## Helpdesk Research Report

# Political Economy and Governance in the Democratic Republic of Congo (DRC)

Huma Haider (updates from 2011 onwards by Brigitte Rohwerder)

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## Question

*Please provide an overview of the recent academic, policy and practitioner literature on governance and political economy in the Democratic Republic of Congo.[1]*

## Contents

## 1. Overview

This report is an update of a 2010 report[2] and is based on some of the recent literature on governance and political economy in the Democratic Republic of Congo (DRC). The following sections outline key governance and political economy issues discussed in the literature included in this report:

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[1] The original report was published in December 2010: http://www.gsdrc.org/docs/open/HD735.pdf. This update looked at literature from then onwards.

[2] The original report should be read in conjunction with the helpdesk research report on 'New Literature on Conflict in the DRC' (http://www.gsdrc.org/docs/open/HD721.pdf), which includes a section on political issues.

**Political systems**

The forthcoming 2016 presidential and legislative elections could be a watershed moment for the DRC as a democracy (ICG, 2015). Despite multi-party elections in 2006 and 2011, the political regime in the DRC is considered to have an authoritarian presidential system (Bertelsmann Stiftung, 2014; ICG, 2015). The 'government is brutally restricting democratic space' (Afoaku, 2010, p. 5). Matti (2010) argues that the Kabila regime is neither authoritarian nor democratic, but is rather a hybrid regime. A form of hybrid governance can also be seen in the provision of services such as education, where the Congolese state cooperates with faith-based organisations in order to provide public services (Leinweber, 2013). There are strong indicators of democratic tendencies, such as the presence of competition and intensive campaigning by political parties for the 2006 elections, and the lack of re-election of politicians in the 2011 elections who had failed to deliver their promises (Trefon, 2013; Bertelsmann Stiftung, 2014). However, the 2011 presidential and legislative elections are widely contested and have resulted in the current Kabila government having questionable legitimacy (ICG, 2015; Bertelsmann Stiftung, 2014; Shepherd, 2014). The regime has engaged in direct marginalisation and repression of opposition figures since the elections (ICG, 2015; Bertelsmann Stiftung, 2014; Matti, 2010). The opposition is fragmented and weak in capacity, which has made Parliament ineffective in challenging the ruling coalition (ICG, 2015; Bertelsmann Stiftung, 2014; Afoaku, 2010; Trefon, 2013). In addition, the regime has sought to undermine the independence of the media and the judiciary (Bertelsmann Stiftung, 2014; Afoaku, 2010; Matti, 2010). In the Press Freedom Index 2013[3], the DRC ranked 142nd out of 179 countries (Bertelsmann Stiftung, 2014). The uncertainty around whether or not Kabila will commit to the two-term limit set in the constitution and step down is causing tensions on all sides and sparked violence in 2015 (ICG, 2015). It is unclear who has political influence and power (Trefon, 2013). Powerful networks include ethnic Katangese and the 'Banyamulenge–Rwandese axis' (Trefon, 2013).

The persistence of conflict has also had an impact on electoral politics in the country. The longer the conflict persists, the more ethnic considerations distort how people vote and which politicians they support. This undermines governance by reinforcing a politics of identity over ideas. At the same time, if democratically elected officials adopt divisive ethnic politics, this could fuel further conflict. 'Ending conflict and improving governance are two sides of the same coin in the DRC: one is unlikely to be achieved in a meaningful way without the other' (Smith, 2009, p. 11).

**State-society relations**

State-society relations are tenuous in the DRC (Chambers and Booth, 2013; Lamer et al, 2013). The tax relationship between citizens and the state, in which taxes act as investment in state services, is barely functional (Lamer et al, 2013). In addition, most fee collection by government agents occurs informally and illegally, with little public awareness of what fees are legal (Afoaku, 2010; Lamer et al, 2013). There have also been reports in some rural areas of the country of the 'personalisation of the state', whereby political support is based on personalities and individual favours instead of on policies. This distorts the 'accountability link' between the leaders and the public (Smith, 2009). The deeply embedded culture of clientelism and predation also runs the risk of fundamentally destroying the country's already weak democratic foundation (Bertelsmann Stiftung, 2014; Chambers and Booth, 2013; Lamer et al, 2013; Englebert, 2014). The weakness of issue-based politics and social action in the DRC is due to unusually severe difficulties in organising collective action due to high levels of social fragmentation (Chambers and

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[3] See: http://en.rsf.org/spip.php?page=classement&id_rubrique=1054

Booth, 2013). However, there is also a strong sense of Congolese identity across all major groups (Bertelsmann Stiftung, 2014; Chambers and Booth, 2013).

In 2014, the country ranked 154th of the 174 countries assessed by Transparency International's Corruption Perceptions Index[4] (Chêne, 2014). It is often argued though that corruption in the DRC is fuelled by insufficient government salaries. However, if politicians do not have the budget to deliver any benefits to the population, they may consider their time in office to be limited and adopt a 'take what you' can mentality (Smith, 2009).

Civil society has grown in the DRC; however it has yet to become a genuine political force that can play a meaningful role in improving political transparency and countering corruption (Trefon, 2010). The Catholic Church is the strongest actor in the complex web of civil society organisations, and has been prominent in its opposition to a Kabila third term (ICG, 2015; Mushi, 2013; Bertelsmann Stiftung, 2014). Since the 2006 elections, civil society has also been undermined through the politicisation of many groups; in-fighting; lack of resources and capacity; and continued repression and abuse by the government of human rights defenders (Chambers and Booth, 2013; Davis et al, 2014; Afoaku, 2010; Davis, 2009).

Women's political participation in the DRC is generally agreed to be weak, both in terms of women voting or standing as candidates in elections, and access to justice remains a challenge (Davis et al, 2014).

Smith argues that donors need to invest more in the process of governance, with a focus on building positive state-citizen relations at all levels. Support to formal democratic institutions and processes at the formal level are not sufficient. Citizens also need to be made aware of their own power and to take the initiative to hold public and elected officials to account. Discussion groups in rural areas of the DRC have revealed a 'general lack of understanding of how the democratisation process changed the old relationship between the state and the citizen' (Smith, 2009, p. 20).

**Decentralisation and local governance**

Two key policies provide for decentralisation in the DRC: the restructuring of the territory and the process of holding elections. The 2006 Constitution redistributed the territory into 26 provinces. The most important provision is that tax collection is to be carried out at the source - by the provinces instead of the state. The implementation of both policies however has been weak. The government is hastily pushing through an under-resourced and ill-prepared decentralisation process, a process which has been stalled for years (ICG, 2015). Local elections have been not yet occurred, although they are due to be held in October 2015 (ICG, 2015). Trying to pursue decentralisation while implementing the electoral calendar could aggravate local tensions, trigger security troubles ahead of next year's polls and make the country highly unstable (ICG, 2015).

There are also some fears that decentralisation could spark conflict as boundaries are re-drawn around resource-rich areas and across ethnic groupings: 'There may be an inherent trade-off between the potentially destabilising effects of rushing decentralisation through too soon versus the risk of aggravating tensions between the centre and the provinces by not doing it soon enough' (Smith, 2009, p. 13).

Barrios and Ahamed emphasise that decentralisation in the DRC is 'foreseen as a technical tool to foster democracy functioning, and not as an element of sub-national community representation and policy making. Indeed, identity clusters are rather thwarted. […] In this sense, there is clearly an emphasis in state-

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[4] See: http://www.transparency.org/cpi2014/results

building but keeping one state with administrative divisions rather than a federal union of different identity and territorial units' (Barrios and Ahamed, 2010, p. 11).

**Justice and rule of law**

The Congolese security system is currently not only incapable of defending the state and the state's authority, but it also poses a threat to the population as a whole. The Transitional Government (2003-2006) failed to address justice or human rights issues, which resulted in a system of entrenched impunity.

Access to justice remains extremely limited outside of Kinshasa, due to the high costs of legal proceedings, the prevalence of corruption, legal illiteracy, the insufficient number of courts and tribunals, and a lack of staff especially in remote areas (Davis et al, 2014). The system is unable to deliver day-to-day rule of law for the population, let alone tackle serious crimes and abuses during the wars, including rape and sexual violence (Davis et al, 2014; Afoaku, 2010; Davis, 2009). There is thus little redress for victims of violations (Afoaku, 2010). Further, impunity for crimes of sexual violence is likely to hinder the participation of women in a democracy, if their security is constantly under threat (Davis, 2009).

The Kabila regime has indirectly undermined the independence of the judiciary by depriving it of funding (Matti, 2010). Congolese judges are subject to undue influence from government officials and powerful individuals; and there is frequent political interference with judicial processes (Afoaku, 2010; Davis, 2009).

