC is a leading exporter of copper and cobalt in Africa. Accounting for more than half of all Congolese exports, China is by far Congo's largest trading partner, followed by Zambia, South Africa, and the United Arab Emirates, in that order.

Following the country's 50th anniversary celebrations in July 2010, the World Bank and the International Monetary Fund approved debt relief for Congo after the latter successfully met conditions set by those donor agencies. The debt relief aimed to wipe out 90% of the country's then 12.3 billion US dollar debt.

The US and the EU teamed up to support the ambitious Lobito Corridor project–an initiative launched as part of the G7 Partnership for Global Infrastructure and Investment (PGII) in May 2023. The Lobito Corridor aims to integrate the economies and enhance connectivity between three resource-rich African countries: Angola, the DRC, and Zambia. It focuses on railway and port infrastructure, trade facilitation, and economic diversification. The parties to this project expect to boost regional economic integration through increased mineral exports, agricultural development, job creation, SME growth and reduced transportation costs.

However, the Congo is still a weak post-conflict economy in dire need of backbone infrastructure, sustained growth, improved fiscal management, and capacity building. The Congo has a comparatively low overall competitiveness. In the same vein, the national budget, though steadily increasing, remains nonetheless relatively low. For the fiscal year 2020, the draft national budget totaled 15.8 billion USD. Growth, wealth, and development are not yet evenly distributed within and across provinces, with a big pool of poverty and underdevelopment throughout the country, and with at least two notable islands of relative prosperity in the city-province Kinshasa and Lubumbashi.

At 1,500 US dollars, DRC's GDP per capita still figures among the world's lowest, even though most economic activities take place in the informal sector (which explains why GDP data does not reflect them). 63% of the population lives under the poverty line, while the informal sector employs the bulk of the country's workforce. Widespread poverty points to the necessity of deeper reforms if Congo wants its sustained growth to broadly trickle down to the poorest. DRC is one of the countries in Africa with the lowest concentration of middle class (less than 20%) among their population. What is more, the humanitarian crisis has worsened since 2022 when the M23 rebellion resurged in the northeastern provinces. Furthermore, Congo exhibits some disquieting human development indicators. Finally, Congo's bank-to-client ratio is

equally very low. Nearly 85% of the money supply circulates outside the official banking system.

Economic Institutions

The Constitution creates multiple economic institutions, namely an Economic and Social Council (*Conseil économique et social*), the Central Bank of the Congo, the *Cour des Comptes* (Audit Court), and a national equalization account (*caisse de péréquation*). The Economic and Social Council advises the government on socio-economic matters, the Central Bank strives to stabilize the national currency and financial institutions, the Audit Court controls the management of state finances and assets, and the national equalization account receives 10% of annual national tax revenues to even out development disparities between and within provinces. These constitutionally mandated economic institutions work with ministries responsible for the budget, public finance, the economy, trade, international cooperation, planning, and mining, to steer the economy in the right direction.

The Economic and Social Council

Inaugurated in September 2014, the Economic and Social Council (*Conseil économique et social*) gives advisory opinions on economic and social questions submitted to it by the President of the Republic, the National Assembly, the Senate, and the government. Put another way, the Council proposes ways to better the daily life of Congolese citizens. The Council may, on its motion, draw the attention of the government and provinces on reforms it deems capable of spurring the economic and social development of the country. Matters could also be referred to the Council by petition.

Parliament adopted the organic law on the Economic and Social Council in October 2013. In its *Exposé des motifs*, the law observes that the socio-economic management of the DRC often connotes inefficiencies and setbacks due to the lack of a structured framework for dialogue between the diverse core actors. The role of the Council is therefore to encourage dialogue between stakeholders and the confrontation of views and experiences.

The Council has sixty-eight members, representing a cross-section of the population. More specifically, its membership represents employers; workers; non-governmental organizations working in social, economic, and environmental fields; churches; women's associations; traditional leaders; the scientific community; financial institutions; and the Congolese diaspora. The Council further includes independent members. Jean-Pierre Kimayala Kiwakana is the President of the Council.

The Central Bank of the Congo

The 2006 Constitution provides for the Central Bank of the Congo (*Banque centrale du Congo*), though the organic law on the Central Bank of the Congo predated the Constitution as the legislature enacted in 2002, in the early days of the government's reform of the economy. In that regard, the Central Bank served a crucial role in setting monetary policy standards. From 2001 to 2002, inflation decreased from 360% to 31.52%; from 2002 to 2003, it decreased to 12.87%. Until 2023, inflation had never passed the 20% mark. The 2002 Central Bank law was indeed born of the realization that the Bank needed an evolutionary adaptation to the new economic situation in the Congo and the world.

On 13 December 2018, the Congolese Parliament endorsed a new organic law on the Central Bank, thereby repealing the 2002 organic law. The new legislation aligns the Congo's central bank law with the 2009 SADC Central Bank Model Law.

The 2006 Constitution outlines the functions of the Central Bank. The Central Bank keeps public funds, preserves monetary stability, defines and implements monetary policy, controls banking activities, and acts as an economic adviser and banker to the government. Furthermore, the Constitution affirms the independence of the Central Bank vis-à-vis the government. Appointed on 6 July 2021, Marie-France Malangu Kabedi Mbuyi is the Governor of the Central Bank, the first woman to fill that seat in Congo.

The *Cour des Comptes*

The Constitution institutes the *Cour des Comptes* (Audit Court). The Court answers to Parliament. It controls the management of public finances and public property, and it audits the accounts of provinces, decentralized territorial entities, and public institutions. It submits every year a report to the President of the Republic, the Parliament, and the government. The report is published in the government gazette *Journal Officiel*. The Court also submits annually the General Account of the Republic (*Compte général de la République*) to the Parliament. Moreover, the Court draws up thematic reports, some of which it publishes on its official website.

The Attorney General at the Audit Court (*Procureur général près la Cour des comptes*) has the right to intervene in the functioning of the Audit Court by way of conclusions, opinions, and requisitions regarding persons who must submit reports to the Court. He or she makes sure that those persons abide by their reporting obligations, failing which he or she may ask them to pay fines. The Attorney General and his or her assistants may attend the proceedings of the Audit Court.

Members of the Audit Court are trained judges and formally enjoy the same status as judges of the Supreme Court. They must be highly qualified in finance, law, or public administration and have at least ten years of experience in those disciplines. On advice from the National Assembly, the President of the Republic appoints Audit Court judges and removes them from office. Jimmy Munganga Ngwaka is the President of the Audit Court. Non-judge administrative staff includes auditors and accountants.

The Federation of Employers

The *Fédération des Entreprises du Congo* (the Federation of Employers in the Congo), or the FEC, is a non-profit association representing and defending the interests of employers in the DRC. The FEC wears two hats: It is both an employers' organization and a chamber of commerce, including industry, agriculture, and small trade. It has many national and international partners, such as the International Monetary Fund, the African Development Bank, and the *Agence Française pour le Développement* (French Agency for Development). Robert Kalombo Malumba is the President of the FEC.

The Neoliberal Turn of the Economy

The law has played a central role in reforming the Congolese economy. First, the 2006 Constitution embraces economic liberalization by guaranteeing property rights as well as private and foreign investments. The DRC kicked off the legal reform of its economy in 2002 when it enacted four codes on labor, mining, foreign investment, and forestry. These codes were instrumental in preparing the country for the positive growth rates that it has enjoyed thenceforth.

From the mid-90s until 2003, relations between the DRC (then under the dictatorial regime of Mobutu) and foreign donors, as well as international financial institutions (IMF, World Bank, and African Development Bank), had been broken. The DRC, whose national budget partly depends on financial assistance from international financial institutions and aid from industrialized nations, saw its economy plummet, and suffer hyperinflation and other economic ills during that period. The situation did not really improve till the year 2001, at the turn of the 21st century.

In 2001, the government laid the foundation for (1) the restoration of relationships with foreign donors and international financial institutions and (2) the economic recovery that continues to this day. Apart from turning a hyperinflationary and receding economy into a growing one, the government adopted four key pieces of legislation in 2002, to wit the Labor Code, the Mining Code, the Foreign Investment Code, and the Forestry Code. Through those economy-structuring laws, the government liberalized the labor market, the mining industry, and forestry.

The government set up a public institution that coordinates and orchestrates the implementation (across ministries) of programs and financial assistance provided and supported by international financial institutions, notably by the World Bank. That institution, created in August 2001 by presidential decree, is the Bureau Central de Coordination (BCECO) (Central Coordination Bureau), one of the first institutions to emerge after the Congo restored formal relationships with international financial institutions in 2001. In 2011, Parliament enacted legislation spelling out the fundamental principles of agriculture.

Faithful to its neoliberal drive, the government has moved on to liberalize the energy and insurance sectors. In June 2014, the Parliament enacted a law that opened up the electricity industry to private ownership. That same month, it adopted an Insurance Code that liberalized insurance markets. In January 2016, the Prime Minister issued a decree that established the insurance regulatory authority, the *Autorité de Régulation et de Contrôle des Assurances* (ARCA).

Foreign Investment

Lately, the DRC attracted relatively lower foreign investments. The UN estimates that it attracted foreign direct investments (FDIs) of about 436 million US dollars in 2022. By comparison, it attracted 1.28 billion US dollars in 2018, more than 3 billion US dollars in 2012, and more than 2 billion US dollars in 2013.

The Investment Code (investment code) codifies rules and principles regulating FDIs in the DRC. The Code recognizes that FDI is the main determinant of economic growth and development in the sense that states cannot dispense with if they wish to grow their economies. The Investment Code responds to gaps identified in previous investment legislation. Gaps existed in the philosophy and the organization of the old investment laws. The Congolese legislator realized that the private sector performed poorly amid economic recession and high inflation, while industries produced particularly mediocre results. Industries were generally costly, hardly competitive, under-capitalized, and reeling from a long process of disinvestment. Against that economic background, the legislator decided to remodel the largely outdated investment laws with a new investment code.

The philosophy of the Investment Code reflects the Congolese legislature's adoption of a moderate liberal social market economy. Under that philosophy, economic development and growth rest on the following triptych. First, the state provides an enabling framework and a set of incentives. Second, the private sector creates employment and national wealth by producing goods and services. (So far, the private sector employs only 5% of the salaried workforce, while 90% of businesses in the Congo operate in the informal sector. Third, civil society promotes humanity in its various dimensions. The legislator has incorporated this philosophy into the Investment Code to bring in foreign capital and encourage foreign investors to plow their money into priority sectors by the Congo's development plan.

The Code is selective and prioritizes investments in strategic sectors in line with the Congo's development plan. It thus revolves around four key objectives. First, the state must prioritize transportation investments and infrastructure investors charged with the construction and maintenance of roads. Second, the state should prioritize investments that will develop agriculture and the agro-industry to ensure food security, reduce food imports, increase income in rural areas, and expand local basic foodstuffs markets. Third, the state should give priority to large investments that will entrench a solid industrial base on which sustainable economic growth will pivot. Finally, it should prioritize investments that add value to national natural resources locally to increase export volumes.

To reduce transaction costs, the Code has set up a single window center for foreign and local investors, the *Agence Nationale pour la Promotion des Investissements* (ANAPI).

Mining

The Investment Code does not apply to investments in mining. The Parliament passed a code that applies specifically to investments in mining, the Mining Code. Mining is one of the greatest contributors to state coffers, albeit the mining sector still faces numerous formidable challenges. The UN Environmental Programme estimates the Congo's vast reserves of mineral resources at 24 trillion US dollars. Mining activities boosted government revenues in 2006-2024, creating opportunities for the government to improve socio-economic conditions in the country.

In enacting the Mining Code, the Congolese legislator intended to create a "new attractive legislation with objective, quick and transparent procedures for the granting of mining and quarry titles, which organize tax, customs, and foreign exchange regimes for the mines"' In so doing, the parliament was mindful of the fact that the two mining laws passed after Independence–especially their tax, customs, and foreign exchange regimes–failed to attract FDIs and negatively impacted mining production and public finances.

The DRC revised its Mining Code. It amended the Code in March 2018. Although the government had consulted relevant stakeholders, the amendments to the Mining Code were met with lukewarm, mixed reactions from mining firms operating in the country. Research is needed to ascertain how the amendments affected–and will affect–mining activities and mining investments.

Labor

The Labor Code updated labor norms by introducing a few innovations. It extended the scope of application of the labor law to (1) small and medium enterprises, (2) small and medium industries operating in the informal sector, and (3) social, cultural, community and charitable organizations employing salaried workers. It prohibits the worst forms of child labor and pushes the age of employability to sixteen, up from fourteen in the old labor

laws, except for children aged fifteen who received permission from a labor inspector and their parents or guardians. The Labor Code establishes the National Employment Office (*Office National de l'emploi)* and reinforces mandatory measures against employment discrimination against women and disabled persons. It also reinforces institutional capacity in the area of training and professional development through the participation of employers' organizations and workers' organizations. It puts in place appropriate structures to enhance health and safety at work to optimize the protection of workers against occupational hazards.

Forestry

In a 2011 report, the United Nations Environment Programme said that the DRC's tropical rainforest extends over 1.55 million square kilometers and that the country accounts for more than half of Africa's forest resources. The President signed the Forestry Code into law in 2002. The Forestry Code lays down rules on how to conserve, exploit, and develop forest resources. This legal regime seeks to promote rational and sustainable management of natural forest resources to augment their contribution to the economic, social, and cultural development of present generations while preserving forest ecosystems and biodiversity for future generations.

Business Organizations

A series of decrees and ordinances compiled in the Civil Code and the Commercial Code define a "corporation." Corporate law therefore derives from a variety of legal provisions regulating the activities of incorporated business organizations. In Congolese law, like in French law, every business organization form is a "company" ("*compagnie"*), defined as a contract whereby two or more persons agree to do something together to make and share a profit.

Congolese law traditionally distinguishes between four types of business organizations, of which the most significant are the *société privée à responsabilité limitée* (SPRL) and the *société par actions à responsabilité limitée* (SARL), a limited liability company. While SPRLs refer to private limited liability companies owned by members, SARLs resemble holding companies, which require presidential authorization before they can be registered, and whose shares the owners can open, from time to time, to public subscription. Most joint ventures between international mining companies and state-owned companies called *societés mixtes*, are treated as SARLs.

