

Competitive Authoritarianism in the Era of Cohabitation: Neopatrimonialism and Transhumance in the Democratic Republic of the Congo

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Contents

Acknowledgements	vi
Abstract	viii
List of Acronyms	ix
Chapter 1: Introduction	1
General Research Questions and Research Propositions.....	5
Analytical Significance and Theoretical Reflections	7
Organization of the thesis	12
Chapter 2: Literature Review.....	15
Autocrats' peaceful exit from power	16
Semi-presidentialism and Cohabitation: A Source of Instability?	20
Conclusion	24
Chapter 3: Theoretical Framework and Methodology	27
Introduction.....	27
From Patrimonialism to Neopatrimonialism	28
Neopatrimonialism: Conceptualization	31
Neopatrimonialism in the African Politics Literature.....	32
Rentier State Theory	36
Conclusion	45
Methodology.....	47
Case Selection.....	47
Data Collection Methods	51
Document analysis.....	52
Limitations of the study and mitigation strategies.....	56
Positionality	58
Chapter 4: Tracing the Lineage of Past Cohabitations: A Brief Historical Background.....	60
Introduction.....	60
The Colonial-Postcolonial Transition and the First Cohabitation	61
Cohabitation and the Kasavubu-Lumumba Power Struggle	68

A Second Cohabitation, a Failed Democratization, and the Fall of Mobutu.....	71
Laurent Kabila: from rebel leader to authoritarian ruler	79
Joseph Kabila and the rise of competitive authoritarianism.....	80
Conclusion	82
Chapter 5: Rumble in the Mines at the Time of Cohabitation: How a Change of the Guard	
Failed to Change the Mining Sector	84
Introduction.....	84
The Political Economy of Mining in the Congo: A Brief Historical Context	87
The Politics of Appointments	95
The Gradual but Incomplete Consolidation of Tshisekedi's Control over the Mining Sector	103
Despite the Alternation in Power: The Perpetuation of the Neopatrimonial Management of the	
Mining Sector?	111
Geopolitical power-struggle between China and the United States	118
Conclusion	123
Chapter 6: The King is gone, long live the Crown? Party	126
Transhumance, Realignment, and the Fate of Kabila's Legislative Majority.....	126
Introduction.....	126
Historical Background	130
The FCC: A Large, Loose Coalition	135
Power dynamics in the FCC-CACH Cohabitation	138
How the foundation of the pyramid began to crumble	144
The Dismantling of the FCC's Legislative Majority (Act I): Targeting the National Assembly	
Presidency.....	145
The Dismantling of the FCC's Legislative Majority (Act II): Targeting the Senate	
Presidency.....	149
The Dismantling of the FCC's Role in the Executive: Targeting the Prime Minister	1522
The Life of Kabila's PPRD party after the collapse of the FCC Pyramid: Intraparty fighting	
and realignment	156
Conclusion	159
Chapter 7: Bending the Rules before Playing the Game: The Battle over the National	
Independent Electoral Commission (CENI) and the Rise of Tshisekedi's Influence	162

Introduction.....	162
Theoretical Reflections	164
The Electoral Commission in the DRC: A Brief Historical Background	168
The Electoral Commission during transition.....	169
The Politicization of Elections under Joseph Kabila (2006-2018).....	170
The Battle of the CENI during the FCC-CACH Cohabitation (2018-2020).....	175
Reproducing the Autocrat’s Playbook: Taking Control of the CENI	179
Conclusion	190
Chapter 8: Neopatrimonialism and the Shadows of Judicial Control: Formal Rules, Informal Networks, and the Consolidation of Power.....	193
Introduction.....	193
Centralized Authority and Judiciary Power in the DRC: a Historical Perspective.....	199
The Congolese Judicial Structure in 2018: A Brief Presentation	204
The FCC-CACH Struggle over the Judiciary	206
The Minaku-Sakata Bill.....	210
Nominations at the Constitutional Court	213
Judicial Control, Transhumance, and the Making of a <i>Mulopwe</i>	216
The Neopatrimonialization of the Judiciary: Protecting the Ruler’s Allies, Punishing its Rivals.....	218
Protecting Tshisekedi Allies and Punishing Rivals: The Case of the 100-Day Program	220
Targeting the Regime’s Adversaries: The Case of Matata Ponyo	224
Punishing ‘Enemies’ from Within: Weaponizing the Judiciary to Punish (Former) Friends	229
Conclusion	235
Chapter 9: Conclusion.....	238
Introduction.....	238
Overview of the main arguments.....	239
Key findings – Cohabitation, neopatrimonialism, and authoritarian resilience	241
Contributions and broader implications	250
Looking Forward	253
References.....	258
Appendix A: Ethics Approval Notice	299

Appendix B: Ethics Approval Renewal.....	300
Appendix C: Questionnaire	301
Appendix D: List of Selected Interviews.....	304

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Abstract

Although there is abundant literature on cohabitation and the peaceful exit of autocrats from power, rarely have scholars studied the two events occurring simultaneously in a singular state. My goal was to fill this knowledge gap and to provoke new thoughts around cohabitation as an emerging practice of authoritarian resilience. Scholars have extensively theorized that authoritarian rulers are mainly driven by the desire to preserve power (Bueno de Mesquita et al., 2003), prompting academics to explore the different strategies autocrats use to sustain their survival (Levitsky and Way, 2010). While some scholars have projected the political “death” of autocrats after losing power, others have focused on studying what happens to the regime when the autocrat begins to age (Tanaka, 2018). Thus, this study aimed to build on the literatures that emphasize the political ‘death’ of autocrats after ceding power by investigating the political “afterlife” of an autocrat in his post-tenure period. In the last two decades, there has been a growing scholarly interest in studying how autocrats prepare to exit from power and how their post-tenure exit strategies influence whether they will leave office peacefully or face a severe ending.

Building on Englebert’s (2019) study, I investigate how a former autocrat, despite not having an official position, ensured that the opposition remained loyal to the deal it made – a “devil’s bargain,” where the new president would ascend to power while the former ruler controlled the legislative majority (Englebert, 2020). My second aim was to examine how the new ruler, who rose to power without the legislative majority, managed to gradually dismantle his predecessor’s control over the state’s institutions and shift the balance of power to his favor during the cohabitation period. As a qualitative research design based on an interpretative case study, the key objective of my dissertation was to trace the residual shadow of the former ruler, Joseph Kabila, and Felix Tshisekedi’s trajectory of power consolidation.

List of Acronyms

A.Ch: Alliance for Change
AAAC: Allies Action for the Improvement of the Living Conditions of Congolese
AAB: Alternative Action for Well-Being and Change
AAD: Alliance for Democratic Alternation
AAPC: All-African People's Conference
ABAKO: *Alliance des Ba-Kongo*
ABAZI: Alliance of the Bayanzi
ACAJ: Congolese Association for Access to Justice
ACC: Alliance for Citizen Actions
AFDC-A: Alliance of Democratic Forces of Congo and Allies
AFDL: Alliance of Democratic Forces for the Liberation of Congo
AMF: America Mineral Fields
AMP: Alliance for the Presidential Majority
ANR: National Intelligence Agency
APP: Alliance for Alternation and Progress
ATCAR: Association of the Tshokwe of Congo, Angola, and Rhodesia
BALUBAKAT: General Association of Baluba of Katanga
BBC: British Broadcasting Corporation
BUREC: United Bloc for the Renaissance and Emergence of Congo
CACH: Heading for Change
CEI: Independent Electoral Commission
CENCO: National Episcopal Conference of Congo
CENI: Independent National Electoral Commission
CEPAC: Pentecostal Churches Community in Central Africa
CMS: Supreme Judicial Council
CNS: Sovereign National Conference
COCJ: Code of Judicial organization and Competence

CONAKAT: *Confederation des Associations Tribales du Katanga*

CPP: Committees of People's Power

DRC: Democratic Republic of Congo

ECC: Church of Christ in Congo

ECIDé: Commitment to Citizenship and Development

EPST: Primary, Secondary and Technical Education

EUROFOR: European Union Military Operation in the DRC

EV: Electric Vehicle

FARDC: Armed Forces of the Democratic Republic of the Congo

FCC: Front Common for Congo

FEDEKA: Federation of Kasaians in Katanga

FRC: La Force Révolutionnaire du Changement

G13: Group of 13

GECAMINES: General Mining and Mining Company

GECOMIN: Congolese General Mining Company

ICC: International Criminal Court

IGF: General Inspectorate of Finance

IMF: International Monetary Fund

LGD: Leadership for Governance and Development

MDVC: Movement of Elites for Democracy and True Change

MIBA: Bakwanga Mining Company

MLC: Movement for the Liberation of Congo

MNC/K: Mouvement Nationale Congolais-Kalonji

MNC/L: Mouvement Nationale Congolais-Lumumba

MNC: National Congolese Movement

MONUSCO: United Nations Organization Stabilization Mission in the DR Congo

MP: Mouvance Présidentielle

MP: Presidential Majority

MPLA: Popular Movement for the Liberation of Angola

MPR: Popular Movement of the Revolution

NGOS: Non-Governmental Organizations

OAU: Organization of African Unity

OCCRP: Organization Crime and Corruption Reporting Project

OVD: Road and Drainage Office

PAJ: Political Administrative and Legal Commission (PAJ)

PALU: Unified Lumumbist party

PCD: Congolese Party for Development

PDSC : Parti démocrate et social-chrétien

PNP: *Parti National du Progrès*

PPRD: People's Party for Reconstruction and Democracy

PSA: African Solidarity Party RCD:

Congolese Rally for Democracy

RFC: Revolutionary Force for Change

SNIP: National Intelligence and Protection

SOCOC: Congolese Construction Company

TFM: Tenke Fungurume Mining

TNCs: transnational companies

UDEM0: Union of Mobutists

UDPS: Union for Democracy and Social Progress

UFERI: *Union des fédéralistes et des républicains indépendants*

UMHK: Mining Union of Upper Katanga

UN: United Nations

UNC: Union for the Congolese Nation Kamerhe

USOR : Union sacrée de l'opposition radicale

SYNAMAC: National Syndicates of Magistrates of Congo

ZANU-PF: Zimbabwe African National Union – Patriotic Front

Chapter 1: Introduction

Unlike other long-serving autocrats who have either been killed, Gadhafi of Libya (2011), jailed – Hosni Mubarak of Egypt (2012), or exiled – Ben Ali (2011) of Tunisia, President Joseph Kabila of the Democratic Republic of the Congo (2001-2018) did not meet the tragic fate that former autocrats in personalist authoritarian regimes encounter after ceding power. However, some regimes have undergone similar experiences where the autocrat exited power peacefully, but without formal cohabitation arrangements, like in the DRC. In these cases, these autocrats left power peacefully but designated their loyalists as their successors and helped propel them to power. However, once in power, these former loyalists often ended up betraying the rulers who had enabled their ascension to power. In Mauritania, for example, President Mohamed Abdel Aziz (2009-2019) was placed under house arrest in June 2021 for corruption by his long-term ally and Defence Minister, Mohamed El Ghazouani, whom he designated as successor and helped capture power. In Angola, following Eduardo Dos Santos' (1979-2017) peaceful exit from power in 2017 and going into exile in Portugal, his family continued to face corruption charges from his successor, João Lourenço. In Sudan, although the military remained in power, it imprisoned the former autocrat, Omar Al Bashir (1989-2019), which was eventually followed by a civil war that erupted between the Sudanese Armed Forces (SAF) and the paramilitary Rapid Support Forces (RSF) in April 2023. Hence, these debates elevated my curiosity, prompting me to investigate the political imbroglio to decipher what lay underneath the 2019 alternation.

In 2018, after Kabila was compelled to cede power, he designated Ramazani Shadary as his successor to run in the 2018 presidential election. However, Shadary lost considerably and

ended up in third position, behind two opposition candidates, Martin Fayulu and Felix Tshisekedi. Of them, it was eventually Tshisekedi, who finished in second place behind Fayulu, who ended up becoming president, following the proclamation of the presidential results by the National Independent Electoral Commission (CENI). Felix Tshisekedi then became the first candidate to lead the DRC's very first alternation in power at the presidential level. But his victory, some suggested, was predicated on a deal—"a devil's bargain", in (Englebert, 2020) words—made with the former autocrat, Joseph Kabila, who would accept to let the new President to step in, "in exchange for allowing Kabila to retain control behind the scenes, of the legislative branch, the security sector, and much of the country's economic rents" (Englebert, 2019a, 2020).

Consequently, the 2019 alternation of power did not lead to the collapse of the authoritarian structure of the old regime. Kabila's party, the Common Front for Congo (FCC), commanded the majority in the National Assembly, having garnered 350 out of 500 seats (or 70%). It also held the majority of seats in the Senate, with 92 out of 108 seats. By securing the legislative majority, the FCC was constitutionally granted the prerogative to designate the Prime Minister who would form the government. Additionally, the FCC also held the majority of seats in the provincial assemblies, including governors (Englebert, 2019a). While the opposition victory in the 2018 presidential elections led to an end of Kabila's formal tenure, it also created a cohabitation government between Kabila's FCC and Tshisekedi's United in the Camp for Change (CACH) – an opposition coalition formed between the Union for Democracy and Social Progress (UDPS), led by Felix Tshisekedi and Union for the Congolese Nation (UNC) of Vital Kamerhe.

Despite the formation of large coalitions prior to the 2018 elections and the ensuing cohabitation, ethnicity remains a core instrument of political mobilization in the DRC. Thus,

neopatrimonialism that permeates formal institutions is sustained to some extent by ethnic networks, a means through which political elites distribute patronage and mobilize for support. I contend that political elites' transhumance experienced during cohabitation is embedded in ethnic affiliation and its effect on elite defection, coalition formation, and patronage distribution. As I will demonstrate in this dissertation, both Tshisekedi and Kabila relied on patronage networks built on a solid ethnic base to preserve their power and manage elite competition.

The domestic political competition that culminated with the fall of Joseph Kabila from power in 2018 and the ascension of Tshisekedi must be situated within the broader context of growing geopolitical rivalry between China and the US over the DRC's critical minerals. This Sino-American rivalry significantly impacted political dynamics during the cohabitation period, shaping elites' strategic calculations, transhumance, and political survival. Thus, the domestic political dynamics were deeply embedded in the broader geopolitical rivalry between these two superpowers.

When positioned within the neopatrimonialism and rentier state theoretical lenses, the DRC's cohabitation experiment warrants further scrutiny. The 2019 alternation created a curve in the DRC's longstanding existence as a neopatrimonial state. Former president Joseph Kabila peacefully exited office despite still holding a robust neopatrimonial network, diverting from the common practice of personalist autocrats who opt to either cling to power or are compelled to exit office through violence. However, in a neopatrimonial system, autocrats rarely exit office, especially when the ruler still maintains a pervasive patron-client network in the government and security institutions. Thus, Kabila's option to cede power warranted further scrutiny regarding the pressure, the incentives, and the deals that made such an option possible.

It is also baffling that an opposition candidate could capture power, despite the electoral commission (CENI) remaining under significant control of the incumbent. The CENI was loyal to Kabila, who manipulated it to his favor. However, in 2019, Tshisekedi's triumph in the presidential elections defied this pattern. As illustrated in this dissertation, the 2018 electoral results challenged studies that link the neopatrimonial ruler's control of the electoral commission to predictable electoral outcomes in favor of the regime. Thus, the ascension of Tshisekedi to power is an outcome of a negotiated elite pact rather than a clear opposition victory. The negotiated alternation blurred the line between the rise of an opposition candidate to power and authoritarian resilience. Thus, cohabitation became the adaptive device of the neopatrimonial system through which the former ruler managed alternation to safeguard his post-tenure influence and economic interests.

The cohabitation that ensued between the presidency and Kabila's dominated legislature was exceptional. While countries such as Niger (1996) and Benin (1996 and 1998) have experienced cohabitation, it is rarely sustained in hybrid regimes where informal systems and control of rent supersede constitutional limits. Thus, the DRC's 2019 unprecedented alternation constituted an interesting puzzle: What happens when a rare peaceful exit of an autocrat and relatively free and fair election produce an unusual form of "cohabitation," in which the executive is led by the former opposition while the legislature remains dominated by the outgoing autocrat's camp?

The 2019 alternation in DRC should be seen as a case of adaptive authoritarian resilience, though one marked by major uncertainty. Kabila retained significant power in his post-tenure period, but the extent of his power diminished over time. Kabila's capacity to sustain his influence over key institutions fluctuated over time during the cohabitation period, sometimes

declining or reasserting itself. We can draw this conclusion today, in retrospect. But we have to remember that, at the beginning of cohabitation, it was unclear whether Kabila would preserve, lose, or reconfigure his influence over key institutions, over his ruling coalition, and over his successor. His influence over the new president with whom he had a deal, and the latter's capacity to assert his autonomy, and potentially his independence vis-à-vis the former president, was therefore an ongoing and uncertain political process.

General Research Questions and Research Propositions

Thus, I built on Englebert's (2019) study by arguing that the post-2018 DRC is a special case that warrants investigation. These puzzling events prompted the investigation of the following two interrelated research questions: First, how does the former autocrat, who no longer has an official position, ensure that the opposition remains loyal to the deal it made? And second, how did the new ruler, who rose to power without the legislative majority, manage to gradually dismantle his predecessor's control over the state's institutions and shift the balance of power to his favor during the cohabitation period? To answer these research questions, I examined the power struggle between the FCC and CACH within the cohabitation government and the "transhumance" (or changes in party affiliation) of elected members of the National Assembly (Boumakani, 2008) from the former autocrat's ruling coalition to the new ruler's newly formed Sacred Union. I investigated how political elites defected and renegotiated for power within key sectors and institutions, specifically the mining sector, the national electoral commission, the national assembly and the judiciary, between 2019 and the 2023 presidential elections. These sites were crucial in our understanding of the tactics employed by the former autocrat to sustain his control over the new ruler, who simultaneously also sought to consolidate his power.

To answer the first research question, my first research proposition is that the control of the parliamentary majority enabled the former autocrat to dominate government institutions, considerably restraining Tshisekedi's executive authority and subsequently compelling him to honor their political deal. This parliamentary dominance was buttressed by a deeply ingrained patronage system, which enabled Kabila to distribute material benefits in exchange for loyalty. Thus, Kabila's influence relied not only on the formal political structures but also on the patronage networks that linked loyalty to material benefits. However, and this leads me towards the general research proposition related to my second research question, Kabila's power grip was fragile as he no longer held the presidential authority and had constrained access to state resources. This made it exceedingly challenging for him to sustain the patronage system that held his parliamentary majority. Consequently, many of Kabila's loyalists undertook a "transhumance", that is, they switched their party affiliation and decided to pledge allegiance to Tshisekedi, who could grant them material incentives. Thus, in this deeply embedded neopatrimonial system, Tshisekedi capitalized on the transactional and fluid nature of political loyalty to exert control and gradually wane the former autocrat's influence, which enabled him to shift the parliamentary majority and reconfigure the balance of power in his favor. Although the new ruler lacked the legislative majority, he held the executive authority, which provided him with the nomination power and access to state resources. This incumbency advantage enabled him to permeate the fragile FCC coalition of the former autocrat, which was already plunged into internal conflicts. Over time, the mass transhumance of FCC deputies toward Tshisekedi's new coalition enabled him to consolidate power, which drastically eroded Kabila's grip on power. With the former autocrat lacking executive authority and the capacity to distribute state resources, the patronage system that had sustained the FCC weakened significantly,

Thus, I trace the gradual shift of the balance of power during an atypical cohabitation by investigating how an incumbent who had lost formal executive power continued to retain significant informal influence and how the new ruler fought to dismantle his predecessor's grip on power.

The concepts of structure and agency are central to our understanding of the power dynamics in the cohabitation government. Through structures, I explain how the institutional, economic, and social factors shaped political behaviors during cohabitation. Hence, the DRC's semi-presidentialism institutional design defines the structural framework within which political elites scrambled for neopatrimonial spoils. Hence, this structural element shaped elites' incentives and patronage distribution; It also reveals why the 2019 alternation was bargained rather than fully open.

Agency, on the other hand, explains the capacity of political actors to make strategic choices within these structural constraints. This dissertation illustrates that political elites' behaviors during the cohabitation cannot be explained solely by structural factors or purely by political actors' calculations (agency). Instead, power dynamics in the cohabitation government can be best explained by the interaction between structural constraints such as institutional design, neopatrimonialism, and strategic choices of political elites.

Analytical Significance and Theoretical Reflections

Apart from its normative significance, this study has both theoretical and empirical contributions. The most obvious contribution is in the field of authoritarianism. Many studies in the field of authoritarianism in the post-Cold War era have assumed that autocrats' ultimate goal

is to preserve power (Brownlee, 2007; S. Levitsky and Way, 2010; Schedler, 2002, 2006). Apart from the full authoritarian regimes (North Korea, Saudi Arabia, etc.), most others do rely on elections in a way or another, like to coopt elites (Magaloni, 2008), gather information (Blaydes, 2011; Wintrobe, 1998) and reduce the risks of violent removal from office (Cox, 2009; de Mesquita and Smith, 2017; Tanaka, 2018). In such cases, experts have argued that autocrats embrace elections as a strategy for the regime's survival (Gandhi and Przeworski, 2007; Magaloni, 2006). However, while this study acknowledges the significance of elections in authoritarian regimes, it seeks to demonstrate that elections are not merely tools for autocrats' survival but can also be employed by autocrats to exit office peacefully while sustaining their post-tenure authoritarian structures. This appears to be the case especially when there is an institutional separation of power with the executive branch, between the President and the cabinet, which depends on the legislature. Thus, my study investigated the concept of cohabitation as a rare but perhaps emerging practice of authoritarian resilience. Rarely have scholars studied the two events happening simultaneously in a particular state. Second, my study also made a significant contribution to our understanding of how a new ruler who rises to power with a minority coalition manages to dismantle his predecessor's control over government institutions and shift the balance of power to his favor in a cohabitation context. This is the knowledge gap in the literature that I sought to fill. Doing so enabled my study to unfold new avenues of future research on cohabitation and the peaceful exit of autocrats.

This study was guided by a mixture of two theoretical frameworks: Neopatrimonialism and rentier state theory. Neopatrimonialism provided a prism through which elites' informal webs based on patron-client relationships are established and personalized rule is sustained. As Bratton and van de Walle (1994) put it: "the essence of neopatrimonialism is the award by public

officials of personal favors, both within the state (notably public sector jobs) and in society (for instance, licenses, contracts, and projects). In return for material rewards, clients mobilize political support and refer all decisions upward as a mark of deference to patrons” (p.458). Gray (2018) further maintained that “while neopatrimonialism alone cannot act sufficiently to very broadly maintain public loyalty, it is very effective at solidifying elite loyalty to a ruler, thereby reducing what are perhaps the starkest threats to the ruler’s survival” (p.38).

On the other hand, the rentier state theory illustrated how the flow of external rents has stimulated ruling elites’ dominance, state capture, thereby reinforcing authoritarianism and fragile institutions. Thus, in the DRC’s context, resource rents from minerals such as coltan, cobalt, copper, diamonds, and gold, as well as non-mineral resources like timber and oil, have always been used to reinforce neopatrimonial practices, shaped by personalized rule, patron-client relationships, and informal structure. As Gray (2018) further argues, “neopatrimonialism also helps to fill the political gaps that remain in the most reinterest of systems” (p.37). In scenarios where some elites, such as religious leaders and businessmen with strong financial networks, oppose the regime and resist cooptation, neopatrimonialism emerges as a key tool utilized by the regime to persuade these elites by offering them material benefits, opportunities, and protection (Ibid). By combining neopatrimonialism and rentier state theory, this study investigated how resource rents in the DRC sustained neopatrimonialism, fostered weak institutions and perpetuated patronage systems and rent-seeking behaviors of the ruling elites during the cohabitation period.

Methodologically, I have proceeded as follows: First, as we can already see, this study is based on a single case study of the DRC. As Gerring (2004) maintains, a case study is “an

intensive study of a single unit for the purpose of understanding a larger class of (similar) units” (p.342).