Poor coordination between the various actors and institutions involved in the management of security services in the DRC has created a dysfunctional structure characterised by a culture of impunity, with no regard for senior civil servants in charge of coordination (Mayamba, 2012). Democratic oversight of the police also remains a big challenge. This is in part due to resistance from the police hierarchies that are unaccustomed to operating within a democratic environment; and in part due to the failure of parliament to fully engage in oversight. A lack of clear command and control enables senior officers in the army and police to engage in corruption (Davis, 2009).

Weak state apparatus has meant that 'rule of law' has not been applied consistently at the local level despite the constitution and new legislation (Jackson, 2007). Corruption is endemic at all levels of society in the DRC (Chêne, 2014; Trefon, 2010; Afoaku, 2010). Insufficient and infrequent payment of salaries fuel petty corruption among civil servants, police and soldiers (Afoaku, 2010; Vinck and Pham, 2008). Little progress has been made to combat corruption, although some local-level initiatives have reported success.

**Natural resource governance**

Corruption, mismanagement, insufficient institutional capacity and fundamental governance deficiencies have contributed to poor results in the lucrative mining and forestry sectors in the DRC (World Bank, 2008; Trefon, 2010). The local population in Katanga – the DRC's key copper and cobalt producing region – for example, have yet to benefit from the region's resources (Afoaku, 2010; Samndong and Nhantumbo, 2015). There is currently a large gap between what should be paid in mining and forestry tax revenue and what is actually recorded (World Bank, 2008), due in large part to a lack of transparency and accountability and fraudulent practices by companies and government agencies (World Bank, 2008; Trefon, 2010). Environmental governance thus cannot be seen solely as a technical issue as it is also a political and social challenge (Trefon, 2010).

Despite the adoption of a new Mine Law and regulations (2002) and other legislation to strengthen governance, use and control of forestry, mining and agriculture, which are consistent with international best practice, the government has failed to effectively apply this legislation and loopholes exist (World

Bank, 2008; Samndong and Nhantumbo, 2015). Some argue that the institutional preconditions required to implement the transparency and governance provisions of the mining code currently do not exist. These include appropriate administrative structures, central government institutions capable of oversight; well-trained (and well-paid) staff, and inter-governmental/institutional cooperation (Guenther, 2008; Samndong and Nhantumbo, 2015).

Recent mining deals between the DRC and Chinese enterprises have the potential to contribute to economic growth. However, there are concerns about the lack of transparency and available information about these agreements (Matti, 2010; World Bank, 2008).

**Livelihoods and business environment**

The use of state authority for the private appropriation, accumulation and redistribution of public resources remains the fundamental problem for economic governance and development in the DRC (Englebert, 2014). Food insecurity in the protracted crisis situation of eastern DRC needs to be tackled not only through support for short term consumption, but also through a political economy approach that tackles structural causes, such as depleted asset stocks, and examines institutional contexts. Institutional settings play an important role as they mediate access to land and markets, which determine households' livelihood opportunities and food security (Lecoutere et al, 2009). While property rights are protected by law in the DRC, provisions are regularly violated by state and private actors (Afoaku, 2010). This can constrain livelihoods and business opportunities.

In 2014, the DRC is ranked 184th out of 189 countries in the World Bank's Ease of Doing Business Index[5]. A survey of business people in Bukavu in the east and Lubumbashi in the south found that while business people cited security and violent conflict as factors undermining economic activity, these were not seen as the most important issues. Instead, problems of unreliable electricity supply, high taxes, and other bureaucratic and logistical hurdles are considered as the key challenges. High taxes in Lubumbashi is seen as a problem of corruption; whereas in Bukavu, the issue is intertwined with the security situation and likely relates to unofficial taxes levied by armed groups and corrupt officials (Gilpin and Downie, 2009).

**Citizenship and social capital**

The denial of nationality and of citizenship rights to people of Rwandan/Burundese heritage (members of the Hutu and Tutsi ethnic groups) is an important issue in the DRC (Bertelsmann Stiftung, 2014). Although a new law on nationality was adopted in 2004 that provides for nationality by origin and by acquisition, the law is poorly implemented. It also leaves much open and uncertain; and allows for loopholes and continuing possibilities of legal exclusion. Jackson emphasises that it is important that gaining Congolese nationality also comes with an enforceable and long-term right to land. It is also important to look beyond legal reforms and to try to reverse deeply held political narratives of belonging and exclusion, indigenousness and foreignness, which remains a potent area for political manipulation (Jackson, 2007).

The (re)formation of social capital is also a challenge in the DRC. Village communities, extended families, and local women's groups provide the major frameworks of solidarity and self-organisation, within which interpersonal trust appears to be high (Bertelsmann Stiftung, 2014). However, patrimonialism, political conflicts and economic instability in the region has prevented an institutional system that would provide conditions of predictability and security that would allow Congolese people to trust each other more widely. Instead, the decline of economic, political and social infrastructure has resulted in distrust. A study

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[5] See: http://www.doingbusiness.org/rankings

on relations among traders in Katanga finds that social proximity does not exclude suspicion; nor does social distance necessarily prevent trust. In terms of conducting business, the study finds that expectations of trust are most strong with close relatives, then non-relatives, and lastly, distant relatives/kin groups (Rubbers, 2009).

While there is a vibrant and lively civil society in the DRC, a study of CSOs in eastern DRC found that they are performing poorly and are barely fulfilling their role in improving governance (Gouzou, 2012).

## 2. General literature

### *Congo: Is Democratic Change Possible? (Africa Report N. 225)*
International Crisis Group (ICG). (2015). Brussels: International Crisis Group.
http://www.crisisgroup.org/~/media/Files/africa/central-africa/dr-congo/225-congo-is-democratic-change-possible.pdf

The forthcoming 2016 presidential and legislative elections could be a watershed moment for the DRC, as they could be the first elections held without an incumbent protecting his position. Tensions are high on all sides of the political spectrum and it remains unclear if President Joseph Kabila is going to commit to the two-term limit set in the constitution and step down. In January 2015 there was a mini-political crisis over proposed changes to the electoral law which sparked deadly violence and repression against pro-democracy activists. There are divisions within the ruling majority. The opposition is disjointed but there is broad agreement on opposing any attempts to extend President Kabila's rule beyond 2016. The Congolese population have aspirations for political change.

Local and provincial polls planned for October 2015, despite a technically insufficient and non-consensual voter list, could undermine credible national elections in 2016. The government is hastily pushing through an under-resourced and ill-prepared decentralisation process, including the division of eleven provinces into 26 as provided for in the 2006 constitution, a process which has been stalled for years. Trying to pursue decentralisation while implementing the electoral calendar could aggravate local tensions, trigger security troubles ahead of next year's polls and make the country highly unstable. In addition, given that most of the current eleven provinces are not able to deliver services and play a developmental role, the creation of additional administrative layers and costly structures may make government even less effective and more confusing. There also remains a large degree of uncertainty regarding the funding of provinces and solidarity between them.

The 2006 elections were the first, and so far only, reasonably free and fair democratic polls to take place since the country's independence. Subsequent reform of the nature of politics and government in the DRC has been limited. The problems of the controversial 2011 elections which resulted in a longstanding crisis of government legitimacy, as a result of their lack of credibility, remain. They include a lack of confidence in the Independent National Electoral Commission (CENI) and a disputed voter list. There are no plans to register new voters for the local and provincial elections which excludes those young people who have reached voting age since 2011. Other risks include the slow and non-consensual preparation of an overly ambitious electoral calendar, and uncertain funding. Even if there were to be successful elections, the Congolese political system has a long way to go and requires changes in governance practices which will take years before democracy and good governance are in place.

Since the 2011 elections there have been a number of crises. The loss of the Kabila government's key powerbroker, Augustin Katumba Mwanke, from Katanga province, and subsequent political appointments and unhappiness about development in the north of the province and its division have contributed to increased instability in Katanga. Attacks in both Kinshasa and Katanga in December 2013 were perceived as a warning to Kabila. In November 2012, the rebel group M23 took over Goma in North Kivu, which was a major humiliation for the President but galvanised international and regional engagement and support for the weakened government. In its wake, national, regional and international commitments were made to address the root causes of conflict in order to put an end to recurring cycles of crisis (Peace, Security and Cooperation Framework (PSCF)). 'National consultations' were held, which were boycotted by the main opposition parties, and led to further stagnation, best symbolised by a 14 month long wait for the announcement of the new government of national cohesion. There has been increasing authoritarianism, with violent repression of street protests; harassment or arrests of opposition leaders; targeting of civil society movements which have surfaced in recent years and which have gained much prominence since January 2015; and lashing out at external interference and criticism (e.g. expelling the director of the UN Joint Human Rights Office). The repression is carried out by a complex internal security apparatus that is tightly controlled by the presidency, mostly bypassing formal government structures.