The Congolese Parliament has so extended the traditional contractual or institutional definition of a company to include limited liability companies owned by one shareholder (*sociétés unipersonnelles*). The Parliament took this revolutionary step to prepare the DRC to join the OHADA, *Organisation pour l'Harmonisation en Afrique du Droit des Affaires* (the Organization for the Harmonization of Business Law in Africa). The DRC joined the OHADA in 2012.

The Décret Royal of 27 February 1887, as amended, enshrines the basic norms of the law of business organizations. The 1887 Royal Decree provides that companies enjoy separate legal personalities, with assets and liabilities distinct from those of their shareholders. Companies have perpetual succession, existing beyond the natural lives of their members. As a general rule, the law limits members' liability to the extent of their investment in the company. If a company abuses its juristic personality, victims may request a competent court to pierce the corporate veil and hold the shareholders directly liable for the abuse.

Company directors are both empowered to manage the corporation business and are personally liable for breaching their fiduciary duties vis-à-vis the corporation and for any torts committed under their management. That liability may give rise to a criminal prosecution if a director's failure to act with reasonable care and skill in the best interests of the company amounts to a crime. However, Congolese company law also makes provision for any violation suffered even where company directors act in conformity with their fiduciary duty.

In April 2009, the government transformed some of the Congo's main parastatal companies into commercial entities. No longer the only owner-shareholder, the state became a regular shareholder alongside other investors or shareholders. The peculiarity of this type of commercial entity, known as *société commerciale,* is that the state retains its veto power, even if its shares do not nominally give it such power. This important aspect of corporate governance could affect the nature and the extent of liability of parastatal companies if they commit human rights violations.

Initiatives to Improve Business Climate

The government has lately been leading a range of initiatives to improve the business climate in the DRC. In particular, in 2023, the government endorsed an Emergency Reform Plan. In July 2021, the government devised a roadmap to implement reforms aimed at upgrading the business climate. However, a survey revealed that only 27% of these reforms had been implemented. President Tshisekedi responded to the survey findings by publishing the results of the first edition of the National Business Climate Barometer (*Baromètre National sur le Climat des Affaires* or BNCA), which led to the Emergency Plan for Improving the Business Climate. The cabinet approved this plan on 28 July 2023.

Then, on 2 November 2023, they greenlighted a detailed roadmap with nearly seventy reforms to fulfill four core purposes. The Reform Plan aims to facilitate (i) enterprise creation (introducing a business visa and establishing a one-stop shop for the issue of specific authorizations, permits, and licenses); (ii) access to electricity; (iii) ownership transfers; and (iv) international trade (promotion of logistics platforms and establishment of the dispute settlement commission).

Four initiatives undertaken through the Emergency Reform Plan deserve attention. First, the Congolese government undertook to simplify the tax system and (better) protect taxpayers from harassment when it launched an emergency reform plan on 2 November 2023 during the above-mentioned Council of Ministers. Second, it introduced measures to enable the publication of all judicial decisions to enhance transparency and trust in the legal system. It also committed to revitalizing the Single Window for Business Creation. Fourth, it pledged to continue reforming public procurement.41

Before the 2023 Emergency Reform Plan, the government had eased business start-ups by getting rid of procedures in 2010, reducing the time required to register a business in 2011, appointing additional public notaries in 2012, and eliminating the requirement to get a certificate indicating the location of a company's headquarters in 2013.

It is worth highlighting that the government had also adopted a value-added tax, the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, the OHADA Treaty, a one-stop shop for the creation of businesses, and another for external trade. Also, on 23 February 2022, the DRC ratified the AfCFTA Agreement. By striving to integrate all African economies into a single market, the AfCFTA would enable the DRC to access the continent's fifty-five national markets.

The Court System

The Congo held a general conference on justice in Kinshasa from 6-16 November 2024. During those meetings, over 5,000 participants gathered to tackle reforms in the judicial sector, which President Félix Tshisekedi had described as "sick." Debates centered around the proposed transformation of the Judicial Service Council (*Conseil supérieur de la magistrature*) into a Justice Council (*Conseil supérieur de la justice*). Indeed, of the 359 recommendations made during the Conference, the proposed transformation of the Judicial Service Council (JSC) emerged as a major reform. Plus, implementing this proposal would require amending the Constitution (i.e., Articles 149 and 152) and existing organic legislation.

The main controversy centered on the composition and leadership of the judicial oversight body, the JSC. Supporters, including key parliamentary figures, advocated for broadening the council's membership to include non-judges, with the President of the Republic or the Justice Minister as chair. However, this proposal faced strong opposition from judicial officers and their unions, who viewed it as threatening the independence of the judiciary. The unions also criticized the conference's organization, claiming they were excluded from preparations and that participant selection was politically influenced.

The General Conference echoes a similar exercise from 2015, where less than 1% of the 350 recommended reforms were implemented. The current reform efforts highlight ongoing tensions between modernizing the judiciary and maintaining its independence from executive power, especially regarding the proposed increased role of the President in judicial oversight.

The rest of this section on the Congolese court system outlines the phased-out Supreme Court and the judiciary as contemplated by the 2006 Congolese Constitution.

The Lower Courts and the Former Supreme Court

The Supreme Court (*Cour suprême de justice*) was the highest court in the DRC. The Supreme Court consisted of three sections: administration, legislation, and judiciary. The prosecutors from the National Office of the Public Prosecutor (*Parquet général de la République*) appeared before the Supreme Court. Prosecutors would institute prosecutions in criminal cases and represent the public interest in certain ordinary civil cases. A 1982 law on judicial organization detailed the procedure parties had to follow in the Supreme Court.

The courts beneath the former Supreme Court survived under the 2006 Constitution, though they now belong to the ordinary *ordre de jurisdiction* (see Section 9.2 below). First, the Court of Appeals (*Cour d'appel*) has two sections: administration and judiciary. Prosecutors from the General Office of the Public Prosecutor (*Parquet général*) have the right to appear before the Court of Appeals. Second, the Tribunal de Grande Instance asserts a wider subject-matter jurisdiction. Fourth, magistrates' courts (*tribunaux de paix*) are the only ones with the power to conduct investigations because prosecutors do not appear before them. Magistrates' courts also exercise jurisdiction over disputes previously heard and determined by customary courts (*tribunaux de zone*). Finally, traditional leaders (*chefs coutumiers*), though not part of the formal judicial system, mediate and settle disputes in traditional communities. The law allows customary courts to operate in various parts of the country while waiting for the establishment of magistrates' courts. Customary courts mediate and settle about two-thirds of all disputes in the Congo.

The 2002 Military Judiciary Code organizes military courts. The highest court is the Military High Court (*Haute cour militaire*). The lower military courts progress, in descending order of jurisdictional reach, through *cours militaires* and *cours militaires opérationnelles*, *tribunaux militaires de garnisons*, and *tribunaux militaires de police*. Military courts decide criminal cases brought against members of the national police and the army. They equally decide cases of war crimes and crimes against humanity, even if the accused person is a civilian.

The Judiciary as Set Out in the Constitution

The 2006 Congolese Constitution dramatically re-arranged the judiciary. In terms of the Constitution, a judicial service council (*Conseil supérieur de la magistrature*) is responsible for the administration of justice. The Judicial Service Council comprises judicial officers and public prosecutors. The President of the Constitutional Court also presides over the judicial service council. The President of the Constitutional Court, the country's Chief Justice, is Dieudonné Badibanga Kamuleta.

To improve effectiveness, specialization, and speedy justice, the Constitution divides the judicial system into three separate hierarchies of specialized courts, the *ordre de juridiction* ("court system"), wit, the ordinary (civil and criminal), the administrative, and the constitutional court systems. The highest court in ordinary (including military) matters is the Court of Cassation (*Cour de cassation*); the highest court in public law or administrative matters is the Council of State (*Conseil d'État*); and the highest court in constitutional matters is the Constitutional Court (*Cour constitutionnelle*). In line with the Constitution, which divides the judiciary into three separate hierarchies of courts, the government installed the Constitutional Court in 2013, the Court of Cassation in 2018, and the Council of State in 2018.

The Constitution gives certain public prosecutors (*procureurs*, *magistrats de parquet*, and *auditeurs militaires*) the right to appear before the courts. For instance, the Constitution empowers the *Procureur Général près la Cour Constitutionnelle*, the *Procureur Général près la Cour de Cassation*, and the *Procureur Général près le Conseil d'État* to appear before the Constitutional Court, the Court of Cassation, and the Council of State, respectively.

The Judicial Service Council

The Judicial Service Council (*Conseil supérieur de la magistrature*) is responsible for the administration of justice. The Parliament enacted an organic law on the Judicial Service Council in August 2008. The Judicial Service Council (JSC) law tasks the JSC with the implementation of constitutional mechanisms that balance all three powers (i.e., executive, legislative, and judicial). The JSC law empowers the JSC to make recommendations regarding the nomination, promotion, retirement, resignation, removal, and rehabilitation of judicial officers and to

conduct disciplinary hearings against judicial officers. Nevertheless, the Congolese President remains the person solely authorized to appoint, promote, retire, remove, and rehabilitate judicial officers.

The JSC law organizes the JSC around a General Assembly, a Bureau, disciplinary chambers, and a permanent Secretariat. That law places these structures under the direction and coordination of the Chief Justice (*Premier président de la Cour constitutionnelle*), who is by law the president of the JSC. The JSC broadly comprises public prosecutors and judicial officers, representing all the court levels and types of the DRC. Like in French law, prosecutors are judicial officers and, as a result, part of the judiciary in Congolese law. The JSC prepares and manages the remuneration and running costs budgets of the judiciary. However, the Ministry of Finance's Office of the Inspector General (*Inspection générale des finances*), the *Cour des Comptes* (the Audit Court), and the Parliament control the financial management of the JSC.

National and provincial disciplinary chambers hold disciplinary hearings. Individuals may bring complaints against particular judges before the disciplinary chambers. This complaint procedure reflects the principle that the independence of the judiciary exists more as a right of individuals than an entitlement of judges.

The Constitutional Court

Article 157 of the 2006 Congolese Constitution institutes the Constitutional Court. The government passed in October 2013 an organic law on the Constitutional Court. Established in 2013, the Constitutional Court became operational in 2015.

Jurisdiction

The Constitutional Court ranks as the highest court in constitutional matters. It is not the highest court in the DRC but given that the Constitution is the supreme law of the land the Constitutional Court practically defines and settles the most fundamental issues in the country. Moreover, the Court may hear appeals from the Council of State and the Court of Cassation on jurisdictional questions. In that sense, the Constitutional Court performs in the Congo the function that the Tribunal of Conflicts fills in France: deciding within which *ordre de jurisdiction* or court system a case falls.

The Constitutional Court has a mandate as broad and significant as the Constitution itself. The core function of the Constitutional Court centers on checking the constitutionality of laws and conduct with legal consequences. Anyone may seize the Court to call into question the constitutionality of an Act of Parliament or regulation. The Court checks the constitutionality of organic laws and regulations before their promulgation. It checks the constitutionality of the rules of order of the Parliament, the Independent Electoral Commission, and the CSAC. Any act the Court finds inconsistent with the Constitution is null and void. The decisions of the Constitutional Court are final and executory and bind all courts and persons in the country.

The Court interprets the Constitution upon request by the President of the Republic, the government, the President of the Senate, or the Speaker of the National Assembly, one-tenth of the members of either of the two parliamentary houses, Governors, and presidents of provincial assemblies. The Court resolves disputes on referenda and presidential and legislative elections, conflicts over the distribution of powers between the government and the Parliament, and between the central and provincial governments. The Court also hears criminal cases against the President of the Republic and the Prime Minister, after two-thirds of the Congress vote in favor of prosecution. Upon conviction, the Court removes the President or Prime Minister from his or her office. The International Criminal Court exercises complementary jurisdiction in cases of war crimes and crimes against humanity.

Membership and Tenure

The Constitutional Court is made up of nine judges appointed by the President of the Republic. The President chooses three judges for appointment as Constitutional Court judges; the Congress (i.e., Senate and National Assembly, voting collectively); and the JSC each recommend three Constitutional Court judges. Appointed in July 2014, the first nine judges of the Constitutional Court were Eugène Lwape Banyaku, Jean-Louis Kangashe Esambo, Yvon Kele Oma Kalonda, Noël Ngozi Mala Kilomba, Luamba Bindu, Emmanuel-Janvier Bambi Lessa Luzolo, Mpunga Sungu, Félix Vunduawe Te Pemako, and Corneille Nsongo Wasenda.

Two-thirds of the judges must be lawyers from the bench, the bar, or academia, with at least fifteen years of experience in law or politics. Constitutional Court judges serve for a non-renewable term of nine years. One-third of the Court is renewed every three years. Judges choose who among them will preside over the court the Chief Justice. Once elected by his peers, the Chief Justice is formally elevated to the position of Chief Justice by the Congolese President using an ordinance. The Chief Justice serves for a once-renewable term of three years. The current Chief Justice is Dieudonné Badibanga Kamuleta.

The Court of Cassation

Article 153 of the Constitution creates the Court of Cassation (*Cour de cassation*) and puts civil and military courts under its control. Stated differently, the Court of Cassation helms the ordinary court system. In April 2013, the Congolese Parliament passed an organic law on the ordinary court system–the vast private and criminal law court system that encompasses the magistrates' courts (*tribunaux de paix*), military courts, the Tribunal de Grande Instance, commercial courts, Courts of Appeals, the Military High Court, and the Court of Cassation. Ordinary courts mediate the extensive range of civil and criminal litigation; they are the heart of the judicial system.

The Court of Cassation comprises one "first president" or chief judge (*Premier président*), associate justices (*présidents*), and advisors (*conseillers*). Elie-Léon Ndomba Kabeya serves as the President of the Court of Cassation. The Court of Cassation breaks down into four chambers: one chamber for civil matters, another for commercial matters, a third chamber for social matters, and a fourth one for criminal matters. Each chamber has five members. The Parliament signed legislation on the procedure before the Court of Cassation in February 2013.

