



**SSRC**

Conflict Prevention and Peace Forum

## **Decentralization and the DRC – An Overview<sup>1</sup>**

Prepared for the DRC Affinity Group by  
Herbert F. Weiss and Georges Nzongola-Ntalaja<sup>2</sup>  
January 2013

### **Introduction**

The Democratic Republic of the Congo (DRC) has had a long and varied experience with different forms of decentralization. For a country the size of Western Europe with a population of about sixty million people with internal boundaries designed by Belgian colonial administrators, this should not be surprising. The DRC is above all else a multi-ethnic society, but over the years two new identities have emerged; first, a strong sense of state identity and, second, a growing sense of provincial identity. In other words, whereas years ago a Mukongo in western DRC would have felt that identity to be not only primary but probably exclusive of others, today he/she would also identify as a Congolese from Bas Congo Province.

The 2006 Constitution of the DRC has maintained the subdivision of the country into 11 provinces inherited from the Mobutu regime. Prior to that the DRC first adopted a 6 province structure in turn inherited from Belgian colonial rule in 1960 and then transformed that into a 21 province structure in 1962. This shows that the leaders of the DRC have struggled with the problem of internal divisions and decentralization for many years. The current Constitution, however, adds three important new elements. First, decentralization will – i.e. is supposed to - give more resources to the provinces than has been the case in the past. For example, each province is destined to keep – not have reimbursed to them as was the case before – 40% of revenue it generates internally. Second, within a three-year period, the 11 provinces are mandated to be re-divided into 26. The boundaries of these 26 provinces will follow current administrative divisions mainly employing “districts” to form new provinces, where such modifications have not already been put in place (e.g. the long established transformation of Kivu into three provinces – North Kivu, South Kivu and Maniema – are maintained and not further subdivided). Third, the Constitution has created a number of elected assemblies; at the national, provincial (i.e. district) and local levels (i.e. communes, secteurs and chefferies). However,

---

<sup>1</sup> An earlier version of this paper was produced under the auspices of the Open Society Foundations. We have been helped in writing this paper by a large number of scholars and political practitioners from the Democratic Republic of the Congo. We would like to thank Pascal Kambale for his intellectual input and devoted assistance. For a fuller discussion of developments regarding decentralization see especially Chapter 7 in: P. Noma-Binda, J. Otemikongo Mandefu Yahisule, Leslie Moswa Mombo, REPUBLIQUE DEMOCRATIQUE DU CONGO, DEMOCRATIE ET PARTICIPATION A LA VIE POLITIQUE: UNE EVALUATION DES PREMIERS PAS DANS LA IIIeme REPUBLIQUE, AfriMAP and Open Society Initiative for Southern Africa, 2010.

<sup>2</sup> Herbert F. Weiss is professor emeritus at Brooklyn College, The City University of New York and Senior Fellow at the Woodrow Wilson International Center. Georges Nzongola-Ntalaja is professor at the University of North Carolina.

curiously at the level of the “territory” there are no mandated elected assemblies and for the moment the territorial administrators are appointed by the President.

### **What is Decentralization?**

The term “decentralization” can be employed in a great number of ways. Minimally it can simply mean that a government transfers certain functions and responsibilities to lower state structures in the interest of greater efficiency. Indeed, it is difficult to conceive of a system of governance that does not, to some extent, devolve some power to more local institutions. But, such an approach says nothing about what sort of government is involved. A totalitarian government, for example the Soviet Union under Stalin, did “decentralize”, but that did not mean that ultimately power was shared or that decentralization involves any form of real pluralism.

A broader definition of “decentralization” connects it with a more pluralistic approach to governance. In other words, by decentralizing, power is shared. But, then the question is; shared with whom and on the basis of what sort of principles and agreements?

The most frequent form of decentralization is geographic. That has certainly been a pattern employed in the DRC. But, there are also non-geographic forms of decentralization. For instance, under the Ottoman Empire a form of decentralization—the *millet* system—was employed that devolved a substantial amount of authority and power to ethno/religious communities, for example the Greek Orthodox community. Informally, one can find a parallel to this in the DRC in that all of its governments have been acutely sensitive to the ethnic diversity that characterizes Congolese society. Care has always been taken that members of different ethnic groups are given a piece of the pie even when the country was ruled in an authoritarian fashion. That is an informal act of decentralization.