The DRC case illuminates two broader comparative frameworks: the dynamics of semi-presidentialism in weakly institutionalized contexts and the challenges faced by democratizing, where new leaders inherit ingrained patronage networks. Similar to those in Cabo Verde, São Tomé and Príncipe, Mauritania, Mali, and Niger (Elgie, 2010, p. 35), the DRC’s case illustrates how semi-presidentialism can breed instability when systems of checks and balances are weak, allowing presidential dominance despite the existence of a formal power-sharing. Like semi-presidentialism in Ukraine (pre-2014), Romania (post-1989), the Dominican Republic, and Haiti (Elgie, 1999, p. 14), the DRC case shows that institutional design alone cannot guarantee democratic stability. When informal patronage networks supersede formal institutions, semi-presidentialism is not simply a façade. For nearly two years, it shaped the power struggle between Tshisekedi and Kabila, complicating both of their survival strategies. This weakly institutionalized semi-presidential system provides a rare opening to investigate how competing neopatrimonial rulers navigate and shape such structural limits. The DRC’s 2006 constitution, which instituted a semi-presidential system, is also a product of a post-conflict, power-sharing transition similar to Zambia’s 1991 democratic opening (Erdmann and Simutanyi, 2003), Tunisia’s 2014 post-Arab spring transition (Zoubir, 2015), and Egypt’s (2011-2013) semi-presidentialism experiment after the revolution (Choudhry, Goetz and Stacey, 2014).

These cases demonstrate that democratization cannot rely solely on constitutional engineering, especially in countries that have encountered years of authoritarianism and armed conflicts. Where informal networks are strongly institutionalized and elite polarization persists,

semi-presidentialism transforms into an unusual stage of elites' conflicts over neopatrimonial spoils rather than functioning as an infrastructure for democratic stability.

Thus, to conduct this study, I selected four key sites of observations: The Independent National Electoral Commission (CENI), a key battleground over the control of the 2023 elections; the mining sector, a cash cow of successive regimes; the judiciary, where both camps sought to use the judicial system to exert authority; and the legislature, where the battle for control of the parliamentary majority was at play. Through the prism of these four sites, I demonstrate the mechanisms through which neopatrimonial actors involved in an unusual situation of cohabitation struggle one against the others and adapt to this particular institutional configuration.

The security sector was one of the key sites I initially selected for this study. However, due to the political sensitivity of my topic and the high risks of conducting field research in military and intelligence institutions in the DRC, I chose to exclude this site from this study.

Thus, this study was based on fieldwork research conducted in Kinshasa between September 2021 and April 2022. During the fieldwork, I collected data through both semi-structured interviews and document analysis. First, I began by conducting 70 semi-structured interviews with key informants in Kinshasa. The interviewees comprised an estimated 37 senior political elites (current and former ministers, advisors, and deputies), 18 civil society members and journalists, 15 academicians, and 2 military officers. Roughly 63 participants were male, while 7 were female, reflecting the broader gender disparity in Congolese politics. Each interview lasted between 45 and 90 minutes, depending on the participant's availability.

Second, I also collected data through document analysis, by examining petition letters, censure motions, memoranda, letters from political parties and newspaper articles. I combined

semi-structured interviews with document analysis to facilitate data triangulation and in-depth analysis of my study. These qualitative data collection methods allowed analysis of real-life experiences of political events and institutional patterns that cannot easily be captured through the quantitative method.

Organization of the thesis

Chapters 2 and 3 provide the conceptual and methodological foundations of the dissertation. Chapter 2 is devoted to the literature review, whereas Chapter 3 focuses on the theoretical and methodological frameworks of the study. It provides justifications for combining the Rentier State Theory and Neopatrimonialism as theoretical frameworks guiding this study. As a qualitative research design, this section further presents the data collection methods, data analysis techniques, and case selection rationales.

Chapter 4 provides a brief historical trajectory of cohabitation, or situations that are relatively similar to a cohabitation in the DRC, by tracing its evolution from the dawn of the post-Independence era, during the infamous Lumumba-Kasavubu duel, to the present era under President Tshisekedi.

Chapters 5 to 8 turn on the specific sites where I have analyzed the political dynamics related to this cohabitation. To begin with, **Chapter 5** analyzes how Tshisekedi faced immense challenges in his attempt at controlling the Gécamines and the mining sector at large during his first years in power (2019-2021). It also investigates how Tshisekedi's control over Gécamines has not entailed dismantling the predatory nature of the old regime in the mining sector. Lastly,

this chapter demonstrates how the power struggle between the former and current presidents must be understood in light of the geopolitical showdown between China and the United States over the control of the DRC's strategic minerals.

In **Chapter 6**, I explore the metamorphosis and ultimate disintegration of the FCC coalition during the FCC-CACH cohabitation. I examine the structural configuration and the fragility of the FCC coalition. I also investigate the power struggle within the FCC-CACH cohabitation, the transhumance of FCC deputies and the shift of parliamentary majority. Here, I insist particularly on the strategic moves operated by the Tshisekedi camp, as it targeted key Kabilist officials. These moves will succeed as they lead to the fall of Kabila's president of the National Assembly, the president of the Senate, the Prime Minister's seat and the ultimate breakdown of Kabila's neopatrimonial system. Finally, I explore power dynamics, intraparty conflicts, transhumance, and realignment within the PPRD party after the collapse of the FCC coalition.

Chapter 7 examines power struggles that emerged after Tshisekedi's ascension to power during the cohabitation period, between the FCC and CACH, over a key political institution, the national electoral commission (CENI). The power struggles in the cohabitation government unfolded in two different phases: first, when the two camps each controlled one branch of the government; and second, after Tshisekedi managed to break free from Kabila's influence in the legislative assembly. I demonstrate how once Tshisekedi acquired a legislative majority, he faced a choice regarding the future of the CENI. He could either push for reforms to ensure the CENI's independence, thereby consolidating democracy, or borrow the playbook of his authoritarian predecessors by turning the CENI into a tool of presidential power. As this study will

demonstrate, Tshisekedi opted for the latter. Thus, despite positioning himself as a proponent of an independent CENI, which is key to democratic consolidation, he has in fact reverted to the old tricks of his autocratic predecessor.

Chapter 8 then examines the site of the judiciary. Specifically, it shows how the pro-Kabila FCC sought to sustain its judicial control as Tshisekedi fought back to consolidate his authority. This power struggle is analyzed through the prism of two pivotal events that unfolded during the cohabitation period: the Minaku-Sakata Bill, which aimed at reforming the judiciary, and the appointment of new judges to the Constitutional Court. Under the Minaku-Sakata bill, I illustrate how the FCC sought to expand the powers of the Justice Minister to curtail Tshisekedi's attempts at controlling the judiciary. I then explore how Tshisekedi began to gradually consolidate his judicial control after nominating new judges to the Constitutional Court. Lastly, I investigate how the Tshisekedi regime simultaneously utilized the judicial apparatus as a tool of protecting allies and coercing adversaries into submission.

Chapter 9, finally, wraps up the dissertation, offering a synthesis of the main findings, while also opening some avenues for future research.

Chapter 2: Literature Review

How do autocrats exit power? For those who are bound by some formal rules regarding the end of their term, who do they manage these rules? And for those who avoid exit while still being alive, how do they manage their post-term fate? Many scholars have theorized that autocrats are driven by the desire to preserve power (Bueno de Mesquita et al., 2003). To survive in power, they emphasized that autocrats must sustain their winning coalition by distributing private goods to members of their winning coalition in exchange for their loyalty (Ibid., p.51). Thus, with the pressure for democratization, scholars developed divergent theories to explain why autocrats conduct elections despite the threats they pose to their regime's stability. While some political scientists have theorized that autocrats conduct elections to gain legitimacy (Levitsky and Way, 2010, 2012; Schedler, 2002, 2006; Zakaria, 1997), others have argued that elections are imperative as they are utilized by autocrats as tools of coopting elites, and party members (Gandhi and Przeworski, 2006; Gandhi, 2010; Magaloni, 2006, 2008). On the effect of elections on democratization in authoritarian regimes, some scholars have argued that elections can lead to the emergence of democratization (Bratton and Walle, 1997; Donno, 2013; Lindberg, 2006, 2009) while others have dismissed this theory (Bogaards, 2013; Brownlee, 2007). Generally, these theories assume that an autocrat's absolute aim is to preserve power. But the role of elections in an authoritarian regime must be understood in light of the larger question of an autocrat's exit from power.

Autocrats' peaceful exit from power

In the last two decades, there have been growing studies on how autocrats exit from power, and how their pre- and post-tenure strategies influence whether they will leave office peacefully or face a tragic end. Many scholars have studied how the type of authoritarian regime may impact how autocrats leave power and their fate afterwards. On this, Radtke (2019), who studied how autocrats exit from power between 1945 and 2004, finds that personalist autocrats are more likely to face violent post-tenure endings, such as being exiled, imprisoned, and murdered, than other types of authoritarian regimes, like military juntas and single-party regimes. Besides, he argues that an autocrat who lives in fear is more likely to experience hostility from his successor after ceding power. Escribà-Folch (2013) also argues that autocrats in personalist and military regimes have a greater chance of experiencing a hostile post-exit period than any other regime type, mostly due to their poor economic and social performances. Escribà Folch and Wright (2015) clarified this process and showed that elites in authoritarian regimes that were strongly institutionalized are less likely to face hostility after ceding power, as compared to personalist dictatorships, where ousted elites lacked the institutional capacity to preserve their interests after a transition. Similarly, Kendall-Taylor and Frantz (2014, p.44) find that the peaceful exit of autocrats can lead to peaceful transition and democratization after the uprising. Wars, as Goemans (2000) shows, whether they are won or lost, and how they are lost, can also impact whether and how an autocrat loses power. In his other study, Goemans (2008) investigates the factors that shape how autocrats cede power, the consequences of their exit from power, and the likely relation between the two. He finds a robust connection between the post-exit experience of autocrats and the way they left office. Most autocrats (nearly 80 percent) who

lost power in an irregular way – such as the use of force and threats – are likely to face harsh penalties like being exiled, jailed, or killed (p.772).

For his part, Krcmaric (2018) examines the *effects* of the arrest and extradition of repressive autocrats to the International Criminal Court. He finds that although repressive and non-repressive autocrats have gone into exile at nearly equal rates in the past, the pattern has changed today. Repressive autocrats have nearly six times fewer chances of escaping to foreign countries because exile does not guarantee a peaceful retirement anymore (p.486). While they have been a long tradition of taking this “golden parachute” exit, the international justice system complicates the exile option of rulers. Repressive autocrats are more likely to stay in power because of the dangers of international justice that weaken the possibility of a safe exile. Thus, this explains why former repressive rulers such as Idi Amin from Uganda, Ferdinand Marcos from the Philippines, and Jean-Claude Duvalier from Haiti were not happy to retire in exile, while contemporary autocrats like Gaddafi, Laurent Gbagbo, and Bashar al-Assad preferred to stay in power (p.487). However, Nalepa and Powell (2016) investigate how the International Criminal Court (ICC) justice system shapes the chance of negotiated peaceful alternation in authoritarian regimes. They find that a solid international criminal tribunal can discourage the decisions of autocrats to cede power peacefully (p.1191).

Debs and Goemans (2010) examine the connection between regime type, the impact of war on the probability of losing power, and the punishment after losing power. The lesser the effect of international relations’ influence on a ruler’s tenure, and the fewer chances of facing punishment after losing office, the more likely an autocrat may be willing to engage in a peaceful exit agreement. Tanaka (2016) adds an important element: the role of elections in autocrats’ exit strategy. According to her study, elections may reward autocrats with a better retirement.

Autocrats who conduct competitive elections are more likely to cede power peacefully and to generate a peaceful post-tenure period (Ibid), while also providing the exiting autocrat with both domestic and international legitimacy after leaving power (Tanaka, 2018, p.82). In contrast, those who choose a different path are highly at risk of facing violent removal from power, including being murdered or prosecuted (Tanaka, 2016). To substantiate her argument on the role of elections in the peaceful exit of an autocrat, Tanaka's (2018) study investigates why aging autocrats organize competitive elections. Her key argument is that an aging autocrat provides the elites with the opportunity to evaluate their reward. This is because the ruling elites begin to be concerned about the ability of the autocrat to continue ruling and how long they will continue to enjoy the privileges that they have. Thus, competitive elections enable the aging autocrat to lower this uncertainty among the ruling elites. But exiting power, even peacefully, may come at a certain cost for an autocrat. As Kim and Sikkink (2010) show, an autocrat who leaves office is likely to be prosecuted. This may explain why autocrats who accept to leave may seek to obtain some amnesty, while pre-emptively rejecting any form of transitional justice (p.958).

With an eye on the Arab Spring, Geddes et al. (2014) examine the conditions under which the removal of an autocrat is likely to result in new authoritarianism and unrest instead of democratization. They aver that three possible outcomes are likely to occur after the autocrat leaves power. First, the regime may survive with a new leadership, second, democratization may emerge, and third, the authoritarian regime may hand over power to a new authoritarian regime (p.313). Overall, they find that the removal of autocrats rarely leads to democracy.

In conclusion, scholars have shown that autocrats' decisions to leave, and the actual unfolding of events when they decide to exit, or are forced to leave, can vary. Many factors can

matter, including the possibility of being prosecuted for human rights violations, war, international pressure, the organization of elections, performance, and regime types may all influence whether the autocrat is likely to leave office peacefully or face harsh hostility. These studies could be helpful to shed light on the unprecedented events that have happened in the DRC since the 2018 elections. Interestingly, elections have produced two outcomes: first, they have ensured a peaceful exit of the ruler from power without suffering the fate that other former personalist rulers undergo, such as being jailed and prosecuted. On the other hand, while most autocrats who exit from power peacefully move into retirement, the former autocrat in the DRC remained politically active.

Although these studies on autocrats' peaceful exit from power reveal the circumstances under which autocrats cede power peacefully, they leave an inquisitive gap regarding what happens to the old regime's authoritarian structure after the autocrat's peaceful exit from power. Hence, Semi-presidentialism has been embraced as a strategy of compromising political elites competing for power. However, semi-presidentialism, especially in the context of cohabitation, where the president and the Prime Minister originate from rival coalitions, can lead to political instability. Thus, to analyze the trajectory of alternation, it is imperative to understand how semi-presidentialism works in a cohabitation context to unearth whether it encourages stability or reinforces elites' conflicts.

But in order to better understand the dynamics that occurred in the DRC, we must keep in mind that the unprecedented election of 2018 led to a cohabitation, whereby the president and the majority in the national assembly belong to two different political camps. This is the peculiar context that surrounded the official departure of the autocrat, President Kabila. Hence, it would

be crucial to see what the literature teaches us about this context of cohabitation. But to do so, we must also understand the political system that allows for this cohabitation to occur, which is that of a semi-presidential system. In the next section, I therefore explore the literature on semi-presidentialism and cohabitation, which should then help us to see how to better analyze the case of the DRC post-2018.

Semi-presidentialism and Cohabitation: A Source of Instability?

Duverger, a pioneer of this concept, provided his ultimate definition and classification of such regimes in 1978 (Duverger, 1978). He defined semi-presidentialism as a “political regime is considered as semi-presidential if the constitution which established it combines three elements: (1) the president of the republic is elected by universal suffrage; (2) he possesses quite considerable powers; (3) he has opposite him, however, a prime minister and ministers who possess executive and governmental power and can stay in office only if the parliament does not show its opposition to them” (Duverger, 1980, p.166). This definition expanded his classification of semi-presidential regimes to include countries such as Austria, Finland, France, Iceland, Ireland, and Portugal.

With the end of the Cold War, the constitutional changes in Central and Eastern Europe and post-Soviet countries enabled him to recognize other countries such as Poland and Romania as semi-presidential regimes (Duverger, 1992, p.901). In that context, scholars began investigating its influence on democratic consolidation and duration in nascent democracies (Elgie, 1999; Zaznaev, 2014). Most of these studies have focused on democratization and democratic survival in post-communist states and Western democracies, particularly European countries; however, regions, especially Africa, have been underrepresented.

As should be evident by now, one particular outcome associated with a semi-presidential system is cohabitation, which is “a situation where the president is from one party or political group and the prime minister is from an opposed party or grouping” (Elgie, 2008, p.54). Since the early 2000s, political scientists have begun to study the influence of cohabitation on the workings of democracy outside Western countries (Elgie, 2008, 2010; Elgie and Schleiter, 2011; Elgie and Moestrup, 2007a). Cohabitation has made its footprints in Eastern Europe (Protsyk, 2005) and Africa (Kirschke, 2007). As a significant outcome of semi-presidentialism, cohabitation has had inconsistent impacts on nascent democracies. The first impact of cohabitation is its effect on the stability of democratic regimes, given the conflictual nature of a deadlock between the president and the prime minister and his government. Linz (1994) has demonstrated the dangers of executive power-sharing or “dual executive.” However, Elgie and Moestrup (2007a) argue that semi-presidentialism’s impact on nascent democracies is more complicated. On the one hand, it can result in an unpredictable intra-executive conflict, it can also encourage the longevity of young democracies (p.246). Niger’s 1995-1996 exemplifies the classical case of gridlock within the dual executive, resulting in the breakdown of democracy (Grégoire, 1995; Momo and Gatsi, 2020). But Elgie and Moestrup (2007a) also observe that the conflict between the president and prime minister may lead the parliament to monitor the executive power of the president or prime minister, hence enhancing the chances of longstanding democratic survival. Therefore, we cannot automatically conclude that semi-presidentialism is either irredeemably beneficial or harmful to young democracies. It is a system that can offer supplementary checks and balances when contrasted with pure parliamentary or presidential systems because of the fragmented executive power between president and prime minister (p.247). Along these lines, Elgie and Schleiter (2011) find no evidence that cohabitation and

minority government cause the collapse of democratic regimes (p.21). Their study is based on their analysis of data on the cohabitation regime-type between 1919 and 2004. In fact, they argue that linking cohabitation and minority government to democratic breakdown is an exaggeration. Semi-presidential regimes can survive a hostile political environment without threatening the survival of democracy if proper strong institutional motivations to power-sharing are established. However, when institutional motivations to power-sharing are fragile, semi-presidential regimes may break down under different political arrangements, which might intersect with periods of cohabitation (p. 26).

However, Moestrup (2007) uses a wider definition of cohabitation because she argues that presidents in semi-presidential regimes can easily evade a cohabitation setting (p.41). She finds that semi-presidential systems implemented in young democratic regimes have not been more democratic or stable than presidential systems. She also finds regional variations of democratic performance of semi-presidential systems in young democratic regimes, which depend on how semi-presidential systems were initiated in the first place (p.43). In a comparative study of the variation of democratization routes in Mali and Niger in West Africa, and Mongolia and Kyrgyzstan in Central Asia, Moestrup (2004) finds that semi-presidentialism is unsuitable for young democracies as it has some inherent shortcomings that appear to disregard the pros of fragmented executives. However, she argues that these weaknesses by themselves might not result in the collapse of democracy, but when blended with some political forces caused by political transition, they can be deadly for young democracies. Similarly, Protsyk's (2005) study concurs with others that cohabitation fuels intra-executive conflict in post-Soviet regimes. His analysis of the cases of Bulgaria, Lithuania, Moldova, Poland, and Romania led him to argue that there is insufficient evidence to believe that a semi-presidential

system can lessen conflict during the initial phases of democratic consolidation. Instead, he concentrates on the influence of party structure in the growth of intra-executive interactions in the region. He finds that variations in political circumstances of the cabinet, legislative structure, and the constitutional power of the president shape both the type and frequency of intra-executive conflicts in semi-presidential governments (p.155). Focusing on Eastern Europe, Gherghina and Miscoiu (2013) examine one potential outcome of a cohabitation deadlock: presidential impeachment. Looking at the case of Romania in 2007 and 2012, they explain why the president survived two impeachment attempts. They argue that “cohabitation is unlikely when competing personalities, the absence of external regulatory pressures, and changes of parliamentary majorities occur in a vague legislative environment” (p. 682).

Although cohabitation created a space for presidential impeachment efforts in Romania, in Niger, it culminated in a military coup of 1996 (Moestrup 1999). Moestrup investigates the factors that led to the survival of a young democracy in Mali and its interruption with a military coup in Niger in 1996. She finds that institutional design in both countries had an instrumental effect on the stability of their political systems. Although the electoral system granted Mali a stable democratic regime, at least for the first twenty years since the transition, in Niger, the coalition government that was established after the election rapidly fractured. Therefore, the moderately prolonged survival of democracy in Mali can be explained by the institutional choices they selected and the relations between main actors (ibid). However, since Moestrup's (1999) study, Mali's young democracy has experienced two coup d'état – in 2012 and 2020, which suggests that semi-presidentialism and cohabitation are not the only factors at play in the collapse of a democratic system.

Kirschke (2007) added more cases to her study, those of Niger, Congo-Brazzaville, Burundi, Mali, and the Central African Republic (CAR). She maintains that cohabitation can lead to a democratic breakdown in neopatrimonial states. This is because a fragmented executive is damaging for emerging democracies that have embraced electoral contest as a means to remove autocrats from power. Part of the explanation can be found in the fact that “Attempts by rival parties to compete simultaneously for patronage within the executive lead to political breakdown and a strong likelihood of military overthrow” (p. 1373). According to the author, the worsening economic conditions do not substantiate why democratic regimes in Niger, Burundi, and Congo-Brazzaville were toppled in coups, whereas those in Mali and CAR completed their tenure without interruption. For Kirschke (2007), a fragmented executive is the primary explanation of this puzzle. Whereas in Mali and CAR, both the presidency and the parliament were under the control of the same party, in Niger and Congo-Brazzaville lawmakers defected from the president’s camp to the opposition group, which increased the numbers of the opposition to gather the majority in parliament and control the premier position, which created the conditions for a stalemate and eventually the collapse of the electoral democracy, in 1996 for Niger and 1997 for Congo-Brazzaville (p.1373).

Conclusion

In summary, scholars of authoritarian regimes have shown that the end of an autocrat’s term remains a complex dynamic, shaped by the interaction between structure and agency: how and why it happens remains highly contested. This complexity emerges because authoritarian resilience and collapse are the results of multifaceted structural factors, including fluid alliances, institutional fragility, rent distribution, and individual agency manifested in elite defection and

leadership strategies. Thus, explaining authoritarian resilience requires a nuanced analysis that explains how institutional constraints and individual choices intersect to shape political choices. As these studies have illustrated, autocrats' exit from office either results in a fate, such as death, jail, exile, or face a peaceful retirement. However, the repercussions faced by autocrats upon exiting office depend on the regime type, personality of the ruler, electoral results, and international pressure. As shown, personalist autocrats are more likely to face a tragic fate and be prosecuted due to their personalist authoritarian system and fragile institutions to protect them in their post-tenure period. However, while these studies have made a significant contribution to our understanding of the fate of autocrats after exiting power, which is relevant to the DRC's case, they do not account for circumstances where autocrats remain politically active after exiting power peacefully, a situation that has shaped the post-2018 presidential elections in the DRC. The former autocrat, Joseph Kabila, did not retire politically, faced jail, exile or prosecution, an anomaly for a personalist authoritarian regime. Instead, he remained politically active and maintained control over key institutions and the legislative majority. Thus, we still do not know enough about how to make sense of this unusual departure, through a peaceful transition, yet with a continuing, but informal, influence for the former ruler.

As well, what happens *after* his departure in the very unusual context of a cohabitation situation is not covered a lot by the literature. This literature, as we just saw, has covered Western cases quite extensively and has more recently tried to capture how semi-presidential systems and the ensuing cohabitation matter in countries that straddle the gray area of democratization and authoritarianism. On the one hand, we have seen that cohabitation does not necessarily cause weak or nascent democracies to collapse. But as other scholars also show, we have seen that cohabitation can result in a reversion to authoritarianism, military coups, and intra-executive

conflict. The unusual case of the post-2018 cohabitation that occurred in the DRC, with a departing autocrat who accepted to leave power while still trying to remain influential, in a situation where the presidency and the legislative majority belonged to two opposite camps, calls for a more in-depth analysis of such a case. This dissertation thus seeks to contribute to these two sets of literature. It thus asks how, in the context of this surprising cohabitation, the departed autocrat, former President Kabila, sought to keep his influence over his own party and over his successor, who came from the ranks of the opposition? And how President Tshisekedi sought to assert his autonomy in the absence of a legislative majority, and eventually to expand his control at the expense of his predecessor?

