

# New political order in the DR Congo? the transformation of regulation

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It has been said repeatedly: the Democratic Republic of Congo (formerly Zaire) remains only a shadow of its former self, a typical case of state failure and collapse. Closer observation suggests a different image, however: not only has this country demonstrated “a remarkable propensity for resilience” (Englebert, 2003), its administration and regulatory frameworks – which in some domains have not changed since colonial times – have remained largely intact even during the latest period of war and political turmoil. In this article, we would like to explain these different “cross currents and contradictions” (Young, 2004) that emerged during the past Congolese war, addressing the question of whether processes of state erosion and political reconfiguration during this period should be described as a further “privatisation of the state”, as proposed by Hibou and others, or rather as a transformation or commodification of state sovereignty. The article is organized diachronically: it first discusses the Mobutu period (1965-1997), and then the war (1996-2003), to finally draw some conclusions from Congo’s long period of political “transition”.

*Key words:* Congo, conflict, non-state regulation, Armed groups

## Authoritarianism and political disintegration

As recently as the mid-60s, Aristide Zolberg argued that authoritarianism in Africa resulted not from high levels of authority and legitimacy, but rather from the absence of it (Zolberg, 1966). Mobutu’s authoritarian and patrimonial rule in Zaire was no exception to this. As Thomas Callaghy explained, in post-colonial Zaire/DR Congo<sup>1</sup> “the central state apparatus attempted to cope with the uncertainty produced by a complex and shifting rural periphery, in which there were “traditional, quasi-traditional, and transitional local authorities and groups to deal with, all in the context of intricate patterns of local factionalism produced by the ‘interplay of identity and utility’ and the patron-client and brokerage networks that frequently link the local area with higher levels.” (Callaghy, 1984: 62).

Often presented as a prominent example of institutional collapse, Zaire indeed

<sup>1</sup> In the text, Zaire and DR Congo will be used intermittently to describe the same country, albeit during different time periods. ‘Zaire’ existed from 1965 until 1997; the ‘Democratic Republic of Congo’ was the name given by Kabila to this country in 1997.

seems to represent a “forsaken black hole characterized by calamity, chaos, confusion, and a bizarre form of social cannibalism where society is its own prey.” (Trefon, 2004:1) Yet, Congo’s political system has persisted in a most surprising fashion even during times of apparent institutional ‘collapse’. Despite its almost anti-Weberian features, says Pierre Englebert (2003), the Congolese state has continued to survive thanks to a citizenry and administration that were engaged in a constant process of negotiating for public functions and services: rather than defying the state itself, weak sovereignty has become kind of a resource, which continues to reproduce the state as a lame but living Leviathan or as Congo’s inhabitants have it: “l’état est moribond, mais pas mort” (Trefon, 2004).

Congo’s political system under Mobutu was characterised by the trading of rent-seeking for political loyalty, a dialectic that transformed economic assets into a stock of political resources. Behind the façade of legal procedures and formal state institutions, Mobutu built his reign on the strategic distribution of resources and informal politics, according to Denis Tull: “the political perseverance of the Mobutu system of rule found its basis in the intricate networks of redistribution, linking the highest echelons of state hierarchy vertically with local power holders. (...) These networks were usually underfed by offering opportunities and means to access resources, rather than resources as such.” (Tull, 2005: 277) Mobutu’s strategy had to offer stability to a ruling class, while at the same time cultivating uncertainty amongst its individual members and thus preventing the formation of a counter-force. In the meantime, extra-economic coercion and brutally repressive extraction from the population had to consolidate the “self-aggrandizement of the state-based class” (MacGaffey, 1994: 171), which in turn denied the population access to political participation and integration into networks of patronage. A ‘fend-for-yourself’ attitude (‘Article 15’) of Mobutism served as social pact between state and society, as it “allowed the former to retire from public life and from its functions, leaving the latter the possibility to act unlawfully” (Jourdan, 2004: 170). The net result of this dialectic was the plundering of state assets and the undermining of rule-based bureaucratic behaviour which was exchanged for a deepening informalisation and privatisation of public and economic life, even if this usually remained the privilege of those that were well positioned within Mobutu’s political system.