If one wishes to see decentralization as cohabiting with democratization another set of variables comes into play. If necessary, some degree of efficiency has to be sacrificed to the goal of local self-government. And, self-government is seen as giving the “locally” designated entities more autonomy. But, the mere act of decentralization does not always result in a democratic local government. On the contrary, as the central authority gives up some of its power, it may end up allowing local governments to employ authoritarian methods that deprive minorities – be they ethnic, racial, religious or ideological – of their rights. Some will argue that if the central government is democratic it will be very hard for its local subdivisions to employ non-democratic methods. But, historical evidence shows that there are indeed cases where the center is far more democratic than some of its subdivisions. An example would be the US in the 1930’s (and earlier) when some of the southern states would certainly not qualify as democratic – i.e. no voting rights for African-American citizens – while the country as a whole was passing through a broadening of democratic rights. Thus, in the context under discussion, it is very important to be wary of a system that operates “democratically” between states or provinces but allows undemocratic procedures to prevail within the constituted sub-divisions. This formula is perhaps a particular danger in Africa as multi-ethnic states devise

methods of dividing power and wealth among different ethnic groups or regions while on the more local level, tyrants exercise largely unencumbered power.

Another danger can be the use of local autonomy in order to establish exclusiveness by the citizens of a specific sub-division or province. The DRC has experienced several instances of inter-provincial ethnic cleansing and while the country as a whole was certainly not democratic at the time these events occurred, they nonetheless signal the danger that citizens from one province who live in another may find themselves not only prevented from exercising certain professions, but possibly even being expelled. And the same danger exists for ethnic minorities who have been long time residents in a given province and yet still viewed as “strangers” and therefore mistreated.

In sum, from the perspective of an ordinary citizen, decentralization is a neutral value. It can further justice and benevolent governance with the right of self-expression and the freedom to participate in the choice of local leaders. But, it can also accompany authoritarian rule that takes little heed of the interests of ordinary citizens or their “democratic” rights even if such rights have been formally guaranteed. For this reason it is important to ask; what are the minimal conditions that would make some form of decentralization meaningful for the ordinary citizen? No doubt there are many different ways of approaching this question, but the one put forward here argues that if there is a centralization of authority at the most local level—for example in a village, then the usual forms of decentralization, democratization and elections often do not have much meaning. At a minimum this ordinary citizen must be able to articulate grievances against locally instituted authority and he must be able to do so by expressing him/herself to an authority other than the one against which an individual wishes to lodge a complaint. Such a condition of recognized dual authority has its roots in antiquity. It is the power of the prophets and that of the kings in ancient Israel; it is the power of the church and that of the feudal lords in medieval Europe. Dual authority penetrating down to the most local level can be a far more meaningful form of decentralization than one based on administrative divisions. And, as will be described below, for a short period of time such a system existed, surprisingly, under the Mobutu dictatorship with spectacular results.

### **Decentralization in the Congo – A Brief History**

The first “constitution” of the DRC was the result of a meeting between the Belgian Government and leaders of Congolese political parties in early 1960 at which not only the date of independence was decided but also the constitutional principles that would govern the Congo after the day of independence, June 30, 1960. Based on the agreements reached at this Round Table Conference, the Belgian Parliament passed the “Loi Fondamentale” that served as a constitutional instrument after independence was instituted.

During the independence struggle a basic division among nationalist forces separated “federalists” from “unitarists” (the term employed at the time to characterize the position taken by leaders of political parties that sought to establish a strong, centralized state). The main supporters of federalism were the parties that

dominated in the south of the Congo (Bas Congo, most of Bandundu, southern portions of the then unified Kasai and Katanga). The main unitarists came from the north and east (Oriental Province and the Kivus). What was behind this division? It was argued that, as in French West Africa, the richer areas tended to support federalism while the poorer areas supported a strong, centralized state in the expectation that such a state would redistribute wealth on a more egalitarian basis and not allow the richer provinces to keep the wealth that their economies produced. While this logic certainly had an impact there were other reasons for the division among parties and leaders. First, both in Bas Congo and in Katanga there were strong secessionist forces that favored federalism as a second choice. Second, the most radical nationalists – led by Patrice Lumumba – worried that federalism was a colonial device to weaken the independent state. The example of French policy in dividing up both French West Africa and French Equatorial Africa into its component territories spoke to this concern.