The Court of Cassation is the court of last resort. It hears appeals from decisions and judgments made by civil and military courts. Yet when a party appeals to the Court of Cassation, the Court does not decide the case itself; it decides only the questions of law referred to it. The Court either upholds the decision from a lower court or quashes it; in such event, the Court will remand the case for reconsideration to the lower court considering the Court of Cassation's decision on the questions of law.

One exception exists, though. The Court of Cassation has original and appellate jurisdictions in criminal cases against senior officers

in government, Parliament, and the judiciary. It decides, not only the questions of law, but also the facts in criminal cases against members of Parliament, government members other than the Prime Minister, members of the Constitutional Court, judges of the Court of Cassation, and prosecutors appearing before that Court, members of the Council of State and prosecutors appearing before the Council, members of the Court des Comptes (i.e., Audit Court) and prosecutors appearing before that Court, the chief judges of courts of appeals and the prosecutors appearing before those courts, the chief judges of administrative courts of appeals and the prosecutors appearing before those courts, the Governors and vice-governors, provincial ministers, and the presidents of provincial assemblies.

The Council of State

Article 154 of the Constitution unveils a system of administrative courts, formed by the Council of State (*Conseil d'État*), the Administrative Court of Appeals, administrative courts, and tribunals. Unlike the Council of State in France, the Council of State in the DRC belongs to the judiciary, not to the executive branch of government. The Congolese Council of State hears and determines cases brought against the acts, regulations, and decisions of national administrative bodies and officials. It hears appeals against decisions of administrative courts of appeals. The Council adjudicates claims for damages caused by measures taken or ordered by the state in instances where no other courts have jurisdiction. It bases its decisions on equity considering all circumstances relevant to the parties. Marthe Odio Nonde is the President of the Council. The first woman to head the Council since its installation in 2018, Nonde replaced Félix Vunduawe Te Pemako.

Special Court

Commercial Courts

A 2001 law establishes commercial courts in Congo. Situated within a Tribunal de Grande Instance, a commercial court (*tribunal de commerce*) bench comprises three persons: one permanent judge (appointed by the minister responsible for the administration of justice) and two businesspersons acting as lay judges, although the judge presides over the court. Commercial courts sit in judgment of cases involving bankruptcy, partnerships, unfair competition, and commercial papers.

Labor Courts

Another law, enacted in 2002, creates labor courts. Situated within each Tribunal de Grande Instance, a labor court (*tribunal de travail*) bench is composed of three judges: one permanent judge and two lay persons (assessors), one representing employers, and the other representing employees. The minister responsible for the administration of justice chooses among judges of the Tribunaux de Grande Instance those who will preside over labor courts. Labor courts sit in judgment of disputes between employees and employers arising from an employment contract, a collective agreement, labor laws or regulations, and social security.

Legal Education

Legal education in the DRC takes five years to complete. Thus, most students enrolling in law faculties at Congolese universities are between seventeen and twenty-one years of age. Law students have a common curriculum in the first two years of their legal education and have in later years more freedom to choose the courses for which they would like to enroll. Law lecturers do not generally use the Socratic methodology. Instead, they authoritatively impart legal knowledge with less interaction with the students. In addition, evaluation consists of writing examinations scheduled for the end of the semester, the year, or a shorter period, depending on the availability of lecturers.

After the first three years, law students obtain a degree (*graduat*), which allows the holders of the degree to appear in court, from the Tribunal de Grande Instance down on behalf of people as public defenders (*défenseurs judiciaires*).

Unlike some civil law countries, Congolese legal education does not branch off into two separate specializations, namely the *advocate* (specialization to become an advocate) and the *magistrature* (specialization to become a judge). The basic law degree (*license*), earned after five years of formal training, entitles its holders to practice as judges or advocates, as they may wish. Universities offering law degrees include Université de Kinshasa, Université de Lubumbashi, Université de Bandundu, Université Libre de Kinshasa (ULK), Université Libre des Pays des Grands Lacs, Université Protestante au Congo (UPC), and Université William Booth.

Since 28 April 1989, the Congolese government has liberalized higher education. This liberalization means that private universities, like the *Université Protestante du Congo* (UPC), *Université Libre de Kinshasa* (ULK), and *Université William Booth*, can offer law degrees. In theory, law graduates from any university in the DRC can legally work in the judiciary. In practice, however, for appointments as judges, the government seems to prefer law students from state universities, notably the *Université de Kinshasa* (UNIKIN) and the *Université de Lubumbashi* (UNILU).

The Bar

To represent clients in court, law graduates must be admitted to the Bar beforehand. Officially called the *Ordre National des Avocats de la RD Congo*, the national Bar posts a list of admitted legal practitioners. That roll of attorneys lists, in alphabetical order, all legal practitioners admitted to practice in the DRC. An electronic database allows users to search the database for licensed lawyers. Michel Shebele Makoba is the President of the National Bar (*bâtonnier national*).

BELGIUM

The Belgian colonial empire began its endeavors in the 1860's after gaining independence from the Netherlands in 1830, with fruition occurring between 1901 and 1962. Belgium joined the European chase of Africa later than countries such as the United Kingdom, France, and Germany, missing the opportunity to hold the most economically promising territories in its own sphere of influence. Belgian colonialism saw a striking difference from its other European counterparts as 98% of Belgian territory in Africa consisted of just one colony, the Belgian Congo, amassing territory almost seventy six times larger than mainland Belgium. Another difference lies within the acclimation of this territory, as it had "originated as the private property of [Belgian] King Leopold II, rather than being gained through the political action of the … state." This is significant because even though Belgium was small in size and power, it held significantly more territory in Africa than its more powerful neighbor, Germany.

Understanding the legacy of Belgian colonialism can only be done with justice by considering the idea of Post-Colonial Theory.

According to Brittanica, this theory refers to the state of the modern world and how it directly relates to the aftermath of Western colonialism. It is also used to describe the modern ideological goal of "reclaiming and rethinking the agency of people subordinated under various forms of imperialism." The goal in doing so is to create a future of overcoming the difficulties left to modern states by colonization. It should be noted that in no way does this theory claim that the modern world is devoid of colonialism, instead focusing on the effect of western colonialism in the last four-hundred years.

Sheila Nair, who authored the chapter on Postcolonialism in the E-International Relations textbook International Relations Theory, agrees with this statement, and further develops a definition of postcolonialism. Nair states that "Postcolonialism examines how societies, governments and peoples in the formerly colonised regions of the world experience international relations, [and] … it highlights the impact that colonial and imperial histories still have in shaping a colonial way of thinking about the world and how Western forms of knowledge and power marginalise the non-Western world." Believing that "Postcolonialism is not only interested in understanding the world as it is, but also as it ought to be." Post colonialism aims to analyze the "disparities in global power and wealth accumulation and why some states and groups exercise so much power over others." The answer to the latter question revolves largely on theories relating to postcolonialism which will be discussed at a later time including Decolonization and Dependence Theory. An interesting point made by Nair regards how studying post colonialism allows for "alternative readings of history [and] alternative perspectives on contemporary events and issues." Which supports a popular claim that the winners in history write the textbooks, and the truth is often left behind with the losers. Reclaiming this perspective is a main goal of post colonialism and should be regarded as such. Postcolonial Theory aims to "drawn attention to IR theory's neglect of the critical intersections of empire, race/ethnicity, gender and class (among other factors) in the workings of global power that reproduce a [hierarchy] … centred not on striving for a more equal distribution of power among peoples and states but on the concentration of power." This analyses postcolonialism from a Realist point of view, believing that the main goal of any state is to gain as much power as possible. Since this drive for power is a main motivator for imperialism, not mentioning it in discussions of postcolonialism would be a disservice as the discourses surrounding this Realist perspective explain why certain modern power relations seem natural or even inevitable, when in reality they are by product of colonialism that otherwise would not have taken place.

In his books Orientalism (1978) and Culture and Imperialism (1994), Edward Said is regarded as originally developing this contemporary theory, in regards to the modern perception of East Asia. While focusing on a separate region of the world while developing this theory, his idea still applies well to post-colonial Africa. He begins by explaining the idea of the "Occident" versus the "Orient," creating the idea of "us" versus the "Other." The concept of the Other being a person whose background is not white and western European, "fabricated by western explorers, poets, novelists, philosophers, political theorists, economists, and imperial administrators since Napoleon's occupation of Egypt in 1798."

According to Said, these have always shown the Orient as the primitive, uncivilized Other, in an attempt to show a stark contrast to the perceived more advanced and civilized West. Said continues to form the supporting argument for postcolonial theory by discussing the footprint left behind by a powerful colonizer after it imposed its language and culture on foreign peoples. While doing so, the power also ignored and distorted the cultures, histories, values, and languages of the "Orient," "in their pursuit to dominate these peoples and exploit their wealth in the name of enlightening, civilizing, and even "humanizing" them." This was purposeful, and not an accidental consequence of colonialism. By depicting other cultures as less civilized, uneducated, etc, European powers were forces brought prosperity to Europe and their colonies while bringing less fortunate peoples into the modern era. The semantics and dialogues used in regards to colonization matters, and as it will be discussed, has long lasting impacts.

Whether or not western colonizers did have the genuine goal of bringing modernization to Africa is unknown, and to an extent completely irrelevant as the damage done at the time of colonization was outside the scope of this assistance. If modernization was truly the goal, the types of economic exploitation and racism present in the colonial era would not have taken place and care would have gone into the governance of these colonies. Thus, any claim by Belgium specifically to this heroic modernization must be taken lightly. A great point by Said motions that it would be misleading to "consider that such horrors came to an end with the end of direct colonialism." Believing that the "consequences of colonialism are still persisting in the form of chaos, coups, corruption, civil wars, and bloodshed, which pervade many of these countries, mainly because of the residues of colonization." This claim asserts Postcolonial Theory.

Like Said, Nair believes that "a key theme to postcolonialism is that Western perceptions of the non-West are a result of the legacies of European colonisation and imperialism." Essentially claiming that a result of post colonialism is this view of colonized peoples as the "Orient" that Said discussed. Nair quickly mentions how various "discourses – primarily things that are written or spoken – constructed non-Western states and peoples as 'other' or different to the West, usually in a way that made them appear to be inferior. In doing so, they helped European powers justify their able to justify their colonial endeavours. Instead of being seen as an invading force that exploited foreign populations, instead these domination over other peoples in the name of bringing civilisation or progress." This supports Said's position, and sets up the possibility for discussion on the full scope of "Othering" created by colonialism in real world scenarios and fiction which impact biases in the modern world. To conclude discussion on creating the "Orient" Said establishes, Kamau Brathwaite discusses in The History of the Voice (1979) how Postcolonial Theory can be actively proven through the discussion of language. The most obvious way the impact of colonialism can be seen in the modern world is through the languages spoken in postcolonial regions. One of the main languages spoken today in Rwanda and the Democratic Republic of the Congo is French, the language spoken by Belgian colonists. Located in the Heart of Africa, these countries would not naturally speak French, and instead would speak local tribal languages. The victims of colonization are speaking in the tongue of their oppressors.

Of course, there are criticisms of this theory, but not against the bare bones ideas outlined within it. This theory has been proven and repreoven, so the most common criticism, like that of Gayatri Spivak, is that many issues discussed as being a result of colonialism may actually lie outside the scope of this theory, not

actually having causation roots in colonialism. While this is a valid point, it can be disregarded somewhat because any conflict or event in a postcolonial region has its ties to colonialism. The events that led to the infrastructure for an event are there because of colonialism and thus can be tied to it one way or another, Western colonialism impacted millions of people and something as vast as colonialism will have long term consequences.

With this in mind it would be a disservice to this topic not to briefly discuss the literature surrounding Belgian colonialism as briefly mentioned above, and how it provides insight into the justification of colonization through "advancing the Other." Joseph Conrad's 1899 novel Heart of Darkness depicts a brutal, dangerous, and uncharted place where atrocities are carried out by uncivilized, native peoples. This plays into the idea of the Orient as discussed by Said, but it also showed the gruesome view of Belgian colonizers on the people and landscape of the Congo. Heads are impaled on stakes, Europeans fear for their lives, and the perfect dialogue for supporting Belgian colonialism is born. Sadly, there is a lot of truth in the brutality of this novel, and it is not completely inaccurate, however the narrative point of view is crucial. The narrator comments regularly on the appearance of the Europeans in the book. They insist on wearing crisp, well ironed white garments in the middle of the Congolese jungle, and their demeanor is always that of the elite. The colonists were trying their absolute hardest to keep up their stark European appearance which further ostracized the Congolese. This attitude was reflected in the Belgian model of colonial leadership which ultimately led to its downfall.

This model contrasts quite drastically with that of other larger colonial powers, most notably Great Britain. The competing models of colonial leadership and transitions to independence between the British and the Belgians can explain much of the reasoning behind modern conflicts in Belgian postcolonial territories, with the British model being seen as successful9 while the Belgian model is unsuccessful. "The British employed various systems of governance in their African colonies. These were through the agency of (1) trading companies, (2) indirect rule, (3) the settler rule, and then the unique joint rule of the Sudan with the Egyptians known as the (4) condominium government."10 While settler rule and Condominium government in Sudan is outside of the regional focus of this paper, it is important to mention it in the body of this discussion because it shows that the British adapt their rule to best fit a region and ensure more likely success.

Trading companies allowed for economic prosperity of the British while exploiting colonies, however it also created the infrastructure needed for newly independent states to join the global e economy. These trading routes were a huge economic advantage, something that Belgian colonies lacked. Once Belgian forces left their previous colonies, untrained citizens were left to fumble around the global economic stage, completely building up their own infrastructure without the advantage of experienced economists. The second system, which is the direct contrast to Belgian colonialism, is Indirect Rule. This is a system of governance where the British decided to "use existing tribal structures and traditions as conduits for establishing rules and regulations while English officials worked behind the scenes and could exercise a veto power. In some cases the British designated a person to act as "chief" in settings where there was no clearly hierarchical structure in place." This means that British rule changed the life of the people it governed as little as possible so that the colony could remain stable and allow for less attention from the colonial power, which is also smart from a time and resource point of view. This also allowed for a smooth transition to independence as the power structures in place were not affected by British forces pulling out of the region, the newly independent state had the infrastructure necessary to stand alone successfully without the parent power to govern it.