As long as the Zairean president could guarantee his grip over foreign backing (which was bought in part through the export of raw resources and strategic positioning during the Cold War), he could maintain his national power position. Mobutu’s de-bureaucratized patrimonialism proved to have its limits though, as officially ‘sanctioned’ private accumulation made it easy for local strongmen to become autonomous and make their own, private arrangements that increasingly escaped state control. Moreover, as soon as this “formal” market of extraversion collapsed as a consequence of lack of investment and resource prices on the world market, Mobutu’s divide-and-rule system collapsed and forced him to look for alternative resources. As a result, the rapid crumbling of Zaire’s industrial economy during the 1980s caused a gradual shift from foreign to

decentralised patronage networks as a foundation of political power.<sup>2</sup> The Zairian state increasingly fragmented as governmental institutions were forced to negotiate, forge alliances and compete with alternative sources of authority and economic production to constitute public authority and political control. Particularly in Zaire's borderlands, informal and fraudulent trading activities became so extensive so as not only to undermine state effectiveness but also to bring about important changes in the structures on which these were based. In these regions, various rival centres of authority were able to secure their control over local resources through so-called "informal" trade networks and increasingly challenged the state in its monopoly on the legitimate use of force.

### Political brokerage

This oligopoly of violent means ultimately formed the ideal breeding ground for armed groups that started to work as protectors of local interests groups in the spaces opened up by political and economic insecurity. This proliferation of autonomous armed actors became apparent in the early 1990s, when a democratization process was announced by President Mobutu. As part of intensified political competition, armed groups were mobilised that could best be described as protection forces for the promotion of the interests of local politicians (often with the complicity of customary chiefs) but, as political competition and ethnic discourse was increasingly dividing local populations on the access to key assets such as land, eventually turned into defence groups following a particular ethnic agenda.

In other words, from as early as the early 1990s, the erosion of state capacities facilitated the role of local power "brokers", who in Eric Wolf's words stand guard over the crucial junctures of relationships that connect the local system to the larger whole. An important characteristic of such brokers, however, is that they operate as gatekeepers between different competing groups, and thus can never resolve conflicts between them. As a consequence, they often act as buffers between groups, maintaining their tensions which provide the dynamic of their actions (Wolf, 1966, see also Goodhand, 2007). But while these brokers can be seen as an evil to be opposed, they nonetheless can supply a real service of trust and "protection" to certain actors that feel unprotected by the state or its agents (Gambetta, 1993).

A similar dynamic of political brokerage could finally be observed in the sphere of "development". During the 1980s, the provision of education and health was largely sub-contracted to a disparate collection of non-state organisations such as religious associations, development organisations and so on: under the broad title of the '*société civile*', this amalgam of often competing groups and interests ultimately gave the international development discourse a much more prominent place in local decision-making processes. At the same time, the almost total collapse of industrial activity in post-colonial Zaire boosted an array of "informal" economic survival mechanisms that largely escaped

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2 According to William Reno, "the reality of formal economic decline, bureaucratic decrepitude, and the collapse of the rule of law," in such "weak African states left "rulers with few options except to battle opponents in markets, which [became] the foundation of political authority." (Reno, 1998).

administrative control. But they simultaneously transformed the country's dynamic into a constant play of corruption and resistance, antagonism and accommodation. In North Kivu, for example, a region bordering Uganda and Rwanda, a vibrant cross border trade already existed long before post-colonial independence. During the 1970s and 80s, local administrators had great difficulty controlling this form of "illegal" practice since they themselves were often heavily involved in smuggling activities. According to Thomas Callaghy, almost all categories of the Zairian population at one time or another became involved in such cross border practices, be they the police or 'gendarmérie', the Mobutist army, state agents, traditional authorities or simple peasants. During Mobutu's reign the absence of state-led economic development, the opportunity "to get rich quickly," almost became a new state ideology, in which 'Article 15' ("débrouillez-vous", or the necessity to fend for oneself), was tolerated by the regime in return for unlegitimated and rapacious state predation. According to Jewsiewicki, the aspiration of local subjects, groups or communities to recognition from above inevitably had to be expressed through "an affirmation of the self produced by an exclusive definition of the other, who defines himself as a competitor in the face of such recognition." (Jewsiewicki, 1998: 633; Jourdan, 2004) As a result, violence (and the subsequent methods of government that stemmed from it) emerged quite rapidly as a dominant form of political expression and access to opportunity in an otherwise unstable and "collapsing" political landscape.