The Loi Fondamentale was a compromise between the forces supporting federalism and “unitarism.” However it should be noted that not only the Congolese but also the Belgians disagreed on the issue of how to divide power between the central and provincial governments. The constitutional framework that the Congolese in effect inherited was almost federal in nature without the word actually being used. Each province elected its own legislative assembly that in turn elected the Governor. The executive branch of the provincial government – the cabinet headed by the governor – was elected by the assembly from among its members with those candidates gaining the largest number of votes obtaining a place in the cabinet. In effect, this created a cabinet more or less made up by members in proportion to the strength of different political parties or blocs in the Provincial Assembly. This created a constitutionally forced government of “provincial union” – somewhat similar to the constitutional arrangement in South Africa in 1994. But, another clause in the Loi Fondamentale required two thirds of the Provincial Assembly to be present when the members of the Provincial Government were selected. In effect, this gave the minority in the Provincial Assembly close to veto power over the formation of the Provincial Government. In some provinces, notably Katanga, this resulted in a stalemate that only ended when the Belgian Parliament – after sovereignty had been transferred – amended the Loi Fondamentale.

Another feature of the system was the powerful role of the “Commissaire d’Etat” who represented the central government in each province and was appointed by the Head of State with the agreement of the Senate. The Commissaire’s rights and duties included participation in the deliberations of the Provincial Assembly, directing the Central Government’s affairs in the province and assuring cooperation between the Provincial and Central government. Perhaps most significantly, the Commissaire had the right in an emergency situation to take executive action in the Province if the Provincial Government failed to do so. In sum, this role was potentially a very serious check on the powers of the Provincial Assembly and Government.

Many important features of the constitutional order inherited from Belgium were changed soon after independence. The catastrophic events that immediately followed independence were no doubt the reason for these hasty amendments. What

were these events? First, there was the mutiny of the Force Publique, the new national army, and second, the attempted secession of Katanga and the southern portion of Kasai provinces. Third, the international community responded to these events with the expedition of a peacekeeping force, ONUC, that eventually employed military force against the secessionist regime in Katanga and reunited the country. In the meantime, the Congo became an arena of Cold War competition that resulted in a US backed *coup d'état* led by Mobutu. This in turn resulted in the assassination of the Congo's first Prime Minister, Patrice Lumumba.

The first major institutional changes were made in 1962. Regarding decentralization, these changes were not undertaken as a result of relations between the central government and the provinces. Instead they were the result of deep conflicts that erupted within the original six provinces. For instance, in southern Kasai there were violent confrontations between the Lulua and the Luba and in northern Kasai, subgroups of the Batetela fought each other. In Katanga, the southern dominated secessionist Provincial Government organized a campaign of repression against the northern Luba. These conditions led to the logic that the provinces were too large and that dividing them and separating groups would reduce conflict. This would create virtual ethnic homogeneity in some, but not all, of the new provinces. In addition, the more provinces that were created, the more members of the elite would be appeased by being given jobs in the multiplying bureaucracies and political institutions. The result was the creation of the so-called "provincettes," which numbered 21.

A feature that distinguishes this policy of decentralization from that contained in the current constitution is the fact that in 1962 the new provinces were not all formed by automatically creating provinces out of the then existing "districts". On the contrary, and in abbreviated form, to start the process the law required two-thirds of the national and provincial elected representatives of a "region" to request the establishment of a new province. If this resulted in protests, a referendum was to be organized. This process created a number of conundrums, for instance there were "regions" that did not demand to become a separate province but regardless of their preferences separation occurred.. A portion of the "old" province to which they belonged succeeded in breaking away and by default they had to accept their new status as a separate province. This was the case in the Province of Haut-Congo (the region of Stanleyville/Kisangani), the Province of Sud-Katanga (the region of Elisabethville/Lubumbashi) and the Province of Mongala (the region of north Equateur).

Despite the fact that some of the *provincettes* came to be known as "*provinces pilotes*" because they achieved impressive results in the area of security, economic development and administrative efficiency, the life of the general experiment was far too short for one to be able to make a judgment about its success or failure. The system was started in 1962. By mid-1963 the largest to date postindependence African rebellion/revolution had begun in the Congo. By 1964 more than half of the country was under revolutionary control. With great Western support the revolutionary movement was essentially defeated by the end of 1964 although some pockets of resistance continued for several more years.

On November 24, 1965 the Commander of the *Armee Nationale Congolaise* (ANC), General Mobutu, with the support of the ANC High Command, declared a *coup d'etat*. Although they denied that they were establishing a military dictatorship that is precisely what their action amounted to. In effect, Mobutu established a centralized dictatorship where the provinces had a purely administrative function and the relatively large autonomy that the provinces had received under the Loi Fondamentale and the Luluabourg Constitution (1964) was abandoned. By April 1966, Mobutu reduced the number of provinces from 21 to 12 and in November it was announced that the 12 would be further reduced to 9 and a month later that they would go down to 8! The reason given was that the large number of provinces was neither justified economically nor administratively.