The Belgians however, similarly to the French, focused on direct rule which is "the idea that … European officials should call the shots for themselves by establishing and administering the rules and regulations for their African colonial subjects." This means that Belgian rule changed the life of the people it governed drastically, and that positions of power were filled by foreigners with no regard to natrive people. As will be discussed in the case of Rwanda, certain administrative positions were filled by native people, but how these people were chosen and the tiny amount of power they held proved to be an incredible problem. This rule required Belgian officials to move to Africa and fill government roles which was a huge use of resources and manpower, and required copious amounts of energy and attention from the colonial power. This provided the rocky foundation for incomplete transitions to independence as the power structures in place were greatly affected by Belgian forces pulling out of the region, and the newly independent state did not have the infrastructure necessary to stand alone successfully without the parent power to govern it.

Decolonization deserves a mention in this discussion as the transition from a colony to sovereign state relies largely on this concept. Dominick LaCapra discusses this concept in depth in his book The Bounds of Race: Perspectives on Hegemony and Resistance (1991). His comments largely focus on the perspectives left over from colonization, specifically racism. This is significant in this discussion because the impact of racism on postcolonial belgian territories ultimately leading to genocide. LaCapra states that "Decolonization … is never simply the physical outstand of the colonial presence nor is it a recanting of the evil of the colonial period as opposed the virtues of traditional culture, rather decolonization has been continuous, to be an active confrontation with a hegemonic system of thought enhance a process of historical and cultural liberation as such decolonization becomes the contestation of all dominant for structures … and that … racist perceptions, representations, and institutions … unfortunately remain with us till this very day in the case of the colonizer." This largely explains the view of Belgians on previously Belgian colonies and how those racist perceptions follow this theory. He follows this thought with an excellent point that supplements the poor transitions to independence carried out by Belgian forces.

LaCapra states that "historically, and because of our conventional unlimited definition of decolonization, the colonized have shoulder the burden of the process alone." Rationalizing the failure of these newly independent states as "decolonization can only be complete, however, when it is understood as a complex process that involves both a colonizer and the colonized." Belgium was needed for a successful transition and it ultimately let down these future states drastically.

Why exactly postcolonial Belgian territories struggled as much as they did economically, aside from lacking the infrastructure necessary, can be directly attributed to Dependence Theory. This theory focuses on the economic dependence past colonial territories have on their colonizers and why these past colonies still seem to choose to interact with their previous colonial power. This theory aims to explain this relationship and how the rich colonial

power continues to benefit economically and prosper while the poor, exploited past colony continuously struggles economically.Before discussing criticism, the four basic aspects of dependency theory must be understood. These are:

(1) the basic unity of the world system is seen as a complementary relationship between nations;

(2) models of the world system are accumulations of these units in sets of hierarchically ordered roles;

(3) geographical and social relations are reduced to a simple description preventing any independent analysis of the latter;

(4) the basic relations between the units of the system are those of exchange and not of production. One criticism of this theory is it does not take into consideration, and would greatl;y benefit from adding, information on imperialism and capitalism. However, this criticism is only somewhat valid as the actual structure of the theory has been proven and is exemplified by the Belgian colonial case study.

The idea of dependency covers numerous aspects of postcolonial life, and provides a reason for the stress put on newly independent states and how they struggle. This is manifested through dependence on technology, economic and financial aid, international markets, education, policy and more. However, these are a "conservative list" of the "neglected areas of dependency violations." Which continues with:

1. Academic dependency where the education system in place is that of the colonizer. Due to this, the "flow of … knowledge, thinking process, academic information, orientation and also the dimensions of colonial problems (and suggestions for the possible solutions) are based on western books and journals published by a few multinational publishing companies."

2. Cultural dependency

3. Financial dependency "with respect to capital in flows direct foreign investment loans interest on loans and so on."

4. Market dependency where past colonies are dependent on colonial powers for "various market interactions. To some extent, the domestic inflation rates and currency values of the [past colony] also depend on the [colonial power] in international transactions the [past colony must] submit to the market of the power [of colonial powers].

5. Human resource dependency occurs when "the training of high-quality manpower [is not provided, and] human capital resources are drawn away from the [past colony by the colonial power] without the payment or compensation."

6. Consumer dependency

7. Bio dependency through which "the whole field of medical research, human pathology, medicines, and treatment process [in past colonies] are almost completely dependent on the western systems which dumps not only cost the medicines but also banned harmful drugs into [past colonies]."

8. Environmental dependency

9. Military dependency occurs when colonial powers provide "so-called securities [for past colonies, providing] the arms and ammunition for fighting wars," while more often than not, colonial powers "try to sustain the bones of contention … [to keep past colonies] dependent."

10. Policy dependency where colonial powers "are directly or indirectly interfering with internal policies of [past colonies] … with the pretext of "performance evaluations," required [by colonial powers] to qualify [past colonies] as borrowers from … international institutions or for aid assistance."

As will be highlighted in the below case studies, these various forms of dependency as laid out in Dependence Theory play a large role in the fumbling of past colonial powers post independence and directly supports the claim that Bel;gian colonial legacy is that of modern day conflict.

ROLES OF LOCAL GOVERNMENT DEFINED:

A Local Government is a government at the grassroots level. It is a political authority that is created for the local communities for the purpose of providing local services and promoting local democracy. In other words, a Local Government may be defined as one created specifically to cater to the local needs of people living within its area of jurisdiction.

1. Social Services:

This includes providing basic healthcare, education (especially primary and vocational), and social welfare services for the elderly and vulnerable.

2. Infrastructure Development:

Local governments are responsible for building and maintaining infrastructure like roads, streets, drainage systems, and public transportation.

3. Waste Management:

Managing the collection and disposal of waste within the local government area is a crucial function.

4. Urban Planning:

Local governments play a role in spatial planning, ensuring orderly development of the area.

5. Law and Order:

Maintaining peace, security, and order within the local government area is a vital function.

6. Licensing and Regulation:

Local governments issue licenses for various activities and regulate businesses within their jurisdiction.

7. Revenue Collection:

Collecting taxes and fees, which are vital for funding local government activities.

8. Public Health:

Ensuring public health through measures like sanitation, disease control, and health education.

9. Environmental Protection:

Local governments play a role in protecting the environment through various measures.

10. Community Engagement:

Encouraging citizen participation in local governance and decision-making processes.

REASONS FOR THE CREATION OF LOCAL GOVERNMENT:

1. To Bring Government Nearer the People: The local government helps to ensure that as many people as possible feel the impact of government. Without the existence of local government, many people would be left out of government activities.

2. Even and rapid development: The creation of local government makes it easier for the disbursement and distribution of resources from the state or federal government to the local government. This helps in to promote development by offering local governments the opportunity to take state or federal government initiatives in the development of their areas.

3. Encourage Community Development Efforts: The existence of local government enables local communities to come together with the aim of executing self-help projects. E.g. public wells, communal farms, canals, etc.

4. Political Education and Leadership Training: In the area of mass mobilization, leadership training, and public enlightenment campaigns are most effective when carried out at the local level. Similarly, local government serves as training ground for politicians who may wish to go beyond the local level and preferably in the local government politics and acquire some experience with the ultimate aim of moving steps ahead to the state or national level. Others include, the need to satisfy cultural diversity, to serve as an experimentation ground for policies, to serve as a communication link, accommodate local peculiarities, etc.

FUNCTIONS OF LOCAL GOVERNMENTS:

1. Provisions of Local Infrastructures: The local government all over the world has the function of providing such infrastructure as roads, street lights, boreholes, pipe born water, schools and cottage hospitals for the benefit of their host communities.

2. Making of Bye Laws: Building of Motor Parks, Markets And Abattoirs: Local governments build and maintains motor parks, markets, and abattoirs for the benefits of members of the public. Fees are usually charged for the use of these facilities.

3. Collection of Rates, Levies and Taxes: Local government collects money in various ways from people living within their areas of jurisdiction for the funding of services.

4. Provision Of Health Care: Local government provide basic health care for people living within their communities or areas of jurisdiction. Others include, provision of services of local interest, registration of births, deaths and marriages, public enlightenment, maintenance of law and order, granting of licenses, agricultural extension services, participating in commercial and industrial activities, and provision of social services

COMPARATIVE ANALYSIS:

The pre-colonial Congo had diverse local systems of governance, which were largely replaced or restructured during the Belgian colonial period. Independence in 1960 brought a new constitution and initially, a democratic government, but the country soon experienced instability and authoritarian rule. Local governments were significantly impacted by both the colonial administration and the subsequent political turmoil.

Pre-Colonial Administration:

- **Diverse Systems:**

  Prior to colonial rule, the Congo was not a unified entity, but rather a collection of diverse kingdoms, chiefdoms, and other political structures.

- **Local Leadership:**

  These entities were typically led by chiefs or elders who held authority based on tradition and custom.

- **Animistic Beliefs:**

  Religious beliefs were largely animistic, with a focus on spirits, ancestors, and the natural world.

Colonial Administration:

- **Belgian Congo (1908-1960):**

  The Belgian government took over administration from King Leopold II, who had previously controlled the region as a private entity.

- **Territorial Administration:**

  The colony was divided into provinces, districts, and territories, with European administrators overseeing the various levels.

- **Indirect Rule:**

  Traditional chiefs were often co-opted into the colonial administration, acting as intermediaries between the colonial authorities and the local population.

- **Exploitation:**

  The colonial administration focused on resource extraction and economic development, often at the expense of the local population.

- **Limited Local Participation:**

  Africans had limited involvement in political affairs and decision-making processes.

- **Segregated Justice System:**

  Two separate court systems existed: European courts for colonizers and native courts for the local population.

Independence and Constitution:

- **Independence (1960):**

  Following growing nationalist movements, Belgium granted independence to the Congo on June 30, 1960.

- **Early Democratic Government:**

  The first government included a president (Joseph Kasa-Vubu), a prime minister (Patrice Lumumba), and elected assemblies.

- **Constitutional Development:**

  The 2006 Constitution represents the latest in a series of attempts to establish a stable political system.

- **Instability and Authoritarianism:**

  The immediate aftermath of independence was marked by political instability, infighting, and the Congo Crisis. This led to a period of authoritarian rule under Joseph-Désiré Mobutu.

Role of Local Government:

- **Pre-colonial:**

  Local governments were the primary form of governance, with authority derived from traditional structures and customs.

- **Colonial Era:**

  Traditional chiefs were integrated into the colonial administration, but their powers were limited, and they were ultimately subordinate to the colonial authorities.

- **Post-Independence:**

  The initial democratic government included provincial and local assemblies, but these were often sidelined or weakened by political instability and centralizing tendencies.

- **Challenges:**

  The legacy of colonialism, including the centralized administration and lack of experience with democratic governance at the local level, has presented ongoing challenges for local governments.

THEORETICAL FRAMEWORK:

This paper adopts two theories namely the structural functionalism theory and social integration theory. Structural functionalism or functionalizing is a theory that sees society as a complex system whose parts work together to promote solidarity and stability (Marcionis, 2010). This theory looks at society through a macro-leveI orientation, which is a broad focus on the social structure that shape society as a whole, and believes that society has evolved like organisms (Deroso, 2003). This theory looks at both social structure and social functions. Functionalism addresses society as a whole in terms of the function of its constituent elements, namely norms, custom, traditions, and institutions. A common analogy, popularized by Herbert Spencer presents those parts of society as "organs" that work towards the proper functioning of the "body" as a whole (Herbert cited in Urry, 2000). In most basic terms, it simply emphasizes the effort to impute, as rigorously as possible, to each feature, custom, or practice, its effects on the functioning of a supposedly stable cohesive system. Put differently, structural functionalism holds that social activities such as rulership rituals, economic exchanges etc, are performed by structures in society. When these functions change, the corresponding structures which perform them change also. This way society changes overtime.

The relevance of this theory lies in the fact that local government is a structure in the larger Nigeria society with a specific mandate. This mandate is principally to bring development and governance closer to the people of the grassroot.

Social Integration Theory One major role of local government in a developing country as ours is that it should promote national integration. One feature of African countries is the heterogonous nature of their population. Most of our so-called "nations" are agglomerations of tribal and ethnic groups. Many of them have been brought together only by accidents of history and not by natural development or by any deliberate decision on their part to merge as one nation. Most African "nations" therefore contain within themselves potentially decisive forces. In many Afficans countries, family and tribal tiers seem to be stronger than national feelings. This threat of national unity is greatly diminished, if not altogether removed, by the establishment of strong local government system. It does this by providing a lawful outlet for the pursuit of local interest It is of course true that the machinery of focal government can be used for destructive purposes- as all good institutions can in fact be used. But it is also true that, if properly organized and harnessed, local government is the best means of taking into account the interest of minorities and drawing them into the boarder framework of national unity because local government is close to the people. This theory therefore explains the reasons for creation of local governments by successive military regimes in Nigeria.

METHODOLOGY

The methodology adopted for the study is the comparative cum case study method of analysing local government polls in whereby a review of local government elections in Nigeria was made before narrowing it down to specificities.

The study is also draw both historical and analytical. The historical approach provides the genesis, while the analytical approach assesses the effectiveness local government in the performance of its functions. The analysis is approached from an institutional perspective and closely examines local community ability to function as a neutral, fair and transparent umpire during elections. The study used secondary sources of data collected from local government offices and materials from other libraries.