### **War: a continuation of violence by other means?**

Within this logic of violent economic appropriation, the Congolese wars (1996-1997; 1998-2003) could arguably be described as a "continuation of violence by other means." (Cramer, 2006) Changing patronage networks for military "elite networks", different rebel movements, "ethnic" militias and military "entrepreneurs of insecurity" further challenged the role of the state and claimed their part in the access to money and resources (Perrot, 1999). At a certain point, this economic agenda gave the Congolese conflict the epithet of a resource war. A UN Panel, for example, which investigated the role of (mainly foreign) patrons in the "illegal" exploitation of Congolese resources during the war, talked of a "criminal" organisation of political and economic interests to strip Congo of its vast resources. It has to be emphasized though that this apparent scramble for Congo's riches only provides a partial explanation for this conflict, and furthermore detracts from the deep political significance of this struggle. As Ballentine, Sherman and others have stressed before us, war –as well as the economic dimension that accompanies it– also includes a questioning of what power essentially means: it involves a radical questioning of definitions of representation, redistribution and legitimacy, which sometimes find a different interpretation during and in such situations of crisis. As Paul Richards asserts with regard to the Sierra Leone conflict, starting a war is not an easy decision: it requires an organization and mobilisation of recruits and groups that often gives a prominent role to political brokers and middlemen.

The real question one could ask, therefore, is why so few wars in Africa have resulted in a regime change, in other words: why did so many militias and rebels in the DR Congo

lapse into a dialectic of violent appropriation, which apparently nullified their initial intentions? To answer this question, the following paragraphs will offer a few examples of the way local “governance” was (or was not) organized during periods of crisis and political turmoil. As was stated at the beginning of this article, the answer to this question has to be sought at least partially in the attempts of normal citizens to “devise arrangements to provide for themselves the core functions that the missing state is supposed to assume, especially basic security” (Menkhaus, 2006: 75). The examples discussed here are those of the Rassemblement Congolais pour la Démocratie (RCD), the RCD-ML and the FAPC (‘Forces Armées du Peuple Congolais’), that devised different mechanisms to provide local “governance”. Crucial to this differentiation is their organisation of local security and economic (re)distribution.

### **A facade of statehood – the case of the RCD**

The ‘Rassemblement Congolais pour la Démocratie’ (RCD-Goma) is a Congolese rebel group originally instituted by Uganda and Rwanda in response to their security worries and to restore their economic interests in the DRC. In 1998, this rebel movement started a military campaign against Congolese President Kabila and until the end of the war tried to control the militarily and economically strategic parts of eastern DR Congo. Things went never as smooth as expected though. Only one year after the start of the campaign, hostilities between its Rwandan and Ugandan supporters led to a reconfiguration of the rebel movement and the split into a Rwandan backed section (RCD-Goma) and Ugandan-controlled offshoots (RCD-K-ML: cf. *infra*; and RCD-N). This divided the eastern Congolese provinces into different zones of control and provoked a total fragmentation of the politico-military landscape. The proliferation of rural militias in Kivu’s hinterland, Katanga and Ituri complicated the local politico-military context even further and carved up the territory into a multitude of continually shifting zones of control. The RCD’s limited capacity further explains why the rebel movement was never able to extend its control beyond a number of strategic centres and territorial axes.