Mobutu instituted other changes that clearly had a profound impact on Congolese society. Under the *provincettes* regime, politics and administration had become strongly dominated by ethnicity. The autonomy that provinces had attained was largely translated into a system of persons, with local ethnic origins dominating the elected as well as the administrative functions. Mobutu reversed this tendency and instituted a system whereby no public servant, no administrator, was allowed to function in the Territory, District or Province in which he/she had ethnic origins. For the ordinary citizen this meant that the local administration was always headed by a “stranger” i.e. someone from another province and/or territory. In many cases, such Territorial Administrators did not even speak the local *lingua franca*, not to mention the local ethnic languages.

If the beginning of the Mobutu dictatorship was simply a military *coup d'etat*, it did not remain that for long. Almost, from the start, Mobutu sought to mobilize the Congolese masses in support of the new regime, but also in support of a variety of programs meant to get people back to work after years of political bickering and violence. The first instrument of mass mobilization was the *Corps des Volontaires de la Republique* (CVR) created in 1966. The stated goal of the CVR was the “awakening the national conscience” and the “reconstruction of the country.”

In 1967, a further and far more energetic thrust was undertaken to mobilize the Congolese masses. The *Mouvement Populaire de la Revolution* (MPR) was founded and it remained the principal political instrument until the end of the Mobutu regime. The MPR was extremely well funded and established a hierarchy starting at the village level and reaching up to the Presidency. It recruited locally popular individuals as the party’s organizers. The CVR became part of the MPR.

In effect, a dual system of power and control had been established and this duality had an enormous impact at all levels of the society, but especially at the local level. Two leaders with different political tools, different relations to the local community and with different privileges and pay scales co-existed in every locality. The presence of two powerful institutions at the local level had not previously existed (with the possible exception of the Catholic Church in some instances). The result was an avalanche of grievance articulation. If the President of the MPR section abused his considerable power it was possible to lodge a complaint with the local Administrator, who was often only too happy to forward the complaint against

his rival to his superiors. The same was of course true when the situation was reversed.

This duality did not last very long. But, while it lasted it produced many of the conditions that a broad definition of democratic decentralization seeks. It divided power and gave an opportunity to the simple citizen to have some say in defending his/her interests. Above all, it had the effect of inhibiting officials with authority. The system ended by 1972 because the Congo's leaders wanted a smooth running governance machine not a system of checks and balances. The latter was found to be messy with endless demands to judge and disputes to resolve. Mobutu, therefore, synchronized the Administration and the MPR at every level of governance and the effect was to once again create monolithic power at the local level. The local Administrator became the ex-officio head of the MPR and the section President of the MPR received the same privileges as the Administrator.

In the later years of the Mobutu dictatorship, the policy of appointing only non-natives to local or provincial administrative posts was abandoned. Indeed, Mobutu permitted the growth of provincial chauvinism as a means of maintaining his declining power. The most dramatic and cruel development of this policy shift was the ethnic cleansing of almost one million "Kasaians" from Katanga in 1992-94 period instigated by the then Governor of Katanga. This type of provincial exclusiveness is not limited to the Mobutu era and constitutes perhaps the greatest danger that decentralization brings to national unity. For example, in 2008 the Mayor of Lubumbashi initiated an executive order requiring all "*non-indigenes*" to acquire residence permits. Thus, it will be critically important that the rights of citizens from one province (or even territory), residing and working in another be clearly defined and that the responsibility to protect these rights be ultimately guaranteed by the central government.

The 2006 Constitution of the DRC mandates the transformation of the current 11 provinces to 26, establishes a timetable and other modalities that are supposed to govern the reorganization of the relationship between the central government and the provinces. From a constitutional perspective, it would be difficult to change these inscribed procedures, but as the last few years have shown, they can simply be ignored. The constitution has not been amended, but there has been a lot of activity regarding decentralization.

- A Ministry of Decentralization and Territorial Organization (*Decentralisation et Amenagement du Territoire*) was created.
- Representatives of the Provincial Assemblies met at Matadi in May 2007 and produced a declaration that emphasized the need for a strict observance of budgetary autonomy of the provinces vis-a-vis the central government. This meeting also denounced the appointment of provincial administrative agents by the central government.
- The Matadi meeting was followed in October 2007 by a National Forum on Decentralization that was held in Kinshasa. It laid out the steps that would be followed to achieve the goal of decentralization.