The political landscape is fragmented, with 477 registered political parties, only a few larger majority and opposition formations and a plethora of small, 'one-man' parties, most often with a strong regional or ethnic affiliation. Both the opposition and governing majority have deep-seated divisions that play out in their positioning ahead of the 2016 elections. President Kabila's majority, constructed from an alliance between the Presidential Majority (MP) and the Parti Lumumbiste Unifié (PALU), is a loose federation rather than a cohesive movement, and the future elections have brought internal divisions increasingly to the fore. The opposition is centred on four major parties, Union pour la Démocratie et le Progrès Social, (UDPS), Union pour la Nation Congolaise (UNC), Mouvement de Libération du Congo (MLC), and the Republican Opposition, and number of prominent individuals, such as Martin Fayulu and Clément Kanku. Despite several shared objectives, the opposition struggles to maintain a unified front. Differences remain over strategy and suspicions about personal ambitions.

Religion is a crucial organisational element and the churches' role in the electoral process is likely to be at least as important as that of political parties. The Catholic Church is the strongest actor in the complex web of civil society organisations, and has been prominent in its opposition to a Kabila third term. The Protestant churches do not have a united view on the third term.

The report recommends that all efforts need to focus on creating conditions for credible polls in 2016.
- Congolese political actors and the CENI should revise the electoral calendar and delay local elections until decentralisation has been fine-tuned, and provincial polls should be organised to closely coincide or be combined with the national elections.
- A serious conflict prevention and dispute resolution strategy is required, in particular at the local level.
- Urgent international engagement with the President and key individuals within the majority and the opposition is needed. Donors and international partners should seriously consider suspending their bilateral support programs to the Congolese security forces and withhold funding and support of the electoral process if the constitution and timeline for presidential and legislative elections is not committed to and backed up by actions.

## Beyond Crisis in the DRC: The Dilemmas of International Engagement and Sustainable Change

Shepherd, B. (2014). London: Chatham House.

http://www.chathamhouse.org/sites/files/chathamhouse/field/field_document/20141222DRC_Research_Paper.pdf

The DRC may be in a position to move towards both a democratic transition of power and genuine post conflict stabilisation as a result of: the forthcoming end of President Joseph Kabila's second term in office; the engagement and relative coordination of the DRC's neighbours, regional and international partners; the reduced threat from rebels since the defeat of the M23 in late 2013; and the long awaited appointment of the 'government of national unity' in December 2014. However there are key unanswered questions around the forthcoming elections and Kabila's third-term intentions.

The widely criticised 2011 elections resulted in a significant blow to Kabila's reputation and popularity, he has lost key advisers, popular discontent has grown, and internal and external partners have lost patience with the lack of progress across nearly all policy areas. The DRC's already weak institutions, notably parliament, have been further undermined. The new government remains largely populated by Kabila loyalists and the reshuffle of senior military positions, interpreted by some observers as rewarding loyal officers and strengthening central control, are suggested to be indications of a regime marshalling its strength. However, even if he can overcome the legal obstacles to standing again, it is by no means clear that Kabila would be able to deliver sufficient votes to win, or the necessary financial or coercive weight to take victory.

International engagement in supporting robust, well-run and timely elections is essential if there is to be sufficient confidence in the possibility of change for alternative voices in Congolese politics to emerge as a force for political progress. Demobilisation, reintegration of former fighters and meaningful military reform remain enormous challenges as significant numbers of armed men are still present, most importantly the Forces Democratiques pour la Libération du Rwanda (FDLR), and violence is reported from Province Orientale in the north to Katanga in the south. Generating and maintaining international consensus will require significant energy and the re-engagement of the Southern African Development Community states is crucial for opening the way for potential progress. International partners will have to balance the need for political progress with the imperative of maintaining stability. It will need to reconcile the challenge of remaining armed groups with the need to reform the Congolese military and consolidate peace in the east and to maintain the fraught relationship between the DRC and its eastern neighbours.

## BTI 2014 — Democratic Republic of the Congo Country Report

Bertelsmann Stiftung. (2014). Gütersloh: Bertelsmann Stiftung.

http://www.bti-project.de/uploads/tx_itao_download/BTI_2014_Congo_DR.pdf

The DRC made no progress in terms of democratic and economic transformation during January 2011 to January 2013. Substantial setbacks were recorded concerning electoral politics and the control of violence in the eastern provinces.

The factors blocking democratic and economic development in the country include: widespread human rights' abuses; a visible disrespect for the constitution; a legitimacy crisis resulting from contested 2011 election results; extensive corruption; the weakness of state institutions; and the leadership's inability to

devise and implement appropriate policies. In addition, in some areas of the country, state structures have remained either extremely weak or hardly existent.

The state's monopoly on the use of force remained largely deficient and instability is almost universal. Tensions are high in the western regions, while the eastern provinces saw renewed violence. Growth dropped and there are projections of it slowing. The International Monetary Fund suspended its financial support to the government in protest of the government's continued corruption and lack of transparency, especially in the mining sector.

Despite the 2011 election results lacking credibility, President Kabila and his political coalition have so far successfully maintained control and the opposition remains strongly divided. It is difficult for external observers to assess how far different relevant persons' or groups' influence on the president actually goes – and when constellations change. A major challenge to governance stems from the increasing influence of the president who continues to position himself against the democratic system. The influence of other informal power structures and some of the business groups (particularly those involved in the mining sector or in purchasing military equipment) on national politics should not be underestimated.

The Congolese have a remarkably strong sense of national identity and all major groups in the country (ethnic groups, regionally based groups, political parties) adhere to such the notion and the existence of a 'one Congolese' nation-state. While in theory minority groups are not denied civic rights as a matter of government policy, but some measures of discrimination exist in some parts of the country (which is more a problem of the rule of law), especially for the minorities who speak Rwandan languages. The country's religious bodies, especially the Christian churches, are influential institutions that play a rather positive and integrating role in the country by providing social, educational and health services, and have some influence on politics. It appears that citizens are fairly strongly committed to democracy.

The state infrastructure is fragile in most major cities and almost non-existent in many remote regions. Largely due to widespread corruption, underfunding, unpaid professionals (who mostly rely on petty corruption to survive) and lack of appropriate equipment the administration's functioning and service delivery has remained very deficient. Major parts of the country continue to be subject to parallel administrations of the state and those of armed groups. Democratic institutions are weak and ineffective and suffer from corruption, lack of professionalism, poor performance and dependence on the political patronage of the president. The deeply embedded culture of clientelism runs the risk of fundamentally destroying the country's already weak democratic foundation.

The Congolese party system is heterogeneous, but still very fragile and mainly built along ethnic, regional and community lines. Very few are organised on a national basis. Village communities, extended families, and local women's groups provide the major frameworks of solidarity and self-organisation, within which interpersonal trust appears to be high.

The constitution guarantees freedom of association and assembly but opposition parties have been repeatedly harassed or constrained in their activities. In general, however, civic organizations without a competing political agenda to the ruling coalition were able to operate without restrictions. Although poorly developed, the mass media (at least in urban areas) challenges the state and provides room for lively political and societal debate. However, citizens, organisations and the mass media that have voiced criticism of President Kabila or the official political and military elites have experienced state intimidation, illegal detentions and physical abuses. In the Press Freedom Index 2011/1012, the DRC ranked 145th out of 179 countries.

Rule of law remains seriously undermined by political interference and a deeply embedded culture of corruption. The DRC has moved from a constitutionally-set semi-parliamentarian system to a functioning authoritarian presidential system. In practice, the judiciary remains overburdened, under-financed, and severely undermined by corruption and the influence of politicians and military authorities. Sexual violence against women remains a major problem, and they face outright discrimination in many areas of life, while their rights to life, security and physical integrity have been massively violated, especially in the eastern provinces.

The report recommends that:

- International partners put heavy pressure on the DRC's leaders to make the electoral commission truly independent, to consistently fight against corruption, to commit to decentralisation and to promote social reconciliation, especially at the community level.
- Urgent reforms are made in security, the judiciary, health care and education.

## *IRC/DRC governance sector strategy analysis: Final report*
Chambers, C., & Booth, D. (2013). London: ODI.

This report provides an overview of the political economy of governance and rights in the DRC. The DRC has never had a 'social contract' based on accountability to taxpayers and the availability of natural resource revenues undermines the incentive of those controlling the state to respond to the broad interests represented in the society and economy. Very local forms of political authority are significant. The weakness of issue-based politics and social action in the DRC is due to unusually severe difficulties in organising collective action due to high levels of social fragmentation. The strong sense of 'Congolese identity' alongside ethnic conflicts and movements for regional autonomy are suggested to be the result of struggles for greater controls of the spoils offered by control of the state. Many CSOs are now affiliated with political parties, with the exception of a few, mostly faith-based, human-rights defence and advocacy organisations and some grassroots organisations. Devolution of substantial resources and decision-making powers to new elected authorities at the sub-provincial level appears both improbable and unlikely to significantly counteract the prevailing rules of the game in the DRC politics (clientelism and predation). President Kabila is currently selectively distributing funds to the provinces in exchange for political loyalty. Some arrangements currently in use at provincial level include informal but legitimate power-sharing processes that limit the potentially harmful effects of ethnic competition under competitive political conditions. This experience at provincial level may indicate an unrealised potential for informal problem-solving that has some relevance to the sub-provincial level as well. Local-level governance interventions are most likely to be successful when anchored in efforts to meet the needs of local populations. International assistance should be careful not to detract from potential bottom-up self-help solutions.