CONCLUSION AND RECOMMENDATION

"Following the independence of both colonies, Belgium kept strong but eventful political and economical relationships with the. succeeding African republics, which still refer to the "special relationship" whenever that seems to suit. colonial legacy that took far more from Africa than it gave." This accurately outlines the legacy of Belgian colonialism in Rwanda and the DRC, discussing the continued exploitation and dependence of these post colonial regions by Belgium and western powers. However, this legacy expands deeper, directly influencing the course of history for these states. Belgian colonialism through poor colonial leadership, ethnic preference, and this economic exploitation directly caused the infrastructure of the modern conflicts in these states. Had Belgian colonialism not occurred in these states the conflicts seen today would not have happened. Conflict is the legacy of Belgian colonialism.

REFRENCES

Printed Resources

Most printed legal resources on the Congolese legal system are written in French. No introductory book on Congolese law exists in English. The principal legal publication of the DRC is the *Journal Officiel*, the government gazette, wherein the Congolese government publishes all its laws. The Faculty of Law at the *Université de Kinshasa* also publishes a periodical on Congolese law, namely the *Revue Juridique de Droit Congolais*. Occasionally, the *Presses Universitaires de Kinshasa* (Kinshasa University Press) publishes books on Congolese law, but the dearth of resources means that publication of such books is infrequent.

The DRC branch of France's leading publisher L'Harmattan has many publications on the legal system of the Congo. L'Harmattan publishes the Congolese law review *Revue Congolaise de Droit et des Affaires*. What is more, in the early 2000s, cooperation between the Belgian government (through the Centre Wallonie-Bruxelles) and the Congolese government resulted in the publication of all the major codes of the DRC by the Éditions

Larcier, a legal publisher in Belgium. The Éditions Larcier published *Les Codes Larcier*. These annotated Larcier codes, organized in seven tomes, cover all the major codes in the main areas of Congolese law.

12.2. Online Resources

Despite limited resources on Congolese law on the Internet, practitioners and researchers commonly use three sources. The first source is Leganet, which aims to publish information on Congolese law online. Leganet is the most comprehensive source of electronic versions of applicable Congolese codes and other pieces of legislation. Second, Droit Congolais contains information on Congolese legislation, case law, and legal bibliographies. It boasts a rich and complete repertoire of Congolese constitutions and constitutional laws.

Thirdly, Juricongo is another useful resource for Congolese legislation, but it is not free and not as resourced as Leganet and Droit Congolais. In addition, Afrique-Droit hosts a few Congolese codes and statutes. The official website of the government gazette *Journal Officiel* is the official database of Congolese laws.

There exist a few non-governmental institutions (NGOs) with legal instruments posted on their website, for example, the United Nations Development Programme (UNDP) in the Congo. The following NGOs offer useful information for legal research, although they do not provide much information on Congolese law: the online news media outlets DigitalCongo (pro-government media), the MONUSCO-backed Radio Okapi, the Electoral Institute of Southern Africa (EISA), the *Centre d'Études pour l'Action Sociale de Kinshasa* (Center for Social Action Studies), *the Centre d'Études Stratégiques du Bassin du Congo* (Center for Strategic Studies of the Congo Basin), and the Open Society for Southern Africa.

A myriad of websites possess information on or devoted to human rights in the DRC, for instance, the country profile on the website of Global Witness and the UN Office of the High Commissioner for Human Rights.

Published Resources

Books and Nonperiodic Materials

1. Agency for Co-Operation and Research and Development (ACORD), Protection and Reparation under Congolese Law of Survivors of Sexual and Gender-Based Violence: Situational Analysis and Prospects for Reform (ACORD 2010).
2. Akele muila, Angélique Sita and Akele Adau, Pierre, *Quelle Stratégie pour Combattre la Corruption en RDC* [The strategy for combating corruption in the DRC] (CEPAS 2007).
3. Azama Lana, *Droit Fiscal zaïrois* [Zairian tax law] (CADICEC 1986).
4. Babi Mbayi, *Industrialisation Autocentrée et Développement Économique de la République Démocratique du Congo* [Self-centered industrialization and economic development of the Democratic Republic of the Congo] (CEPI 1999).
5. Bakandeja wa Mpungu, *Droit des Finances Publiques* [Law of public finances] (NORAF 1997).
6. Bakandeja wa Mpungu, *Droit des Finances Publiques* [Law of public finances] (NORAF 1997).
7. Bakandeja wa Mpungu, *Manuel de Droit Financier* [Financial law manual] (Éditions Universitaires Africaines 1997).
8. Bakandeja wa Mpungu, Grégoire, The New Constitution of the Democratic Republic of Congo: Sources and Innovations, in Fostering Constitutionalism in Africa 149 (Charles Fombad and Christina Murray eds. 2010).
9. Balagizi B., Crimes, *Pillages et Guerres: Le Congo, Malade de ses Hommes*: *30 Juin 1960-17 Mai 1997* [Crimes, pillages and wars: The Congo, sick of its people: 30 June 1960-17 May 1997] (Kivu-Presse 2000).
10. Bakandeja wa Mpungu, *Droit du Commerce International* [International trade law] (Afrique édition, Kinshasa, 2001).
11. Baaz, Maria Eriksson and Stern, Maria, Sexual Violence as a Weapon of War? Perceptions, Prescriptions, Problems in the Congo and Beyond (Zed Books 2013).
12. Benoit Verhaegen, *Rébellion au Congo* [Rebellion in the Congo] (Crisp-Ires 1966).
13. Bibombe Mwamba, B. and Bibombe Ilunga, A., *Recueil des Principaux Arrêts de la Jurisprudence Administrative Congolaise et Étrangère* [Compendium of key Congolese and foreign administrative judgments] (1998).
14. Bina, Esika Makombo Eso, *Le Code Pénal Zaïrois, Annoté* [annotated Zairian Penal Code] (Esika 1977).
15. Borello, Federico, *Les Premiers Pas: La Longue Route Vers une Paix Juste en République Démocratique du Congo* [The first steps: The long road to just peace in the Democratic Republic of the Congo] (Centre International pour la Justice Transitionnelle 2004).
16. Boshab, Évariste, *Entre la révision de la Constitution et l'Inanition de la Nation* [Between the amendment of the Constitution and the starvation of the nation] (Larcier 2013).
17. Boshab, E, *La Contractualisation du Droit de la Fonction Publique* [Contractualisation of the civil service law] (Academia-Bruylant 2001).
18. Boshab, Évariste, *Pouvoir et Droit Coutumiers à l'Épreuve du Temps* [Customary power and customary law through the test of time] (Academia-Bruylant 2007).
19. Buabua wa Kayembe, *La Fiscalisation de l'Économie Informelle au Zaïre* [Taxation of the informal economy in Zaire] (PUZ 1995).
20. Bushabu Woto, Lepage, *De la Mise en Œuvre de la Régulation des Télécommunications en Droit Congolais* (RDC) [The implementation of telecommunication regulations in Congolese law] (*École Nationale Supérieure des Télécommunications* 2005).
21. Butedi, François, *Cartographie des Syndicats en RD Congo: Vers une Compréhension du Monde Syndical Congolais* [Mapping of trade unions in the DR Congo] (Presses Universitaires d'Afrique 2013).
22. Butedi, François, *Le Processus Électoral en RDC: Mythe ou Réalité Démocratique* (The electoral process in the DRC: Myth or democratic reality), paper presented at the African Institute of Southern Africa (2005) and in Le Vote 2006.
23. Bwabwa Kayembe, *Traité de droit fiscal zaïrois* [Treaty of Zairian tax law] (PUZ 1993).
24. Chaire UNESCO de l'Université de Kinshasa**,** *Situation des 'autochtones' Pygméees (Batwa) en République*

Démocratique du Congo: Enjeux de Droits Humains [The situation of the 'indigenous' pygmees (Batwa) in the Democratic Republic of Congo] (2005).

25. Cihunda Hengelela, Joseph, *Réforme des Forces Armées de la République Démocratique du Congo (FARDC). Réflexions sur le Rôle des Partenaires Internationaux* [Reform of the armed forces of the DRC (FARDC): Reflections on the role of international partners], *in* Konrad Adenaeur Stiftung: Libraire Africaine d'Études Juridiques 107 (Hartmut Hamann & Jean-Michel Kumbu eds., 2011).
26. Comlan Alain, *Traité de Droit Commercial Congolais* [Treatise of Congolese commercial law] (Nouvelles Éditions Africaines).
27. de Almagro, Maria Martin, Hybrid Clubs: A Feminist Approach to Peacebuilding in the Democratic Republic of Congo, in the Politics of Peacebuilding in a Diverse World (Xavier Mathieu and Pol Bargués-Pedreny eds. 2019).
28. De Burlet, Jacques, *Précis de Droit Administratif Congolais* [Congolese administrative law] (Maison Ferdinand Larcier 1969).
29. Delvaux, Roger, *L'Organisation Administrative du Congo Belge* [The administrative organisation of the Belgian Congo] (Anvers Ed. 1945).
30. De Villers, Gauthier, and Omasomba Tshonda, J., Zaïre: Transition Manquée: 1990-1997 [Zaïre: Missed transition] (Harmattan 1997).
31. De Wolf, Patrick, and Verougstraete, Ivan, *Le Droit de l'OHADA: Son insertion en République Démocratique du Congo* [OHADA law: its insertion in the DRC] (Bruylant 2012).
32. Digneffe, Françoise, and Kaumba Lufunda, Criminologie et Droits Humains en République Démocratique du Congo [Criminology and human rights in the DRC] (Larcier 2008).
33. Dipunda Kabuinji Mpumbuambuji, Répertoire Général de la Jurisprudence de la Cour Suprême de Justice [General repertoire of the jurisprudence of the Supreme Court] (C.P.D.Z. 1990).
34. Djelo Empenge Osako, *L'impact de la coutume sur l'exercice du pouvoir en Afrique: Le Cas du Zaïre* [The impact of custom on the exercise of power in Africa: The case of Zaire] (Le Bel Elan 1990).
35. Djoli Eseng'Ekeli, Jacques, *Le Constitutionnalisme Africain: Entre la Gestion des Héritages et l'Invention du Future: Contribution à l'Émergence d'une Théorie Africaine de l'État* [African constitutionalism: Between the heritage of the past and the invention of the future: Contribution to the emergence of an African theory of the state] (Connaissances et Savoirs, 2006).
36. Esambo Kangashe, Jean-Louis, *La Constitution Congolaise du 18 Février 2006 à l'Épreuve du Temps: Contraintes pratiques et Perspectives* [The 18 February 2006 Congolese Constitution through the test of time] (Academia-Bruylant 2010).
37. Esambo Kangashe, Jean-Louis, *Le Droit Electoral Congolais* [Congolese electoral law] (2nd ed. Academia-EME 2020).
38. Horowitz, Sigall, DR Congo: Interaction Between International and National Judicial Responses to the Mass Atrocities (Domac 2012).
39. Idzumbuir A.J., *La Justice pour Mineurs au Zaïre: Réalités et Perspectives* [Justice for minors in Zaïre. Realities and perspectives] (Editions Universitaires Africaines 1994).
40. International Bar Association and International Legal Assistance Consortium, Rebuilding Courts and Trust: An Assessment of the Needs of the Justice System in the Democratic Republic of the Congo (2009).
41. International Commission of jurists, Access to Justice: Human Rights Abuses Involving Corporations: Democratic Republic of the Congo (International Commission of Jurists 2012).
42. Kabange Ntabala, C., *Droit Administratif* [Administrative law] (PUK 1997).
43. Kabange Ntabala, C., *Droit Administratif*: *Genèse et Évolution de l'Organisation Territoriale, Politique et Administrative en République Démocratique du Congo, de l'Etat Indépendant du Congo à nos Jours et Perspectives d'Avenir* [Administrative Law: Genesis and evolution of the territorial, political and administrative organization in the Democratic Republic of the Congo] (Presse Universitaire de Kinshasa 2001).
44. Kabange Ntabala, C., *Droit Administratif et Institutions Administratives* [Administrative law and administrative institutions] (PUK 1997).
45. Kahombo, Balingene, *La Cour Suprême de Justice Faisant Office de Cour Constitutionnelle. Esquisse du Bilan de Près de Cinq Ans Sous l'Empire de la Constitution Congolaise du 18 Février 2006* [The Supreme Court Acting as a Constitutional Court], *in* Konrad Adenaeur Stiftung: *Libraire Africaine d'Études Juridiques* 27 (Hartmut Hamann & Jean-Michel Kumbu eds., 2011).
46. Kahombo, Balingene, *L'Originalité de la Cour Constitutionnelle Congolaise: Son Organisation et ses Compétences* [The originality of the Congolese Constitutional Court: its organization and its powers], in Konrad Adenaeur Stiftung: Libraire Africaine d'Études Juridiques 1 (Hartmut Hamann and Jean-Michel Kumbu eds., 2011).
47. Kalindye Byanjira, Dieudonné, *Traité d'Education aux Droits dl'Homme en République Démocratique du Congo* [Treatise on human rights education in the Democratic Republic of the Congo] (Editions des Droits de l'Homme et de la Démocratie 2004).
48. Kalongo Mbikayi, *Le Code Judiciaire Zaïrois: Dispositions Législatives et Réglementaires Mises à Jour au 31 Janvier 1986* [The Zairian judiciary code] (1986).
49. Kalongo Mbikayi, *Responsabilité Civile et Sociale des Risques en Droit Zaïrois* (P.U.Z 1974).
50. Kaluba Dibwa, Dieudonné, La Justice Constitutionnelle en République Démocratique du Congo. Fondements et Modalités d'Éxercice [Constitutional justice in the DRC] (Academia Editions 2013).
51. Katuala Kaba, K., *Code Pénal Zaïrois Annoté* [Zairian Penal Code annotated] (Asyst. 1995).
52. Kaumba L., *Les Enfants de la Rue au Katanga: Rapport d'Enquête* [Street children in Katanga: Fact-finding report] (Presses Universitaires de Lubumbashi 2005).
53. Kabanda Matanda, Boniface, *La Lutte Contre le Blanchiment des Capitaux et le Financement du Terrorisme: En Droit Penal Congolais et en Droit Penal*

Compare [The fight against money laundering and terrorism financing in Congolese criminal law and comparative criminal law] (L'Harmattan 2018).