Once the RCD rebellion had gained military control over Kivu’s strategic centres, its leadership was faced with the challenge to transform its military advantage into sustainable political domination. Even if its strategies “went well beyond the organization of sheer violence”, the movement never seriously attempted to engage in the administration of the territories under its control but rather pursued a largely extractive approach by collecting taxes and exploiting natural resources (Tull, 2005). The remnants of the pre-war administrative framework were recuperated by the RCD’s military wing, yet only served to “uphold a façade of statehood” (*Ibidem*:130, 141). No attempts were made to reinvigorate the weak state apparatus through training, reform or support. Nor were efforts made to mobilize the population through ‘democratic’ participation in the appointment of administrators and governors, as the Congolese president Kabila had done after he took office in 1997. Instead, the rebels left most of the local administrators in place, largely relied on pre-war administrative structures and regulations and made little effort to pay state officials in the occupied zones. At the same time, they made several attempts

to ‘outsource’ state departments and get their activities funded by international NGOs. The limited taxing capacities of the RCD (in some cases, tax revenues fell back to less than 10% of pre-war levels) had a negative effect on its administrative capacities, which consequently relied on “alternative” forms of survival. Most of these administrators showed little enthusiasm to support the RCD in its efforts to tighten its grip on the local population anyway, as the movement was widely perceived as a Rwandan-led occupation force.

The RCD was unable to develop a clear political vision and popular agenda - it was far too heterogeneous in character and too dependent on its asymmetrical power relationship with Rwanda. As a result, the RCD leadership was a clear manifestation of elite-recycling and “did not fight to address societal grievances,” but rather reintegrated itself into “a system from which they had been excluded” (Tull & Mehler, 2005: 378). The consequent lack of local support and Congolese ownership of the insurgency not only obstructed the efforts to gain political credibility and assistance from the remaining state administrators, but also encouraged other social, political or military forces to challenge the RCD in its attempts to occupy and control local society. In the urban centres, civil society and church associations presented themselves as the only viable alternative to the rebel structures of control and developed a discourse of ‘sense civique’ that had to convince international donors to invest in their development initiatives. As was observed in Bukavu, the capital of South Kivu, civil society associations and church leaders regularly campaigned against the RCD-leadership and turned the city into a centre of opposition. The RCD’s coercive response of coercion only served to increase local support for these social actors, who were able during the RCD-rebellion to confirm their control over parts of local society and to position themselves as local drivers of development.

To summarize, the RCD mainly limited itself to consolidating its position as the dominant power in the most strategic areas (urban centres and mining sites) of eastern DRC in order to have access to pre-war structures and networks of economic exchange. One strategy was to get a firm grip on the local resource market through the development of several structures that had to secure control over existing mining commodity-chains, including the (failed) granting of export monopolies, direct military control over the more lucrative mining sites, ‘harvesting’ resources through plundering etc.<sup>3</sup> Another strategy was to levy taxes, which derived mainly from custom duties and checkpoints at airports, roads and mining sites. Besides existing taxes, additional efforts were demanded from the ‘*mamans vendeuses*’, ‘*creuseurs*’, petty traders, exporters etc. and were explained as ‘war efforts’.<sup>4</sup> To secure its dominance over the exploitation and trading of local resources or to ensure social control (Vlassenroot & Romkema, 2002), however, the rebels depended on the willingness of individuals and groups to align with them, in return for

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3 Inspired by the unprecedented rise in global coltan prices, in November 2000, the RCD-Goma granted a tax monopoly on all coltan exports originating from mining areas under their control, to a company named SOMIGL (‘*Société Minière des Grands Lacs*’). This agreement was short lived and was soon replaced by other structures of taxation as it did not generate the expected income to the rebels.

4 Personal fieldwork revealed that in most cases additional ‘taxes’ paid by petty traders when travelling from one place to another represented up to 25 % of the value of their goods.

protection of their economic interests. This strategy proved to have several downsides. One effect was the militarization of pre-war networks of patronage. As it was difficult for the rebel leadership to control the generation of resources, local RCD-commanders were increasingly able to act for their own profit, which affected cohesion within the movement. Several RCD-commanders started negotiating private business agreements with local traders and instituted parallel structures for the generation of income. Mimicking pre-war strategies of exploitation, barriers and check points at economically strategic positions were put in place and individual soldiers were forced to 'report' back (i.e. to bring the collected taxes) to their commanders.