- Another meeting in Kinshasa occurred in June 2009; the *Cadre Strategique de Mise en Oeuvre de la Decentralisation*. This meeting produced a road-map which divided the path toward decentralization into two phases; the first, running from 2009 to 2014 would create the best possible political conditions for the provinces as well as the Decentralized Territorial Entities (*Entites Territoriales Decentralisees*). It would also involve the organization of the projected local elections and the creation of the new 21 provinces. The second phase, running from 2015 to 2019, would be devoted to strengthening the process of decentralization.
- Yet another meeting occurred in Kisangani in June 2009. It was organized by the Conference of Governors (of the different existing provinces) and called for an acceleration of the process of decentralization and also focused on the need to establish financial and budgetary conditions necessary for the success of the process.

In addition to these national, governmental meetings, a series of civil society and more local governmental pressures favoring decentralization occurred:

- An agreement was signed between the Minister of Decentralization, Antipas Mbusa Nyamwisi, and the Catholic National Episcopal Conference in July 2009 committing the latter to a communications campaign in favor of decentralization
- In May 2010 the “notables” of Haut-Katanga (i.e. a District destined to become a Province) sent a petition to the President that complained about the non-fulfillment of the promised decentralization and it denounced the concentration of resources in the “old” provincial capital, Lubumbashi.
- In October 2010, the Parliamentary representatives of the future province of Bas-Uele signed a declaration protesting the lack of progress regarding decentralization and referred to a seminar held in Buta by the Bas-Uele civil society that favored fulfillment of the promised decentralization.
- Similar support for decentralization came from other districts, provinces and civil society organizations.

Yet, the net effect of all this pressure has been just about zero. No new provinces have been formed, no local elections, mandated for 2010, have been held, no province has been allowed to keep 40% of its internally produced revenue, and no fund to help the poorer provinces has been created. Why?

Probably the most important unfulfilled constitutionally mandated event has been the failure to hold provincial and local elections. These elections should produce new provincial assemblies that in turn are supposed to elect new national senators. There are also destined to be elections for local councils that will have considerable power and control over local affairs. But, without the prescribed institutional changes how are some of these elections supposed to take place? In



other words, if the constitution will eventually be followed, the holding of these anticipated local elections is directly linked to decentralization. This would grant provinces the constitutionally mandated increased powers. And even more than “decoupage,” the sub-division of existing geographic provincial entities. Yet, close to two years after these elections were supposed to have been held it is completely unclear when and indeed whether the regime intends to hold them.

In an authoritarian political system, power is concentrated. In the DRC, power is concentrated in the Presidency and, therefore, if the Constitution is ignored the reason has to be that the Presidency is disinclined to follow it. As is shown above, there has been a substantial amount of pressure in favor of acting on decentralization. Recent DRC history has also shown that if the Presidency so wishes, the Constitution can relatively easily be amended--that was the case when the electoral system was changed via constitutional amendment shortly before the 2011 elections.

## **Challenges**

This is not to say that following the Constitution in the matters under discussion would not pose extremely difficult challenges:

- The Districts destined to become Provinces clearly do not at present possess the required institutions and personnel to fulfill the responsibilities that they would be burdened with.
- Therefore, a recent suggestion that decentralization should begin with the provincial structures that already exist as provinces, e.g. North and South Kivu, is probably a sound approach.
- Technically, it will be very difficult but very important to hold the various local elections that the Constitution ordains. That will require a new electoral commission (currently under discussion in Parliament) and funds of a magnitude that will be very difficult to muster.
- Does that mean that despite the broad support for decentralization and “decoupage” that it would be better to maintain the present structure because following the constitution would simply be too expensive?
- Finally, it is important to measure the impact that decentralization and “decoupage” is likely to have on the ordinary citizen. Will the reduction of the geographic space increase or decrease the citizens’ freedom or at least the freedom to articulate grievances? It was argued above that there was a moment under the Mobutu dictatorship when citizens even in remote rural environments were able to complain when abused because two powerful political instruments existed in the same space – the Administration and the MPR. Yet, decentralization and “decoupage” does not automatically produce such a duality of power. On the contrary, one can ask whether in a reduced political space, such a balance will be *less* likely to develop. Thus, it will also

be important to guard against the danger that decentralization can instead merely empower local tyrants or dominant majorities.