54. Kambale Isemughole, Darwin, *Delimitation Maritime Entre et La RD Congo et l'Angola: Quelle Solution Juridique, Politique et Économique?* [Maritime delimitation between the DR Congo and Angola: Is there a legal, political and economic solution?] (L'Harmattan 2017).
55. Kayembe, Mathias Buabua wa, *Droit économique Congolais* [Congolese economic law] (L'Harmattan 2021).
56. Lamy, E., Le Droit Privé: *Introduction à l'Étude du Droit Écrit et du Droit Coutumier Zaïrois* [Private law: introduction to the study of Congolese written law and customary law], (P.U.Z. 1975).
57. Likulia Bolongo, *Droit Pénal Spécial Zaïrois* (LGDJ 1985).
58. Likulia Bolongo, *Méthodes d'Approche de la Qualification des Faits en Droit Pénal* [Methods for approaching the characterization of facts in criminal law] (Presses Universitaires du Zaïre 1982).
59. Lukasa Tshalufu, Honoré-B., *Les Causes des Accidents de la Route en Droit de la République Démocratique du Congo* [The causes of road accidents in Congolese law] (L'Harmattan 2014).
60. Lukiana Mufwankolo, Marie Ange, *Rôle de la Jeunesse Féminine dans le Développement de la Culture de Paix en République Démocratique du Congo* [The role of young women in the development of a culture of peace in the Democratic Republic of the Congo] (UNAF 1998).
61. Lukombe Nghenda, *Droit Congolais des Sociétés* [Congolese company law] (P.U.K. 1999).
62. Lukusa Nsambayi, *Droit Judiciaire Congolais: Définitions de Lege Ferenda des Décisions de Défaut-Congé et de Radiation Grâce à l'Analyse des Concepts et Expressions Biffure, Défaut-Congé et Radiation. Illustrations en Matières de Procédure Civile et Sociales Congolaises* [Judiciary Law] (L'Harmattan 2010).
63. Lunda Bululu, *La Conclusion des Traités en Droit Constitutionnel Zaïrois: Etude de Droit International et de Droit Interne* [Conclusion of treaties in Zairian constitutional law: a study of international law and domestic law] (Bruylant 1984).
64. Mabanga Monga Mabanga, *Le Contentieux Constitutionnel Congolais* [Congolese constitutional litigation] (Éditions Universitaires Africaines 1999).
65. Mabanza, Aubin, and Vunda Munoko, Grégoire, Droit Congolais, Africain, et International du Travail [Congolese, African and international labor law] (L'Harmattan 2009).
66. Mabiala Nkangu, De Gaulle, *La Poursuite Pénale des Crimes Commis par les Armées en Période de Conflit: Cas de Pillages des Biens et Viols* [Prosecution of crimes commited by the army during conflict: Pillages and rapes], in Konrad Adenaeur Stiftung: *Libraire Africaine d'Études Juridiques* 151 (Hartmut Hamann & Jean-Michel Kumbu eds., 2011).
67. Malewa, Jean-Pierre Fofé Djofia, *La Cour Pénale Internationale: Institution Nécessaire aux Pays des Grands Lacs Africains: La Justice pour la Paix et la Stabilité en RD Congo: La Justice pour la Paix et la Stabilité en RD Congo, en Ouganda, au Rwanda et au Burundi* [The International Criminal Court: Necessary institution for Africa's Great Lakes Region] (L'Harmattan 2006).
68. Mambi Tunga Bau, *Héritier, Pouvoir Traditionnel et Contrats de Cession des Terres en République Démocratique du Congo* [The authority of traditional chiefs and land cession agreements in the Democratic Republic of the Congo] (L'Harmattan 2012).
69. Mampuya Kanunk'a-Tshiabo, *Espoirs et Déception de la Quête Constitutionnelle Congolaise: Clés pour Comprendre le Processus Constitutionnel du Congo-Kinshasa* [Hopes and disappointments of Congolese constitutional quest: understanding the constitutional process of the Congo-Kinshasa] (Ama.Ed-BNC 2005).
70. Mangu, André and Katumumoyi Tshishimbi, Evariste, *Universités et libertés academiques en République Démocratique du Congo* [Universities and academic freedoms in the Democratic Republic of the Congo] (CODESRIA 2006).
71. Mansfield, Joanna, Sexual Violence in Eastern DRC: Obstacles to Prosecution (Cornell Institute for African Development, Occasional Papers No. 13, 2010).
72. Mazanza Lumingu, Yves-Junior, *Les Manifestations de l'Effet Matthieu dans le Régime Fiscal de la Rémunération en République Démocratique du Congo* [The manifestations of the *Matthieu* effect in the fiscal regime of remuneration in the DRC], *in* Konrad Adenaeur Stiftung: *Libraire Africaine d'Études Juridiques* 173 (Hartmut Hamann & Jean-Michel Kumbu eds., 2011).
73. Masamba Makela, *Droit des Affaires, Cadre Juridique de la Vie des Affaires au Zaïre* [Business law, legal framework for doing business in Zaire] (de Boeck 1996).
74. Masamba Makela, Droit Économique [Economic law] (CADICEC 1995).
75. Masamba Makela, Guide Pratique du Droit des Affaires en RDC (Practical guide to business law in the DRC), 2009.
76. Masamba Makela, Roger, Modalités d'Adhésion de la RDC au Traité de l'OHADA (The practical terms of the DRC's ratification of the OHADA treaty) (2005).
77. Masani Matshi, Hippolyte, *Les Avis Consultatifs de la Cour Suprême de Justice* (1968-2014) [The advisory opinions of the Supreme Court (1968-2014)] (Massain Droit 2014).
78. Matadi Nenga Gamanda, *La Question du Pouvoir Judiciaire en République Démocratique du Congo: Contribution à Une Théorie de Réforme* [The question of judicial power in the Democratic Republic of Congo: contribution to a reform theory] (D.I.N. 2001).
79. Mondonga Moyama, Joe, *Droits d'Auteur et Droits Voisins: Les Aspects Techniques, Juridiques et Économiques du Droit d'Auteur et ses Applications en RDC* [Copyrights and Neighboring Rights] (Mon Petit Editeur 2013).
80. Mpinga Kasenda, *L'Administration Publique du Zaïre, Impact du Milieu Socio-Politique sur sa Structure et son Fonctionnement* [Zaire's public administration, impact of socio-political arena on its structure and functioning] (Pedone 1973).

81. Mpoy Kadima, Godé, *Le Droit Douanier en République Démocratique du Congo* [Law on customs and excise in the Democratic Republic of the Congo] (Presses Universitaires du Congo 2014).
82. Mota, Marie Mossi, and Duarte, Mariana, Violence Against Women in the Democratic Republic of the Congo (World Organization Against Torture 2006).
83. Mpongo Bokako Bautolinga, Institutions Politiques et Droit Constitutionnel [Political institutions and constitutional law] (E.U.A. 2002).
84. Mukadi Bonyi, *Projet de Constitution de la République démocratique du Congo: Plaidoyer pour une Relecture* [Draft constitution of the Democratic Republic of Congo: The case for a second reading] (C.R.D.S. 2005).
85. Mukendi Ntantamika, Mukendi, *Droit des Ressources Naturelles: Élements d'Élaboration, d'analyse et d'Évaluation des Lois* [The law on natural resources: Elements for drafting, analyzing and evaluating the laws] (L'Harmattan 2019).
86. Mulamba Belebele, Mark, L'Enquête *Criminelle*: *Technique et Équité Procédurale en Droit Congolais* (RD Congo) [Criminal investigations: Technique and procedural equity in Congolese law (DR Congo)] (L'Harmattan 2014).
87. Muluma Munanga G.T., Albert, *Législation du Travail et Sécurité Sociale en République Démocratique du Congo* [Labor and social security legislation in the Democratic Republic of the Congo] (L'Harmattan 2014).
88. Mushigo-A-Gazanga Gingombe, R., *Le Contentieux Administratif dans le Système Juridique de la République Démocratique du Congo* [Administrative litigation in the legal system of the Democratic Republic of the Congo] (Academia-Bruylant 2004).
89. Mushigo-A-Gazanga Gingombe, R., *Les Principes Généraux du Droit et leurs Applications Devant la Cour Suprême de Justice du Congo* [General principles of law and their application before the Supreme Court of Justice of the Congo] (Academia-Bruylant 2002).
90. Mutamba Lukusa, Gaston, *L'Économie Congolaise de 2003 à 2011: Défis et opportunités* [The Congolese economy from 2003 to 2011: challenges and opportunities] (L'Harmattan 2012).
91. Mwilanya Wilondja, *Les Mécanismes Congolais de Protection et de Promotion des Droits de l'Homme* [Congolese mechanisms of human rights protection and promotion] (Agapao 2004).
92. Ndaywel è Nziem, Isidore, *L'Histoire du Zaïre* [The history of Zaire] (Editions Duculot 1997).
93. Ngbanda, Honoré, *Crimes Organisés en Afrique Centrale: Révélations sur les Réseaux Rwandais et Occidentaux* [Organized crimes in Central Africa: Revelations on the Rwandan and Western networks] (Deboiris 2004).
94. Ngoma Khuabi, Camille, *Analyse Comparative de l'Indépendence du Pouvoir Judiciaire en République Démocratique du Congo et en République du Congo* [Comparative analysis of the independence of the judiciary in the Democratic Republic of the Congo and the Republic of the Congo], *in* Konrad Adenaeur Stiftung: Libraire Africaine d'Études Juridiques 51 (Hartmut Hamann & Jean-Michel Kumbu eds., 2011).
95. Nguyen Cham Tham, *Lexique de Droit des Affaires Zaïrois* [Glossary of Zairian business law] (P.U.Z. 1972).
96. Nkoy-ea-Loongya, *Le Droit Congolais des Droits de l'Homme* [Congolese human rights law] (Academia-Bruylant 2004).
97. Nobirabo Musafiri, Prosper, *Droit Foncier des Peuples Autochtones et le Droit International: Cas des Peuples de la Forêt 'Pygmées' de la RD Congo* (Stämpfli 2007).
98. Nolan, Chris, "War is Not Over:" Community Perceptions of Sexual Violence and its Underpinnings in Eastern Congo (International Alert 2010).
99. Nsaka-Kabunda, Anne-Marie, *La Réforme de la Police Nationale Congolaise et la Contribution des Partenaires Internationaux* [Reform of the DRC's national police and the contribution of international partners], *in* Konrad Adenaeur Stiftung: Libraire Africaine d'Études Juridiques 137 (Hartmut Hamann & Jean-Michel Kumbu eds., 2011).
100. Ntumba Luaba Lumu, Alphonse, Droit Constitutionnel Général [General constitutional law] (E.U.A. 2005).
101. Ntungu, Rodrigue, *Le Droit Congolais à l'Épreuve de la Mobilité du Capital: Protection de l'État Récepteur d'Investissements* [Congolese law through the test of capital mobility: Protection of the host state (L'Harmattan 2013).
102. Nyabirungu Mwene Songa, *Traité de Droit Pénal Congolais* [Treatise on Congolese Penal Law] (Éditions Droit et Société 2001).
103. Nyabirungu Songa Mwene, *Droit Pénal Général Zaïrois* [General Zairian Criminal Law] (Éditions Droit et Société 1995).
104. Nyabirungu Songa Mwene, *La Criminalisation de l'Économie Zaïroise* [The criminalisation of the Zairian economy] (Éditions Droit et Société 1996).
105. Nzongola-Ntalaja, Georges, The Congo from Leopold to Kabila: A People's History (Zed Books 2002).
106. Pindi Mbensa Kifu, *Droit Zaïrois de la Consommation* [Zairian consumer law] (Éditions CADICEC 1995).
107. Piron, P. and Devos J., *Codes et Lois du Congo Belge*: *Matières Civiles, Commerciales et Pénales* [Codes and laws of the Belgian Congo: Civil, commercial and criminal matters] (Larcier 1960).
108. Prunier, Gérard, Africa's World War: Congo, Rwandan Genocide and the Making of a Continental Catastrophe (Oxford University Press 2008).
109. Punga Kumakinga, Paulin, *Problématique de la Conformité à la Constitution de la Loi Organique sur les Entités Territoriales Décentralisées en République Démocratique du Congo. Regard sur la Commune de Mont-Ngafula dans la Ville de Kinshasa* [Questions on whether the organic law on decentralized territorial entities in the DRC conforms to the Constitution], *in* Konrad Adenaeur Stiftung: Libraire Africaine d'Études Juridiques 93 (Hartmut Hamann & Jean-Michel Kumbu eds., 2011).
110. Quirini, Pierre de, Petit Dictionnaire des Infractions [A short dictionary of crimes] (CEPAS 2001).
111. Ronen, Yael, Prosecutions and Sentencing in the Democratic Republic of Congo (Domac 2012).
112. Rubbens, Antoine, *Droit Judiciaire Zaïrois* [Zairian judicial law] (P.U.Z. 1978).