The report also examines four potential pathways of local change: i) the Community-Driven Reconstruction (CDR) model; ii) demand-side work with service users; iii) working across the divide between service users and providers; and iv) addressing collective-action problems and building on what works.

## *Democratic Republic of Congo (DRC): Gender Country Profile 2014*
Davis, L., Fabbri, P., & Alphonse, I.M. (2014). Kinshasa: Swedish Embassy, DFID, the European Union Delegation, and the Embassy of Canada.
http://www.lauradavis.eu/wp-content/uploads/2014/07/Gender-Country-Profile-DRC-2014.pdf

This report examines gender in the DRC. It finds that the Congolese govern each other through a complex set of power relations that may operate through the state institutions, in the absence of institutions, or

counter to them. These are generally patrimonial (or neopatrimonial) systems that tend to exclude women. However, this is not always the case, and it is important to recognise the diversity of cultural norms and practices in different parts of the DRC, differences between urban/rural, rich/poor, educated and not.

Women's political participation in the DRC is generally agreed to be weak, both in terms of women voting or standing as candidates in elections. Great expectations are placed upon women in power and they are expected to prove their competence in a way that their male counterparts are not. Women's participation in peace processes has also been low.

Civil society organisations can play an important role in furthering women's participation in public life. CSOs can provide a direct route for women and men into state institutions at national and provincial levels. This 'revolving door' between civil society and state institutions has, over the years, weakened civil society. Women's participation in civil society at national and provincial levels is largely through women's associations, although this risks perpetuating the ongoing exclusion of women from the real decision-making spheres in and beyond civil society.

Access to justice remains a challenge for women and men in the DRC, particularly the poor outside urban areas. This is due to several factors, such as the high costs of legal proceedings, the prevalence of corruption, legal illiteracy, the insufficient number of courts and tribunals, and a lack of staff especially in remote areas. There is a general lack of trust in the justice system, which is seen to favour the rich and powerful. There is also a general lack of magistrates in the DRC, which contributes to the poor rule of law. Limited training of judges, prosecutors and lawyers on women's rights and discrimination present additional obstacles to women's access to justice. In some cases magistrates and judges are not aware of national laws or international obligations, or just do not apply them; the 2006 law on sexual violence is widely (mis)interpreted across the country and inconsistently applied, for example. Limited access to justice and a lack of faith in the formal justice system contributes to the ongoing use of traditional mediation (or justice) systems, including for cases of sexual violence.

### *Neither war nor peace in the Democratic Republic of Congo (DRC): profiting and coping amid violence and disorder*

Lamer, M., Laudati, A., & Clark, J.F. (2013). *Review of African Political Economy*, 40:135, 1-12
http://dx.doi.org/10.1080/03056244.2013.762165

In 2013, the DRC is experiencing an absence of both outright war and a lasting peace, with many of its underlying problems still unaddressed by the 'settlement' to the Congo wars. This Special Issue of Review of *African Political Economy* looks at the ways in which some Congolese people, particularly in the east of the country, find strategies to survive, cope and in some cases even to profit from, the socio-political environment in which they find themselves.

The history of the Congolese state plays a role in its current political economy. The central Congolese state has never been organically linked with the population. Many of the constantly evolving relationships between people and the state are often, but not always, exploitative and predatory. Congolese society is profoundly divided along economic, social and cultural lines, in ways that will not be easily overcome. The political settlement which ended the second Congo war (1998–2003), rewarded those had sought power via military means. The transitional '1 + 4 government' gave a seat in government to each major armed actor whilst denying representation to civil society institutions that were arguably far more important representatives of popular will. The settlement focused more on the external actors involved in the conflict,

than on addressing the internal political aspects of the conflict, although external actors continued to interfere in internal Congolese politics.

With no legitimate source of public order, respect for the rule of law has collapsed in many spaces. Without sufficient income, the government has struggled to reassert its control over the areas that have become lawless and has taken sides. Pervasive poverty has also contributed to state failure. The interaction of poverty, state collapse and war-related violence has created a complex of social dysfunction that has caused every aspect of social well-being to spiral downward. The poverty of the Congolese people causes them to remain disconnected from the state that rules them. Since most Congolese do not hold jobs in the formal sector, they cannot be directly taxed, and thereby provide income to the state (they are however irregularly 'taxed' by all manner of officials claiming to represent the state or other bodies of officialdom).

The reality on the ground in the DRC is that vibrant, innovative economies and trading centres have grown in the absence of regulation and law enforcement. In this context, locally constituted codes of practice arise and create a degree of 'order' which may not rest on state authority or return revenues to the state, but which have allowed economies of value to continue in the midst of conflict.

Civil society has often stepped in when the state has failed to provide services. However, whilst they provide essential social services, civil society-run systems of service provision and authority could become entrenched, potentially making it difficult for the state to reassert its legitimate authority in the future. Non-state actors also become the foundation for altered forms of governance. Such fragments of order may create promising building-blocks for local attempts at state-building, particularly as these systems, embedded in sets of social relations and local configurations of power, are likely to persist as violence subsides and the state assumes a more legitimate role.

There is a need for a much bolder and ultimately more sustainable approach to peacebuilding which engages with and is informed by realities on the ground, and the longstanding predatory relationship of that state and its functionaries on the Congolese people needs to be addressed.


### *Uncertainty and powerlessness in Congo 2012*

Trefon, T. (2013). *Review of African Political Economy*, 40:135, 141-151
http://dx.doi.org/10.1080/03056244.2013.762148

This article analyses the aftermath of the contested 2011 presidential and legislative elections. In its aftermath the country was divided between those who believed President Kabila's re-election was legitimate and those who did not. There was significant pre-election manipulation (for example, a constitutional amendment replaced the two round system of voting with a single round (favourable to the incumbent)). Registration, voting and results reporting were chaotic. These problems led to a loss of local and international credibility and significant social frustration. As a result Kabila was marginalised from domestic political life and lacking in internal credibility as a national leader. The engagement of newer partners with 'no strings attached' business plans like China, South Africa, Brazil or South Korea diminishes Western leverage over Kabila and his entourage.

However, there was also signs of political maturity on the part of ordinary people. Despite the huge potential for post-electoral violence, people generally did not express strongly felt political frustration through violent means. Many politicians were not re-elected and were sanctioned for not delivering on their 2006 promises. Not all politicians were elected along ethnic lines.

It is unclear who is in control. Relations between heavyweights are also unclear. Shadow advisers and associates from the inner circle wield far more power than many official figures, even at the ministerial level. Kabila, his family members and political supporters, strategic allies and business associates govern by networks, not by institutions. The first most powerful network is the one comprised of ethnic Katangese. It controls the Republican Guard and the Simba Special Forces battalion and has close ties with South African and Zimbabwean partners who run the minefields of Katanga and the two Kasais. The 'Banyamulenge– Rwandese axis' is the second important network, particularly active in the illegal exploitation of the Kivus' mineral wealth. This axis exerts power over the security and defence sectors, which puts it in competition with the Katangese network. The 2012 death of Augustin Katumba Mwanke, a powerful decision maker close to the president, was a major set-back for Kabila.

The DRC has a strong presidential system and the incapacity of parliament to help shape political debate in the DRC is another important but understudied problem. Parliamentary work and oversight is not a meaningful political force because it has little currency in institutional frameworks and in Congolese political practice. Members of Parliament, like judges and civil servants, do not have the budgets, staff or operational facilities (such as computers, adequate office equipment and transportation) to do their work. Diminishing immunity from wrongdoing has been a major governance challenge over the past decade. Freedom of expression is limited which is another challenge to instituting mechanisms of accountability. Access to the DRC's significant natural wealth is the main driver on a political landscape. Parliament was hobbled by the power-sharing arrangement between former belligerents set up in 2003 (commonly referred to as 1 + 4 – one president and four vice-presidents). The legacy of parliamentary powerlessness persists today. Parliament was able to operate effectively between 29 December 2006 until 25 March 2009, before the president of the national assembly, Vital Kamerhe, fell out with the president and had to resign.