Chapter 3: Theoretical Framework and Methodology

Introduction

The main purpose of my study is twofold: first, to investigate how the former autocrat, who no longer has official position, ensures that the opposition remains loyal to the deal it made; and second, to investigate how a new ruler, who rose to power without a legislative majority, managed to gradually dismantle his predecessor's control over the state's institutions and shift the balance of power to his favor during the cohabitation period.

My theoretical framework combines literature on neopatrimonialism and rentier theory. I draw from these bodies of literature and apply them in the context of the Democratic Republic of the Congo, which I will categorize as a competitive authoritarian regime (Levitsky and Way 2010). Competitive authoritarian regimes are “civilian regimes in which formal democratic institutions exist and are widely viewed as the primary means of gaining power, but in which incumbents’ abuse of the state places them at a significant advantage vis-à-vis their opponents” (p.5). In these regimes, “opposition parties use democratic institutions to contest seriously for power, but they are not democratic because the playing field is heavily skewed in favor of incumbents” (Ibid). The resilience of most of these regimes is predicated upon the ability of the ruler to strike a fine balance between the use of neopatrimonial rewards and punishments and the use of naked force. I thus use the literature on neopatrimonialism and on rentier state in the context of a cohabitation that took place in this competitive authoritarian regime. As this chapter will demonstrate, the neopatrimonialism literature is useful to our understanding of how political elites, with rent-seeking intents, contest and bargain for power. It

will enable us to illustrate why branches of the government, like the judiciary and the legislature, including key democratization institutions like the electoral commission, have remained fragile and subservient to the executive authority. For its part, the Rentier State Theory (RST) will prove beneficial because it explores how resource rents sustain patronage systems, fragilize state institutions, and foster political instability. I will push this theory further by emphasizing its international dimension, to capture how these external actors, namely the US and China and transnational corporations, shape neopatrimonial power dynamics in a cohabitation context. Overall, this theoretical framework will allow me to analyze how resource rents, patronage systems, and global networks interact to shape elites' contests for access to rents during cohabitation.

The next section presents the neopatrimonialism literature, both in general and in the works of specialists of African politics. Then, the chapter will present the rentier state theory and discuss its articulation with the neopatrimonialism literature.

From Patrimonialism to Neopatrimonialism

Neopatrimonialism traces its origin to Max Weber's analysis of patrimonialism as a historical type of political power (Weber, 1969). In his renowned work, *Economy and Society*, Weber introduced the concept of 'patrimonialism' and differentiated it from feudal and rational legal bureaucratic models. He asserted that in a patrimonial system, government apparatus "is treated as a purely personal affair of the ruler, and political power is considered part of his personal property, which can be exploited by means of contributions and fees. His exercise of power is therefore entirely discretionary" (Weber, 1922, p.1029). For Weber (1922),

patrimonialism “ is not based on the official commitment to an impersonal purpose and not on obedience to abstract norms, but strictly on personal loyalty” (p.1066).

According to Weber (1964), the earliest form of traditional authority began when a chief exercised authority without the presence or support of an administrative staff. These systems of rule are known as ‘gerontocracy’ and ‘patriarchalism.’ In a gerontocracy system, authority is vested in the elders, and it is most prevalent in societies where relationships are not mainly defined by economic interests or kinship ties (p.346). Under a patriarchalism system, authority is exercised by an individual selected based on established rules of inheritance, within a group largely structured based on economic and kinship ties (Ibid).

Under traditional authority, people obey the ruler since they perceive his authority as divinely ordained, emanating from long-standing customs and traditions. His legitimacy stems from tradition. The relationship between a patrimonial ruler and his administrative staff is bonded by “personal loyalty” (Weber, 1964 [1919], p.341-343). Patrimonial authority is decentralized and controlled through the administrative authorities, which allows effective rule over the people and territories (p.353). The ruler controls both the administrative staff and economic resources, which they exploit to attain political ends (p.355) and appease their subjects to sustain legitimacy (p.357). The ruler prioritizes personal connections and loyalty over formal processes as prerequisites to access opportunities, including coopting and managing administrative staff. In a patrimonial system, political authority’s legitimacy flows from the top echelon of the administrative order to the lower levels, enabling effective governance of the state (Weber, 1964 [1919], p.330). Administrative staff derive their legitimacy from the upper echelon of the political authority. The ruler also exerts significant control over economic relations (Ibid).

While under traditional authority, the ruler's authority is derived from personal charisma and longstanding traditional customs, under rational-legal authority, the ruler's power is based on established laws. Compliance strictly applies to the law and public administration, which operate within the established boundaries, assigned duties, regulated earnings, and authorizations (Ibid). However, the rules that sustain patrimonial authority are neither formally documented nor enforced through a legally recognized institution of the state (Grzymała-Busse, 2010).

However, in his study of representative bureaucracy – a system where the composition of the public bureaucracy reflects the demographic makeup of the society it serves (Esman, 1999) – Milton Esman (1999) showed that as capitalism expanded, modern states developed and formed new hierarchies, which triggered a shift from the agrarian patron-client system to institutionalized patronage within state institutions. As Beeker and van Gool (2012) reiterate, the distributive logic of the client-patron relationship persisted even after the formation of the modern state, and its redistributive logic was ingrained in the functioning of the modern state (p.8). Thus, the patronage system was concealed within the formal institutions as key government posts, due to their prestige, high income, and security, became desirable. He further adds that the patron-client relationship easily permeated the modern state “because of its eminent malleability. Patronage, after all, is not a political system per se but a principle of interpersonal relations (p.9).” While bureaucracy, a key component of the modern authority, rose to meet the demands of capitalism and ensure a structured and strictly controlled governance (Esman, 1999, p.331-332), their formality, “circumscribed by written-down rules, procedures and delineated jurisdictions, further helped the institutionalization of patron-client bonds by providing the means to disguise the transactional nature of these links behind cloaks of administrative paper reality” (Beeker and van Gool, 2012, p.9). Hence, we can deduce that the expansion of the

bureaucratic system deepened post-colonial patron-client relationships. Apart from their roles of ensuring security and collecting taxes, colonial bureaucrats assumed new responsibilities in sectors like education, health, transport, and housing (p.9). However, as the authors observe, “the public resources controlled by these expanding administrative hierarchies could, and often were, turned into patronage by political leaders seeking votes and group support” (p.10).

Thus, as politicians no longer needed to depend on clients to work for them to build wealth due to their direct access to the state’s resources through their different posts, they became less dependent on clients and more reliant on those who enabled them to ascend to these powerful posts. As a result, former clients lost their traditional sources of protection and support, marking the emergence of neopatrimonialism. Let us now examine how the concept of neopatrimonialism emerged and how it has been applied to analyze regimes in developing states.

Neopatrimonialism: Conceptualization

Eisendstadt (1973) developed the concept of neopatrimonialism as an expansion of Max Weber’s theoretical framework on classical forms of political authority to study regimes in developing countries. By adding the prefix ‘neo,’ neopatrimonialism was detached from the historical views of patrimonialism associated with Weber (Bourmaud, 1997). Thus, neopatrimonialism is “a mixture of two, partly interwoven, types of domination that coexist: patrimonial and legal-rational bureaucratic domination” (Erdmann and Engel, 2006, p.18). The ‘neo’ in neopatrimonialism represents a fusion of formal institutions and rational-legal authority with traditional patrimonial networks. In a neopatrimonial system, patrons, normally presidents, leverage their executive authority to access and distribute state resources, enabling them to form

patron-client relationships as a tool of preserving power (Therkildsen, 2005, p.37). As Snyder (1992) reiterates, “neopatrimonial regimes are characterized by the chief executive’s maintenance of state authority through an extensive network of personal patronage, rather than through ideology or impersonal law. The degree to which the patronage network radiating from the ruler penetrates state institutions, especially the military, tends to be uneven and fluctuate over time” (Snyder, 1992, p.379). Simply put, patrimonialism and legal-rational authority coexist as two parallel systems, which pervade each other in a way that “the patrimonial penetrates the legal-rational system and twists its logic, functions, and effects” (Erdmann and Engel, 2006, p.18). In other words, “informal politics invade formal institutions” (p. 18). Snyder further explains that, generally, the president secures loyalty through an “extensive network of personal patronage, rather than through ideology or impersonal law” (Snyder, 1992, p.379). Therefore, neopatrimonialized institutions survive on consistent flows of resources from the ruler to his supporters. As Clapham (1993) explains, when there are no benefits, the ruler loses support and loyalty in this kind of system (p.427).

Neopatrimonialism in the African Politics Literature

Many academics of African studies have employed neopatrimonialism as a conceptual tool to study regimes in Africa (Bratton and van de Walle, 1994; Bratton and van de Walle, 1997; Chabal and Daloz, 1999; Médard, 1982). Médard was the first scholar to apply neopatrimonialism as a conceptual tool to the Ahmadou Ahidjo regime. Médard observed that personal rules and the blurry boundaries between public office and office holders are concealed by discourses, legal norms, and formal institutions that create the mirage of a legal-bureaucratic framework (1979, p.68). Bratton and van de Walle would add that personal relations serve as

both the core and overarching structure of political institutions, traversing from the top echelons of the presidential office to the smallest village assembly (Bratton and van de Walle, 1994, p.459; see also Joseph, 1987). For these authors, “[t]he distinction between private and public interests is purposely blurred. The essence of neopatrimonialism is the award by public officials of personal favors, both within the state [...] and in society [...] (Bratton and van de Walle, 1994, p.458). One key strategy neopatrimonial rulers have resorted to consists of ensuring a constant redistribution of positions in the state apparatus. In simple words, appointees rise and fall at a quick pace to ensure that everyone gets to eat at the table. As Young explained regarding the rule of Mobutu in Congo-Zaire,

From 1965 to 1975, of the 212 persons holding ministerial positions or membership in the party-political bureau, only 41 lasted five years [...] Of the 212, 29 went directly from office to prison on political or corruption charges. An additional 26 lost office on grounds of disloyalty or dishonesty, with penal sanctions. Few stayed in jail very long, and many found ways back into high office (Young, 2012, p.176).

Bratton and van de Walle (1997) presented three informal practices integral to a neopatrimonial system: “(1) concentration of political power; (2) systematic clientelism; and (3) particularistic use of state resources” (p. 63-68). The ruler appoints his closest allies to key ministerial posts and influence appointments in the public sector. These allies then place their own clients in different posts to enable their access to state resources (Cheeseman, 2015; Sigman, 2015, p.77). Loyalty towards the ruler can also be obtained through coercion, or the threat of its use, such as being imprisoned, jailed, or even executed, which makes it difficult for ruling elites to defect (Andrew and Honig, 2019).

In his seminal work, *Colonialism and the two publics in Africa*, Ekeh (1975) advanced a theory of the “two publics” to explain the prevalence of neopatrimonialism in Africa. He argued that African societies, influenced by colonialism, developed a dual system of public realm: the primordial public and the civil public. The civil public is the formal structures like government, laws, and bureaucracy that were inherited from colonial rule. The primordial public is the informal system, based on traditional and kinship networks, such as family, ethnicity, and community ties. They stem from culture and function through a patronage network and personal loyalty. He further argued that the primordial public, which aligns with ethnicity and community of origin, is considered “moral”, while the civic public, embedded within the institutions of the post-colonial state, is regarded as amoral and is devoid of the broad moral principles that operate in the private sphere and the primordial public. As a consequence, Ekeh would argue, the civic public, i.e. the state, becomes increasingly privatized, in that it is appropriate for state officials’ private interests to support their primordial public (p.108). Thus, the dual allegiance creates a system where formal institutions are used by ruling elites for personal interests rather than the common good. This is paradoxical to the extent that neopatrimonialism functions within the structure of legal-rational bureaucracy and claims legitimacy by embodying modern state governance (Therkildsen, 2005, p.37). Echoing this perspective, Berman (1998) argued that neopatrimonialism can be traced to precolonial African societies, but he insists that colonial rulers have exacerbated the unequal power relations between rulers and their subjects. As he explains, “By reproducing the structures of the colonial state and extending patronage networks through them, however, post-colonial states in Africa have been unable to resolve the inherited contradictions of the colonial political economy (p. 335).

In their impactful study, Bratton and van de Walle (1997) have emphasized the role of presidentialism in post-Cold War African neopatrimonial regimes. For them, presidentialism is still a dominant feature of neopatrimonial rule in the post-Cold War era: presidents concentrate enormous power, make important decisions without consulting parliament and judiciary; ministries can be demoted to a lower duty with junior staff in the presidency regularly holding much bigger duties than permanent secretaries in ministries (van de Walle, 2003, p.309). As electoral politics became one of the most salient features of post-Cold War regimes, presidents needed to ensure the stability of their regimes by maintaining solid networks of patron-client relationships. These networks have often, but certainly not exclusively, followed ethnic and other identity-based lines, given their centrality as a tool for political mobilization during electoral campaigns. As Berman argues, “The result has been the extension of ethnically based patron-client networks to the very centre of the state apparatus, with their ramifying linkages reaching from cabinet to village” (Berman, 1998, p.334). Van de Walle (2007) also makes a distinction between elite clientelism, which involves the allocation of prebends to key elites, and mass patronage, which focuses on distributing political and economic favors to the populace that participates in electoral politics.

Scholars of African politics have also insisted on an important consequence generated by neopatrimonial regimes, that the weakening of the rational-legal bureaucracy may ultimately endanger political stability (Sandbrook and Oelbaum, 1997). Berman seems to echo this perspective when he argues that the neopatrimonial state has become “a conglomeration of agencies and offices to be captured and manipulated, beneath the guise of official 'development' ideology, for individual and communal benefit” (1998, p. 339). As van de Walle (2001) explains, “Having too long undermined state capacity for political reasons, at some point the bureaucracy

no longer performs at all, order breaks down, and leaders find it increasingly hard to manage the inter-elite accommodation processes that are at the core of political instability” (p.185). In the most extreme cases, this can lead to the development of what Reno (2000) calls ‘Shadow States.’ In rather crude terms, Aidoo and DeMarco (2009) go as far as saying that neopatrimonialism is a “political dysfunction, a system which can survive only by cannibalizing itself.”

In a nutshell, the neopatrimonialism framework illustrates the informal patron-client networks within the formal structure. It will enable us to explore how the new ruler (Felix Tshisekedi) exercised authority beyond the established formal structure to consolidate power in the context of an uncertain cohabitation. Neopatrimonial logic will help us to explain the fluidity of the elites’ loyalty, political transhumance and elites’ rent-seeking behaviors, prevalent during the cohabitation period. The next section analyzes the historical evolution of rentier state theory, including how its key features intersect with neopatrimonialism.

Rentier State Theory

Rentier State Theory (RST) surfaced in the mid-20th century to challenge leading development theories of that era, particularly modernization and dependency theories. Throughout the 1950s and 1960s, development theorists largely regarded resource scarcity as a major hindrance to development in developing countries. Consequently, they championed for natural resource-driven economic model, urging developing nations to leverage their abundant natural resources to stimulate economic growth in order to swiftly attain the status of industrialized nations (Moritz, 2016, citing Lewis, 1955; Rostow, 1960; Spengler, 1960; Viner,

1952). Thus, the rentier state concept was first coined by an Iranian economist, Hossein Mahdavy, in his 1970 chapter *The Patterns and Problems of Economic Development in Rentier States: The Case of Iran*. He examined oil boom in Iran to demonstrate its “paradox of the plenty,” describing rentier state as “those countries that receive on regular basis substantial amounts of external rent ... [which can be defined as] rentals paid by foreign individuals, concerns or governments to individuals, concerns and governments of a given country” (Mahdavy, 1970, p.428). In other words, a rentier state significantly depends on external rent (Ibid).

As Omeje (2010, p.7) indicated, the academic debate surrounding the rentier economy has evolved through three phases:

The first phase of the Rentier State debate centred on examining states in the Middle East with abundant oil and gas (Omeje, 2010, p.7). This period attracted strong academic inquisition as scholars sought to solve the paradox of the two-oil boom events that emerged in the 1970s. Consequently, RST emerged as a framework to explain the paradox of the oil boom and its multiple negative effects in the Middle East. Instead of establishing a vast middle class that would then champion democracy and political liberalization, contrary to the expectations of the modernization theory, the oil boom led to a “democracy deficit” and political instability in these Middle Eastern oil-rich countries (Ibid).

Mahdavy (1970) observed that in the period between 1951 and 1956, the political landscape enabled states in the Middle East to generate considerable rent from oil export. Consequently, instead of raising revenue through taxation, the governments opted to spend accrued oil rent on different projects without taxing their citizens (p. 431-432). Thus, for Mahdavy, “one of the more crucial problems that need to be studied is to explain why the oil

exporting countries, despite the extraordinary resources that [we]re available to them, have not been among the fastest growing countries in the world” (p. 432-434). He asserts that reliance on external rent is a major cause of slow reform progress in oil-rich Arab states. According to him, “instead of attending to the task of expediting the basic socio-economic transformations, they devote the greater part of their resources to jealously guarding the status quo” (p. 443). This debate gradually advanced into a more established theoretical framework in the 1980s, opening new avenue of scholarly debates to explain this “paradox of the plenty” (Basedau and Lay, 2009; Karl, 1997).

Beblawi and Luciani (1987) built on Mahdavy’s (1970) work by arguing that the sudden and substantial accumulation of wealth had strongly shaped the structure of Arab states. While presenting the four defining features of a rentier state, Beblawi (1987) reminds us that “there is no such thing as a pure rentier economy. Each country has some features of a rentier state.” Second, he argues that “a rentier economy is an economy which relies on substantial external rent” (p.51). Third, wealth in a rentier economy is controlled by a small segment of society, while the remaining majority is constrained to its distribution and consumption (Beblawi, 1987, p.385). Fourth, in a rentier state, the government plays a central role in the allocation of its wealth. Hence, a rentier economy creates a *rentier mentality*: “a break in the work-reward causation” (Ibid). Political elites occupying government posts prioritize conducting their personal business by leveraging their positions to further their private gains, blurring the line between public service and private business. High-ranking state officials, such as ministers, go as far as setting up proxy companies under their close relatives (p.388). As Birkholz (2019) states, a rentier state is defined by how the elites interact with society (p.30). Thus, Gray (2011) explains that RST intertwines with neopatrimonialism since a small clique of elites engage in the

production and preservation of rent. Neopatrimonialism illustrates how the allocative state disperses oil rent to the ruling elites' networks that, thanks to oil wealth, have replaced the broader legitimacy of the regime acquired through the electoral process (p.6-7).

However, these ruling elites' networks predate oil wealth and are historically rooted in tribal systems of patronage, kinship ties, and religious authority, which were sustained through patron-client relationships. Indeed, the modern state formation in the Middle East established family-states rather than nation-states. As Beblawi (1982) wrote, "the Gulf states are largely governed along traditional lines. Though oil wealth has transformed them into advanced welfare states, they remain patriarchal in a distinctly familial way. The Saudis, the Sabahs, the Al Thanis, the Qasimis, the Al Nahyans, the Al Maktums, the Al Khalifas, are not only the ruling families: they embody the legitimacy of the existing regimes" (p.210).

According to Beblawi (1982, p.216), sudden oil wealth in rentier states may foster conditions conducive to corruption due to weak public institutions, as officials may prioritize personal gain over public interests. As he demonstrates, "huge developmental projects, joint ventures, agents, tenders and awards billion-dollar contracts have provided opportunities for those in public office to use their positions for private gain" (Ibid). Thus, the centralization of wealth in a rentier state enables the ruling elites to sustain power through a patronage system. As Ruiz de Elvira et al. (2018) noted, "It is this monopolization of wealth generation that links the rentier state concept to clientelism" (p.30).

The second phase of the debate was dominated by African leftist academics, who expanded the concept of the economic rent to study both liquid and mineral resources (Omeje, 2010), thus looking at mineral-abundant states such as Sierra Leone, Guinea, and the DRC

(Omeje, 2010, p.7-8). These scholars wanted to go beyond broad economic generalizations and focus more on the overlooked political context (p.10), including the political historical context, external political and cultural influences (Ibid). But these scholars seemed to understudy the growing political changes of the 2000s and how oil rent became more efficiently managed (p.11). Consequently, these growing political changes laid the ground for the emergence of divergent branches of RST in the 1990s and early 2000s (Ibid).

The third phase of the debate emerged in the late 1980s and the dawn of the 1990s, following the breakdown of the global commodity market and the negative repercussions of the Bretton Woods Institutions' Structural Adjustment Programmes (SAPs) applied in developing countries. Since then, academics have expanded the rentier economy to include cash crops (p.8). Most Sub-Saharan African countries fall under this third stage of the rentier state debate (Omeje, 2010, p.8). However, the African rentier economy is strongly influenced by a blend of colonial legacy in state institutions and the wealth derived from abundant natural resources, commonly known as the 'rentier largesse' (Omeje, 2006, p.11).

Consequently, rentier effects in Africa have been detrimental. The relentless flow of rent earned from oil and mineral exports has undermined other key sectors of the economy, including the agricultural sector. This rentier effect phenomenon is known as "Dutch Disease – named after the negative effects of discoveries of huge natural gas deposits on the manufacturing sector and economy of the Netherlands in the 1960s" (Omeje, 2010, p.9, citing Collier, 2008, p.39).

As oil production generates a significant amount of rent, other key sectors such as agriculture and manufacturing generate low profits and are ultimately neglected (Karl, 1997). Besides, rentier economies also experience high volatility of natural resources, particularly due to fluctuations in natural resources prices and the uncertain nature of global commodity markets

(van der Ploeg and Poelhekke, 2009). According to Omeje (2010) “empirical studies have shown that volatile revenues in fragile states are difficult to manage (citing Collier 2008, p.44-52) because rentierism produces or aggravates patronage-based accumulation and prebendal corruption in fragile states (p.9).”

From scholars of the Rentier state literature, there are two major implications tied to rentierism that are central for our theoretical framework: Rentierism and its ties to authoritarianism and to conflicts. Let us clarify these two points. First, many academics have demonstrated how a rent-based economy can be tied to neopatrimonial authoritarian structures of governance (Jensen and Wantchekon, 2004; Karl, 1999; Ross, 2006; Ross, 2001). Ross (2001) investigated the link between high natural resource wealth and low democracy in 113 countries between 1971 and 1997, concluding that oil impedes democracy in three different ways: First, through “taxation effect,” where oil-rich states impose low taxes on their population, which makes them less likely to call for accountability or representation. Second, the “spending effect,” where they increase spending on patronage to suppress demand for democracy, and enhance military and internal security forces, inhibiting any calls for participation. Third, oil wealth impedes both the development of state institutions and the creation of social groups, as state largesse prevents the emergence of social classes and civil society organizations that could advocate for democratic reforms. Thus, Ross (2001) argues that “oil and mineral wealth tend to make states less democratic” (p.328). In an attempt to redesign the rentier state theory, De Waal (2015) introduced the concept of “rentier political marketplace” to understand the shifting governance system after the Cold War. After the West diminished its financial support for autocrats, emphasizing democratization in developing states, autocrats began to seek alternative sources of finance for their regimes by mobilizing rent at the local and international level

through accumulation and extortion. Since these regimes have weak formal institutions, the currency of this political marketplace is money, violence, and continuous bargaining, or what Reno (2000) called a “shadow state.” This is why Omeje (2021) argues that “large amounts of the state’s rentier resources are frequently siphoned through well-known devices like underreporting of revenue receipts, hyperinflation of government contracts, import-related money laundering (p.99).” In rentier-states, a larger portion of resource revenue is embezzled through various means, like undervaluing mining deals after secret sales, underreporting the rent from the export of minerals, and inflating government contracts (Ross, 2012).