113. Rubbens, Antoine, The Congo Democratic Republic, in African Penal Systems 13-32 (Alan Milner ed., 1969).
114. Sita Muila Akele, Angélique, *Protection Pénale de la Famille et de ses Membres: Comment la Famille et ses Membres Sont-ils Protégés par la Loi Pénale?* [Criminal-law protection of the family and its members: How does criminal law protect the family and its members?] (ODF 2002).
115. Smith, James H., The Eyes of the World: Mining the Digital Age in the Eastern DR Congo (University of Chicago Press 2021).
116. Sohier, A., *Le Mariage en Droit Coutumier Congolais* [Marriage in Congolese customary law] (Institut Royal Colonial Belge 1943).
117. Stearns, Jason K., The War That Doesn't Say Its Name: The Unending Conflict in the Congo (Princeton University Press 2023).
118. Tambwe Mwamba, A, *Droit Douanier Zaïrois* [Zairian customs and excise law] (PUZ 1997).
119. Toengaho Lokundo, Faustin, *Les Constitutions de la République Démocratique du Congo: De Joseph Kasa-Vubu à Joseph Kabila* [The constitutions of the Democratic Republic of the Congo] (PUC 2008).
120. Trapani, Antonietta, Complementarity in the Congo: The Direct Application of the Rome Statute in the Military Courts of the DRC (Domac 2011).
121. United Nations, Office of the High Commissioner for Human Rights, Report of the Mapping Exercise Document the Most Serious Violations of Human Rights and International Humanitarian Law Committed Within the Territory of the Democratic Republic of the Congo Between March 1993 and June 2003 (United Nations 2010).
122. United Nations, Office of the High Commissioner for Human Rights, Reparations for Sexual Violence Survivors in DRC (United Nations 2011).
123. United Nations, Report of the Panel on Remedies and Reparations for Victims of Sexual Violence in the Democratic Republic of the Congo (United Nations 2010).
124. Vinck, Patrick *et al.*, Living with Fear: A Population-Based Survey on Attitudes About Peace, Justice, and Social Reconstruction in Eastern Democratic Republic of Congo (Human Rights Center, University of California, Berkeley 2008).
125. Vogel, Christoph N., Conflict Minerals, Inc.: War, Profit and White Saviourism in Eastern Congo (Oxford University Press 2022).
126. Vunduawe Te Pemako, Félix & Mboko Dj'andima, Jean-Marie, *Droit Constitutionnel du Congo: Textes et Documents Fondamentaux* [Congolese constitutional Law: fundamental texts and documents] (Academia 2012).
127. Vunduawe Te Pemako, Félix, *Traité de Droit Administratif* [Treatise on administrative law] (Larcier 2007).
128. Wekerle, Anton, Guide to the Text of the Criminal Law and Criminal Procedure Codes of Burundi, Rwanda, and Zaire (Library of Congress 1975).
129. Yav Katshung, Joseph, *Les Successions en Droit Congolais (Cas des Enfants Héritiers)* [Inheritance in Congolese law: The case of child heirs] (New Voices Publishing 2008).
130. Zamboko Atumba, *La Transition au Zaïre: Le Long Tunnel* [Transition in Zaïre: the long tunnel] (NORAF 1995).
131. Zongwe, Dunia P., Democratic Republic of the Congo: Autonomy Arrangements in the World (March 2019).
132. Zongwe, Dunia P., Democratic Republic of the Congo, in Elgar Encyclopedia of Crime and Criminal Justice (Pedro Caeiro *et al.* eds, 2024).
133. Zongwe, Dunia P., Revolutions and Constitutionalism in Africa: The Duty to Revolt in the Sudanese and Congolese Constitutions, in Duty to Revolt: Transnational and Commemorative Aspects of Revolution (George Souvlis and Athina Karatzogianni eds. 2024).

Articles and Periodical Materials

1. Akele Adau, Pierre, *Les Défis et les Enjeux de la Nouvelle Constitution: Comment Éviter la Catastrophe d'un Nouveau Rendez-Vous Manqué* [The challenges and the stakes of the new Constitution], 395 Congo-Afrique 274 (2005).
2. Akele Muila, Angélique Sita & Akele Adau, Pierre, *Les États Africains ne Sont pas des États Modernes* [African states are not modern states], 406 Congo–Afrique (2006).
3. Alen, André, *Contrôle de la Constitutionnalité des Lois et d'Autres Actes Après leur Adoption* [Review of the constitutionality of legislation and other acts after their adoption] 7 Fédéralisme Régionalisme (2007).
4. Asselineau, Christophe & Baratte, Yves, Developing Mining Projects in the Democratic Republic of Congo under the New Mining Code, 5 I.E.L.T.R. 105 (2004).
5. Banneux, Nicolas, *Le Règlement de l'Attribution des Litiges en Droit Congolais. Proposition pour la Loi (Organique) sur la Cour Constitutionnelle* [Settling conflicts of jurisdiction in Congolese law: Proposal for the (organic) bill on the Constitutional Court], 7 Fédéralisme Régionalisme (2007).
6. Bayona-ba-Meya, *Considérations sur la Réforme Relative à la Protection de la Jeunesse* [Observations on the reform relating to the protection of the youth] Annales de la Faculté de Droit (1982).
7. Boshab, Évariste, *Les Dispositions Constitutionnelles Transitoires Relatives à la Cour Constitutionnelle de la République Démocratique du Congo* [The transitional constitutional provisions regarding the Constitutional Court of the Democratic Republic of the Congo], 7 Fédéralisme Régionalisme (2007).
8. Bossuyt, Marc, *Exposé Introductif: Composition and Compétences de la Cour Constitutionnelle de la RDC* [Introduction: composition and competence of the constitutional court of the DRC], 7 Fédéralisme Régionalisme (2007).
9. Braillon, Charlotte, *Nouvelles Perspectives sur le Droit Judiciaire dCongo Belge et les Acteurs de la Justice Coloniale: La Procédure d'Annulation des Jugements Indigènes* [New perspectives on judiciary law in the Belgian Congo and the actors in the colonial administration of justice], Droit et Justice en Afrique Coloniale 143 (2013).

10. Breton-Le Goff, Gaëlle, Ending Sexual Violence in the Democratic Republic of the Congo, 34 Fletcher Forum of World Aff. 13 (2010).
11. Burke-White, William W., Complementarity in Practice: The International Criminal Court as Part of Multi-Level Governance in the Democratic Republic of Congo, 18 Leiden J. Int'l L. 557 (2005).
12. Butedi, François, *Les Inédits du Processus Électoral en RDC* [The untold story of the electoral process in the DRC], Le Vote (2006).
13. Butler, Anne, Democratic Republic of the Congo v. FG Hemisphere Associates LLC – Hong Kong Conforms with China by Repudiating the Common Law Commercial Exception to Sovereign Immunity, 20 Tul. J. Int'l & Comp. L. 469 (2011-2012).
14. Calvão, Filipe, et al., Cobalt Mining and the Corporate Outsourcing of Responsibility in the Democratic Republic of Congo, 8 The Extractive Industries & Society 1 (2021).
15. Carty, Tony, Why Are Hong Kong Judges Keeping a Distance from International Law, and With What Consequences? Reflections on the CFA Decision in DRC v. FG Hemisphere, 41 Hong Kong L.J. 85 (2011-2012).
16. Cassesse, Antonio, When May Senior State Officials Be Tried for International Crimes? Some Comments on the Congo v. Belgium Case, 13 Eur. J. Int'l L. 853 (2002).
17. Coleman, Justin, Showing its Teeth: The International Criminal Court Takes on Child Conscription in the Congo, but is its Bark Worse than its Bite? 26 Penn. St. Int'l L. Rev. 765 (2008).
18. Day, Adam, Crimes Against Humanity as a Nexus of Individual and State Responsibility: Why the ICJ Got Belgium v. Congo Wrong, 22 Berkeley J. Int'l L. 489 (2004).
19. Edgar, Timothy H. & Nicoleau, Michael D., Constitutional Governance in the Democratic Republic of the Congo: An Analysis of the Constitution Proposed by Laurent Kabila, 35 Tex. Int'l L.J. 207 (2000).
20. Esambo Kangashe, J.-L., *Regard sur l'Etat de Droit dans la Constitution du 4 Avril 2003* [A look at the rule of law in the 2003 Constitution], 1 Revue Juridique Justice, Science et Paix (2001).
21. Ezekiel, Aaron, The Application of International Criminal Law to Resource Exploitation: Ituri, Democratic Republic of the Congo, 47 Nat. Resources J. 225 (2007).
22. Gathii, James Thuo, Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), 101 Am. J. Int'l L. 142 (2007).
23. Gathi, James Thuo, Popular Authorship, and Constitution-Making: Comparing and Contrasting the DRC and Kenya, 49 Wm. & Mary L. Rev. 1109 (2008).
24. Goodman, Jake, The Grease in the Gear: Impunity in the Democratic Republic of Congo and the Opportunity for Peace, 32 Loy. L.A. Int'l & Comp. L. Rev. 209 (2010).
25. Gordon, Gregory S., An African Marshall Plan: Changing U.S. Policy to Promote the Rule of Law and Prevent Mass Atrocity in the Democratic Republic of the Congo, 32 Fordham Int'l L. J. 1361 (2009).
26. Graff, Julia, Corporate War Criminals and the International Criminal Court: Blood and Profits in the Democratic Republic of Congo, Hum. Rts. Brief 23 (2004).
27. Hammer, Dan, Allowing Genocide?: An Analysis of Armed Activities in the Congo, Jurisdictional Reservations, and the Legitimacy of the International Court of Justice, 16 Minn. J. Int'l L. 495 (2007).
28. Harrington, Alexandra R., A Tale of Three Nations? The Role of the United Nations Peacekeepers and Missions on the Concept of Nation-State, Nationalism, and Ownership of the State in Lebanon, Democratic Republic of the Congo, and Kosovo, 21 Conn. J. Int'l L. 213 (2006).
29. Ilunga, Aimé Banza, *Principes Moteurs de Responsabilité des Contractants Envers les Tiers, Victimes par Ricochet en Droit Congolais* [Governing principles of contractual parties' liability towards third parties suffering indirect damage under Congolese law], 26 International Journal of Innovation and Applied Studies 589 (2019).
30. Juma, Laurence, The War in the Congo: Transnational Conflict Networks and the Failure of Internationalism, 10 Gonz. J. Int'l L. 97 (2006-2007).
31. Kabala, T., *L'Administration de la Peine de Mort en Justice Zaïroise* [the death penalty in Zairian law], *Revue juridique du Zaire: Droit Écrit et Droit Coutumier* 79 (1987).
32. Kabamba, Bob, Avant-Propos. *La Mise en Oeuvre d'une Constitution 'Régionaliste'* [the setting up of 'regionalist' constitution], [Foreword: the implementation of a 'regionalist' constitution], 7 Fédéralisme Régionalisme (2007).
33. Kabamba, Bob; Matagne, Geoffroy, and Verjans, Pierre, Premiers Scrutins de la Troisième République. Analyse des Résultats [The first polls of the Third Republic: analysis of the results], 7 Fédéralisme Régionalisme (2007).
34. Kabel, Stephen, Our Business is People (Even if it Kills Them): The Contribution of Multinational Enterprises to the Conflict in the Democratic Republic of the Congo, 12 Tul. J. Int'l & Comp. L. 461 (2004).
35. Kainga Omari, Fiston et al., *L'Ineffectivité du Statut de l'Entreprenant Prévu par le Droit Ohada en Droit Congolais* [The ineffectiveness of the self-employed status provided for by OHADA law in Congolese law], 9 *Annales de l'UNIGOM* 173 (2019).
36. Kaling, Michel Muntasomo, *De la Résiliation d'Office du Contrat de Location en Droit Congolais* [The automatic termination of lease agreements in Congolese Law], 9 KAS African Law Study Library–*Librairie Africaine d'Etudes Juridiques* 328 (2022).
37. Kalongo Mbikayi, B. O. and Buka, W. A., *Le Juge Zaïrois et l'Interprétation des Principes Généraux de Droit National* [The Zairian judge and interpretation of general principles of the national law], Revue Congolaise de Droit 31 (1971).
38. Kaluba Dibwa, *De la Saisie Immobilière en Droit Congolais* [The forfeiture of immovable property in Congolese law], Paroles de Justice, Revue Annuelle de Doctrine 69 (2005).
39. Kaluba Dibwa, *Interprétation des Articles 76 et 94 de la Constitution* [Interpretation of Articles 76 and 94 of the

Constitution], Le Potentiel (Dem. Rep. Congo), Feb. 4, 2004.