### *Democratic Republic of Congo*

Afoaku, O. (2010). Countries at the Crossroads 2010. Freedom House
https://freedomhouse.org/report/countries-crossroads/2010/congo-democratic-republic-kinshasa#.VbZJbk3bJ2M

This report provides an overview of governance and political economy in the DRC. It states: 'Now in the third year of its renewed experiment with multiparty governance, the future of the Congolese state remains precarious. The second war, which included numerous regional states and irregular armed groups, has largely subsided, but parts of the country, especially in the east, remains unstable and insecure. Nevertheless, most of the country is calm and relatively stable' (p. 3). Specific areas covered in the report are:
Accountability and public voice
- Since the 2006 elections, President Kabila and his supporters have continued to subordinate democracy in order to maintain order and stability: 'the newly elected government is brutally restricting democratic space' (p. 5)
- Local elections scheduled for 2008 have not been held
- The government seems uncommitted to fulfilling the public's wish for a government of national unity
- The opposition suffers from fragmentation and weak capacity, which has made Parliament ineffective in challenging the ruling coalition
- Civil society has grown due to donor pressure and the limited capacity of government to address governance challenges. There are several limitations, however: many groups have become politicised; rights activists are at high risk of arrest, threats and attacks; and most media outlets are either owned or funded by politicians, who use them as a tool to advance personal agendas

Civil liberties
- Abuses by non-state actors are still prevalent
- Even in non-conflict zones, poor economic conditions foster crime and instability
- There is little redress for victims of violations
- Women continue to be discriminated against in many spheres of society despite constitutional provisions mandating the elimination of discrimination
- While there is a strong public identification with the DRC as a nation-state, ethnicity has been a prominent factor in politics and the formation of armed groups

Rule of law
- Customary law is in force in many parts of the country
- Congolese judges are subject to undue influence from government officials and powerful individuals
- Access to justice remains extremely limited outside of Kinshasa, due to underfunding and understaffing
- Civilian control over the military remains very weak
- Although property rights are protected by law, provisions are regularly violated by state and private actors. Property rights are especially unstable in the east, where land conflicts from forced displacement and ongoing plundering and land seizures by armed groups and bandits are prevalent

Anticorruption and transparency
- The legacy of power and corruption as synonymous is difficult to overcome; corruption is endemic at all levels of society
- The Congolese believe corruption is rampant in the country; Transparency International's 2009 Corruptions Perceptions Index ranked the DRC 162 out of 190 countries
- Insufficient and infrequent payment of salaries fuel petty corruption among civil servants, police and soldiers; bribes are considered a part of everyday life by the population
- Little progress has been made to combat corruption, although some level-level initiatives have reported success
- The absence of strong regulation and a reliable system of oversight has resulted in the continuance of individual buyers and companies involved in the mineral trade enriching warring parties
- The local population in Katanga, the DRC's key copper and cobalt producing region, have yet to benefit from the region's resources
- The tax relationship between citizens and the state, in which taxes act as investment in state services, is barely functional
- Most fee collection by government agents occurs informally and illegally, with little public awareness of what fees are legal

The report makes the following recommendations (see pp. 18-19):
- Create an independent media regulation body
- Prioritise the prosecution of war crimes
- Adopt a multifaceted strategy to end impunity for crimes of rape and sexual violence that include gender-sensitive educational initiatives, rehabilitation for victims of sexual violence, and a comprehensive protection programme
- Work to improve the judiciary through additional training and infrastructure and the provision of sufficient salaries
- Systematically review and strengthen laws, policies and institutions that govern financial payments made by mining corporations to the national government
- Revise the tax system to diminish incentives for evasion and smuggling

### The Democratic Republic of the Congo? Corruption, Patronage, and Competitive Authoritarianism in the DRC
Matti, S.A. (2010). *Africa Today*, 56: 4, 42-61
http://dx.doi.org/10.2979/aft.2010.56.4.42

This paper argues that the Kabila regime is neither authoritarian nor democratic, but is rather a hybrid regime. Democratic aspects in the country include meaningful opposition to the government in various arenas, including the legislature, media and electoral system. The presence of competition and intensive campaigning by political parties for the 2006 elections was a strong indicator of democratic tendencies. At the same time, the regime has demonstrated authoritarian behaviour through direct marginalisation and repression of opposition figures since the elections; and attempts to directly curb the independence of the media and to indirectly undermine the independence of the judiciary by depriving it of funding.

The paper states that the recent mining deals between the DRC and Chinese enterprises may exacerbate the DRC's authoritarian tendencies. The Chinese government does not require that rules of transparency and good governance are observed in its dealings with other countries; and there have been complaints by Congolese politicians and NGOs operating in the DRC about the lack of transparency and available information about the government's dealings with the Chinese enterprises. Despite the potential for the Congolese government to move in a more authoritarian direction, it may still be able to gain popular support if it is able to produce economic growth through this and other investments.

## 3. Decentralisation and local governance

### Insecurity and Local Governance in Congo's South Kivu
Mushi, F.M. (2013). *IDS Bulletin*, 44:1, 15-29
http://dx.doi.org/10.1111/1759-5436.12004

This article looks at how local systems of governance and networking in South Kivu have been affected by the civil war and the ways in which local communities have tried to cope with chaos and the absence of the state. The administrative architecture in South Kivu is composed of three layers: the provincial layer, the intermediary layer and the community layer. The main political arena is the provincial assembly to which deputies are elected during local elections. The governor and the vice governor are elected by the provincial assembly, which also possesses powers to approve their programmes and/or to dismiss them. South Kivu has experienced a variety of provincial governments as they have been unable to build an autonomous local coalition capable of seriously tackling insecurity and development problems. Territorial administrators are meant to represent the state at the local level and supervise collectivities, but they are largely unable to function independently. At a lower level traditional powers are exercised by chieftaincies, also called collectivities. A number of traditional leaders have extended their powers beyond their community. Various new elites are a challenge to traditional authorities. Elites in South Kivu include career civil servants and politicians, church leaders, renowned intellectuals, businessmen and civil society members, army and various militia personnel.

The Catholic Church's leadership during and after the war makes people see it as one of the most important institutions sustaining society, maintaining hope and helping to avoid the oppressive official state and working for the gradual renewal of the legitimate state.

The social contract between the state and society has largely been re-established in the DRC. Partly, this is due to the powerful negative lesson of what the alternative represents. However sources of tension remain, for example in Kivu the informal ceding of the army to Rwandaphones is a source of conflict and insecurity.

## *Capacity builders for governance: community-driven reconstruction in the eastern Democratic Republic of Congo*

Kyamusugulwa, P.M., Hilhorst, D., & Van Der Haar, G. (2014). *Development in Practice*, 24:7, 812-826

http://dx.doi.org/10.1080/09614524.2014.944484

This article looks at a Community-Driven Reconstruction (CDR) programme in eastern DRC, which aims to combine infrastructure restoration with introducing good governance at the local level. Recent evaluations show that governance objectives are not easily met, especially beyond the projects, and significant change cannot be demonstrated. This is the result of factors including the working of power relations on the ground and the mismatch between the project initiatives and the locally prevailing norms and existing accountability mechanisms. Not having experienced this type of governance before, people had no expectations relating to the governance objectives of the programme. There is room for improvement by better adjusting capacity building to locally prevailing accountability mechanisms and by coordinating capacity building with other development programmes.

## *Democratisation and Good Governance in the Democratic Republic of Congo: A Case Study of South Kivu Province*

Smith, J. (2009). Democratisation Cluster, Initiative for Peacebuilding

http://www.initiativeforpeacebuilding.eu/pdf/Democratisation_and_Good_Governance_in_the_Democratic_Republic_of_Congo.pdf

The political system in the DRC, established by the constitution and subsequent legislation, is a decentralised system comprised of appointed, directly- and indirectly-elected posts. Although, local elections have yet to take place, the 2006-07 presidential, legislative and provincial elections resulted in the election of the governor, vice-governor and the provincial assembly members, who sit at the decentralised provincial level. In addition, senators and national assembly members represent their province or local level constituencies.

The paper highlights some key issues and concerns with decentralisation in the DRC and governance more generally, with particular attention to the South Kivu Province:

The DRC
- Politicians at both the central and provincial level are distracted by the ongoing conflict in the east, which has resulted in a diversion of valuable attention and resources. In addition, it can potentially be used as an excuse to avoid governance reforms
- The longer the conflict persists, the more ethnic considerations will distort how people vote and which politicians they support. This will undermine governance by reinforcing a politics of identity over ideas. At the same time, if democratically elected officials adopt divisive ethnic politics, this could fuel further conflict. 'Ending conflict and improving governance are two sides of the same coin in the DRC: one is unlikely to be achieved in a meaningful way without the other' (p. 11).