Several academics have corroborated Ross’s (2001) study (Bellin, 2004; Jensen and Wantchekon, 2004; Ross, 2001; Tsui, 2011; Ulfelder, 2007). Jensen and Wantchekon’s (2004) research aimed to investigate the effect of resource abundance on democratic consolidation in Africa since 1975. Their findings reveal that over the past four decades, resource-dependent countries in Africa have experienced a consolidation of authoritarianism. They further hold that executive control over resource distribution leads to greater government spending and weak governance, in line with rentier state theory. Regarding the impact of natural resource wealth on democratic transition, Ulfelder (2007) found that authoritarian regimes that heavily depend on energy and mineral rents have extremely less chances of transitioning to democracy (p.1008), in line with Ross (2001) and Jensen and Wantchekon (2004). In other words, *ceteris paribus*, authoritarian regimes that are sustained by oil, natural gas, and mineral resources rent have diminished the odds of experiencing a democratic transition (Ulfelder, 2007, p.1012). Similarly, Tsui (2011) analyzed global data on “oil endowment, exploration, discoveries, extraction, and oilfield geology” (p.89) and found that the discovery of large quantities of oil deposits led to a slower transition to democracy, not just in the Middle East, but globally (p.90). Andersen and

Aslaksen (2013) averred that oil wealth began to inhibit democratic transitions after the pivotal transformation of the 1970s that allowed oil-rich countries in developing countries to accumulate large oil rents, which were in the past captured by foreign oil corporations (p.93). In the same vein, Lucas and Richter (2016) found that higher rents generated from oil and gas hinder democratization as they diminish citizens' tax duty. However, the escalation in rent acquired from oil and gas, which is directly channelled into government reserves, does not diminish the threat of overthrow by rival autocratic factions (p.1). Focusing on Nigeria, Omeje (2006) demonstrated how oil remains the sine qua non of Nigeria's political economy, resulting in what he calls "high-stakes rentier politics" (p.5). Nigeria's reliance on oil rents has formed an intricate political culture, fused with traditional neopatrimonial practices, including oil rents accumulation and clientelism (Ibid).

In his theory of 'late rentierism,' Gray (2011) explains how oil-rich Arab states have evolved from classical rentier states into a late rentierism, where "the state is more entrepreneurial, supportive of development, and responsive than it was previously." Despite this crucial progress, the key features of rentierism have remained constant: "in none of these states has there been a dramatic transition to pluralistic or Western-style democracy" (p.23). Significant democratization that results in a change of leadership and authoritarian structure has not occurred. Additionally, opponents who are focused on championing political liberalization are either controlled or co-opted by the system (p.25). Thus, the author maintains that "In terms of elite relations, the late rentier state of the Gulf is as neo-patrimonial as any rentier state ever was, with power closely held at the core by a royal clique, and with elite relationships carefully managed for the sake of regime maintenance and elite enrichment." (p.25). However, the rise of political pluralization in this region signals that the late rentier state has begun to embrace

change by portraying itself as liberal, by adopting the divergent views and aspirations of a certain group. These dual strategies of sustaining elite relations while embracing a democratic façade enable the regime to preserve the status quo while concurrently presenting itself as available to public scrutiny on key policy decisions that the ruling elites take (p.25).

Collier (2010) argued that natural resource rent can subvert democracy by distributing rent produced from resources through patronage to preserve power. In doing so, it lowers the regime's level of accountability to its citizens. This patronage rewards to loyalists vary from employment in public institutions to buying of the electorate's votes (p.1114). Resource rents not only enable the regime to undermine elections but also facilitate the regime to make it attractive for it to implement it by raising the financial rewards to the preservation of power (p.1115). In a nutshell, whether oil, gas, or minerals, natural resources hinder democracy by raising spending on patronage systems, which undermine democratization and, in fact, contribute to the consolidation of authoritarian rule.

Concomitantly, rentier state scholars insist on the link between the abundance of natural resources and conflicts. This, too, is enlightening for our case study. In effect, in their influential study, Collier and Hoeffler (2000) argued that states that rely on primary commodities export, comprising agricultural goods and natural resources, are susceptible to civil violence. They further asserted that these conflicts stem from either greed or grievance, like ethnic or political exclusion. Since then, several scholars have joined the debate to test the correlation between natural resources and violence (De Soysa, 2002; Fearon and Laitin, 2003; Ross, 2004). For instance, Ross (2006) showed that since the 1970s, states with natural resources such as oil, gas, and diamonds have higher probabilities of experiencing civil war. Ross (2012) revealed that states with large deposits of oil have been 50 percent more susceptible to experiencing violent

conflict since the early 1990s. Auty (2004) also found that resource-rich countries are prone to predatory governance systems that result in economic downturn, decline in human capital, high dependence on natural resources, and eventually to the outburst of conflicts. Similarly, (Downey et al., 2010) bring the role of world powers to demonstrate that developed states can exploit natural resources in developing countries by fueling political instability through the financing of armed groups. However, Basedau and Lay (2009) find an interesting outcome, which alters the previous findings. they argue that natural wealth itself is not problematic to peace, but reliance on it can be. Thus, although oil producing countries are generally more susceptible to violence, those with oil producing countries with significant oil wealth per capita are less vulnerable to internal violence, even though they remain heavily reliant on oil (p.774). Despite the methodological process, one conclusion is certain: “in terms of per capita wealth of oil production, there is no paradox of plenty as regards the likelihood of civil conflict” (Ibid).

Overall, these studies have shown, states endowed with abundant natural resources are likely to experience authoritarianism, fragile institutions, and conflicts.

As we can see, the rentier state studies help understand how countries with abundant natural resources with high value on international markets, like the DRC, are subject to the twin constraints of authoritarianism, more specifically, neopatrimonial authoritarianism, and conflicts.

Conclusion

As I demonstrated in this chapter, the theoretical framework used for this dissertation constitutes a theoretical patchwork, one which combines the neopatrimonial theory with the rentier state theory. This hybrid theoretical framework is useful in examining how the power struggle in the cohabitation government unfolded in the DRC. It will help us to decipher how the

mining sector shapes the political economy of the DRC through the prism of the rentier state theory, while concurrently examining how neopatrimonial relations unfold and sustain competitive authoritarian relations in the DRC. Neopatrimonialism helps us understand how political authority is personalized in the DRC through informal webs of patronage and clientelism that transcend formal institutions. Thus, these theoretical approaches explain how the DRC's mineral resources both sustain patronage networks while buttressing a hybrid political arrangement where formal democracy coexists with deeply ingrained informal, extractive and authoritarian power structures.

In light of these theoretical reflections, we present the following research propositions:

1. Because of the rent they produce, minerals have been core to the political economy of all postcolonial (and colonial) Congolese neopatrimonial political regimes. The acrimonious power-sharing produced by the 2018 elections led the two rival camps to vie for control of this critical sector.

2. While semi-presidentialism and cohabitation theoretically divide executive authority, in practice, the president holds significant influence, especially over patronage networks in a neopatrimonial system. The gap between formal institutions and informal practices explains why the DRC's semi-presidential system functioned the way it did. This power-sharing can last as long as the opposition to the President holds on to its legislative majority. To eliminate this obstacle, the President resorts to formal and informal strategies, mainly based on patronage, to co-opt elected deputies from the ruling coalition and end the cohabitation.

The unprecedented formal power-sharing resulting from the 2018 elections contrasts sharply with the hyper-presidential centralization of authority characteristic of previous neopatrimonial regimes in the DRC. This illustrates that semi-presidentialism and cohabitation are not fully

identical to a purely presidential system. Therefore, as noted in my comment in the previous chapter, a more nuanced approach is required.

3. In light of the national electoral commission's historical role as a tool for the ruling neopatrimonial leader, rather than acting as an autonomous and fair referee of electoral competitions, the electoral commission becomes the target of the two rival camps. Through patronage, the president increasingly asserted its control over this key agency, despite having been a self-proclaimed defender of an autonomous electoral commission.

4. The judiciary has been historically instrumentalized by postcolonial regimes in the DRC, to a large extent through the logic of neopatrimonialism. The unprecedented post-2018 cohabitation made the judiciary the center of a power struggle to assert full dominance over the opposite camp.

Methodology

To ascertain my research propositions, I have undertaken eight months of field research, between August 2021 and April 2022, in the Democratic Republic of the Congo. I focused on tracing the power struggles between the two rivals and their networks in three specific sites: I) the mining sector; II) the electoral arena, specifically in a) the National Assembly's coalition game and b) the electoral commission; and III) the judiciary. The next section provides the justifications for my case selection of the DRC and the three sites.

Case Selection

There are several key theoretical reasons for selecting the DRC case. My first reason is derived from a theoretical stance; the DRC is an excellent case when investigated through the

literature of authoritarian resilience, neopatrimonialism and cohabitation (Yin 1994). While academics have linked authoritarian resilience to autocrats' survival, authoritarianism in the DRC has taken a distinct path: I) in many authoritarian regimes, the incumbent autocrat plays a key role in maintaining the regime's stability. However, in the DRC, the authoritarian regime sought to retain power through an electoral process without the advantage of incumbent ruler. II), although the opposition won the presidential seat, the authoritarian structure established by the old regime still stands, though with much uncertainty as to the shape it may take, thus justifying even more this project. Thus, while some scholars appear to bury the autocrat after facing defeat, as has been shown by Arriola's (2013) study on the end of Moi's rule, my study challenges these theories by demonstrating how an autocrat does not politically "die" but does have a "political afterlife" after ceding power.

Thus, the DRC's 2019 atypical alternation constituted an interesting puzzle: What happens when a rare peaceful exit of an autocrat and relatively free and fair election produce an unusual form of "cohabitation," in which the executive is led by the former opposition while the legislature remains dominated by the outgoing autocrat's camp? I examine how the former autocrat, Kabila, sustained influence in his post-tenure period as Tshisekedi sought to consolidate his neopatrimonial structure. The next section explains the different prisms through which the study was conducted.

The Mining Sector

The first angle through which I sought to conduct my empirical study was through the mining sector, especially due to its key role in the neopatrimonial distribution of rents in exchange for political loyalty. Thus, the mining sector is a key arena of political power contestation, where alliances are established, maintained, and rewarded. On the other hand,

Gecamines, the largest public mining enterprise, has played a key role in this sector by financing the Kabila regime. Often considered the center of the DRC's economy, it served as a cash cow for the Kabila regime, enabling the extraction and distribution of rent to the ruling elites.

Consequently, the mining sector and Gecamines specifically present a solid prism through which power struggles in the cohabitation government over access to and control of resource rents, including its ramifications on the transformation of Kabila's influence, can be analyzed. It is also imperative in investigating how mineral rents remain a key source of finance for the new ruler to dismantle the old regime's neopatrimonial networks.

The Electoral Arena

Second, the electoral arena is to my study because it is a major site where the rivals engaged in the politics of cohabitation are battling one against the other. By definition, the cohabitation hinges precisely on the power-sharing situation that resulted from a split between the executive and legislative powers. The electoral assembly, and more specifically the national assembly, is central to this dynamic. As well, the referee in charge of organizing and adjudicating elections is crucial in that matter. Consequently, the next round of presidential and legislative elections, those of 2023, were central for those who hoped to move away from the Cohabitation and into full control of the two branches of government. Thus, the 2023 presidential elections serve as a crucial juncture to examine how elites from both rival camps bargained and metamorphosed to adapt to the shifting balance of power and how such shifting power dynamics shaped the stability of party coalitions and the cohabitation government. Because this is a large site, I have looked at two sub-sites, if I may call them like this: the battle for the control of Kabila's FCC domination in the National Assembly, and for the control of the National Electoral Commission.

The Battle for Parliamentary Majority

The Kabilists' power during the Cohabitation derived from their capacity to maintain their legislative majority in the National Assembly. Without this majority, there is no Cohabitation, and President Tshisekedi could rule alone. The two camps thus had opposite objectives: for the Kabilists, the goal was to keep the coalition intact, and for the Tshisekedi camp, it was to divide the Kabilist coalition and co-opt as many of them as possible to end their legislative majority. Intra-party and inter-party power relations are thus crucial in revealing the shifting power dynamics during the preparation for the upcoming 2023 presidential elections. These infightings mirror tensions within the coalition over access to patronage networks as the elites realign to seek influence within the cohabitation government. I sought to observe the power struggle between the FCC and the opposition coalition in preparation for the next general elections. Thus, intra-FCC infighting is crucial in demonstrating the fluid and transactional nature of coalition building within the neopatrimonial logic.

The Electoral Commission

Elections in general, and more specifically the 2023 election that succeeded the one that produced the Cohabitation, lay at the core of the rivalry between the two leaders. Logically, and in light of its history, the referee in charge of these elections, the national electoral commission, or CENI in its full French acronym (*Commission électorale nationale indépendante*), became a key site where the two camps fought each other for power.

The Judicial Apparatus

Finally, another key site, the judicial apparatus, is a crucial institution for the two camps involved in the Cohabitation. The FCC sought to sustain its control over the judiciary to shield itself from the fate that other political elites encounter after losing power, like being prosecuted

and imprisoned while seeking to undermine Tshisekedi within the judicial system, including seeking his removal from office through impeachment. On the other hand, Tshisekedi sought to dismantle the old system and consolidate his grip on the judicial apparatus to consolidate power. Thus, the power struggle between the old regime and the new ruler over judicial control warrants further investigation.

Data Collection Methods

This study relied on two qualitative data collection methods: I) semi-structured interviews and II) document analysis. To answer my research puzzles, I conducted interviews with participants on the above three specific sites.

Semi-Structured Interviews

Interviewees were chosen using purposive and snowballing sampling. Purposive sampling involved identifying key informants – individuals who are knowledgeable or have been involved in the established cohabitation government after the 2019 alternation of power, including participants who hold extensive knowledge and/or experience related to the sites selected for this study. Thus, I recruited politicians affiliated with the FCC and CACH coalition, senior opposition politicians, Senior advisors, high court advocates, human rights activists, Constitutional Court judges, scholars, journalists, anti-corruption NGOs representatives, and members of civil society organizations. In total, I have conducted 70 semi-structured interviews with key informants in Kinshasa.

I combined both snowballing and purposive sampling techniques to facilitate my data collection process. The snowballing sampling technique involved identifying participants through recommendations or referrals from initial key informants. This sampling method was

facilitated by my research assistant, who introduced me to the initial participant. I accessed other participants through the recommendations of my initial key informants. I conducted semi-interviews using a set of pre-determined questions, prepared in advance to guide the interview around specific themes and goals (see Appendix C). While the interview questions were prepared beforehand, they were altered to adapt to the flow of the conversation, including asking for more details or expanding on a new topic.

Interviews were designed to avoid asking direct questions that would make participants uneasy. For instance, instead of asking about their participation in corruption, I focused on inquiring about the changes that they observed on corruption matters in the cohabitation government. This strategy enabled participants to remove themselves from their actions.

The fieldwork research was conducted during the COVID pandemic. Thus, COVID precautions were paramount when navigating my research terrain. Safety measures, such as maintaining the recommended 6 feet physical distancing, were communicated to participants before interviewing at locations where social distancing can be kept, while similarly guaranteeing the privacy of participants. Before the interviews, I also asked participants about their health, including whether they had been in contact with people who demonstrated COVID-related symptoms. These pre-interview assessments enabled me to determine whether or not to proceed with the in-person interview.

Document analysis

I also used document analysis to triangulate the data in order to escape the critiques that the findings of the research are a product of a single data collection method and a researcher's

bias (Patton, 1990). Document analysis is suitable for intensive studies as it generates intensive descriptions of a single phenomenon (Yin, 1994). The data gathered from the documents informed my semi-structured interviews. The analysis of the following documents provided rich data that facilitated the triangulation of my research findings, including validating key insight points and the robustness of my study.

Actors/Organizations	Type/Titles of Documents
National Assembly	- Notification of resolutions (01/2021) - Motions of Support - Censure motions - Signatures of Censure motions - Political declarations by FCC deputies - Press Communiques from political parties - Official Communiques - Position statements of parties - Memoranda - Petition letters - Political declarations
Presidency	- Presidential statements or decrees related to the CENI - Presidential decrees to judicial appointments
Ministries and other state agencies	- Justice Ministry Orders - Parliamentary debates on judicial bills - Official gazettes on judicial changes - CENI constitution du bureau de 2021 - Organic laws governing the CENI
Political Parties	- Internal memos and communications within PPRD - Public statements by FCC and PPRD - Statements from PPRD dissidents

	- News articles
Media	- Blog posts - Scholarly articles - News articles - Web pages and blogs - Audio or video recording

Data Analysis

Data analysis was conducted manually. In order to analyze my data, I proceeded to categorize and code the content of my interviews collected across the four key sites, as well as the content of the documents I have gathered. As (G. R. Gibbs, 2018) says, coding “involves identifying and recording one or more passages of text or other data items such as the parts of pictures that, in some sense, exemplify the same theoretical or descriptive idea.” I should mention that I began doing this not only after I returned from the field, but when I was already in the DRC. In effect, as Kapiszewski et al. (2015) nicely explain, “that data analysis should not be thought of as a discrete research phase that starts after data gathering has ended: scholars should engage in analysis (in the multiple forms it can take) *throughout their time in the field*” (2015, 333; emphasis in the original). I began with an initial review of the raw data, including handwritten notes, typed transcripts, and documents collected, including official statements, parliamentary debates, press releases, political agreements, and media reports. I first anonymized all interviews and assigned them with codes based on the type of actor (politician, civil society member, journalists, and academicians. Documents were also classified based on their purposes (e.g., party communique, petition letter, press release, and legal text).

Interviews were first read separately and then in comparison with other interviews on similar topics. During the reading, I underscored recurring themes, keywords, phrases or narratives that were relevant to my study, such as elite defection, patronage, material rewards, political appointments, and elites' conflicts. In the second reading of interview transcripts, I grouped excerpts from different interviews under a bigger thematic category that mirrored the core focus of my dissertation – for example, FCC deputies' defections, Adherence to Tshisekedi's Sacred Union, and FCC elites' conflicts. I also identified cross-cutting themes across interviews from the same and between sites. Within each site, I coded materials according to their focus areas. For instance, when analyzing the shift of power in the National Assembly, I focused on paragraphs that dealt with censure motions against the speaker of the National Assembly, defection of FCC deputies, and discourses surrounding the Sacred Union.

Documents were analyzed manually and thematically. Data collected through document analysis were used for triangulation purposes. I organized documents based on their type and relevance and prioritized extracting relevant excerpts that directly addressed the problematic under study. I compared relevant contents of the documents with interview data to triangulate findings, underscoring consistencies or contradictions to capture a holistic perspective of the power struggle in the cohabitation government. When aligned with data collected from interviews, these documents provided corroboration or contrast, enabling me to evaluate how political elites practiced political transhumance. The analysis largely emphasized comparing the findings from the data collected across the four sites to identify both divergence and convergence. Thus, data from documents were incorporated into the same thematic categories used for interviews. This enabled a thorough and multidimensional comprehension of the primary political dynamics.

Limitations of the study and mitigation strategies

While this research generated invaluable data, several logjams were encountered during fieldwork. These constraints included limited funds, sociopolitical terrain, the Covid-19 pandemic and the sensitivity of the research topic. Thus, this section focuses on expounding these research limitations and providing stratagems used to mitigate their effects.

One of the key constraints of my fieldwork research was limited funds, which prevented my intention of reaching a larger and diverse group of participants in other regions of the DRC. Consequently, financial constraints curtailed my mobility, restricting the scope of my fieldwork research to Kinshasa, which might have limited the diversity of the viewpoints gathered. However, to mitigate this constraint, I cautiously selected key informant participants who were actively engaged in the power struggle between the FCC and CACH coalition, occupied key positions in the cohabitation government, were key members of parties opposed to the power sharing deal between the two rival camps (FCC and CACH) or had insider rich knowledge of the practices and power dynamics of the cohabitation period. Additionally, many of my interviewees were met in Kinshasa, but they come from and operate in various regions of the country; this allowed me to lower the Kinshasa-centric bias of my interviews. Thus, this purposive sampling technique facilitated the gathering of detailed and relevant data collection, despite the limited sample size.

The political sensitivity of my research subject significantly impacted my participants' engagement. I had to first establish rapport and build trust for most of them to accept being interviewed and open up during the interview process. Some of my participants, especially those affiliated with the FCC/PPRD, were suspicious of my field research, despite guaranteeing them

that my research was purely academic. In some cases, while at the PPRD party headquarters, I was directly accused of being a spy for the Canadian government. To resolve these suspicions, I met with a senior PPRD official and explained to him the nature of my fieldwork, who then facilitated the recruitment of participants. Since then, I became a frequent guest of the PPRD and even attended several of their meetings.

Another obstacle related to the fieldwork had to do with the difficulties of conducting many interviews simply because participants were difficult to meet, and sometimes those who agreed to the interview would eventually not show up. Others would delay the interview, obliging me to remain on standby for several hours at the interview location, only for them to show up and offer a limited time. These inconveniences sometimes forced me to conduct incomplete interviews. To mitigate this challenge, I maintained a flexible schedule with participants and followed up to secure full interviews. In some instances, I would conduct a second meeting to clarify key points.

Some participants were hesitant to open up due to the sensitivity of my research subject, which further complicated my data collection. They requested that I pause audio recordings when discussing highly sensitive matters and would later request that the recording resume once they were done. Others request not to be recorded at all, preferring notetaking. While this affected the consistency of data collection, I mitigated this challenge by taking detailed notes during such interviews, including writing post-interview summaries of any information I might have left out, ensuring that the details of their insights were preserved.

Additionally, conducting field research on sensitive political subjects in an authoritarian setting can lead to surveillance and/or repression. I minimized these risks by being discreet in my

movements, avoiding politically charged language, and refraining from identifying participants in any way that could compromise their safety.

Some documents crucial for triangulating my data were inaccessible due to their high political sensitivity. To address this limitation, I relied on interview data and alternative secondary sources. Where possible, I used a triangulation tactic to validate findings and ensure the reliability and robustness of my analysis.

The methodological choices used in this study were grounded in the belief that capturing the lived experiences and perceptions of political actors requires proximity, trust, and adaptability. While this research acknowledges the limitations encountered during my fieldwork, they do not undermine the credibility of the research findings. Instead, they have contributed to the depth and contextual richness of the study and mirror the realities of conducting qualitative research in a sensitive political environment. The next section presents the empirical chapters of my research project, organized thematically in line with the research questions and theoretical framework guiding this study.

Positionality

I shall say a few words about my positionality. First, as a Congolese who has lived for years outside the DRC, first in Kenya, then the US and now in Canada, my identity has been influenced by both my proximity and distance from my country. Although I was born in the DRC, hold a Congolese citizenship, and speak Lingala and French, the many years of living abroad seemed visible to my participants, who perceived me not as a Congolese fully but as a “foreigner,” someone who is “from here” but also not “from here.” This ambiguity positioned me concurrently as both an insider and an outsider, impacting my interaction with my

participants. Some of my participants became cautious about what they chose to disclose as they were concerned about how my “foreignness” might impact my allegiance to the regime and the country. On the other hand, my “foreignness” also made some participants feel comfortable, since they saw me as less of a threat, as someone who is outside the local power relations and patronage. Additionally, being an “outsider” enabled me to acknowledge certain cultural codes, but this also meant that I sometimes missed more subtle locally grounded dynamics that a local might naturally understand. However, generally, my linguistic advantage enabled me to bridge some cultural divides, but in most cases, my experience of living outside the DRC strongly shaped the lens through which my participants viewed, interpreted, and presented their shared experiences with me.

Chapter 4: Tracing the Lineage of Past Cohabitations: A Brief Historical Background

In 2018, I confirmed that there was indeed an agreement [...] and it was this agreement that allowed for a relatively peaceful alternation of power for the very first time after 60 years of independence, with a smooth transition before the publication of the results [...] I confirm that the agreement was signed in front of witnesses—military witnesses, political witnesses—and that it was later validated and certified by three African heads of state. It was the President of South Africa, the former President of Kenya, and the President of Egypt (Perelman, 2023),

Corneille Nangaa, former President of the CENI, reflecting on the 2019 alternation.

Introduction

Since independence, the DRC has encountered only two cases of formal executive power sharing: first, at independence, under the Lumumba-Kasavubu cohabitation government (1960-1961), and second, the short-lived Mobutu-Tshisekedi cohabitation (1991-1997) (Nohlen et al., 1999). The third and most recent atypical scenario involved a power-sharing deal between Tshisekedi's minority CACH coalition and Kabila's Front Common of the Congo (FCC) parliamentary majority (2019-2021), but with Kabila no longer holding formal executive power. In each of these cases, the bipolarity of executive powers led to power struggles at the executive level: between President Kasavubu and Prime Minister Patrice Lumumba, between the President Mobutu and Prime Minister Etienne Tshisekedi (Vircoulon, 2019, p.6) and the recent atypical cohabitation scenario between President Tshisekedi and the FCC coalition-dominated legislative majority, under the informal control of his predecessor, Joseph Kabila.