40. Kaluba Dibwa, *Le Contrôle de Constitutionnalité des Lois et des Actes Ayant Force de Loi* [Control of the constitutionality of laws and juristic acts], Revue du Barreau de Kinshasa/Gombe 1 (2006).
41. Kaniki wa Cilombo, Joseph-Robert, *Réflexion sur l'Irrévocabilité de la Nationalité d'Origine en Droit Congolais*, 2 International Journal of Social Sciences and Scientific Studies 845 (2022).
42. Kasaja, Phillip Apuuli, International Law and Uganda's Involvement in the Democratic Republic of the Congo (DRC), 10 U. Miami Int'l & Comp. L. Rev. 75 (2001-2002).
43. Katuala Kaba Kashala, *Une Nouvelle Exception à la Saisine de la Cour Suprême de Justice Telle qu'Organisée à l'Article 2 du Code de sa Procédure* [A new exception to admissibility of cases before the Supreme Court of Justice as organised in article 2 of the code of its procedure], Revue juridique Justice, Science et Paix 7 (2004).
44. Katz-Lavigne, Sarah, Artisanal Copper Mining and Conflict at the Intersection of Property Rights and Corporate Strategies in the Democratic Republic of Congo, 6 The Extractive Industries & Society 399 (2019).
45. Klinger, Janeen, Stabilization Operations and Nation-Building: Lessons from United Nations Peacekeeping in the Congo, 1960-1964, 29 SUM Fletcher F. World Aff. 83 (2005).
46. Kopel, David B. et al., The Arms Trade Treaty: Zimbabwe, the Democratic Republic of the Congo, and the Prospects for Arms Embargoes on Human Rights Violators, 114 Penn. St. L. Rev. 891 (2010).
47. *L'Adhesion de la République Démocratique du Congo (RDC) à l'OHADA* [The DRC's membership in the OHADA], 2 Revue Congolaise de Droit et des Affaires (2010).
48. *Le Droit Congolais Face au Droit O.H.A.D.A.: Necessité de la Régionalisation, Société Civile*, (2007).
49. Lemmens, Paul, *Contrôle Préventif de Constitutionnalité par la Cour Constitutionnelle de la République Démocratique du Congo* [Preventive review of constitutionality of laws and juristic acts by the Constitutional Court of the Democratic Republic of Congo], 7 Fédéralisme Régionalisme (2007).
50. Le Mon, Christopher J. and Taylor, Rachel S., Security Council Action in the Name of Human Rights: From Rhodesia to the Congo, 10 U.C. Davis J. Int'l L. & Pol'y 197 (2004)
51. Leonczyk, Ashley, Peacekeeping and Counterinsurgency: How U.S. Military Doctrine Can Improve Peacekeeping in the Democratic Republic of the Congo, 204 Milit. L. Rev. 66 (2010).
52. Makopo, Célestin Makolo and Mashini, Justin Kabanda, *La Liberté de la Presse et Ses Limites en Droit Congolais* Freedom of the press and its limitations in Congolese law], 2 International Journal of Social Sciences and Scientific Studies 573 (2022).
53. Malamut, Seth A., A Band-Aid on a Machete Wound: The Failures of the Kimberley Process and Diamond-Caused Bloodshed in the Democratic Republic of the Congo, 29 Suffolk Transnat'l L. Rev. 25 (2005).
54. Mampuya Kanuk'a-Tshiabo, Auguste, *À Propos du Projet de Loi Organique sur la Cour Constitutionnelle* [On the proposed organic bill on the Constitutional Court], Le Phare (Dem. Rep. Congo), Apr. 9. 2008.
55. Mangu, André Mbata B., Law, Religion and Human Rights in the Democratic Republic of Congo, 8 AHRLJ 505 (2008).
56. Mangu, André Mbata B., The Conflict in the Democratic Republic of Congo and the Protection of Rights under the African Charter, 3 AHRLJ 243 (2003).
57. Mansfield, Joanna, Prosecuting Sexual Violence in the Eastern Democratic Republic of Congo: Obstacles for Survivors on the Road to Justice, 9 AHRLJ 367 (2009).
58. Matadi Nenga Gamanda, *La Question du Pouvoir Judiciaire en République démocratique du Congo. Contribution à une Théorie de Réforme*, *Revue de Droit Africain***,** 368 (2000).
59. Matadiwamba Kamba Mutu, *L'Originalité du Procès en Cassation* [Original jurisdiction by a court of cassation], Justice, Science et Paix 61 (2004).
60. Mbuyi Tshiepu, Victoire and Kalunga Baruani, Alexis, *Le Nom en Droit Congolais: Analyse Critique et Perspective d'Avenir* [Personal names in Congolese Law: critical analysis and future perspectives], 2 Culture, Politics, Health and Education 572 (2022).
61. Molango, Maheta M., From 'Blood Diamond' to 'Blood Coltan': Should International Corporations Pay the Price for the Rape of the DR Congo?, 12 Gonz. J. Int'l L. 1 (2009).
62. Mollel, Andrew, Minority Rights, National Laws, and Conflict Prevention: Rethinking the 'Banyamulenge' in the Democratic Republic of Congo, 1 J. African & Int'l L. 51 (2008).
63. Mpongo Bokako Bautolinga, *Le Contrôle de la Constitutionnalité des Lois sous l'Acte Constitutionnel de la Transition du 9 Avril 1994* [The control of the constitutionality of laws under the 1994 Constitution], XXV Annales de la Faculté de Droit, 321 (1996).
64. Mukaba, Tshikangu, *L'Étude de l'Élément Moral Requis par l'art. 108 du Code Pénal Zaïrois et l'Analyse de Tous les Cas que Cet Article Comporte, 49 Revue Juridique du Zaïre – Droit Écrit et Droit Coutumier 17* (1973).
65. Ndulo, Muna, The United Nations Responses to the Sexual Abuse and Exploitation of Women and Girls by Peacekeepers During Peacekeeping Missions, 27 Berkeley J. Int'l L. 127 (2009).
66. Nelson, Amanda, Democratic Republic of Congo v. Belgium: The International Court's Consideration of Immunity of Foreign Ministers from Criminal Prosecution in Foreign States, 19 N.Y.L. Sch. J. Hum. Rts. 859 (2003).
67. Notar, Susan A., Peacekeepers as Perpetrators: Sexual Exploitation and Abuse of Women and Children in the Democratic Republic of the Congo, 14 Am. J.Gen. Sco. Pol'y & L. 413 (2006).
68. Ochoa, Christiana and Keenan, Patrick, Regulating Information Flows, Regulating Conflict: An Analysis of

the United States Conflict Minerals Legislation, 3 Geottingen J. Int'l L. 129 (2011).
69. Oury, Jeanine, The Rape Epidemic in the Congo: Why Impunity in the Congo Can be Solved by International Intervention, 6 Loy. U. Chi. Int'l L. Rev. 421 (2009).
70. Phebe Mavungu, Clément, The 'African World War' and Challenges to the Enforcement of Redress for Victims of Violations of Human Rights and International Humanitarian Law, Afr. Yearbook of Int'l Humanitarian L. (2008).
71. Prosansky, Brandon, Mining Gold in a Conflict Zone: The Context, Ramifications, and Lessons of AngloGold Ashanti's Activities in the Democratic Republic of the Congo, 5 Nw. U. J. Int'l Hum. Rts. 236 (2007).
72. Ray, Kevin R., Case Concerning the Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium), 13 Eur. J. Int'l L. 723 (2002).
73. Rispin, Sarah C., Implications of the Democratic Republic of the Congo v. Belgium on the Pinochet Precedent: A Setback for International Human Rights Litigation?, 3 Chi. J. Int'l L. 527 (2003).
74. Sánchez de la Sierra, Raúl, On the Origins of the State: Stationary Bandits and Taxation in Eastern Congo, 128 J. Political Econ. (2020).
75. Sheeran, Scott, A Constitutional Moment?: United Nations Peacekeeping Mission in the Democratic Republic of Congo, 8 Int'l Org. L. Rev. 55 (2011).
76. Sovacool, Benjamin K., When Subterranean Slavery Supports Sustainability Transitions? Power, Patriarchy, and Child Labor in Artisanal Congolese Cobalt Mining, 8 The Extractive Industries & Society 271 (2021).
77. Spreutels, Jean, *Compétence Pénale de la Cour Constitutionnelle de la RDC à l'Égard du Président de la République et du Premier Ministre. Éléments du droit allemand, belge et français* [The jurisdiction of the Constitutional Court of the DRC in criminal cases against the President of the Republic and the Prime Minister: Elements of German, Belgian and French laws], 7 *Fédéralisme Régionalisme* (2007).
78. Summers, Mark A., Diplomatic Immunity Ratione Personae: Did the International Court of Justice Create a New Customary Law Rule in Congo v. Belgium, 16 Mich. St. J. Int'l L. 459 (2007).
79. Summers, Mark A., The International Court of Justice's Decision in Congo v. Belgium: How Has it Affected the Development of a Principle of Universal Jurisdiction that Would Obligate all States to Prosecute War Criminals, 21 B.U. Int'l L. J. 63 (2003).
80. Tatulli, John R., Resolving Africa's Longest Civil War: Updates on the Case Concerning Armed Activities in the Democratic Republic of Congo, 19 N.Y.L. Sch. J. Hum. Rts. 903 (2003).
81. Taylor, Celia R., Conflict Minerals and SEC Disclosure Regulation, Harv. Bus. L. Rev. Online, Jan. 10, 2012.
82. Trapani, Antonietta, Bringing National Courts in Line with International Norms: A Comparative Look at the Court of Bosnia and Herzegovina and the Military Courts of the Democratic Republic of Congo, 46 Israel L. Rev. 233 (2013).
83. Vudisa Mugumbushi, J.N., *Réflexion sur le Contentieux Administratif Congolais: Analyse Critique de Quelques Points de Doctrine et de Jurisprudence* [Reflection on Congolese administrative litigation: analysis of some issues from doctrinal writings and jurisprudence], 3 Revue de Droit Congolais**,** 30 (2000).
84. Vunduawe, F., *L'Organisation Judiciaire du Congo-Kinshasa en Matière Administrat*ive [The judicial organization of Congo-Kinshasa in administrative matters], Revue Juridique et Politique, Indépendance et Coopération 937 (1969).
85. Vunduawe Te Pemako, F., *Réflexion sur la Validité de l'Acte Portant Dispositions Constitutionnelles Relatives à la Période de la Transition au Regard du Compromis Politique Global et l'Arrêt R.A. 266 de la Cour Suprême de Justice* [Reflection on the validity of the Act on constitutional provisions relating to the Transition with regard to the Compromis politique global and the R.A. 266 decision of the Supreme Court of Justice], 127 Le Soft de Finance, 30 Mar. 30, 1993.
86. Wirth, Steffen, Immunity for Core Crimes? The ICJ's Judgment in the Congo v. Belgium case, 13 Eur. J. Int'l L. 853 (2002).
87. Wakenge, Claude Iguma, et al., From 'Conflict Minerals' to Peace? Reviewing Mining Reforms, Gender, and State Performance in Eastern Democratic Republic of Congo, 8 The Extractive Industries & Society 1 (2021).
88. Woody, Karen E., Conflict Minerals Legislation: The SEC's New Role as Diplomatic and Humanitarian Watchdog, 81 Fordham L. Rev. 1315 (2012).
89. Zegbe Zegs, *La Répartition Équitable et Équilibrée des Responsabilités au Regard de la Constitution de la Transition et des Instruments Juridiques Internationaux en Matière de Droits de l'Homme en RDC* [Equitable and balanced power-sharing about the Transition Constitution and international legal instruments on human rights in DRC], 393 Congo-Afrique 135 (2005).
90. Ziegler, Kai Peter, Democratic Republic of the Congo: The Transitional Constitution of April 1, 2003, 3 Int'l J. Const. L. 662 (2005).
91. Zongwe, Dunia P., Taking Leaves From the International Criminal Court Statute: The Direct Application of International Criminal Law by Military Courts in the Democratic Republic of Congo, 46 Israel L. Rev. 249 (2013).
92. Zongwe, Dunia P., The Legal Justifications for a People-Based Approach to the Control of Mineral Resources in the Democratic Republic of the Congo (Cornell Law School. Cornell Law School LL.M. Papers Series. Paper No. 12, 2008).
93. Zongwe, Dunia Prince, The New Sexual Violence Legislation in the Congo: Dressing Indelible Scars on Human Dignity, 55 African Stud. Rev. 32 (2012).

REFRENCES

1. Dunia P. Zongwe, The New Sexual Violence Legislation in the Congo: Dressing Indelible Scars on Human Dignity, 55 African Stud. Rev. 32, 38 (2012)
2. *Le Sort des Tribunaux Coutumiers se Discute à l'Assemblée Nationale*, Radio Okapi (Dem. Rep. Congo), June 9th, 2010.
3. Kampetenga Lusengu, B.M., *Droit Coutumier Congolais* 4 (University of Lubumbashi, Lecturer Kampetenga's Class Notes, 2006).

4. Grégoire Bakandeja wa Mpungu, The New Constitution of the Democratic Republic of Congo: Sources and Innovations, in Fostering Constitutionalism in Africa 153 (Charles Fombad and Christina Murray eds. 2010).
5. Jean-Louis Esambo Kangashe, La Constitution Congolaise du 18 Février 2006 à l'Épreuve du Constitutionnalisme: Contraintes Pratiques et Perspectives 64 (Academia-Bruylant 2012).
6. Dunia P. Zongwe, Taking Leaves From the International Criminal Court Statute: The Direct Application of International Criminal Law by Military Courts in the Democratic Republic of Congo, Israel L. Rev. 249 (2013); Mavungu Clément, Case note on Ituri District Military Prosecutor v Kahwa Panga Mandro Ives, First instance decision, RMP No 227/PEN/2006; Oxford Law Report, ILDC 524 (CD 2006); Dunia Zongwe, Case note on Ituri Military Prosecutor v Blaise Bongi Massaba, RP n° 018/2006 RMP n° 242/PEN/06; Oxford Law Report, ILDC 387 (CG 2006); and Dunia Zongwe, Case note on Mbandaka Military Prosecutor v Eliwo Ngoy, RP n° 084/2005 RMP n° 154/PEN/SHOF05.
7. International Crisis Group, Katanga: Tensions in DRC's Mineral Heartland (International Crisis Group 2016).
8. Evariste Boshab, *Entre la Révision de la Constitution et l'Inanition de la Nation 401* (Larcier 2013).
9. Zongwe, supra note 11, at 25-26.
10. United Nations. Office of the High Commissioner for Human Rights (OHCHR), Reparations for Sexual Violence Survivors in DRC (OHCHR 2011).
11. For an analysis, see Antonietta Trapani, Complementarity in the Congo: The Direct Application of the Rome Statute in the Military Courts of the DRC (Domac 2011); Dunia P. Zongwe, Taking Leaves From the International Criminal Court Statute, supra note 7; Antonietta Trapani, Bringing National Courts in Line with International Norms: A Comparative Look at the Court of Bosnia and Herzegovina and the Military Courts of the Democratic Republic of Congo, 46 Israel L. Rev. 233 (2013).
12. Dunia P. Zongwe, The New Sexual Violence Legislation in the Congo, supra note 2.
13. World Bank, DR of Congo: Country Brief (last visited July 3, 2010).
14. African Development Bank et al., African Economic Outlook 2014: Global Value Chains and Africa's Industrialisation 211 (African Development Bank *et al.*, 2014).
15. Central Intelligence Agency, World Factbook: Congo, Democratic Republic of the (Dec. 12, 2024 update).
16. Deloitte, The Rise and Rise of the African Middle Class 3 (Deloitte 2013).
17. Gaston Mutamba Lukusa, L'Économie Congolaise de 2003 à 2011: Défis et opportunités 169 (L'Harmattan 2012).
18. World Bank (Oct. 21, 2014, update).
19. United Nations Conference on Trade and Development, World Investment Report 2013: Global Value Chains: Investment and Trade for Development 39 (United Nations 2013).
20. United Nations Conference on Trade and Development, World Investment Report 2014: Investing in the SDGs: An Action Plan 37 (United Nations 2014).
21. United Nations Environmental Programme, The Democratic Republic of the Congo: Post-Conflict Environmental Assessment Synthesis for Policy Makers 22 (United Nations 2011).
22. Décret No 091/12 du 24/04/2009 *Établissant la liste des entreprises publiques transformées en sociétés commerciales, établissements publics et services publics*.
23. International Monetary Fund, Democratic Republic of the Congo: 2024 Article IV Consultation (International Monetary Fund 2024). See also World Bank, Business Reforms in Dem. Rep. Congo (last visited Nov. 30, 2014).
24. International Monetary Fund, supra note 40, at 97-98.