The RCD also had continuously to deal with the competition from established traders that could benefit from their long-standing contacts in the interior to continue their (uncontrolled) economic activities and with whom no accommodation could be reached. In South Kivu only a limited number of local actors were ready to join ranks with the RCD. With the exception of a few traditional authorities, businessmen and intellectuals, most people rejected the claims of these rebels. In Goma the situation was more complicated. Hosting the headquarters of the RCD rebel movement and being politico-administratively disconnected from the Congolese capital, this '*siège de rébellion*' became an attractive location for the expansion of politico-military and economic ambition, which provoked fierce competition between local networks. This local rivalry, which mainly centred on the control over the local resource trade, was "an expression of competition around means of ensuring one's own and one's community's physical survival in an area of profound and prolonged conflict" (Tegera & Johnson, 2007). For the Banyarwanda, aligning with the RCD proved vital to reduce the (economic and political) influence of the Nande community and safeguard their own interests.

However, this search for protection set in motion other dynamics, which (in Goma as elsewhere) eventually limited the rebels' control to the advantage of an ethnically-based local elite network. Soon after his nomination, Eugène Serufuli, a Hutu-Banyarwanda who in 2000 became the Governor of North Kivu, started developing an autonomous power-structure. Local defence forces recruited within Banyarwanda communities evolved into a parallel military structure, which increasingly operated autonomously from the RCD rebel movement. '*Tout pour la Paix et le Développement*', a largely Hutu-dominated NGO that was originally established for the facilitation of the return of Hutu refugees who had fled from Congo to Rwanda, gradually became an alternative political centre of power. The organisation was viewed by Kigali as a useful political instrument to mobilise Hutu populations and to obstruct attempts of Rwandan Hutu rebels operating in eastern DRC to ally with the Congolese Hutu population, and as such was expected to be a crucial ally of both Rwanda and the RCD. However, Serufuli's ethnically-based network gradually evolved into a parallel power structure, with local cells of the TPD as the focal points and Hutu-dominated patronage networks being mobilised to generate income and distribute these spoils to its supporters.

### The transformation of regulation

In some of eastern Congo's border regions, a different reality prevailed. Here, rebels and economic agents operating in the 'informal' transborder trade connecting eastern DRC with its eastern neighbours, entered into a process of negotiation and cooperation to safeguard their own interests. In particular, Congo's many border zones offered a number of opportunities to local political, military and economic actors as they exploited the potential to generate profit and linkages to global capitalist markets. Mark Duffield and others refer to such opportunities as "borderlands", which function as the "intersected nodes" that link some of the world's most remote areas to the "technological heartland" of metropolitan society (Duffield, 2001; Jackson, 2006). For example on the Congo-Ugandan border, existing "informal" trade groups further developed and exploited the opportunities provided by these new linkages. As economic stakes in this unfolding war economy were high, the need for (private) protection engendered new patterns of interaction between rebel leaderships and local entrepreneurs. Lacking the means of organizing local production, most rebel forces and foreign armies that occupied these border-regions during the war tried to systematically exploit transborder trade to generate financial and political control.

One way to organize its financial base was to connect with local Congolese entrepreneurs, who in many cases acted as gatekeepers to vital economic resources, including mining, agriculture and trading activities. For the rebel leaderships, the taxation of economic activities constituted an important source of income; for economic agents (smugglers, industrial entrepreneurs, commercial middlemen, and so on), connecting with the rebels was a necessary condition to continue their activities, and increase the predictability of commercial activities in times of crisis. In theory, therefore, one could describe the economic relationship between rebels and businessmen as a kind of quest for "insurance": though everyone knows costs are high, most are willing to pay them just in case something bad happens. In economic terms, this effect is called a positive externality: although the protection offered by this insurance can seem bogus in the beginning, the need to adhere to it increases with the number of people that are eventually insured. So, even if the proposal of protection can initially be triggered by threats and intimidation, once it is underway it becomes very difficult to maintain a situation in which customers are buying bogus protection (Gambetta, 1993). In Congo, the main market for the rebels' protection services was to be found in the unstable economic transactions during the Congolese war period, in which trust had become scarce and fragile. The rebels' practice of offering protection to Beni-Lubero's businessmen still largely differed from extortion proper, however, in that it offered a clear benefit to the businessmen that were willing to collaborate in their rackets, for example through the erection of trade monopolies, tax benefits and so on. Another unifying characteristic was also their relation to the Congolese state: on the one hand, Congolese rebels competed with the state in the sense that they offered goods the state could not provide. On the other hand, however, rebels also *needed* the (idea of a) state to assert their political legitimacy and provide political protection for their endeavours, which was necessary to them "like the trunk to an elephant"