This chapter aims to lay the ground for a better understanding of the political dynamics which the core chapters of this dissertation will analyze. To do so, and keeping in mind the space limitation, this chapter will focus on those specific events that will help us better understand the

current, post-2018 politics of cohabitation. I begin this chapter by tracing the historical evolution of political mobilization and power struggles in the critical transition from the Belgian colonial era to the first postcolonial governments. I examine the first post-colonial government, marked by the Lumumba-Kasavubu cohabitation, which served as the epicentre for the drama that unfolded in the Congo at independence. Next, I investigate the military coup, led by Mobutu, that ended the Lumumba-Kasavubu first republic, and the subsequent stratagems Mobutu employed to consolidate his power, leading up to his quasi-absolutist reign in the 1980s. Moving forward to the early 1990s, as Mobutu's regime began to wither, I examine the transition period (1990-1997) through the lens of the power struggles between President Mobutu and Prime Minister Etienne Tshisekedi. I then analyze how the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL), led by Laurent Kabila, disrupted the democratization process after ousting Mobutu from power, setting the stage for competitive authoritarianism. Lastly, I explore Joseph Kabila's power grip in the context of competitive authoritarianism.

The Colonial-Postcolonial Transition and the First Cohabitation

Six months before Independence, in January 1960, the Congolese political scene saw the emergence of four powerful political movements. Some embodied a large ethnic group, others a strategic region, or still others advocated for a unitary national identity (Ibid). They included the *Alliance des Ba-Kongo* (Abako), *Confederation des Associations Tribales du Katanga* (Conakat), *Mouvement National Congolais* (MNC), and *Parti National du Progres* (PNP) (Ibid). We will briefly present these main actors to shed light on the first case of cohabitation in the country's history.

Formed in 1950, Abako was a social and cultural association for the Ba-Kongo ethnic group, which aimed to safeguard their language and culture from being absorbed by other ethnic groups that were migrating in large numbers into the capital, Leopoldville (p.22). Its most important political leader since 1954 was Joseph Kasavubu (Ibid). Kasavubu believed in preserving the culture and revitalizing the Ba-Kongo empire, which expanded from Congo Brazzaville to the Belgian Congo and Angola (Ibid). During the December 1957 Communal Councils' elections, Abako triumphed in Leopoldville and Kasavubu was elected Mayor of Dendale (Ibid). During his inauguration ceremony, he called for general elections and the independence of the Congo. Thus, the Belgians were increasingly concerned about his radical stance, blocking him from attending the December 1958 first all-African People's Conference in Accra, Ghana (p.23). On January 4, 1959, riots erupted in Leopoldville after the Belgians banned Abako's meeting. Kasavubu was subsequently imprisoned while other key Abako leaders were deported to their rural homes. However, they leveraged their presence in the countryside to popularize Abako at the grassroots level (Ibid).

For its part, Conakat was intrinsically a regional party that claimed to represent the copper-rich region of Southern Katanga (Ibid). Hence, Conakat was founded on the idea that the abundant mineral wealth of Katanga should profit the "authentic Katangese" (Nzongola-Ntalaja, 2002, p.100), in response to the victory of parties representing Kasai "migrants" in Katanga in the 1957 communal elections (Ibid). Established as a confederation, Conakat sought to consolidate ethnic solidarity among local Katangese and prevent Kasai migrants from occupying positions in provincial administration (Ibid). As a political party, led by Moïse Tshombe, Conakat advocated for a federal system that would link Belgium with different provinces of the Congo to form a unified Belgo-Congolese community (p.27). However, most of those who were

associated with Conakat aspired for an independent Katanga (Ibid). Thus, both Abako and Conakat derived their support from tribal and regional solidarities (Ibid).

Moving away from ethnic and regional groupings, the *Mouvement National Congolais* (MNC) was created in October 1958 by a cohort of young Congolese intellectuals who strived to foster a common national identity that transcended ethnic and regional affiliations (p.27). Its most famous figure was Patrice Lumumba. The MNC had moderate goals: to secure independence for the Congo, foster the education of the populace, and resist all forms of regionalism and separatist ideas (Ibid). Its opposition to separatism and secessionist movements coincidentally coalesced with the Belgians' rejection of such ideas. Thus, the Belgians perceived the MNC positively and even allowed Lumumba to attend the December 1958 All-African People's Conference (AAPC) held in Accra, Ghana (p.28), where he was designated as Congo's representative on the leadership committee of the AAPC (Ibid). However, power struggles emerged within the MNC as senior leaders accused Lumumba of turning the party into a one-man show (Ibid). The division within the MNC deeply weakened Lumumba (Ibid), but the Belgians preferred Lumumba's MNC unitary and nationalist ideas over the federalism of the Abako and Conakat.

Finally, several moderate political actors from small ethnic groups and parties opposed Lumumba whom they accused of pushing 'radical ideas.' In 1959, they united to form their political federation called the *Parti National du Progrès* (PNP), led by Paul Bolya. The PNP championed unitarism and cooperation with Belgium (Ibid).

In sum, a few months before Independence, the Congo's political landscape was dominated by two regional-based parties, Abako and Conakat, that championed federalism (although Conakat later shifted to secessionism, and two parties, the MNC and PNP, that sought

to foster national identity by advocating for a unitary state. Additionally, while the PNP advocated for respect for traditional authorities and sought to maintain ties with Belgium, the Abako and MNC held a radical stance against colonialism (p.32). However, both parties competed to claim credit for the independence of the Congo. This rivalry divided two nationalist leaders – Joseph Kasavubu and Patrice Lumumba, respectively (p.32).

The political competition between these four local parties marked the Congo's first legislative (and provincial) elections on May 11, 1960, barely six weeks before Independence. This election would lead to the formation of six provincial assemblies, as well as a national bicameral parliament. In this parliament, the lower chamber, the Chamber of Deputies, deputies were elected by popular vote, with one deputy for every one hundred thousand people. For their part, Senators were elected indirectly by the provincial assemblies, with fourteen members for each of the six provinces (Azami, 1970, p.44). The results of this election were to structure the country's political scene for the next five years, up until Mobutu's 1965 coup d'état. In effect, this election confirmed the regional hold of Abako, won 33 of the 90 seats in the provincial assembly of Leopoldville, the only province where they won seats, thereby confirming its ethno-regional roots, and 12 seats in the national Chamber of Deputies. Like Abako, Conakat confirmed its ethno-regional influence: it won 25 (out of 60) seats in the provincial assembly of Katanga, and none elsewhere, while getting 8 seats in the Chamber of Deputies. By contrast, PNP succeeded in framing itself as a more national organization, since it won seats in four of the six provincial assemblies (Leopoldville and Katanga, where they were absent), and 15 seats in the Chamber of Deputies, the second highest number of seats of all parties. Finally, Lumumba's MNC/L was the only party to appear as being truly national, with seats won in all six provincial assemblies. It also won 41 seats (out of 137) in the national Chamber of Deputies, as well as 19

(out of 84) in the Senate, both being the largest score of all parties (Young, 1965, p.302). The MNC's triumph caught Belgium off guard, which did not anticipate the MNC to win the way it did (Ibid). But the second striking feature was also the significant division of the political scene: no party emerged as the decisive winner. The MNC and its allies emerged as the winners, but without an absolute majority. This fragmented political scene opened the door for the first cohabitation, between Lumumba (MNC) and Kasavubu (Abako), as we will see below. But before I examine this cohabitation, let us first analyze the fundamental law, the Congo's first constitution, that defined the powers of the president and the prime minister.

The May 1960 led to the formation of a new bicameral parliament and of six provincial assemblies. It was the Fundamental Law that structured the legislative and executive powers in this new institutional architecture. The Fundamental Law had been granted by the Belgian metropole to guide the nascent nation until it could establish a new constitution (Azami, 1970, p.327). Ironically, this constitution was thus prepared and passed by the Belgian parliament and promulgated by the Belgian King. It was founded on a classical parliamentary system where the executive branch obtained its legitimacy through parliament and was directly answerable to it (Ibid). It also embodied a dominant legislature, where the president reigned without governing. Contrary to the presidential system, where the executive is separated from the legislature, the parliamentary system under the Fundamental Law fused the executive powers – the president, the prime minister, and the cabinet – with the legislature (Ibid). It granted King Baudouin the power to appoint a *formateur*¹, who was tasked with forming the first government, after being confirmed by both legislative chambers (Ibid).

¹ For appointment procedures, see the Fundamental Law Constitution, articles 47 and 48.

It also borrowed from a segment of the Belgian constitution, which defined the powers of the king to elaborate on the powers of the president in the Congo. While the head of state was revered, his authority was countersigned by a minister, who was answerable before parliament. The president also held the powers to appoint and dismiss the prime minister and ministers, including temporarily suspending parliament for a month (p.48). Thus, the Fundamental Law were essentially Belgian laws handed over to the Congolese (p.48). It bestowed the Belgian King with the powers to appoint a *formateur* based on electoral results and consultations with key political leaders and parties. After the recommendations of the *formateur*, the King would then select the prime minister and his cabinet members. The government was required to obtain a vote of confidence in parliament three days after its formation. Ganshof, the Belgian Resident Minister of the Congo, was in charge of advising the King in selecting a *formateur* (p.74). Since the MNC and its allies controlled the largest seats in the chamber, they proposed Lumumba as *formateur*. At the same time, Lumumba was seeking to strengthen the MNC and its allies against the anti-MNC coalitions. These leaders were Lumumba's rivals, including Kasavubu, who associated himself with these groups but chose not to assume leadership (p.75). On 8 June 1960, Ganshof travelled to Brussels to advise King Baudouin on appointing a *formateur*. He provided three candidates— "Patrice Lumumba, the winner of the elections, Joseph Kasavubu, the only leader in the coalition of moderates with a really national reputation, and some figure who could unite the two blocks (p.75).

Since the electoral outcomes did not grant any single party with an outright majority, Belgium opted to select a *formateur*, who would then form a government, as stipulated in the fundamental law (p.74). However, when Ganshof came back from Belgium on 12 June 1960, he appointed Lumumba on 13 June 1960 as an *informateur* rather than a *formateur*. The

informateur role did not exist in the Fundamental Law. Nonetheless, as *informateur*, Lumumba was tasked with advising Ganshof whether it was feasible to establish a government of national unity comprising all rival politicians (p.76). On 17 June 1960, Ganshof announced that Lumumba had failed as *informateur* and appointed Kasavubu as *formateur*. Following Kasavubu's appointment, Lumumba announced that he would form a government and present it to the two chambers for their approval without consulting Ganshof (Ibid), with the support of various parties. Lumumba's parliamentary support was evidenced on 21 June 1960 when the two chambers elected their officials. All candidates presented by Lumumba were elected. Following these results, Ganshof had no choice but to appoint Lumumba as *formateur* (Ibid). Negotiations followed to incorporate Kasavubu and the Abako party into the government, which accepted the Ministry of Finance, the Secretary of State for Interior and one minister of state (p.77).

Lumumba assumed both the roles of a Prime Minister and Minister of Defence.

On 23 June 1960, Lumumba presented his government to the chamber for voting, with 80 out of the 137 members present for voting; 74 voted in favor, 1 against and 5 abstained (Ibid). The presidential election occurred on the same day in a joint session of the two chambers, with Joseph Kasavubu elected as president with 159 votes against Jean Bolikongo, who garnered 43 votes (p.79). Thus, the election of Kasavubu as president finalized the establishment of the first government, with Lumumba as prime minister (Ibid). On the other hand, many leaders and parties that did not join Lumumba's government began to explicitly oppose him. In the copper-rich Katanga region, Moïse Tshombe accused Lumumba of deceit after he was not appointed as Defense Minister. Albert Kalonji, whose MNC(K) dominated the diamond-rich Kasai region, also boycotted Lumumba's government. In what appeared to be a deadly blow to the birth of an

Independent Congo, the two mineral-rich provinces of Katanga and South Kasai declared secession in July and August 1960 (Ryckmans, 2020).

Cohabitation and the Kasavubu-Lumumba Power Struggle

Most Congolese political leaders initially supported the Kasavubu-Lumumba cohabitation government, but their relationship promptly transformed into a contentious rivalry. President Kasavubu declined to present his speech meant for the 30 June Independence Day to the Prime Minister, as stipulated in the Constitution, which stated that any major political decision taken by the President must be countersigned by the Prime Minister (Ryckmans, 2020). However, like many other post-colonial African rulers at the time, Kasavubu tried to concentrate power in his hands. The two most important leaders were therefore on a collision course. This happened in a context where, as Young (1965, p. 327) explained, “The *Loi Fondamentale* had the fatal flaw of providing no method to secure a definitive interpretation of constitutional ambiguities.” Just two months after Independence, Kasavubu and Lumumba dismissed each other from their roles as President and Prime Minister, respectively (Collins, 1993, p.246).

After the removal of Lumumba as Prime Minister on September 5, 1960, in a complete breach of the Constitution, he later solidified his control over both the executive and legislative powers by issuing “a constitutional decree law on September 23, 1960” (E-Benya, 2016, p.22; also, Young, 1965, p.328).

While questioning the legitimacy of his removal from office, Lumumba responded by announcing that he had dismissed Kasavubu as President (Luard, 1989, p.24). With a parliamentary majority under his control, Lumumba relied on Article 22 of the fundamental law,

which stated that: “No act of the head of state can have any effect unless it is countersigned by a minister who, by that act alone, takes responsibility for it. Under no circumstances can the verbal or written order of the head of state exempt a minister from responsibility.” However, Kasavubu proceeded to suspend parliamentary activities, sending both chambers on leave for a month (Kitashima, 2015, p.10). Consequently, two factions emerged to assert their legitimate claim on the national government.

As the political crisis escalated, a third voice emerged, led by Colonel Mobutu, who orchestrated his first military coup on September 14th, 1960 (Emizet, 2000, p.207). Mobutu declared on the radio that: “to get the country out of the impasse, the Congolese army has decided to neutralize the head of state, the two rival governments, as well as the two chambers. This is not a question of the military coup, but rather a simple peaceful revolution to save the country from chaos” (RTBF, 2020). After seizing power, Mobutu placed Lumumba under house arrest in Leopoldville; however, the latter escaped but was rearrested by Mobutu’s army while trying to flee to his political fief in Stanleyville. Mobutu then handed Lumumba to his nemesis, Moïse Tshombe, who orchestrated his murder in Elisabethville on June 17, 1961 (Klinger, 2005, p.84). To exercise legislative power, Mobutu established the Council of General Commissioners, which replaced the legislative chambers established by the Fundamental Law. Hence, “The executive power vested in the Prime Minister and Minister is exercised, respectively, by the President of the Council of General Commissioners and by the General Commissioners” (Kitashima, 2015, p.27).

Thus, the Lumumba-Kasavubu duel marked a tragic end. Not only has the cohabitation between the two leaders lasted just a few months, but it also ended with the tragic assassination of one of the two protagonists, Lumumba. The end of this episode also led to a sombre

beginning, shaped by Mobutu's first military coup. This set the course for his second coup, staged in 1965, which ended the first republic (1960-1965).

The period between 1961 and 1965 was marked by political instability, rebellions, and secession movements. After Lumumba's assassination in January 1961, the Congo degenerated into chaos (De Witte, 2001). Secessionist movements emerged in Katanga, led by Moise Tshombe, and South Kasai (under Albert Kalonji). The central government in Leopoldville, led by Joseph Kasavubu and later Prime Minister Cyrille Adoula (1961-1964), struggled to exert control and preserve national unity (Young and Turner, 1985; De Witte, 2001, p.41). The United Nations militarily intervened in 1963, but the political crisis persisted. In 1964, Mobutu appointed Tshombe as Prime Minister as a strategy to restore order, but Tshombe's tenure was shaped by the Simba rebellion, an uprising led by Lumumbist factions. As unrest persisted and economic crisis exacerbated, General Joseph-Desire Mobutu seized power again in November 1965, overthrowing both Evariste Kimba, Moise Tshombe's successor and President Kasavubu (Nzongola-Ntalaja, 2002). This coup marked the ultimate end of the first Republic (1960-1965) and the beginning of Mobutu's long authoritarian tenure.

After seizing power in 1965, Mobutu first suspended the 1 August 1964 Luluabourg constitution, which had established a federal state (with twenty-one provinces) and a multi-party parliamentary system (UNECA 2015). Under that constitution, each province had been granted some level of political and administrative autonomy (Emizet 2000, p.226). By abolishing these constitutional provisions, Mobutu bestowed excessive powers on himself, consolidating his executive authority and dismantling the federal and political pluralism that had shaped the First Republic. The Luluabourg constitution aimed to consolidate the president's authority, enabling him to escape the cohabitation context and legitimacy crises resulting from power struggles

between the president and the Prime Minister (Mulumba, 2020). But the 1965 coup ended this short constitutional experiment. He replaced it with the June 24, 1967, constitution, which further consolidated the presidential powers and created a unitary legislature (Mulumba, 2020). The constitutional law 74-020 of August 15, 1974, amended the 1967 constitution, and institutionalized the Popular Movement of the Revolution (MPR) as the sole political party and established a strong presidential system, blending the party with state organs (Meditz and Merrill 1994, p. 222). This period marked absolute presidential centralization, with the 1974 constitution solidifying the MPR's monopoly, suppressing opposition, and granting the president unlimited re-election, culminating in a single-party state where the president held ultimate authority over all branches of government (Ibid., p.222).

In summary, from 1965 until 1990, Mobutu's reign was characterized by the exercise of absolute power, led by the MPR party-state. The separation of powers, established under his successive constitutions, was merely a façade. The president controlled both the judiciary and the legislature, which acted as a rubber stamp for the executive. However, the domestic and international pressure for multipartyism weakened Mobutu's grip. Thus, the next section focuses on the politics of the democratic transition in Zaire in the dawn of the 1990s.

A Second Cohabitation, a Failed Democratization, and the Fall of Mobutu

The struggle for democratization in the Congo has been shaped by two distinct phases: the first phase, from 1969 to 1980, saw the rise of civil society groups like students' organizations and religious organizations, including the Catholic Church, which sought reforms from within by resisting the regime's policies rather than seeking to change the system. In December 1980, at the end of the first phase, 13 MPR legislators, known as the Group of 13

(G13), penned a 52-page letter to President Mobutu, calling for political reforms. They were quickly arrested and imprisoned (Nzongola-Ntalaja, 2002, p.185). The G13 was embodied by Etienne Tshisekedi, who became the harbinger of democratization in Zaire. Tshisekedi, once a close collaborator of Mobutu in the 1960s, served as Justice and Interior Minister, prior to being appointed as Zaire's ambassador to Morocco, and vice-president of the National Assembly (Ibid). Meanwhile, explicit opposition to Mobutu's regime was also led by exiled Zaire politicians.

The second phase (1980-1997) was shaped by growing internal opposition against Mobutu's reign, demanding multiparty democracy (Nzongola-Ntalaja, 2002, p.171). In 1982, following Tshisekedi's brief release from prison, G13 members established the *Union pour la démocratie et le progrès social* (UDPS), a decision that breached the regime's one-party policy. Consequently, UDPS was banned and declared illegal. Despite being outlawed, it gained significant popularity among the public (Ibid). When the UDPS organized a pro-democracy protest in Kinshasa on 17 January 1988, in remembrance of Lumumba's assassination, thousands of people joined the protest to gesture their support for the opposition (Ibid). Thus, Mobutu, once feared as an invincible conqueror of Zaire, began to gradually lose his grip on power. By January 1990, Mobutu launched the "popular consultation" on Zaire's future (Ibid). Political parties and civil society were invited to submit their memoranda to a special commissioner, outlining the flaws with the current regime and proposing solutions (p.185).

On April 24, 1990, following significant opposition protests and exogenous pressure, particularly from Western donors like the United States, France, and Belgium, Mobutu announced the start of a new chapter in Zaire's history, symbolized by a shift from a state-party to multipartyism (Nzongola-Ntalaja, 2002, p.185; Waku, 1990). Mobutu compared this new era

to two significant events: the 30 June 1960 independence, and the November 24, 1965, Mobutu's military coup that ushered in the Second Republic (Turner, 1997, p.247).

Meanwhile, as multipartyism gained momentum, Mobutu's close collaborators, including former prime ministers and ministers, began to realign themselves by forming their own parties to survive the new political dispensation (Nzongola-Ntalaja, 2002, p.186). However, their parties lacked grassroots support and were merely vehicles to drive their political ambitions during the transition (Ibid), with a few exceptions. Those exceptions, including UDPS, Nguza KarlI-Bond's *Union des fédéralistes et des républicains indépendants* (Uferi), the *Parti démocrate et social chrétien* (PDSC) of Joseph Ileo² and Boboliko Lokonga,³ and Antoine Gizenga's *Parti Lumumbiste Unifié* (PALU), formed a large opposition coalition in 1991, called *Union sacrée de l'opposition radicale* (USOR) (hereafter Sacred Union), which became a key coalition in the democratic transition (pp.186-187). The Sacred Union rejected Mobutu's maneuvers of establishing a constitutional conference and advocated for the formation of a sovereign national conference (CNS) (p.187). Despite what the name "Union" suggested, there were major tensions amongst Mobutu's opponents, as seen for instance in the popular party PALU, which decided not to align with the Sacred Union, because it regarded its leaders as Lumumba's enemies. Mobutu also established his own 'opposition' parties as a tactic of weakening real opposition groups. These fictitious parties, funded by the regime, were thus derogatorily referred to as *partis alimentaires*, meaning that they were formed with the sole objective of earning a living (p.188). By July 1991, the proliferation of political parties, both authentic and sham, rose exponentially,

² Joseph Ileo served as prime minister twice: briefly from September 5 to 20, 1960, after Kasavubu had dismissed Patrice Lumumba and second on 8 February 1961 under Mobutu (see Kitatshima, 2015 p.9 and p.29).

³ Boboliko served as the first state commissioner (prime minister) of Zaire.

amid preparations for the national conference. Ultimately, two rival camps emerged during the transition: the Mobutu camp, known as *mouvance présidentielle* (or presidential tendency) and the Sacred Union (Ibid). This high party fragmentation, which included the President's party, several strong but often highly regionalized opposition parties, and a myriad of small parties, many of which were in part financed by the presidency, was to become a defining structural feature of the Congolese political system that will play a major role in the 2018 cohabitation we will study in the forthcoming chapter.

In July 1991, the nation was taken off guard when Mobutu announced that he had appointed the arch-opposition leader, Etienne Tshisekedi, as his Prime Minister. It appears that his unexpected appointment was partly shaped by demands made by France and the US, who urged him to appoint Tshisekedi without engaging the USOR (L.A. Times, 1993; Mulumba, 2020). Consequently, protests erupted in Kinshasa as UDPS supporters marched to Tshisekedi's house to compel him to reject the premier post offer, saying that "their saviour should not cohabit with the devil" (Nzongola-Ntalaja, 2002, p.188). Hence, owing to pressure, Tshisekedi declined Mobutu's appointment as prime minister (Mulumba, 2020).

Following its successful implementation in Benin, sovereign national conferences (SNC, or its French acronym CNS) became popular among Francophone countries as a way to address national challenges and design future paths. Hence, Mobutu agreed to convene a CNS based on the Benin model (Nzongola-Ntalaja, 2004, p.8). Launched on 7 August 1991, the CNS lasted for eight months, until December 6, 1992 (Nzongola-Ntalaja 2004, p.9). It was the largest national forum at that time that brought together political parties, civil society organizations, churches, and representatives from various social sectors to deliberate on Zaire's political future. Convened under intense domestic and international pressure, the CNS was intended to serve as a

transitional body responsible for restoring democracy, drafting a new constitution, and laying the groundwork for free elections. Over its eight months of deliberations, which lasted until 6 December 1992, the CNS became a key platform for resisting Mobutu's authoritarian rule, exposing corruption, and demanding systemic political reform (Nzongola-Ntalaja, 2004, p.9).