- There are fears that decentralisation could spark conflict as boundaries are re-drawn around resource-rich areas and across ethnic groupings: 'There may be an inherent trade-off between the potentially destabilising effects of rushing decentralisation through too soon versus the risk of aggravating tensions between the centre and the provinces by not doing it soon enough' (p. 13).
- Overlapping responsibilities with ministry staff and a dual chain of command has led in some situations to competition between the civil service and ministerial cabinet and the duplication of efforts

South Kivu
- There are parts of South Kivu with virtually no state presence at all. In South Kivu and other parts of rural DRC, formal processes of the national and provincial governments do not apply. Instead, societal practices and coping mechanisms and grass-roots efforts aimed at holding civilian and military leaders to account have emerged. Some have been successful and some unsuccessful
- An important function of effective democratic states – the ability to arbitrate disputes peacefully and impartially – has been replaced with informal grass-roots 'peace committees' that encourage negotiation and dialogue between individuals, communities and authorities
- Local NGOs in South Kivu have complained that more than half of the 2009 provincial budget was dedicated to government salaries instead of development projects or other investments. It is often argued though that corruption in the DRC is fuelled by insufficient government salaries. However, if politicians do not have the budget to deliver any benefits to the population, they may consider their time in office to be limited and adopt a 'take what you' can mentality.
- There were anecdotes from rural areas of the 'personalisation of the state', whereby senior state officials gave 'gifts' to people, who were grateful for such handouts. This results in political support based on personalities and individual favours instead of on policies, and distorts the 'accountability link' between the leaders and the public

The paper emphasises that support to formal democratic institutions and the processes at the formal level have not been sufficient to improve governance. Citizens also need to be made aware of their own power and to take the initiative to hold public and elected officials to account. Discussion groups in rural areas of the DRC have revealed a 'general lack of understanding of how the democratisation process changed the old relationship between the state and the citizen. People seemed to have high hopes in general that 'change' would happen, without any specific understanding of what 'change' meant or their own part in bringing about that change, apart from voting every few years' (p. 20).

The paper recommends that donors need to invest more in the process of governance, with a focus on building positive state-citizen relations at all levels. More needs to be done to ensure that people:
- Understand what good governance means to them
- Are educated on the roles and responsibilities of leaders, citizens and other actors in the democratic state, in particular the formal checks on executive power. The accountability relationship should be strengthened between citizens and the leaders in closest proximity to them
- Believe responsible leadership is possible in the Congo

### *Democracy Promotion vs. State-building? The Theory and the Practice of Decentralisation in the Democratic Republic of Congo*
Barrios, C., & Ahamed, S.A. (2010). Draft paper.
https://www.academia.edu/948494/Democracy_promotion_vs._state-building_decentralization_in_the_Democratic_Republic_of_Congo

This paper discusses the provisions made for decentralization in the DRC, the links between democratisation and the state-building, and the current situation in the country. Two key policies provide for decentralisation: the restructuring of the territory and the process of holding elections. The 2006 Constitution redistributed the territory into 26 provinces. The most important provision is that tax collection is to be carried out at the source - by the provinces instead of the state. The implementation of both policies however is 'lagging behind and imply that decentralisation exists in theory but not so much practice' (p. 10). There is little progress in the implementation of the new provinces on the ground and this remains unequal (for example, while North Kivu and South Kivu have functioning provincial assemblies, most new provinces only exist on paper). In addition, as of 2010, local elections continue to be postponed.

The paper notes that decentralisation in the DRC is 'foreseen as a technical tool to foster democracy functioning, and not as an element of sub-national community representation and policy making. Indeed, identity clusters are rather thwarted. […] In this sense, there is clearly an emphasis in state-building but keeping one state with administrative divisions rather than a federal union of different identity and territorial units' (p. 11).

# 4. Justice and rule of law

### Mapping Police Services in the Democratic Republic of Congo
Mayamba, T.N.. (2012). *IDS Bulletin*, 43:4, 35-48.
http://dx.doi.org/10.1111/j.1759-5436.2012.00333.x

This article examines the roles, responsibilities and interactions between the various formal and informal institutions and stakeholders involved in the management of police services in the DRC. The poor coordination between the various actors and institutions involved in the management of security services in the DRC creates a dysfunctional structure characterised by a culture of impunity, with no regard for senior civil servants in charge of coordination. The militarisation of the police is sanctioned by the Constitution (Article 81). The constitutional framework enables the President to control both internal and external security mechanisms, and the police and the army are the two main pillars of presidential power. The President interacts with police services via the Defence Council and through informal networks organised around ethnic affiliation. There is very poor coordination between national and provincial actors, and the various institutions involved. It is important to highlight the shortcomings of a decentralisation process which, when lacks effectiveness it comes to security services.

### Overview of corruption and anti-corruption in the Democratic Republic of Congo (DRC)
Chêne, M. (2014). Anti-Corruption Helpdesk, Transparency International.
http://www.transparency.org/files/content/corruptionqas/Country_Profile_DRC_2014.pdf

The DRC continues to struggle with repeated political crises, weak governance, mismanagement of natural resources and entrenched corruption. In 2013, the country ranked 154th of the 177 countries assessed by Transparency International's Corruption Perceptions Index. The corruption includes petty and bureaucratic corruption, political and electoral corruption, and political patronage and clientelism. Corruption permeates most sectors and institutions, with natural resource management especially vulnerable to corruption.

Despite public commitment from the President to fighting corruption, there is little evidence of political will or progress beyond the establishment of a strong legal framework, which is rarely enforced in practice. The anti-corruption agenda is often manipulated for political reasons. The establishment of transparent and accountable institutions is hampered by the existence of a rent-seeking elite and a complex web of political patronage that permeates all sectors of society.

## *Justice-Sensitive Security Reform in the Democratic Republic of Congo*
Davis, L. (2009). (Working Paper No. x). IFP Security Cluster, Initiative for Peacebuilding
https://www.ictj.org/sites/default/files/ICTJ-DRC-Justice-Security-2009-English.pdf

This paper emphasises the importance of adopting a justice-sensitive security reform approach in the DRC. This involves reforming abusive public institutions in the security system by addressing the past record of the institution and holding individual perpetrators to account. This would contribute to changing the culture of normalisation of human rights violations within these institutions and contribute to building confidence in the security sector as a protector of the rights and safety of citizens. An important element of justice-sensitive reform is to increase efforts to transform the relationship between the population and the security system, with particular attention to the relationship between Congolese women and these institutions. This involves engaging the population as a whole in the reform process.

Currently in the DRC, the Congolese security system is not only incapable of defending the state and the state's authority, but it also poses a serious threat to the population as a whole. The Transitional Government (2003-2006) failed to address justice or human rights issues, which resulted in a system of entrenched impunity. In particular, impunity for crimes of sexual violence is likely to hinder the participation of women in a democracy, if their security is constantly under threat. Civil society, which was weakened in the transition, continues to be undermined since the 2006 elections due to its politicisation; a lack of resources and capacity; in-fighting; and continued repression and abuse of human rights defenders. Nonetheless, a campaign led by local and international civil society organisations has succeeded in raising awareness of the extent of rape and sexual violence in the DRC.

The paper highlights key issues within the security system:
The army
- There is no clarity on the number of armed forces or their identity
- There is much concern that strengthening parts of the army without addressing the abusive nature of the state will fail to improve the population's security
- A lack of clear command and control enables senior officers to engage in corruption

The police
- The presence of widows and orphans on the payroll ('ghosts' of killed police officers) inflate the numbers of a unit and increase the salary allocations pocketed by senior officers. This situation needs to be addressed not only to prevent corruption but in order to properly provide for widows and orphans through an institutionalised social insurance and welfare system
- Uncertainty remains over the role of the police, its nature, and the different roles that police services and armed forces play in a democracy. Senior police officers still consider their mission as to protect the state from its enemies (internal or external) by any means
- Democratic oversight remains a big challenge. This is in part due to resistance from the police hierarchies that are unaccustomed to operating within a democratic environment; and in part due to the failure of parliament to fully engage in oversight
- A lack of clear command and control enables senior officers to engage in corruption

<u>The justice system</u>
- Access to justice is very poor; the system is unable to deliver day-to-day rule of law for the population, let alone tackle serious crimes and abuses during the wars, including rape and sexual violence
- The judiciary is not independent and there is frequent political interference with judicial processes
- The penitentiary system is almost completely dysfunctional

### *Ownership and Participation in Transitional Justice Mechanisms: A Sustainable Human Development Perspective from Eastern DRC*

Vinck, P., & Pham, P. (2008). *International Journal of Transitional Justice*, 2: 3, 398-411
http://dx.doi.org/10.1093/ijtj/ijn033

This paper is based on a survey of 2,620 adult residents in eastern DRC. It finds that respondents' basic priorities are identifying means for survival and safety. High levels of fear were prevalent among respondents in daily life situations such as going to their fields, walking through their villages or meeting strangers. As long as such basic survival needs are not met and safety is not guaranteed, social reconstruction programmes, including transitional justice mechanisms, will not be seen as a priority and will not draw the level of support required for their success. In addition, without security, respondents do not feel comfortable talking openly about what happened to them, which also hinders the functioning of transitional justice mechanisms.

Although justice, truth seeking and prosecutions were not often listed as priorities', most respondents still believed that those who committed war crimes should be held accountable and that holding them accountable was necessary for peace. The paper argues that the government also needs to be strengthened and legitimised to bring peace and security. This requires reform of the security sector, rapid implementation of peace agreements, and effective payment of salaries to soldiers and mechanisms to prevent corruption.