(Catanzaro, 1994). Although they constructed an entire coercive apparatus that was able to take up the confrontation with the state, therefore, rebels for the most part continued to share with the state the spoils of a shared protection market, which simultaneously prevented them from questioning the idea of the state or its sovereign existence as such: as we stated before, “l'état est moribond, mais pas mort...”

An illuminating example of such local accommodation schemes is the case of Aru-Mahagi, Ituri's border region with Uganda. In 2003, this region fell under the control of the 'Forces Armées du Peuple Congolais' (FAPC) of commander Jérôme Kakwavu. In collaboration with a number of key businessmen, this rebel organization developed a sophisticated system that protected the interests of “a closely knit network, including selected officers of FAPC, members of the 'Fédération d'Entreprises du Congo', Ugandan businessmen, Ugandan officials and internationally linked commercial entities” (United Nations, 2005). A customs revenue apparatus replacing the pre-war state bureaucracy guaranteed the payment of taxes by all traders importing goods to the DRC or exporting resources to Uganda. Congolese and Ugandan business associates could also benefit from a preferential pre-financing system, which in return for cash payments exempted them from paying custom duties. This complex system of fraud had several advantages. For the FAPC, the pre-financing system offered a stable source of income that made it possible to regularly pay its soldiers and sustain a loyal military force, which strengthened the capacity to offer protection and security in their zones of control. For local traders the alliance with the rebels, which was not without risk, offered the potential to develop regional business monopolies and increase their income. During the Congolese war, local markets in Aru and Ariwara became important regional trading centres where Congolese merchants intermingled with Sudanese and Ugandan traders.

A different alliance between business and rebel commanders unfolded in the territories of Beni and Lubero, which had already seen the rise of a powerful business class long before the war (Raeymaekers, 2007). From 1999 until 2003, their region became occupied by the RCD-ML movement, which had grown out of the original RCD (cf. supra)<sup>5</sup>. During this period, Beni-Lubero's smuggler-entrepreneurs engaged in what could be interpreted as a particular mode of 'risk management', in which the estimated welfare they would gain from participating in the rebels' protection was weighed against the expected losses on their enterprise and society at large. Also in this case, the agreement between rebels and businessmen was based on the practice of 'pré-financement': traders would offer duties to the rebel leadership in return for military protection and reduced taxes. Contrary to Aru, however, this agreement gradually turned to the advantage of the local business elite, whom increasingly started to act as local “governors” – thus defying both the state and local rebel authorities. The weak regulatory capacity of the RCD-ML administrators – who in contrast to their predecessor of the RCD could not count on a reliable regional

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5 RCD-ML stands for Rassemblement Congolais pour la Démocratie-Mouvement de Libération. It was led by the Nande politician Mbusa Nyamwisi.

sponsor<sup>6</sup> facilitated the consolidation of “informal” regulations and transborder practices initiated by this powerful business elite during the pre-war period. Thanks to their new partnership, Nande traders even acquired a renewed legitimacy for their role as local regulatory authorities and governors of this Congo-Ugandan border zone: as “private” businessmen performing “public” functions, they forced the rebel leadership to ‘out-source’ several public services such as the provision of health (i.e. hospitals), road works, the provision of local electricity and at one point even the construction of a local airport (for more details, see Raeymaekers, 2007).