In the context of this CNS, Mobutu reappointed Tshisekedi as prime minister in September 1991, following negotiations with the opposition (Turner, 1997, p. 256; Mulumba, 2020). However, relations between Mobutu and Tshisekedi deteriorated quickly. During his swearing-in speech on October 1, 1991, Tshisekedi omitted the phrase, "guarantor of the Nation," a term used by MPR members to address Mobutu. In response, on October 18, 1991, barely a month in office, Tshisekedi was sacked (Nzongola-Ntalaja, 2002, p.1990; Turner, 1997, p.256). This omission of "guarantor of the Nation," an expression that was traditionally used by regime loyalists to honor Mobutu, publicly denied Mobutu the quasi-monarchical title that buttressed his personal rule. Thus, the subsequent dismissal of Etienne Tshisekedi echoed a deeper power struggle and the pro-democracy forces from the CNS period. He then appointed another Prime Minister, who was sacked again after a few weeks. Mobutu then settled on Nguza, the leader of Uferi and chair of the Sacred Union (Nzongola-Ntalaja, 2002, p.1990; Turner, 1997, p.256). To strengthen his ties with Nguza, Mobutu transferred two key security forces – the Gendarmerie and Civil Guard – to the prime minister, while maintaining control over the military (Turner, 1997, p.257). However, when Nguza and Mobutu decided to suspend the National Conference on 19 January 1992, the US and European Union responded by suspending foreign aid to Zaire. Belgium, on its part, opted to channel its aid only through the National Conference (Turner, 1997, p.258; also Zongola-Ntalaja, 2004, p.9), while thousands of people, led by the Catholic church and other religious bodies, protested against the closure of the conference in the

streets of Kinshasa in February 1992. Subsequently, the CNS convened continuously from April 6 to December 6, 1992 (Ibid).

The main political actors eventually reached a compromise during the CNS, known as *Le compromis politique global* (comprehensive political compromise). They agreed on establishing a transitional parliament, comprising members of the Mobutu regime and the opposition, which would oversee the transition process, organize new elections, and establish political reforms over a two-year transition period. This period would be led by a CNS-elected government, while Mobutu's role would be that of a ceremonial presidency. A Transitional Charter further specified the political agreement, in August 1992, advocating a parliamentary system that granted the prime minister complete control of government, including control of key institutions such as "Ministry of foreign affairs, defence and interior, intelligence services, central bank, and state parastatals" (Nzongola-Ntalaja, 2002, p.202). The parliamentary system, embraced by the opposition, sought to curtail the excessive presidential powers. While it kept Mobutu as president, his presidential powers were reduced to a ceremonial role. However, Mobutu rejected the proposed transitional charter and maintained his absolute powers (HRW, 1997).

Mobutu exploited the ambiguities in the Comprehensive Political Compromise to thwart Tshisekedi's decisions. Known as *zones d'ombres* (grey areas), these ambiguities were central to the confusion that engulfed Zaire between August 1992 and July 1994 (Nzongola-Ntalaja, 2002, p.201). They included the status of the previous Constitution and Parliament; it was unclear whether the Compromise had abrogated them or not. Mobutu capitalized on these grey areas, created confusion within the opposition, which weakened them in their attempt to limit his powers.

Despite the existence of a transitional parliament, Mobutu's regime tried to block Tshisekedi's reappointment as prime minister by attempting to interrupt the electoral process and presenting strong rival candidates (Nzongola-Ntalaja, 2002, p.194). Yet, in August of 1992, around 71 percent of the Transitional Parliament's members voted in favor of Tshisekedi as Prime Minister, while his opponent, the Mobutu-funded Thomas Kanza, only garnered 27 percent (p.195). From 30 August to 30 November 1992, during the three months he functioned unopposed, Tshisekedi's government operated more like a caretaker government than one with full authority (Nzongola-Ntalaja, 2002, p.199). For his part, Mobutu created parallel institutions, created an incongruous cohabitation, though one in which two rival governing entities claimed to be ruling the country. In effect, in March 1993, Mobutu formed a parallel government that gained control of government institutions, he reintroduced his old constitution, convened the old parliament (Ibid), and appointed Nguza, the former prime minister, as Minister of State to the Presidency, along with other regime's hardliners (Ibid). Not surprisingly, as power struggle between the two rival governments intensified. Mobutu used the military as his key asset in this battle, while the former opposition used the streets, as could be seen when Mobutu's authority was defied by enormous popular demonstrations on 2 December 1992, following the release by the Central Bank of a 5 million Zaire note, which Tshisekedi declared to be invalid, and people complied with his directive by rejecting it as legal tender (Nzongola-Ntalaja, 2002, p.198).

After dismissing Tshisekedi on February 4, 1993, Mobutu appointed Faustin Birindwa, former UDPS national secretary, as Prime Minister on March 29, 1993. Here, we note the use of an old but almost always useful tactic, the appointment of someone from the opposition, in order to create divisions amongst its ranks (Mutua, 1993; Nzongola-Ntalaja, 2002). The HCR, along with the US, France, and Belgium, refused to recognize his government (Turner, 1997, p.257).

Despite receiving the backing of Mobutu, Birindwa's government lacked domestic and international support (Nzongola-Ntalaja, 2002, p.203). On the other hand, Tshisekedi, who regarded himself as the only legitimate prime minister, lacked the real power to exercise his authority (Mulumba, 2020). Thus, despite his dismissal, Tshisekedi insisted that his government was legitimate, which further intensified conflicts (Mutua 1993). Consequently, Zaire was torn between two parallel governments, headed by two prime ministers and two parliaments. Key religious institutions – such as the Catholic, Protestant, and Kimbanguist churches – and the High Council of the Republic (HCR), led by Monsignor Monsengwo, sought to end the power struggle between Mobutu and Tshisekedi. (p.203). However, after nine months of sporadic negotiations, talks between Tshisekedi and Mobutu ended in 1994, with Mobutu's allies gaining the upper hand as Tshisekedi's allies abandoned him (p.203). After the end of the CNS, the political environment was shaped by the fragmentation of opposition coalitions.

Having the upper hand in his battle against the democratic camp, Mobutu nominated Leon Kengo wa Dondo as a new Prime Minister in June 1994. By 1994, many of Tshisekedi's allies, both moderate and radical, abandoned him, significantly weakening his influence. Thus, while Tshisekedi claimed that his government persisted, it became irrelevant due to widespread defection and declining support among his former allies, who accepted positions within the pro-Mobutu government. Only the trade union remained aligned with Tshisekedi's and the 'radical opposition' (Turner, 1997, p.258).

While the Mobutu regime and the opposition were busy battling one another for the country's main political institutions, a more violent and destabilizing threat began to emerge at the country's periphery. An armed rebellion launched by the AFDL, led by Laurent Kabila, and supported by Rwanda and Uganda, launched attacks on the eastern DRC's border, with a direct

goal: ousting the Mobutu regime (Stearns, 2012). In response to growing rebel activities, Mobutu decided to endorse Tshisekedi in a bid to pacify the rebels who had already seized a third of Zaire and demanded his resignation and demonstrate willingness for democratic reforms. With significant public support, Tshisekedi was viewed as the only leader capable of unifying Zaire (Pierre-Pierre, 1997). Thus, Tshisekedi formed a government again on April 3, 1997, and offered six of the 24 ministerial posts, including the defense, foreign affairs, and budget ministries, to AFDL, an offer which they immediately rejected (Duke, 1997). However, to consolidate his authority, Mobutu declared a countrywide state of emergency and dismissed Etienne Tshisekedi as prime minister (French, 1997). A month later, the AFDL overthrew Mobutu after capturing Kinshasa on 17 May 1997, with Mobutu fleeing to exile in Togo (French, 1997). As the next section will show, although Laurent Kabila had constantly claimed to be seeking a rupture with the past, he actually reproduced the very same system he had so strongly denounced, becoming an authoritarian leader just like the one he had ousted.

Laurent Kabila: from rebel leader to authoritarian ruler

During his 1997 inaugural speech, President Laurent Kabila announced the start of “a new era,” emphasizing ideas of “republican birth,” “democratization,” and “national reconstruction” (de Villers, 1999, p.432). The notion of ‘rupture with the past’ is a recurring practice in the Congo’s history. Successive regimes have either promulgated a new constitution or revised an existing one: from the 1964 Luluabourg constitution to the May 1997 Constitutional Decree under Laurent Kabila, the claim is always that it constitutes a “rupture with the past” (p.433). However, after ousting Mobutu from power, Laurent Kabila pursued the

authoritarian footprints of his predecessor. In effect, Laurent Kabila's 1997 "Constitutional Decree-Law No. 003," granted the president absolute authority (p.435). While this constitutional decree safeguarded judicial independence on paper, in reality, the legislative and executive powers were under the control of the head of state (p.436). The National Executive Council, a ministerial council, which did not include a Prime Minister, was accountable to the president rather than parliament. The president set the national policy, appointed and dismissed ministers. Like Mobutu's era, major organizations like political parties and trade unions were not structured and lacked clear goals and action plans. Instead, most leaders operated like political "entrepreneurs" who depended on ever-changing, dynamic networks of allies and clients (p.439). After Laurent Kabila was assassinated in January 2001. This did not immediately change the architecture of the political system significantly, as his son Joseph took over and at first reproduced its main components (Englebert, 2003, p.77). Some reforms did occur, however, as we will see next

Joseph Kabila and the rise of competitive authoritarianism

At the time Joseph Kabila ascended to power in 2001, the country was fragmented, with several regions having become quasi-states under the control of rebel forces, including the Congolese Rally for Democracy (RCD) and the Movement for the Liberation of the Congo (MLC). In 2002, the Global and Inclusive Peace Agreement (or the "Pretoria Agreement"), signed between warring factions, established a transition government in 2003. This government followed the 1+4 arrangement with President Joseph Kabila surrounded by four vice presidents (Englebert, 2003, p.77-78). Then, in 2006, a new constitution was adopted (Lemerchand 2007;

Reyntjens 2007). This new constitution opened the door for new elections, the first ones in almost forty years. However, the rules of the game governing the 2006 elections were clearly undemocratic and favored Kabila as the incumbent. During the elections, which Kabila easily won, and in its aftermath, the regime resorted to violence to crush its opposition, while also using the National Intelligence Services, and arresting and prosecuting journalists, even murdering some of them (Carter Center, 2011, p.52, 2006, p.47; Englebert, 2019b; HRW, 2006). At the end of Kabila's first five-year term, in 2011, a second presidential and legislative election was held. Once again, thanks to the regime's controlled electoral commission, Joseph Kabila was re-elected. The decisive moment occurred towards the end of his second term, which was to officially end in 2016. A year or so before, Kabila's allies sent signals that Kabila might run for a third term, even though the constitutional term limits did not allow it. Although the two-term rule was not changed, Kabila found a way to extend his term for another two years. Initially, the government had postponed the 2016 elections, citing logistical and financial challenges. Consequently, under pressure from the Kabila government, the CENI pushed the votes back to 2017 and then to late 2017. Additionally, during that time, the government, the opposition and civil society organizations held additional dialogues. Led by Vital Kamerhe, the first national dialogue led to the OUA accord and the formation of a coalition government. After this accord collapsed, the "Saint Sylvestre Accord" was reached, creating another coalition government. After two years, Kabila eventually agreed to step down, agreeing not to run for a third (and illegal) term. This set the stage for the 2018 elections, where Kabila would not be a candidate.

Conclusion

Cohabitation is a rare political phenomenon in the Congo and across Africa as well. There were, nonetheless, a few episodes that can be considered as cohabitation-like moments. The power-struggle between Lumumba and Kasavubu at the very onset of Independence was in effect a cohabitation between two rival leaders and their organizations. It is important to notice that this Lumumba-Kasavubu cohabitation operated under a parliamentary system, since the Congolese Constitution concentrated executive authority in the legislature rather than parliament, with the prime minister as the head of government. As we saw, this stand-off between the two rivals paralyzed the government and led to the first military intervention of Mobutu in 1961. After a few years of civilian rule, Mobutu eventually fully seized power through his 1965 coup. This led to a 25-year of closed authoritarian rule.

In the context of the global ‘Third Wave of Democratization’, which hit Africa at the turn of the 1980-1990s with the end of the Cold War, the Congolese political system went through another episode of institutional instability. Global and domestic pressure for democratization prompted Mobutu to convene a Sovereign National Conference. During this period, the Sacred Union opposition group sought to diminish the excessive powers of the president. Tshisekedi was appointed prime minister thrice (1991, 1992-1993, and 1997), but Mobutu systematically dismissed him each time, as he refused to share power with a rival. Meanwhile, the AFDL armed rebellion, led by Laurent Kabila, eventually overthrew Mobutu. However, after seizing power, Kabila mimicked the authoritarian playbook of his predecessor.

Following his father’s assassination, Joseph Kabila came to power when the DRC was fragmented into mini states by different rebel forces. He agreed to negotiate and shared power with belligerent groups. Consequently, the 1+4 power-sharing formula established a transition

government, with Kabila as president surrounded by four vice presidents. In contrast to the Kasavubu-Lumumba era, with its parliamentary system, and to the Mobutu and Kabila eras, with a full presidential system, the 2006 Constitution established a semi-presidential system. However, the conduct of the first multi-party election in 2006, and of the subsequent one in 2011, left no doubt about the authoritarian and hyper-presidentialism nature of the regime. Despite allowing multiparty elections, the 2006 electoral process was heavily influenced by the incumbent regime, which controlled key state institutions, including the security apparatus and the electoral management bodies. The overwhelming concentration of power in the presidency, combined with weak checks and balances, ensured that the newly elected president, Joseph Kabila, maintained a dominant grip on government institutions. Thus, multiparty elections did little to alter the centralized and personalized system of rule. The 2011 elections further reinforced the authoritarian and hyper-presidential character of the regime. The electoral process was marred by more overt irregularities, including biased oversight by the electoral commission, which was perceived as loyal to the incumbent. Opposition parties and civil society groups reported systematic harassment and limited media coverage, while state resources were used to finance the ruling party's elections. Together, the 2006 and 2011 elections demonstrated that, despite the formal existence of a multiparty system, the DRC's electoral system functioned within a framework that entrenched authoritarian practices, limiting the prospects for meaningful democratic consolidation. However, with Kabila's unexpected decision not to run for the 2018 election, what was until then a mere theoretical possibility, that is, the election of a President and of a National Assembly that belong to two rival camps, became a reality. How this unprecedented cohabitation unfolded is the subject of the next chapters.

Chapter 5: Rumble in the Mines at the Time of Cohabitation: How a Change of the Guard Failed to Change the Mining Sector

Introduction

Since its creation as a colonial polity and later as a postcolonial state, from the private property of the Belgian King to the Democratic Republic of the Congo, politics and mining have been inextricably fused. During the early stages of its rule, the colonial state shrewdly exploited the opportunity to develop industrial mining, which altered power dynamics and patron-client relations among local elites (Geenen and Cuvelier, 2018, p.6-7). These local power dynamics and property ownership, including land, shifted drastically under the post-colonial state. In June 1966, President Mobutu introduced the Bakajika law, which transferred all lands and resources, above and below it, from communal ownership to the state. As a result, this law solidified the state's territorial sovereignty over natural resources and authorized it to grant mining concessions to foreign mining conglomerates (Rubbers, 2023, p.77). Since then, capturing state power has become intricately interwoven with the control of mining, especially given that mining has served as the key source of revenue for successive regimes. The *Société générale des carrières et des mines*, commonly known as Gécamines, is the most important mining company in DRC's history. Since its inception in 1966, this mining parastatal has been one of the biggest employers and a key source of revenue for various state projects and social amenities. Gécamines has failed to contribute to the DRC's social and economic development and has systematically funded authoritarian regimes by acting as a cash cow for the ruling elites, financing the coercive state apparatus and elections to legitimize the regime (Kaiser and Wolters, 2009). In an interview, a politician affiliated with the BUREC party summed up so clearly: "Despite efforts to advance

democratization, the mining sector remains the bedrock of the DRC's economy and continues to be under significant control of the elites. Successive regimes have consistently strived to control the mining sector as a means of consolidating power. When a regime controls the mining sector, this effectively implies that they control the entire economy, especially given that mining represents the biggest source of revenue for the Congolese state.”⁴

This chapter has three objectives: First, it demonstrates how the newly elected President Tshisekedi faced immense challenges in his attempt to control Gécamines during the FCC-CACH cohabitation (2019-2021). Both Tshisekedi and Kabila blocked one another in the appointment of senior officials in the mining sector, each trying either to impose their loyal supporters or to protect them from their rival's attacks. However, as I will explain, after the rupture of the cohabitation government in December 2020, Tshisekedi asserted his authority over Gécamines, although this process remained incomplete as the Kabila loyalists were not displaced from the local and less visible echelons of the mining sector. The second objective of this chapter is to demonstrate how Tshisekedi's control over Gécamines has *not* entailed dismantling the predatory nature of the old regime in the mining sector. In other words, the “change of the guard” has not led to a change of the system.

Lastly, this chapter explains how the power struggle between President Tshisekedi and Joseph Kabila must be understood in light of the geopolitical showdown between China and the United States over the control of the DRC's critical minerals, such as lithium, copper and cobalt. The United States supported Tshisekedi and encouraged him to renegotiate the Chinese mining contracts signed during Joseph's Kabila's era, which had developed solid ties with Beijing.

⁴ Individual Interview 39, November 14, 2021, International Conference on the Great Lakes Region (ICGLR).

Although Tshisekedi used US leverage to his advantage in its fight against the Kabila circle, the latter and its Chinese partners are not so easily dislodged in the mining sector.

Thus, I position this study of the political economy of the mining sector within the theoretical lens of neopatrimonialism and rentier state theory. Gray (2018) presents how neopatrimonialism and rentier state theory overlap. Neopatrimonialism illustrates how oil-rich governments dispense revenues to sustain patronage networks that serve as a substitute for broader legitimacy or electoral support. Elites' competition over access to patronage and rent seeks to curtail potential challengers from emerging within the ruling coalition. However, ruling elites forge their own patronage network within the neopatrimonial structure to consolidate influence and power; they are the channel through which rents and political hierarchies are distributed from the center of power to different forces and factions. Thus, the ruler promotes a cult of personality and a façade of robust leadership to project an image of charisma and public appeal. Rulers also manage elites' relationships in an unclear manner that encourages informal political networks (Gray, 2011). Hence, kickbacks, proxy proprietorship, and coercion are key to sustaining the longevity of autocrats' ruling coalitions (Levitsky and Way, 2010, p.28).

The rentier state theory helps us to understand the ramifications of global superpower competition over the natural resources sector in countries of the Global South. Let us recall that rentier states “largely dependent on extractive resource rents, taxes and royalties paid by transnational companies (TNCs), and on profits from their equity stakes in TNC’s investments” (Omeje, 2010, citing Forrest, 1993; Karl, 1997). In this context, we can now better understand how, in the DRC, the China-US competition over the control of the DRC’s critical minerals shaped power dynamics in the cohabitation government and sustained authoritarianism. Furthermore, since neopatrimonial regimes have weak institutions, formal rules and regulations

are regularly bypassed by the informal webs and personal relations. In these regimes, power is centralized around a strong ruler and a small clique of ruling elites who control access to resources and patronage networks (van de Walle, 2001; Erdmann and Angel, 2007). This access to public resources is what links neopatrimonialism to rentier state theory (Bank and Richter, 2010, p.2-3). With these theoretical considerations in mind, we can now begin to analyze closely the case of the DRC. However, before discussing these three main arguments of this chapter, let us first provide a brief historical overview of the politics of the mining sector in the DRC, as this will help set the stage for a clearer understanding of the chapter's key argument.

The Political Economy of Mining in the Congo: A Brief Historical Context

Since the 19th Century, foreign mining companies have influenced politics, governance, and security in what became the DRC (Hönke, 2010, p.111). The Belgian colonization in the Congo was almost exclusively devoted to the expropriation of natural resources (Hochschild, 1999). On October 28, 1906, Leopold II decreed the creation of the Union Minière du Haut Katanga (UMHK), which became the world's producer of cobalt and radium, and the third biggest producer of copper (Radmann, 1978, p.25). The UMHK was a subsidiary of the *Société Générale de Belgique*, which was at that time the largest investment bank in Belgium and one of the largest in Europe (Gibbs, 1992, p.172). Shortly after attaining Independence in 1960, the Congo faced a series of crises, primarily driven by the interests of the UMHK, which was also the pillar of the Congo's (and after 1971, Zaire) economy as it constituted 60 percent of its exports and 75 percent of its foreign exchange profits (Radmann, 1978, p.25).

After Mobutu seized power in 1965, the UMHK became a key target of his nationalist agenda (D. Gibbs, 1997). On June 7, 1966, he promulgated into law a bill that gave his regime

the power to nationalize foreign companies (D. Gibbs, 1997). On January 1, 1967, Mobutu nationalized UMHK and seized its vast assets. In response, the Congo's copper suffered a decline after the UMHK lost its visibility in the global market. However, to preserve the operation of mining, Mobutu established a new state parastatal called GECOMIN (Générale Congolaise des Minerais), which later became Gécamines in 1971 (Ibid). Despite tensions with foreign investors, part of Mobutu's reason to nationalize UMHK was to prevent one of his rivals, Moise Tshombe, who had led the secessionist movement in 1960-1963 and was appointed prime minister in 1964-1965, from using UMHK's resources to return to power (Waites, 2012, p.253).

After nationalizing the UMHK, the Zairian state lacked both the technical and financial capacity to manage the company's mining operations effectively. Consequently, Mobutu opted to reach a compromise with the UMHK in February 1967. Under the new deal, the Republic of the Congo retained ownership of the copper mines via GECOMIN, a public mining enterprise, while the UMHK was allowed to operate the mines through its newly established subsidiary, Societe Generale des Minerals (SGM) (Gibbs, 1997, p.179). However, Gécamines began to suffer significant financial losses in the late 1970s due to state capture and embezzlement of public funds. This hemorrhage exacerbated in the 1980s after Zaire had accrued huge debt and was compelled to embrace the structural adjustment programs of the Bretton Woods institutions. Consequently, Mobutu had to further deplete Gécamines' resources to sustain his regime and maintain control over the large clientele network of the Zairian state (Rubbers, 2006, p.119). As Young and Turner (1985, p.43-44) remind us, "by 1977 Mobutu himself spoke of the state as 'one vast marketplace' whose authority was monetized by an 'invisible tax' levied by the state's agents on all its daily transactions."

After the Mobutist regime eventually collapsed, its successor, Laurent Kabila (1997-2001), tried to revive Gécamines to restore its significant contribution to state coffers. To achieve this, Laurent Kabila opened the mining sector to private investors (Abadie, 2011) and began selling off Gécamines concessions in the 1990s and early 2000s (Carter Center, 2017, p.6). Like his predecessor, Laurent Kabila adopted neoliberal policies, prioritizing industrial over artisanal mining, which enabled his regime to centralize the collection of mining revenues (Smis et al., 2002, p. 381). Gécamines sold its first mining concession to private investors immediately after Laurent Kabila's AFDL captured Lubumbashi, the mineral-rich hub of the Katanga region. The revenues from these sales helped Kabila to topple Mobutu and later combat military invasion from Rwanda and Uganda (Carter Center, 2017). During the Congo wars, Kabila traded the DRC's valuable minerals for military support from Angola, Namibia, and Zimbabwe, and a significant portion of the revenues ended up financing the war and pocketed by the elites (Africa Confidential, 1998; Nest, 2001).

Foreign mining companies, financial institutions, law firms, and telecommunication companies scrambled for minerals in rebel-controlled regions. For example, on 16 April 1997, about a month before AFDL toppled Mobutu's regime, Laurent Kabila's Finance Minister, Mwana Nanga Mwampanga, signed a \$1 billion mining deal with America Mineral Fields (AMF), headquartered in Hope, Arkansas. AMF's president, Jean-Raymond Boulle, had close relations with President Bill Clinton and was invited to attend the first inauguration. Boulle supplied AFDL rebels with his Lear jet and an advance \$1 million in mineral taxes in exchange for an estimated \$16 billion contract to rehabilitate and construct the DRC's zinc and copper mines (Rever, 2018, p.22).