# 5. Natural resource governance

### *Natural resources governance in the Democratic Republic of Congo: Breaking sector walls for sustainable land use investments*

Samndong, R.A., & Nhantumbo, I. (2015). London: iied
http://pubs.iied.org/pdfs/13578IIED.pdf

There is increasing interest in and demands on the DRC's natural resources. The key underlying causes of deforestation and forest degradation in the DRC include: corruption and the lack of good governance, weak institutional capacity, weak law enforcement and insecure land and resource tenure. Poor business practices, such as a lack of transparency in the awarding of forest and mining concessions, often in contravention of laws and regulations, undermine the potential for sustainable and greener economic growth. Poor governance also reduces equitable distribution of benefits among the DRC's population, particularly among rural communities. The institutions managing forest and conservation interests in the DRC have been under resourced in terms of numbers, training, office equipment, and remuneration. Weak law enforcement is also a major challenge facing environmental protection and management in the DRC.

As a result, the DRC has introduced policy and legislation to strengthen governance, use and control of forestry, mining and agriculture, including measures to allow local communities to benefit from the

resources they depend on (e.g. provision of *cahier de charge* (social contracts) in the Forest Code). However, there are still some loopholes in the legislation in relation to land tenure security, governance and public participation, law enforcement, sustainable management and the equitable sharing of benefits; while implementation remains a serious challenge.

Table 1: Key legislation on land and environmental management in the DRC

| Sector | Key Legislation |
|---|---|
| Land | Land Law No. 73-021 of 20 July 1973<br><br>DRC, 2010. Journal Officiel de la RDC n° spécial. Code foncier. Kinshasa. |
| Forest | Law 011/2002 pertaining to the Forest Code passed in August 2002<br><br>Arrêté 023 adopted on 7 June 2010 by the MECNT |
| Agriculture | 2003 Agricultural policy reform document |
| Mining | Mining Code enacted by Law No. 007/2002 of 11 July 2002 |
| Environment | New Environmental Law, 2011 MECNT |

Local community actors are disadvantaged in comparison to private sector actors which means mapping community resource rights, promoting community-based natural resources management based on the development of sustainable, viable, inclusive and equitable enterprises is important for inclusive economic development opportunities. Strong, transparent and accountable local institutions are also important for equitable access to land resources. Locally-led small and medium enterprises can help drive the growth of local economies. Security of tenure and strengthening institutions and enterprises are necessary but not sufficient conditions for advancing livelihoods. Community development initiatives need to be designed for the long term to be successful.

***The Asian drivers and the Resource Curse in Sub-Saharan Africa: the Potential Impacts of Rising Commodity Prices for Conflict and Governance in the DRC***
Guenther, B. (2008). *The European Journal of Development Research*, 20:2, 347-363
http://dx.doi.org/10.1080/09578810802078712

This paper includes a section on the impact that China and India are having on the demand for natural resources in Sub-Saharan Africa generally and in the DRC specifically. It argues that the shift in global terms of trade in favour of hard commodities due to the rise in demand will present significant challenges for governance and peacebuilding in the DRC. State and non-state actors will compete to gain control over natural resource rents. While measures in the mining code could improve transparency in the DRC's mining sector and improve governance, the reality on the ground undermines this. The institutional preconditions currently do not exist, such as administrative structures, well-trained (and well-paid) staff, and inter-governmental/ institutional cooperation.

*Democratic Republic of Congo: Growth with Governance in the Mining Sector*
The World Bank. (2008). Oil/Gas, Mining and Chemicals Department, Africa Region, The World Bank
http://siteresources.worldbank.org/INTOGMC/Resources/336099-1156955107170/drcgrowthgovernanceenglish.pdf

This report outlines the problems and challenges of resource management in the DRC. It attributes the failure of the country to harness its mineral wealth for economic development primarily to corrupt management and political interference in mining companies; and inappropriate policies that limit private sector investment. Despite the adoption of a new Mine Law and regulations (2002), which are consistent with international best practice, the government has failed to effectively apply the law. The growth of the sector continues to be undermined by insufficient institutional capacity, continuing political instability, corruption and fundamental governance deficiencies. 'Significant capacity building, training and logistical support will be required to strengthen the government's capacity to administer the sector' (p. 6). Improvements in governance are required in the following areas:

- Mining tax revenue generation: fraudulent practices by companies and government agencies have created a large gap between what should be paid versus what is actually recorded
- Disclosure: there is a need for proper disclosure of mining contracts, with the particulars of the partners involved; and of conflict of interest issues with civil servants and political officials owning stock in mining companies or serving as officers of them
- Guidelines: clear guidelines for government equity participation in mining enterprises is required
- Tracing systems: initiatives to trace mineral commodities, with a view to curtailing clandestine exports and certifying production methods, need to be strengthened
- Oversight: central government institutions responsible for oversight of the sector are weak and ineffective

Some recent developments include the current government's reaffirmation of its commitment to implement the Extractive Industries Transparency Initiative (EITI). It has taken steps to update the organisational structure of the EITI implementation committee and to reactivate dialogue with private companies and civil society. In addition, in 2008, the government signed a series of agreements with a group of Chinese enterprises for investments in infrastructure in return for access to mineral deposits. While there is potential for these agreements to benefit the sector, there are some concerns that full disclosure of the terms and conditions of the arrangements have been inadequate; and that there is the possibility of tax exemptions and other incentives that are contrary to the Mine Law.

The report proposes a strategic and comprehensive programme to be carried out over the next five years to address key deficiencies in the large and small-scale mining sector such that it can contribute to economic development. Specific objectives and goals of the programme include:
- Improving mining fiscal receipts in the short term
- Improving the enabling environment
- Improving sector governance, including through due diligence and transparency of contracts; disclosure of revenue flows; and fair distribution of benefits
- Building the capacity of supervisory institutions, including to provide oversight of the sector; deliver technical assistance; conduct health and safety checks at sites; and conduct economic and financial analyses of projects

## *Forest Governance in Congo: Corruption Rules?*

Trefon, T. (2010). U4 Brief, no. 5 (2nd ed), U4 Anti-Corruption Resource Centre

http://www.cmi.no/publications/file/3776-forest-governance-in-congo-corruption-rules.pdf

This brief argues that forestry, like mining, is a high-stakes business that attracts unscrupulous actors and corrupt officials, who constantly change the rule of the game. Corruption and mismanagement have contributed to poor results in the forestry sector. Environmental governance thus cannot be seen solely as a technical issue in the DRC as it is also a political and social challenge.

Tackling poor governance and institutionalised corruption at all levels of society in the DRC is considered by many to be key priorities on the reform agenda. However, 'impunity continues to facilitate the mechanisms of corruption and severely undermines all other reform efforts. Reform policies tend to respond to symptoms without addressing the root causes of problems such as historical patterns of poor governance, social fragmentation, institutional weakness and diverging perceptions of the need for change' (p. 2). The brief stresses that reform implementation has also not materialised largely due to the lack of a reliable administrative structure. Corruption, exploitation and predation are prevalent in the state administration in the DRC; and public service provision has been 'privatised'. In addition, civil society is not a genuine political force. It needs to be strengthened before it can play a meaningful role in improving political transparency and countering corruption.

The brief outlines some initiatives aimed at improving forest governance. This includes the Congo Basin Forest Partnership, a voluntary multi-stakeholder initiative, whose objective is to promote the conservation and sustainable management of the Congo Basin's forest ecosystems. There is also a new legal framework for forests (the 2002 forest code and 2005 presidential decree), which aims to promote public consultation and to narrow the gap between customary and modern law. At the same time, however, it reinforces certain social imbalances; and has yet to resolve issues of land tenure. Problems with fiscal revenues from forestry activity also persist; such revenues have not accrued to communities as loggers pay their taxes to central government without any transparency or accountability.

Prerequisites for improving forest governance include (see p. 4):
- Environmental education and awareness campaigns about rights and responsibilities to help local populations bargain into forest governance strategies
- The creation of enabling conditions to attract responsible private sector partners
- Greater integration of respect for local logics and belief systems
- Increased and more systematic capacity-building and training for all stakeholders involved in forest governance

See also:

**Wan, K. (2009). Global Sustainable Development "From Above" and Local Injustice "Below": The Governance Challenge Facing the Congo Basin Rainforest. Law,** *Social Justice and Global Development Journal***, 1.**

http://www2.warwick.ac.uk/fac/soc/law/elj/lgd/2009_1/wan/wan.pdf

**Mazalto, M. (2009). Governance, Human Rights and Mining in the Democratic Republic of Congo. In B. Cambell (ed.).** *Mining in Africa***. Pluto Press**

http://www.idrc.ca/openebooks/450-5/#page_187

# 6. Livelihoods and business environment

*Democratic Republic of Congo: Growth for All? – Challenges and Opportunities for a New Economic Future (Discussion Paper 6)*
Englebert, P. (2014). Johannesburg: The Brenthurst Foundation.
http://www.thebrenthurstfoundation.org/Files/Brenthurst_Commisioned_Reports/Brenthurst-paper-201406-Growth-for-All.pdf

The current governance of the DRC suggests little transformation away from predatory rule despite some recent economic progress. The use of state authority for the private appropriation, accumulation and redistribution of public resources remains the fundamental problem for economic governance and development in the DRC. The two areas of economic governance most prone to such predation are the mining industry and the implementation of the budget. The consequences of such predation include weak government capacity, the undermining of governance reforms, aid dependence, inequality, and 'tribalism' fed by individual strategies of survival. It is 183rd out of 189 countries in the World Bank's Ease of Doing Business Index.