To conclude, both examples from the Congo-Ugandan border suggest, in different respects, how the initial protection arrangements between rebels and businessmen during the Congo war not only spearheaded certain protection rackets connected to the regional war economy, but also forced a gradual shift in local regulatory practice that was explicitly political in nature. In the Aru-Mahagi region, FAPC commanders succeeded in maintaining a tight network of local social relations in the sphere of business and administration, which simultaneously ensured a reliable access to financial and political capital. In Beni-Lubero, businessmen engaged in a protection agreement with the rebels increasingly became recognized as local governors and regulators of the cross border economic and political field. While some authors ascribe these differences to the favouring of “old” versus “new” political networks and commercial actors<sup>7</sup>, their fundamental difference appears to be more complex than initially assumed. On the one hand, there seem to be an important element of proxy activity: while the FAPC continued to be supported by a strong Ugandan partner, the absence of a strong outside patronship in Beni-Lubero permitted the local business elite to develop an alternative regulatory framework and power base that mostly worked to their advantage, at least in economic terms. On the other hand, it seems evident that these local protection arrangements were not purely economic in nature but were always linked to important discourses of community survival in times of deep political crisis. Just as with the case of the RCD, protection arrangements between local businessmen and rebel leaders in Mahagi and Beni-Lubero were always also presented as a way of ensuring one’s community’s survival in a zone/time of profound political conflict. In both cases, finally, it should also be noted that these temporary or permanent shifts in regulatory practices were caused by a fundamental reinterpretation of power relations between the state, society and the economy that explicitly followed the path of “informal” politics and regulation initiated during the Mobutu period. In this sense, ‘pre-financement’ constituted an actual successor of Article 15 and other “unlawful” acts people used to adopt in order to fend for themselves, but which now acquired a “lawful” and almost official character. In the following paragraphs, we will

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6     Contra to the RCD, the RCD-ML was supported by Uganda, which only maintained a weak presence in the region.

7     In his analysis of the provision of security by non-state armed groups, for example, William Reno argued that it is more likely that resources from clandestine commerce are mobilized for the provision of public goods (including security) when those networks exploiting this commerce “favours interests of older political networks and commercial actors over interests of a new local or outside elite” (Reno, 2003).

describe how this “formalisation” of “informal” economic and political practice would be further consolidated in the internationally induced process of transition.

### **‘Governance without Government?’**

In 2003, the war in the DR Congo officially came to an end. Following a ceasefire agreement, that had been years in the making, an international coalition of assistance to Congo’s transition (CIAT) could finally plan the demobilisation and disarmament of armed militias, initiate a reconciliation process and organize free and democratic elections. These elections not only constituted the first democratic moment in a long time, they also represented a desired exit strategy for the international community engaged in the reconstruction of this war-torn country. As we argued in an earlier article (Vlassenroot and Raeymaekers, 2006), however, the transition and subsequent electoral process revealed a number of crucial weaknesses in the current peace building initiative, in that it seemed to reconfirm, rather than abolish, patrimonial political practice. In particular, the political power-sharing formula (in Congo mockingly dubbed as “4+1”) was being criticised for stimulating a climate of violence and insecurity. While some wartime power constellations disintegrated as part of state and institution building efforts, other alliances stood firm by skilfully inserting themselves into the transition framework. Several rural militias, for example, were unable to consolidate their local power base as efforts to shift from an armed group to military movement largely failed. In the case of the RCD-Goma, the peace process further confirmed its internal processes of disintegration, which simultaneously illustrated that the RCD was much more an umbrella structure of different power networks than a coherent political movement.