After the death of Laurent Kabila in January 2001, his son, Joseph Kabila, took over. During his rule (2001-2018), several opaque sales of Gécamines' concessions to private firms revealed a pattern of corruption (Global Witness, 2014). The Africa Progress Panel (APP), an advocacy organization, produced the 2013 Africa Progress Report which revealed that between 2010 and 2012, the DRC lost approximately \$1.36 billion from secret sales of mining assets to offshore companies, which were later resold at an exorbitant profit (Global Witness, 2012) to investors who had ties to Kabila (Carter Center, 2017, p.5). The APP also revealed that between the same period (2010-2012), Gécamines sold its concessions to multinationals through opaque, dubious, and secretive deals that profited ruling elites instead of serving the public (Global Witness, 2017; Matti, 2010).

Although the state's formal institutions were to some extent restored after the 1996-1998 war, the same neopatrimonial logic of old regimes continued to guide how rulers operated: gaining access to political entrepreneurs' networks has remained a prerequisite to securing mining deals. The miniature network of Kabila's inner circle in Kinshasa monopolized control of Katanga's mineral resources, making networking with political elites a key prerequisite for doing business in the region (Hönke, 2010, p.117). More generally, in an interview with a senior Afrewatch official, I was informed that "Kabila's clan remained influential beyond the mining sector. Their businesses are meshed in the DRC's broader economy, including ports, the aviation industry, hotels, and real estate. Additionally, the Eagle Company, known for importing food in Kinshasa, is controlled by people with close ties to Kabila."⁵ This echoed what this politician of the BUREC party, and a former ally of the FCC and now Tshisekedi's Sacred Union, stated:

⁵ Individual Interview 19, Afrewatch October 7, 2021. A similar observation was made in Individual interview 47, UNIKIN, January 12, 2022.

The mining industry is often dominated by the ruling elites. During Kabila's rule, all the mining contracts that were signed had been conditioned by the retro-commission system, where all signed required a 10 percent commission payment for access contracts. [...] This ensured that, despite the DRC's transition toward democracy, the mining sector remained in the hands of political elites to the detriment of the people. [...] The system, known as Kabilism, resembled an empire, where you had the emperor at the apex, and then you had kings who controlled territories, each occupying a specific level within this hierarchy of power, the emperor, Kabila, maintained significant economic interests through Gécamines.”⁶

Interestingly, according to the DRC mining code, “a person and their affiliated companies are limited to holding a maximum of 50 exploration permits.” Yet, to take one example that illustrates how the reality differs from official texts, Kwango Mines, operated by Excel Holding, which is controlled by Kabila's sister, Jaynet Kabila, possessed 53 permits alone (GEC and Pulitzer Center, 2017, p.11). President Joseph Kabila, along with his wife Olive Lembe, and their two children, Sifa and Laurent-Desire, hold over 100 permits for diamonds and gold (p.12). This revealed the pervasive and embedded nature of elite capture in the DRC's mining sector, where legal frameworks are consistently circumvented by those connected to power.

Although I have already alluded to the international aspect of the mining sector's political economy, it is essential to explore deeper into the rivalry between the United States and China in the years leading up to the 2018 elections. This will provide a better understanding of parts of the

⁶ Individual Interview 39, November 15, 2021, BUREC party. A similar comment was made by Individual interview 39, November 15, 2021, ICGLR.

conflict between Kabila and Tshisekedi over the control of the mining sector since the unprecedented 2019 alternation in power in the DRC. Many experts like Patrick Mbeko, Christian-Geraud Byamungu, and Andrea Bianca Urs have hypothesized that the US backed President Tshisekedi throughout the cohabitation period instead of the FCC due to his perceived willingness to advance American mining interests over those of China.

Whether this hypothesis is confirmed or not, it remains certain that, as in previous decades, geopolitical battles between major powers, this time the US and China, influenced competition among Congolese political leaders prior to the 2018 elections. This link between international and domestic dynamics is crucial to analyze, given the significance of the DRC's natural resources sector, which attracts considerable foreign interest. In that regard, Omeje (2010) reminds us that home countries of multinationals operating in rentier states like the DRC interfere either covertly or overtly in the politics of the host countries. They are usually associated with sustaining repressive and corrupt regimes, supporting coups and political assassination of nationalist rulers; providing military cooperation and equipment to reinforce the coercive capacity and even engage in military offensive to facilitate regime change, enabling continued exploitation of precious minerals. In essence, foreign actors, especially superpowers such as the US and China, wield significant influence over the DRC's domestic politics.

The rising role of China is best exemplified by one of the DRC's largest mining contracts, which were signed with China, were in 2008. The contract, based on a kind of barter trade, led Kabila's regime to exchange DRC's mineral wealth for infrastructural development valued at \$9 billion, but later revised at \$6 billion after enormous pressure from the IMF (Forson, 2021). The Sinohydro and China Railway Engineering Corporation (CRECG) were responsible for implementing the infrastructural projects. Chinese corporations own 68 percent

of the stakes, while Gécamines owns the remaining 32 percent. In addition, it is important to consider the strategic rise in global demand for minerals like cobalt and lithium, crucial in the transition to clean energy. This has elicited a new geopolitical race in green technologies between the US and China. With 70 percent of global cobalt reserves and untapped lithium deposits, vital in the manufacture of electric vehicle (EV) batteries (Andreoni and Avenyo, 2023, p.5), the DRC has become a key battlefield for these superpowers, holding considerable comparative advantage and courting their attention. In that regard, one must note that China currently controls “around 60 percent of the global EV battery market, and....around 70% of the DRC’s mining sector market share” (van Dalen and Gopaladas, 2023). Since 2020, Chinese firms have controlled 15 out of 19 cobalt mines in the DRC (Lipton et al., 2021), solidifying China's dominance in the rare earth minerals global supply chains.

In that context, the US had to react to this growing presence of China in the DRC. It appears that the US has been seeking to diminish China’s global supply of these critical minerals (Bartlett, 2023). According to an official in the MDVC party, when Kabila signed these major contracts with the Chinese, he

sinned against his Western godfathers by giving mining contracts to China. The US had financed the DRC’s transition period, including the 2006 elections and endorsed Kabila’s presidential bid in anticipation of gaining access to the DRC’s mineral wealth, which Kabila did not obey. There was already a power battle of what I call “strategic positioning” between the US and China. China is evolving economically and is positioning itself as the next superpower. The US

sponsored Kabila's downfall and even fought the Sino-Congolese contract at the international market and pushed for renegotiation.⁷

In the same vein, it was reported that Dominique Strauss Kahn, then Managing Director at the IMF had visited Kinshasa to pressure Kabila's regime to revise the contract (SAIIA, 2011). Also, John Kerry, then US Secretary of State, had even visited the DRC in 2014 to urge Kabila not to run for a third term (Gordon 2014). Thus, by collaborating with China while still under the influence of his American godfathers, Kabila opened the ground of conflict with the US that had sponsored his ascendancy to power. Numerous mining contracts signed by American mining companies were revised by Kabila's regime to their disadvantage (Mbeko, 2021). A University of Kinshasa professor confirmed this, saying that competition over mining interests, rather than democracy, led to the end of Kabila's tenure. Thus, Kabila's exit from office is much linked to the exogenous pressure from the US over mining interests that are currently controlled by the Chinese mining multinationals. Another center of conflict was the introduction of the 2018 new mining code, which was fiercely protested by multinationals.⁸

Indeed, one of the key contracts that has been at the center of the power-battle between the US and China is the \$6 billion China mining contract awarded by the Kabila's regime to Chinese multinationals (Ross and Reid, 2021). As we will explain further in the last section of this chapter, the US-China rivalry that unfolded in the mining sector during the Kabila era had

⁷ Individual Interview 30, October 28, 2021, MDVC

⁸ Individual Interview 44, January 20, 2022, UNIKIN. Also see Individual Interview 38, November 10, 2021, UNIKIN and Individual Interview 37, November 10, 2021, UNIKIN for similar observations made by a former PPRD member and an academician. and an academician respectively.

some important repercussions during the Tshisekedi rule and the politics of cohabitation that ensued.

In conclusion, this brief historical contextualization aimed at demonstrating the history of predatory practices in the DRC's mining sector. The colonial system of predation was partially reproduced in the post-colonial era. Gécamines was one of the biggest employers in the DRC and the heart of its economy from independence up to the early 1970s. Mining was the pillar of Mobutu's regime, a key source of funding to finance his coercive security apparatus and sustain political elite loyalty. Mineral rents were systematically diverted to both finance the security sector and sustain the ruler's patronage networks by awarding them with mining contracts. Thus, Mobutu's survival was sustained by resource control and political patronage. During the 1996-1998 wars, mining was used to finance rebellions by making business contracts with foreign mining companies in seized territories. As a rebel leader, Laurent Kabila used mining contracts to finance his rebellion, rewarding his loyalists, including foreign military allies. Thus, mining extraction was the motive to start the war and the basis of its persistence. These economic interests were part of the motives in the assassination of Laurent Kabila. After Joseph Kabila assumed power, and he adopted a new mining code that championed the privatization of the mining sector. However, privatization did not change the predatory control of the mining sector; instead, it transformed its structure, how it has been organized by the political elites.

The Politics of Appointments

In this section, I analyze the post-election strategies put forward by President Tshisekedi to gain control of the largest public enterprise of the mining sector, Gécamines, from his

predecessor. In the cohabitation context, I illustrate how Tshisekedi's capacity to maneuver was constrained by the FCC-dominated parliament. During the cohabitation that brought together Kabila's FCC and Tshisekedi's CACH (hereafter FCC-CACH coalition), Tshisekedi faced some strong opposition from Kabila and his cronies, who continued to wield significant influence at Gécamines through the previous appointments that favored his allies. However, the shift in influence within the FCC-CACH government occurred after Tshisekedi's Sacred Union Coalition formed a new majority in the National Assembly, enabling Tshisekedi to consolidate power by appointing his close allies to strategic positions. This significant turning point allowed Tshisekedi to significantly diminish the longstanding influence of Kabila and his allies.

The landscape of influence in the judiciary shifted after the FCC, which held a parliamentary majority, lost its dominance, following the defection of several FCC deputies to Tshisekedi's camp. After the change of majority in the National Assembly, the FCC coalition, which held the legislative majority, lost. After the shift in the parliamentary majority, Tshisekedi was able to break free from his predecessor, Joseph Kabila, and gain complete control over government institutions.

The battle over appointments must be understood as a tangible manifestation of a competitive neopatrimonial system. Within a neopatrimonial regime, the president typically wields significant influence and authority over government institutions, including parliament and the judiciary. As Bratton and van de Walle (1994) explained, neopatrimonial rulers exert authority through patronage rather than adhering to the rule of law or an ideology. Similarly, Gray (2011) averred that in a rentier-state, the ruler utilizes rent to control and reward elites' networks to maintain power, rather than relying on popular support or elections for legitimacy (p.277). However, as I demonstrate, in the context of cohabitation between the FCC and CACH,

the neopatrimonial ruler's capacity to maneuver freely was constrained by the FCC-dominated parliament. As a result, the ruler found himself unable to place his cronies in key positions within Gécamines and expand his patronage network to distribute material goods. This limitation stemmed from the fact that parliament, a pivotal player in the exercise of power, was not under his control. Hence, during the period of cohabitation, Tshisekedi governed without truly ruling. Although he held executive authority, he lacked the influence or control typically associated with a president in a neopatrimonial regime.

As we explained previously, the cohabitation between the FCC and CACH was a marriage of convenience, a political partnership formed for the sake of political survival and conquest of power. However, as time went on, divisions and conflicts started to surface, driven by the scramble among the elites for government positions and other material benefits. As the cohabitation eventually crumbled, in large part due to the strategies of President Tshisekedi, he increasingly succeeded in taking control of the sector.

To understand what was at stake in the appointments of key positions at Gécamines, we must first specify the formal rules surrounding this process. It is the President who constitutionally holds the powers to appoint the different chairpersons of state parastatals, including the Chairman and the Board members of Gécamines (Cros, 2020; Zoom Eco, 2020). When Tshisekedi was elected president, that power of appointment was naturally bestowed on him. As a senior official from *Resource Matters NGO* told me, "In the mining sector, the acts of appointments make the president the boss of all the bosses. Besides, since we are in a system where people like privileges and impunity, the president has zero parliamentary responsibility; he can do whatever he wants. Indeed, who is going to question him? The law does not allow even

parliament to question the head of state.”⁹ But this is where the cohabitation situation complexified the process and forces us to nuance what this official is saying. In effect, in the context of a cohabitation, the presidential power of appointment was constitutionally checked by the fact that his signature must be countersigned by the Prime Minister and then implemented by the Minister of Public Portfolio (Gata, 2020; Vondi, 2019). As we recall, during the cohabitation period, both the Prime Minister and the Minister of Public Portfolio were from Kabila’s FCC coalition. Not surprisingly, Tshisekedi’s attempts at appointing a new Gécamines Chairman were blocked by the FCC deputies (Tshiamala, 2019). This demonstrates that, at the dawn of the coalition government, Kabila exercised power behind the scenes, especially since his allies occupied key positions in the government, while Tshisekedi’s CACH occupied lower ministerial posts (Cheeseman, 2020, p.30). Thus, Kabila had the power to veto Tshisekedi’s policies as he preferred (p.30-31).

Let us now look more closely at the events surrounding this appointment struggle. One of the most important battles between the two camps was fought over a key *dramatis persona*, Albert Yuma, Gécamines’ Chairman of the Board of Directors. As we explained above, Yuma occupied this position since 2010. During Kabila’s tenure, Yuma had enormous influence and exercised power beyond his role, especially after Gécamines’ Director General was fired by Kabila in 2014 and never replaced (Clowes, 2019). He took almost all the big decisions. Even the Prime Minister and the Minister of Mines were left in the dark regarding how the rights of Gécamines were sold. Everything was done between the presidency and Yuma. As this top official of Resource Matters stated: “Yuma rendered enormous services to Kabila. Beyond the

⁹ Individual Interview 24, October 18, 2021, Resource Matters.

individual level, these actors have strong informal interpersonal and inter-family relationships. Kabila has built relations with all these actors.”¹⁰ Yuma was also instrumental in the creation of the 2018 new Mining Code, which, he argued, addressed the imbalance of mining revenues between the DRC and foreign mining companies (RFI, 2019d). As we recall, the 2018 mining code, promulgated on 9 March 2018 by President Kabila, sought to boost the DRC’s revenue share in mining projects. This resulted in tension between the government and foreign mining corporations over increased taxes and royalties. These increases included a 10 percent royalty on strategic minerals such as cobalt, germanium, and coltan; increased royalty rates for iron and ferrous metals from 0.5 percent to 1 percent and from 2.5 percent to 3.5 percent for precious metals. It also introduced a 50 percent on bonanza, when the profits of the mining corporation unanticipatedly surpass the project plan above 25 percent and raise the government’s free share from 5 to 10 percent (Le Bec, 2019; S. B. Tshiamala, 2019).

After the 2018 election, in the context of the cohabitation, Kabila sought to nominate Yuma as the new Prime Minister. Kabila’s party claimed the prerogative to designate a Prime Minister since they had the biggest number of deputies in the National Assembly (RFI, 2019a). But after several weeks of uncertainty, in April 2019, Tshisekedi rejected Yuma’s designation, arguing that he had a poor international record (Bujakera and Paravicini, 2019). Several NGOs, including Global Witness and the Carter Center, had linked Yuma to the disappearance of millions of dollars from Gécamines coffers during Kabila’s regime (RFI, 2019b). Kabila eventually accepted Tshisekedi’s refusal to nominate Yuma. It took many more weeks before the current and former presidents could finally agree on the nomination of Sylvestre Ilunga, a

¹⁰ Individual Interview 24, October 18, 2021, Resource Matters.

member of Kabila's party, at the end of May 2019. As for Albert Yuma, although Kabila failed to nominate him as Prime Minister, Tshisekedi agreed to keep him as the Gécamines' Chair in June 2019, hence the status quo remained (Hoebeke, 2021, p.6).

Tshisekedi's renewal of Yuma's appointment could be seen as another victory for Kabila. In an interview, a senior politician from the ECIDE party explained that "the reinstatement of Yuma as chairman of the board of directors demonstrated that Kabila still held significant influence at Gécamines."¹¹ But the reality was more complex and suggested that Tshisekedi was playing his cards increasingly well. Despite appointing Yuma as Chairman of Gécamines, Tshisekedi also appointed his own ally, Sama Lukonde, as Director General to second Yuma at Gécamines. The FCC complained that Tshisekedi had surrounded Albert Yuma with board members who were his own allies. Yuma's powers at Gécamines were therefore restrained by Sama Lukonde and other new board members who were his own allies (Bloomberg, 2019). Tshisekedi's appointments sought to dispossess Yuma of his excessive powers (Ross, 2020). Tshisekedi justified his nominations, stating that he wanted Gécamines to stop being a kind of cash cow for certain politicians (Clowes, 2019). As a senior official at the Ministry of Mines stated in an interview: "Despite [Yuma's] reinstatement, Kabila's influence was minimal in this parastatal since Tshisekedi had appointed several of his cronies to counter the powers of Yuma." Besides, a Carter Center mining expert stated in an interview that, "the approval of Tshisekedi's designation at Gécamines revealed that he had begun to consolidate his power."¹²

Tshisekedi's nominations of the new board members of Gécamines created tensions in the National Assembly, with FCC deputies questioning their legality (RFI, 2019d). They

¹¹ Individual Interview 34, November 4, 2021, Private home.

¹² Individual interview 18, October 7, 2021, held at a Bar.

protested that these nominations contravened the law as they were cosigned by the outgoing Prime Minister, Bruno Tshibala, instead of being countersigned by the FCC, allied incoming Prime Minister, Ilunga Ilunkamba. As a National Pedagogical University (UPN) professor observed, “The FCC ministers could sometimes reject the authority of the President. Their objectives were to block Tshisekedi and limit his powers.”¹³ The fact that the FCC reacted in bloc to protest Tshisekedi’s nominations at Gécamines, regardless of keeping Yuma as its chairman, shows that they saw it as a threat to their power. For about a year, the Minister of Public Portfolio blocked these nominations, indicating that Tshisekedi was struggling to establish his authority over Gécamines (Ross, 2020). Unlike his predecessors, Tshisekedi’s capacity to exert complete authority was thwarted by a parliament that was still controlled by his predecessor. As Levitsky and Way (2010, p.57) assert, the incumbent’s control of parliament effectively removes the legislature as a potential battleground for power. Hence, when the incumbent does not possess a parliamentary majority, deputies may oppose him in many ways, including obstructing his nomination decrees to key government posts, establishing new procedures for managing elections, and providing parliamentary immunity to shield prominent opposition leaders from legal trials. After Tshisekedi’s nominations were blocked by the FCC in the National Assembly, his UDPS supporters attacked the legislative building, while chanting slogans of support for the President; they also assaulted deputies who were trying to access Parliament, and they demanded an end to the FCC-CACH coalition government (Radio Okapi, 2019). To find a way out of this situation, Tshisekedi sent a delegation, headed by his chief representative and special envoy Kitenge Yesu, to negotiate with the pro-Kabila National

¹³ Individual interview 5, September 21, 2021, Bibliothèques Wallonie-Bruxelles, in Kinshasa.

Assembly majority, headed by Vice President Jean-Marc Kabund. They eventually reached a deal to implement Tshisekedi's executive orders (Kibangula, 2020). It is at this time that the Minister of Public Portfolio decided to approve Tshisekedi's nomination of the new board of directors at Gécamines (Ross, 2020).

The shrewd power struggle over the control of Gécamines and the steady diminishing of Kabila's power were more evident in several incidents that threatened the vast favors his cronies were enjoying. For instance, Kabila's handpicked successor in the 2018 presidential election, Ramazani Shadary, and his own sister, Jaynet Kabila, were barred from boarding their flight in February 2020 at the airport in Kinshasa for improper use of diplomatic passports (La Libre Afrique, 2020 and Africa Intelligence, 2020). Kalev Mutond, the former Chief of the National Intelligence Agency (ANR) under Kabila, was temporarily arrested at Ndjili airport in Kinshasa on February 12, 2020, and his diplomatic immunity rescinded (Cros, 2020; Tshiamala and Gras, 2020). General Delphin Kahimbi, another close collaborator of Kabila and the deputy chief of staff in charge of military intelligence, mysteriously died on 28 February 2020 (Gras and Tshiamala, 2020a). Before his demise, Kahimbi was summoned on several occasions in October 2020 to appear before the DRC's Security Council to answer to accusations of plotting to destabilize President Tshisekedi's regime (Mediacongo, 2020a; Tounkara, 2020). Still in the military, General John Numbi, one of the most powerful figures of Kabila's regime, was removed as the army chief by Tshisekedi on 17 July 2020. In December 2019, Albert Yuma was prevented from leaving Kinshasa due to an investigation concerning a controversial agreement between Gécamines and Dan Gertler, an Israeli mining mogul and a close ally of Kabila (Hoebeke, 2021, p.11). All these examples show that the two camps were continuously harassing

one another. In the above cases, we can see how the Tshisekedi circles were able to make life complicated for many Kabila cronies through various administrative actions.

This being said, dismantling the Kabila networks from the mining sector was a difficult task and could not be done quickly, as the next section will show. As I will argue, years of neopatrimonial management of the most lucrative sector in the country could not be changed easily. In fact, as I will demonstrate later, the neopatrimonial management remained intact; the battle was centered on who controlled its operations.

The Gradual but Incomplete Consolidation of Tshisekedi's Control over the Mining Sector

In this section, I demonstrate how Tshisekedi began to consolidate his influence at Gécamines by replacing Kabila's allies with his own loyalists after gaining control of the parliamentary majority. However, Tshisekedi's power consolidation at Gécamines does not always indicate that he has dismantled Kabila's system of predation in the mining sector. Thus, to analyze this continuation of neopatrimonial practices and power struggles I seek to trace the shadow of Kabila in the mining sector at two levels: first at the macro level, thus in the structure of a larger mining company, including the supply of goods and services to the mining companies, where the Kabilists still hold significant interests; and second, at the artisanal mining level, where Tshisekedi's political family has gained significant entry. This confirms the argument made earlier, which is that this particular neopatrimonial configuration was one where the President did not enjoy full control, but had to share it with his rival. Furthermore, I will examine

the conflicts that have emerged over access to and control of mining interests in Tshisekedi's ruling coalition.

Tshisekedi's capacity to take control of a larger portion of the mining sector began when he finally succeeded in acquiring the majority in parliament due to the shifting political incentives and power dynamics, as I elaborated further in Chapter 6. A wave of mass transhumance of deputies from the FCC coalition, through the defection of their party affiliation from the Kabila to Tshisekedi's camp, enabled the latter to form a legislative majority without organizing new elections, exerting control of state institutions, including the mining sector. This is when he obtained the capacity to nominate the new Minister of Mines. This means that the history of the mining sector is repeating itself as if it is being governed by the same political logic since the 1960s (Rubbers, 2023a).

As the tide of power struggle shifted in his favor, Tshisekedi ended a decade of tenure of Albert Yuma, as chairman of the board of directors of Gécamines by replacing him with Alphonse Kaputo Kalubi, on December 3, 2021 (Mudiayi, 2021). Thus, after gaining control of the National Assembly, Tshisekedi was able to restructure the upper management of Gécamines. The reshuffle consolidated the influence of Sama Lukonde, the former Director General of Gécamines and then Prime Minister, appointed by Tshisekedi in both capacities. Other replacements of several pro-Kabila officials included Gécamines' Secretary General Deogratias Ngele Masudi, an ally of Albert Yuma (who was replaced by Patrick Pungwe, a former adviser to the Prime Minister) (Holland, 2021b). Quite tellingly, the new Chair of Gécamines did not share Yuma's view on China. In effect, he supported Tshisekedi's initiatives to audit various mining contracts, mainly those signed between Gécamines and Chinese mining companies during Kabila's tenure. He was among the team of experts appointed by Tshisekedi to investigate how

the Tenke Fungurume mining project, which is 80 percent owned by China Molybdenum, exploited Gécamines (Tshiamala and Gras, 2022). These new nominations illustrate the extent to which, in a neopatrimonial structure, regime change in itself may not engender a change in this structure; rather, a new ruler may simply seek to construct his own system of control and resource accumulation, after their successful capture of the fragile state (Migdal, 1988).