Required reforms include increased public transparency, an end to impunity, accelerated decentralisation, a withdrawal of the state from ownership of productive assets, and a reduction in overall state authority, including via a deflation of the role of local chiefs. However these reforms are unlikely unless they are endorsed and promoted by the Congolese themselves.

*Conflict, Institutional Changes and Food Insecurity in Eastern D.R. Congo*
Lecoutere, E., Vlassenroot, K., & Raeymaekers, T. (2009). *Afrika Focus*, 22: 2, 41-63
http://www.gap.ugent.be/africafocus/pdf/3Vol22_2_Lecoutere.pdf

Recent literature on the political economy of civil war has highlighted the complex interaction of food insecurity and conflict. In order to properly study rural households' livelihoods and food insecurity in the protracted crisis situation of eastern DRC, a political economy approach is required. This would look at: the institutional context regulating access to land and to markets; information about prevailing norms and regulations; the 'rules of the game' for accessing land and markets; and the respective gatekeepers. This study which gathered data on these aspects found that 'the worsening of the food security conditions in eastern DRC has been caused in part by distortions in the processes, institutions and policies of defining people's access to assets and strategies that regulate their access to food' (p. 50). Important mediating structures that determine households' livelihood opportunities and food security are access to land and the market.

Most international interventions in eastern DRC address the direct food security needs of the rural population through food aid, support of nutrition centres and the distribution of seeds and tools. Such interventions are unlikely to influence, however, more structural causes, such as depleted asset stocks and the need for risk coping and management strategies as substitutes for insurance and credit. The paper recommends that in addition to support for short-term consumption, assistance should also be given to help rebuild assets to generate income. Institutional settings play an important role here as this mediates access to assets and markets and defines opportunities to translate strategies into sustainable livelihoods.

*Ownership and Participation in Transitional Justice Mechanisms: A Sustainable Conflict-Business Dynamics in the Democratic Republic of Congo*
Gilpin, R., & Downie, R. (2009). United States Institute of Peace.
http://www.usip.org/sites/default/files/resources/confict_business_drc_sr234.pdf

Research suggests that a strong business sector can contribute to rebuilding post-war economies and give citizens a stake in promoting and consolidating peace. This report is based on a survey of business people in two of the DRC's strategically important regions – Bukavu in the east and Lubumbashi in the south – in order to determine what can be done to improve the business climate. While business people cited security and violent conflict as factors undermining economic activity, these were not seen as the most important issues. Instead, problems of unreliable electricity supply, high taxes, and other bureaucratic and logistical hurdles are considered as the key challenges. In both Bukavu and Lubumbashi, tackling the inadequate infrastructure should be a priority, particularly to ensure that businesses have a reliable power supply. It is also important to address the problem of high taxes. In Lubumbashi, the problem is more likely to be one of corruption; whereas in Bukavu, the issue is intertwined with the security situation and likely relates to unofficial taxes levied by armed groups and corrupt officials. In both cities, business people had high levels of confidence for the coming year; the majority believed that the general business climate would improve.

# 7. Citizenship and social capital

*From devastation to mobilisation: the Muslim community's involvement in social welfare in post-conflict DRC*
Leinweber, A.E. (2013). *Review of African Political Economy*, 40:135, 98-115.
http://dx.doi.org/10.1080/03056244.2012.760445

More than a decade of war in the DRC has had an immensely negative impact on the social fabric of communities. However, the minority Muslim community has capitalised upon the opportunity of state weakness and desperate human need to mobilise for the benefit of the larger society. This article finds that despite decades of marginalisation and withdrawal from political and development realms, in post-conflict DRC, Muslim associations are organising to provide public social services, especially education. Muslim provision of education has been possible because of what amounts to a system of hybrid governance in the DRC, where public education provision requires the cooperation and resources of both the Congolese state and faith-based organisations. The article seeks to highlight that faith based organisations do not step in to replace the supposedly 'failed' Congolese state, but rather work with it. In the DRC the state–religious organisation hybrid model is still widely supported, not only by the religious associations, but also by the wider populace.

*Study on the role of Civil Society in Governance Processes in the Democratic Republic of Congo (DRC)*
Gouzou, J. (2012). ISaC, CARE International, & PSO.
http://conflict.care2share.wikispaces.net/file/view/20120801+DRC+Civil+Society+%26+governance+sudy+-vFinal+English+.pdf

The DRC has a vibrant and lively civil society. Bad governance is widely acknowledged to be one of the underlying causes of conflict, poverty and marginalisation in the DRC. This study looked at the role civil society organisations (CSOs) in eastern DRC play in improving governance and found that they are

performing poorly and are barely fulfilling their role in improving governance in the DRC. Very few are highly effective at planning strategically and adapting to the changing context; very few systematically use a rights-based approach in practice; very few are effective at capacity building; many have poor effectiveness in relation to advocating for democratic governance; and very few CSOs are themselves models of good governance. CSOs are fragile in terms of their financial capacities and very largely dependent on external donors, which makes them less responsive to the local context.

The study recommends engaging with CSOs on what it means and what it implies to be engage in governance; engaging in dialogue with the power-holders and between power-holders and civil society on the role of civil society in improving governance; and capacity building of CSOs to enable them to be relevant and effective actors that are able to contribute to good governance.

### Of "Doubtful Nationality": Political Manipulation of Citizenship in the D. R. Congo
Jackson, S. (2007). *Citizenship Studies*, 11: 5, 481-500
http://dx.doi.org/10.1080/13621020701605792

This paper discusses the denial of nationality and of citizenship rights in the DRC to people of Rwandan/Burundese heritage – members of the Hutu and Tutsi ethnic groups. Although a new law on nationality was adopted in 2004 that provides for nationality by origin and by acquisition, there are various aspects that leave the problem unaddressed:

- The law allows for loopholes and continuing possibilities of legal exclusion. For example Article 22, which sets out conditions through which 'nationality by acquisition' is excluded, includes having 'delivered oneself to the profit of a foreign state' or 'economic crimes'. Both of these charges are common accusations against members of the Hutu and Tutsi ethnic groups during the RCD (Rassemblement Congolais pour la Democratie) war
- The law leaves much open and uncertain, which allows for ambiguous interpretation
- The law is poorly implemented. Weak state apparatus has meant that 'rule of law' has not been applied consistently at the local level despite the Constitution and law in the books
- Gaining Congolese nationality will be of little utility to a peasant if it does not come with an enforceable and long-term right to land
- It is important to move beyond legal reforms to try to reverse deeply held political narratives of belonging and exclusion, indigenousness and foreignness, which remains a potent area for political manipulation

### "We, the Congolese, We Cannot Trust Each Other". Trust, Norms and Relations among Traders in Katanga, Democratic Republic of Congo
Rubbers, B. (2009). *The British Journal of Sociology*, 60:3, 623-642
http://dx.doi.org/10.1111/j.1468-4446.2009.01261.x

Personal trust is considered to be very important for trade and business transactions in contexts in which legal rules and institutions are ineffective in controlling opportunistic behaviour and economic flows are unpredictable. This paper argues that in the DRC, social proximity does not exclude suspicion; nor does social distance necessarily prevent trust. It presents a study carried out in Katanga. Patrimonialism, political conflicts and economic instability in the region has prevented an institutional system that would provide conditions of predictability and security that would allow Congolese people to trust each other.

Instead, the decline of economic, political and social infrastructure has resulted in distrust. The study finds that expectations of trust are most strong with close relatives, then non-relatives, and lastly, distant relatives/kin groups. Congolese entrepreneurs prefer to go into partnership with close family – trust here is seen as natural. They may however collaborate with non-relatives in order to enter the market and seize an opportunity. Such associations with colleagues, with neighbours, with people from the same organisation (church, sports team, ethnic association etc.) rely less on social ties than on complementarity of resources brought by each partner in the joint venture. Distant relatives/kin groups are not considered good to do business with as the division of property is not clearly defined with the kin group as it is with non-relatives. With kin groups, members tend to take the firm's funds and supplies as goods belonging to the whole family. In addition 'loans' are often perceived instead as 'gifts' or 'help'. As such, it is easier to build a more balanced form of reciprocity with non-relatives than distant relatives.

# 8. About this report

## Expert contributors

David Booth, ODI

## Suggested citation

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