Mostly, however, local power holders in Eastern Congo only nominally accepted the presence of the state as they needed to safeguard and protect their autonomy gained in the non-state sphere. For example in Aru, the “old” business network of the FAPC continuously contended newly appointed authorities through the operation of vigilante groups that protected transborder commercial interests. When attempts were made to restore official fiscal and border practices for instance, they claimed outstanding reimbursements for uncompensated pre-financing transactions with the FAPC from the national government. As a result, new administrative and political authorities were quickly invited into the game of corruption and ‘*trafic d’influence*’ over the Congo-Ugandan border. Similarly in Butembo, local businessmen continued to use local militias as a deterrent against diligent administrative authorities and army commanders, which subsequently came under increasing pressure to accept the dominant “insurance” agreement. Therefore, rather than a privatisation of the state as such, this commodification of public security and the access to wealth in the post-war period gradually transformed Congolese statehood into a very weak centre of power that increasingly had to rely on strategies of mediation and accommodation in order to maintain even a semblance of authority. Especially in the country’s many border and mining areas, this development further confirmed the existence of semi-autonomous “subsystems” of power (Callaghy, 1984) that continued to exploit the absence of a binding social contract between citizens and the state to impose

its parallel systems of regulation and exploitation on a weakening state structure.

This analysis finally brings us to the question of whether post-war politics in the DR Congo should be interpreted as an illustration of a more general trend, i.e. the emergence of new forms of governance and regulation, or if it rather forms an example of “spoil politics” in a corrupted and thwarted peace process. Some authors think that the present cross-currents and contradictions are exemplary of new definitions of power and authority on the African continent, which explicitly go beyond the post-colonial political framework introduced in the 1960s. According to Crawford Young, for example, the gradual erosion of state capacity in the Weberian sense has opened up spaces for a multitude of actors, such as “informal” traders, smugglers, warlords, arms traffickers, youth militias, “civil society” etc., which operated with varying degrees of autonomy with the state, international business, donor representatives, as well as the non-governmental sector. What the post-colonial wars in Africa primarily changed, however, was the way in which local constituencies and constellations shaped and directed political outcomes. Even in countries where no overt civil strife appeared, the contraction of state effectiveness and autonomous local reconfigurations rendered the local far more visible in shaping political practice. The result is that “patrimonial practice, already evident early in the post-colonial polity, multiplied in the face of state contraction and permeated the swelling informal domains as well as state politics”, which subsequently transformed itself into a new form of private, decentralised government (Young, 2004).

In some cases, such as the sphere of social service delivery for example, this deepening commodification of the nation-state favoured the emergence of non-state actors and organizations. In other cases the state did not disappear as such, but it is no longer the only regulator of access to “public” goods. What is certain though is that the historical political crisis and subsequent wars in Congo have generated a new space for actors and institutions that claim part of the public good, and simultaneously encourage social and economic regulation beyond and parallel to post-colonial state administrations. As suggested above, the Congolese state has gradually lost its capacity as “lame Leviathan”<sup>8</sup> in favour of other, more private alliances and regulations between businessmen, armed actors and local authorities that partially stand in opposition and partially collaborate with the state. Still, this so-called displacement of state sovereignty to non-state actors and institutions in the context of post-colonial crisis has to be treated with caution, as international efforts of state building have gradually pushed Congo’s state leaders into a strategy of mediation and accommodation with non-state actors and institutions. Rather than eliminating the state as such, the parallel or semi-autonomous power systems that govern access to security and resources are often complicit with as much as they are competitive and antagonistic towards state power (Roitman, 2001: 241). Although such “informal” networks and alliances seemingly offer an alternative framework of governance and regulation, therefore, these often “become part and parcel of the political logics

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8 The term “lame Leviathan”, refers to the Zairian “archipelago state”, or “a group of islands of control and extraction which kept the stumbling system alive by focusing on the most easily profitable forms and locations of pillage resources, and basically maintained by the ‘shadow state’” (Callaghy, 2001: 109).

of the state itself, contributing to its ability to fulfill essential political imperatives such as extraction and redistribution.” (*Ibidem*: 241) In short, the constant undermining and reinterpretation of state power within the context of crisis and violent conflict has apparently given life to a more commodified, indirect form of statehood that drives the middle ground between formal and informal, state and non-state spheres of authority and regulation. If we accept that the post-colonial moment has passed, then this will probably be due to this fundamental questioning of such limiting and discriminating dichotomies.

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