In concrete terms, this was confirmed by a former PPRD politician and now a member of civil society, who observed in an interview that:

Kabila's capacity to maintain his system of predation had become complicated. His predation network comprised his associates, such as Dan Gertler. Although his influence remained strong in the mining sector, Tshisekedi was gradually breaking the old system. He succeeded in removing all the allies of Kabila and replaced them with his loyalists. Indeed, most of the actors at *Gécamines* are residents of Katanga who have simply changed their allegiance from Kabila to Tshisekedi. This means that they moved close to Tshisekedi to maintain their posts. Moreover, behind these actors lay the politics of influence. While there are politicians who are created, there are those who are self-made and command authority as customary chiefs, businessmen, and due to their status in society. Hence, these leaders had influence and could not be replaced, but could simply be bought.¹⁴

These observations could lead one to believe that the Kabila system was easily dismantled by Tshisekedi. This was not the case. As a senior judge observed, "the economic system established by Kabila has not disappeared. However, Tshisekedi is gradually changing the system. The system established by Kabila cannot be changed in two, three or even five years.

¹⁴ Individual Interview 3, September 10, 2021, Private home.

Even if the majority has changed, it does not mean that the ‘esprit Kabila’ – a change in the mindset or political culture has changed, as many institutions and political actors still function under Kabila’s legacy.”¹⁵ In effect, interviews with various observers and actors suggest otherwise, as the interview excerpts in the next paragraph indicate. One major trend that we can identify in these interviews is that most of the mining companies that bought Gécamines’ concessions were Chinese. Tshisekedi tried to revisit these contracts through a Commission of Inquiry to investigate the ‘China contract’. The Commission noted that the implementation of this contract seemed like day and night between what China had pledged to do and what Chinese companies actually did, hence the logic of revision of these mining contracts (I will elaborate more on that in the next section). What is crucial for our argument here is what is revealed by this revision process. These contracts shed light on the influence of Kabila¹⁶. In an interview, an MDVC party official explained that “There are several joint-venture contracts between Gécamines and foreign mining companies that were signed during Kabila’s era that Tshisekedi had trouble revisiting. It had been difficult for Tshisekedi to touch on these contracts that also had Kabila’s interests. This is another site where the shadow of Kabila was found.”¹⁷ This was echoed by another interviewee, a top Afriwatch official, who noted that “there are people who acquired royalties of Gécamines in various projects such as Metalcol, Kasese, and Mutanda Mining. These are rights that were supposed to generate profits for Gécamines but continued to be paid to Dan Gertler, a close ally of Kabila. In a nutshell, the people who were influential in the mining sector continued to be influential. There had not been a big change.”¹⁸ A former

¹⁵ Individual Interview 13, September 22, 2021, UNKIN.

¹⁶ Individual interview 37, November 10, 2021, Université de Kinshasa.

¹⁷ Individual interview 30, October 28, 2021, MDVC party.

¹⁸ Individual interview 19, October 7, 2021, Afriwatch.

PPRD politician, Kabila's party, confirmed this pattern, stating that "a change of management at Gécamines did not necessarily mean that the system had changed [...]. The previous regime was not entirely excluded from the current government."¹⁹

These interviews also indicate that, despite the formal liberalization of the mining sector in the 2000s, the presidential networks' control of the sector continued to be quite significant. The presidency could negotiate the access and sale of Gécamines' assets with foreign investors, which allowed them to embezzle the profits generated from these investments. Although this is not a new pattern (at the end of the 1960s, Mobutu sold two Gécamines concessions to foreign mining corporations (Young and Turner, 1985), the current dominant pattern is one in which Gécamines sells its mining and industrial assets, while Gécamines enjoys profits accrued from its participation in joint ventures (Rubbers, 2023b, p.79). A closer look at the mining sector reveals that the Kabila circle was able to maintain a strong foothold in this industry, thanks to its control of the goods and services sector. As a Resource Matter senior official clearly explained,

There are colossal mining interests that Kabila and his caciques still control. Thus, to examine the mining sector, one must go deep into examining the supply chains of goods and services. This is because people often misconstrue the mining sector by only considering individual mines and their contracts, but this is not where the money is. The real financial importance is found in the supply of goods and services to the mining companies. For instance, who supplies the food to feed the employees? Who supplies the internet to the mining company? It is the subcontractors. Even the employee catering market, like in Kasese, Lualaba, where they have to feed between 4,000 and 5,000

¹⁹ Individual interview 2, September 9, 2021, held in a Restaurant.

people a day. The stakes are concentrated on the subcontracts. This is where Kabila built his market.²⁰

This astute observation is critical because it has repercussions for our understanding of the Kabila-Tshisekedi cohabitation struggle. In effect, it suggests that the control of a presidential neopatrimonial network is very complex and has so many ramifications across the sector. Interestingly, this observation was echoed by an academician at the University of Kinshasa, who provided a similar fine-grained analysis of the industry:

Dismantling Kabila from the mining sector will take many years because there are contracts that have already been signed with subcontractors that provide goods and services to these mining companies. Terminating contracts that were penned by the old regime requires a lot of effort. Contract negotiation is a process that is much more complex. It can take even two years to negotiate to revise a mining contract. Thus, Tshisekedi may nominate his loyalists and gain control over the management of Gécamines but regaining control of the mining sector, which is larger than Gécamines, is not something that will be realized through acts of appointments. This is where Kabila's influence is found.²¹

As this observer noted, the politics of appointment certainly matter, but it is not the only element in the equation. The design and implementation of contracts also constitute a significant obstacle in this struggle over the mining sector between the two rival groups. A senior politician from Kabila's very own political party concluded in terms that more objective observers would not refute: "a change of leadership in Gécamines does not necessarily mean that the system has

²⁰ Individual Interview 24, October 18, 2021, Resource Matters.

²¹ Individual Interview 24, October 18, 2021, Resource Matters.

changed [...]. The former regime is not entirely excluded from the current regime. It is progressively that the former regime can be removed from state institutions.”²²

This practice of awarding subcontracts to the presidential entourage (family, members, ministers, and deputies) is not new. It has been a mundane practice since Mobutu’s regime, particularly in the 1980s, when members of Mobutu’s entourage engaged in the negotiations of Gécamines’ procurement and service contracts (Rubbers 2013). However, the 2002 liberalization of the mining sector opened new business opportunities for those who were close to Joseph Kabila, by securing subcontracts with mining companies (GEC and Pulitzer Center, 2017). His family members were already present in artisanal mining that was developing alongside industrial mining projects in the 1990s during the Laurent Kabila era (Rubbers, 2013).

Although the Kabila networks are well-entrenched within the mining sector, Tshisekedi and his inner circle tasked themselves with the mission to take as much space as possible. But this power-battle is not only being played at the macro level of multinationals; it is also taking place in the artisanal mining sector and through the control of subcontracts by providing goods and services to mining companies, precisely where the Kabilist networks are located. As this *Resource Matters* official observed, “Artisanal mining provides the essentials and makes quick millionaires, so politicians understand that it is easier there. Indeed, the battle for conquest that politicians are waging in Lualaba is not at the level of a large macro mining company like Glencore, but also artisanal mining, and in the supply of goods and services to the mining companies. This is where the battle takes place; it is where Congolese politics is played since this is where there is money.”²³ This is particularly important in the Katanga region, the mining and

²² Individual Interview 2, September 9, 2021, held at a restaurant.

²³ Individual Interview 24, October 18, 2021, *Resource Matters*.

economic hub of the Congo. Hence, whoever controls Katanga also controls the penetration of power in the Congo (Crisis Group, 2016). In the region of Katanga, Tshisekedi's loyalists, including his family members, have connived with regional authorities and Chinese investors to profit from the predation of minerals (Mulongo, 2021a). Indeed, the forceful removal of Richard Muej, a key ally of Kabila, as governor of Lualaba is strongly linked to the solid entry of Tshisekedi's cronies in the exploitation of mineral resources in this region (Ibid). In an interview, a senior politician of the ECIDE party (the party of the alleged winner of the presidential election, Martin Fayulu), explained that "Yuma had actually ceded several mining sites to close allies of Tshisekedi. In the Lualaba region, Muej was Kabila's focal person who prevented Tshisekedi from accessing certain mining zones. Thus, Muej's departure as governor of Lualaba was precisely because he was considered an obstacle to the predatory practices of mineral exploitation by the new regime."²⁴ Tshisekedi and his allies have been increasingly effective over time. According to the *Resource Matters* official:

Some of these battles have already been lost [for Kabila]. For example, in the artisanal mining sector in Kolwezi, Lualaba, Kabila's family – both biological and political – have systematically been replaced by allies and family members of Tshisekedi. This also includes the supply of goods and services to mining companies. Thus, it must be recognized that Kabila has lost greatly. His influence is not intact. He is aware that there is a new power dynamic that seeks to overturn and erase the system of Kabilism completely. Some Kabilists have transformed themselves and joined the Tshisekedi camp.²⁵

²⁴ Individual Interview 34, November 4, 2021, Private House.

²⁵ Individual Interview 24, October 18, 2021, Resource Matters.

Overall, these empirical observations seem to confirm Matthew Gray's (2011) argument about neopatrimonialism, in which subservient elites forged their own patronage network deeper down within the neopatrimonial structure, and within institutions and social organizations. They are also a means in which resources and political hierarchy are distributed from the core to different factions and forces, and through which political intelligence and appeal for favoritisms are delivered to the high-ranking elites (p.7).

Despite the Alternation in Power: The Perpetuation of the Neopatrimonial Management of the Mining Sector?

As the previous section has shown, in the battle between Kabila and his successor, Tshisekedi, the latter was winning ground. One dynamic, however, that did not seem to be changing was the continuing neopatrimonial management of the mining sector. In other words, despite the hope of democratic changes that came with the alternation in power in 2018-2019, the actual management of the mining sector continued to be organized by the very same dynamics that existed under Kabila's presidency: neopatrimonialism and internal fighting within the ruling circle for the spoils produced by neopatrimonialism. As we recall, neopatrimonial rulers establish patronage networks of loyalists through which they dispense favors and material goods to a specific faction of political elites based on family, ethnic, and regional ties (Bratton and van de Walle, 1994, p.460), while also generating tensions amongst those who scramble for the neopatrimonial spoils. Furthermore, neopatrimonial is also implemented through the appointment of loyal clients in key positions in the national and local state apparatus, so as to decrease elite loyalty and avoid their defection (Levitsky and Way 2010, p.57).

This neopatrimonial politics under Tshisekedi was seen in the grand Katanga region, especially Lualaba, a province created in 2015 when Katanga was fragmented into four new provinces: Lualaba, Haut-Katanga, Haut-Lomami, and Tanganyika. Lualaba, rich in copper and cobalt, has become the new Eldorado of the Congo, driven by global demand for these minerals in the green energy transition and electric vehicles. This is the region where politicians allied to President Tshisekedi, including his relatives and family members, were engaged in systematic predation of minerals. The “scramble for the Katanga region”, specifically over copper-cobalt mines, has led to conflicts within Tshisekedi’s inner circle, between members of his biological and political family. On the one hand, Tshisekedi’s family believed that now that they were in power, they must reap the benefits of their years of opposition struggle, while on the other, members of his political family were also convinced that they deserved to remain at the center of power, since it was their years of political struggles that enabled Tshisekedi to ascend to power.

The decline of the Kabila political clan and the rise of Tshisekedi to power did not alter the predatory system in the mining sector. In the Katanga region, known for its vast copper-cobalt mineral wealth and a cash cow for successive regimes, a scramble for mineral riches among new predators emerged, comprising largely of members of the ruling party (UDPS), including informal advisors, and key political players within President Tshisekedi’s inner circle. In 2019, Tshisekedi’s loyalists, including his tribesmen from the grand Kasai region, took over several mining sites in Katanga (Mubikayi, 2021). President Tshisekedi’s family members, in collaboration with several Chinese nationals, controlled several mining sites, including trading houses and processing plants (Ibid). Some of these copper-cobalt mining sites include the Katapula mine, located adjacent to the Kamoto Copper Company (KCC); this mining site was controlled by President Tshisekedi’s brother, Kally Tshisekedi, alongside Soleil Djung, a Chinese

national. Besides, the Tilwezembe copper-cobalt mining site was exploited by Thomas Mining, a Chinese multinational in collaboration with Kally Tshisekedi and Fifi Masuka Saini, the governor of Lualaba. Additionally, the Bridon GCM mining site, located in the Kolwezi district of Lualaba, was controlled by President Tshisekedi's cousin, Jean-Claude Mulumba. The Menda mining site, a concession of Boss Mining, was also exploited by another of President Tshisekedi's brothers, Christian Tshisekedi, jointly with Ismael Bassel, a Lebanese national (Mulongo, 2021b).

Apart from controlling mining sites, Kally Tshisekedi, alongside Chinese investors, who were affiliated with Soleil Jang, a Chinese national, also managed several mineral trading warehouses and trading centers in Kinsafu town, including Comide facilities (Ibid). Tshisekedi's family had also formed a new alliance with Chinese investors at Luilu Resources (also known as Cité Nowa), where the Biyombo factory was being constructed (Ibid). These predatory practices of President Tshisekedi's loyalists and family members in the mining sector were often executed through questionable lucrative mining dealings, partnership with private mining companies, including their connections to Gécamines, often facilitated by regime loyalists occupying key positions in this mining parastatal (Ibid).

Following the appointment of Leon Kabiena as Deputy Director General of Gécamines by President Tshisekedi on December 3, 2021, local Katangese artisanal miners began to raise concerns over the growing domination and influence of the Kasai workers at Gécamines. As the Deputy Director General, Kabiena promoted his collaborators from the Kasai region to key positions at Gécamines and granted lucrative sub-contracts to regime loyalists for service delivery and the exploitation of Gécamines' mineral waste sites, such as the Kafundwa dumps, and those located near Likasi city (Mubikayi, 2021). In an interview, a senior politician

associated with the BUREC party assessed the mining sector under Tshisekedi's rule, reiterating that: "The predatory system in the mining sector remained largely unchanged. It is only that the Tshisekedi family is seeking to replace the Kabila family. President Tshisekedi's family members were involved in the mining sector by focusing on areas where there were small interests, such as mine sites, road taxes, in the exploitation of oil from Mwanda Gulf, which never reaches the state coffers. The benefits of mining exploitation appear to be exclusively for the president's political clan. This predatory structure in the mining sector persisted without being challenged, revealing a continuity of exploitation resembling the system of Kabilism, albeit without Kabila in power."²⁶

A power struggle emerged within Tshisekedi's inner circle over the control of the mining interests in the grand Katanga region. The Tshisekedi family sought to consolidate its presence in the mining sector, faced fierce competition from factions within President Tshisekedi's political clan, who were also scrambling for their share of spoils produced by neopatrimonialism. This subtle 'palace war' over mining interests emerged when Excellence, a Chinese company operating in Katanga, became the center of conflict between Tshisekedi's family members and some elites within his inner circle. While some members of the Tshisekedi family purchased mining sites and legal permits to engage in mineral transactions with Excellence, others, lacking permits, opted to use 'traffic of influence' to engage in illegal mineral activities in connivance with Excellence (Chate Television, 2022). As Tshisekedi focused on securing a second term, some of his family members felt neglected and wanted their share of the spoils. On the other hand, UDPS members were pressuring the president, insisting that after rising to power,

²⁶ Individual Interview 64 same as Interview 45 same views were shared by interview 24.

following decades of opposition politics with President Tshisekedi's father, Etienne Tshisekedi, they needed to reap the benefits. Thus, regime supporters, including President Tshisekedi's loyalists, were eager to secure their share of the benefits of being in power (Ibid).

The scramble for securing the rewards of being in power jeopardized the UDPS party cohesion as factions emerged. As powerful figures within the party strived for influence and fought for control over mining interests, the once unified party became fragmented. This internal power struggle led to the fall of key elites, including Jean-Marc Kabund, whose downfall was subtly linked to the conflict over mining interests. On 29 January 2022, the Democratic Convention of the Party (CDP), a disciplinary commission in charge of overseeing the proper functioning of the UDPS, dismissed Kabund as interim president of UDPS and expelled him permanently from the party (Radio Okapi, 2022a; RFI, 2022a). Prior to his dismissal, on 11 January 2022, Kabund's security services physically attacked members of the Republican Guard, an elite force in the Congolese army in charge of protecting the head of state, for driving on the wrong side of the road to evade traffic. A day later, members of the Republican Guard responded by invading Kabund's private residence, causing significant damage to his property. Two days later, Kabund announced his resignation as Vice-President of the National Assembly (Gec, 2022). Kabund's swift downfall, once a trusted ally of President Tshisekedi, caught the public by surprise, especially after playing a key role in the rupture between FCC and CACH and the formation of a new parliamentary majority, dominated by Tshisekedi's allies (RFI, 2022a). After the UDPS ascended to power, rival factions began to accuse him of 'arrogance' towards the president and being authoritarian (Ibid). While these explanations justify Kabund's dismissal, several key informants, including Devos Kitoko, the Secretary General of ECIDE, and Martin Fayulu's party, had linked his downfall to a 'palace war' over mining interests in the Katanga

region. An investigative journalist based in Katanga, Mills Tshibangu, also linked Kabund's fall from power to the elites' power struggle over mining interests. Kabund was accused of engaging in questionable deals related to mining disputes (DW, 2022). An investigation conducted by the journalists and agents of the provincial government of Lualaba to evaluate the financial performance of mining trading warehouses buying minerals in Katanga sector blamed Kabund for allegedly causing the provincial government to incur a financial loss exceeding \$27 million due to illegal mineral trafficking (Isako, 2022; Muderwa, 2022). The report further revealed that Kabund was collaborating with a woman called 'Joyce', the proprietor of 43 mineral warehouses, who was accused of operating these mineral trading houses along the Katanga road, in Lualaba, without proper documentation. Most of these warehouses, where illicit minerals are stored, are managed by Chinese nationals (Ibid). These warehouses were protected by COMIAS SCOOP, a mining cooperative owned by Erik Tshisola, the Chief of Staff for the provincial minister of mines (Muderwa, 2022). As conflict intensified within UDPS, Kabund's mining interests were jeopardized by the regime. After the fallout with the Tshisekedi regime, the mining sites that Kabund owned were repossessed (Mediacongo, 2022a), while Kabund himself was arrested and sentenced to 7 years in prison on 13 September 2023, for "outrage against the head of state" (Mulegwa, 2023).

Madini kuwa Mandeleo, a cooperative of artisanal miners, publicly revealed during a press address on 18 September 2021, that Jean-Marc Kabund, the then Secretary General of the UDPS and First Vice-President of the National Assembly, utilized his political influence to seize the Kaketeka mining block, located in Lwicha, Haut-Katanga province, from Congo Resources SARL transferred it to Chinese nationals, after the legal exploitation permits of Acacia Mining, linked to Jaynet Kabila, had expired. This transfer was facilitated by an individual called

‘Joyce Kazadi’ who acted as a proxy of Kabund. However, the Chinese nationals who were granted the Kaketeka mine site did not have the permits to exploit minerals; they only had a research permit. In return, Kabund was allegedly granted \$4 million in exchange for his protection of the Chinese nationals (Kaniki, 2021). The seizure of the Kateketa mining led to conflict between artisanal miners and Chinese nationals, including the death of three miners who were preparing to sell their minerals but were seized by the Chinese (Ibid). The cooperative further accused the then acting General-Director of Gécamines of complicity by facilitating the illicit cooperation between Kabund and the Chinese nationals (Kaniki, 2021). Besides, a representative of artisanal miners in Katanga, Mills Tshibangu, accused Joyce Kazadi of creating a militia of UDPS members loyal to Kabund in order to block legitimate companies with valid exploitation permits from accessing the Kateketa mine. However, after Kabund resigned from his position within the UDPS due to persistent power struggles with other elites in the party, the Kaketeka mine began to face persistent unrest, theft, and vandalism (Mediacongo, 2022a).

Testimonies from several anonymous witnesses also linked Jean-Marc Kabund to Atujo, a mining company operating at the Kateketa mine. This company refused to cease operating at the Kateketa mine despite the termination of its joint-venture contract with Gécamines soon after conflicts intensified between Kabund and other elites of the ruling UDPS party (Actu30, 2022). These anonymous witnesses further revealed that Atujo had collaborated with military officials and artisanal miners who claim to be associated with the UDPS to block the OL Mining company, with a new exploitation permit, from starting its mining activities. These alleged UDPS militants have destroyed equipment of OL Mining and set up barricades to prevent the company’s personnel from accessing the Kaketeka mine (Ibid).

To sum up, instead of a rupture or change, the predatory management of natural resources practiced during Kabila's era did not disappear under Tshisekedi. Instead, Tshisekedi was engaged in a battle of consolidation. This reminds us that, in neopatrimonial regimes, economic resources are centralized in areas where the biggest share of the state's earnings comes from rents. Rulers exercise autonomous authority in situations where they can utilize taxation systems, financial networks, concessions, licenses, and government deals to penalize adversaries and incentivize supporters (Levitsky and Way, 2010, p.62). Thus, access to artisanal mining exploitation was at the center of a power struggle among various elites within President Tshisekedi's inner circle.

Geopolitical power-struggle between China and the United States

In this section, I investigate how the US-China geopolitical power battle unfolded in the DRC and how this rivalry shaped power dynamics between the FCC and CACH during the cohabitation period. Although the argument so far has mostly focused on endogenous dynamics, it is imperative to keep in mind that international actors, especially major powers and large transnational conglomerates, play a significant role in the domestic politics of the DRC, given the utmost importance of the mining sector. As Moore (2004) reminds us, the rise of rentier states, such as the DRC, is a product of colonial and neocolonial structures, whereby a government lives off unearned income, and not via domestic political support, as it obtains most of its resources from an asymmetrical alliance with powerful international actors. Being able to draw significant resources from their international rent, national elites invest in and rely on a powerful coercive apparatus to stifle local dissent (Omeje, 2016). It is therefore in this context that we must understand the significance of the rivalry between China and the US and how it

played out in the struggle between Tshisekedi and his predecessor, Joseph Kabila. I extend the rentier state theory, not to contradict its core arguments, but to demonstrate how mineral rents are not only contested by local political elites but also ingrained within the broader US-China geopolitical rivalry over the DRC's critical minerals. I also show how external actors shape who controls rents and how resources are distributed and impact elites' political bargain and survival, succession gambits, and stability of patronage networks.

In a resource-dependent rentier state like the DRC, the control of resource rents sustains patronage networks and stabilizes the regime. Thus, I demonstrate how domestic rentier logic was intertwined with the US-China geopolitical rivalry in the DRC, which shaped the distribution of rents and power dynamics in the cohabitation government. Consequently, I show how the DRC's rentier state is simultaneously domestic and external. By focusing on the external impact of rentierism, I show how these global superpowers permeate, reinforce, and distort the domestic neopatrimonial logic, shaping rent distribution, political elites' survival and the regime's stability.

As we recall from the brief historical background at the beginning of this chapter, Former President Kabila had allowed Chinese multinationals to massively enter the mining sector. For instance, in the resource-rich region of Katanga, of the nearly forty existing mining companies, around thirty are Chinese (Africanews, 2021). Consequently, Chinese investments, through large-scale mining investments and infrastructure deals, reinforced Kabila's elites' access to rents and their bargaining power within the FCC coalition. Hence, as we explained in that earlier section, this alliance between Kabila and Chinese mining corporations prompted the US to pressure him to cede power (Lohalo et al., 2022; Mbeko, 2021). Some would go further and argue that the US government saw Tshisekedi as an ally, one who could be essential in the

reestablishment of their presence in the DRC's rare earth minerals' supply chains (Africa Intelligence, 2021; Glez, 2023). US engagement offered Tshisekedi's allies indirect leverage over resource flows and elite networks. This created a dual-rentier environment in which domestic elites navigated both internal patronage networks and the external pressure from powerful global actors, which shaped their political survival, coalition stability, and shifts in the balance of power in the cohabitation government. Consequently, with the ascension of Tshisekedi to power in 2018, strong pressure on Chinese firms was applied, and the once-friendly environment they enjoyed under the Kabila tenure was changing (Forson, 2021).

One concrete manifestation of this change was the power struggle between Tshisekedi and his predecessor around the Sino-Congolese contract. Tshisekedi argued that this contract was unfair to the DRC and had to be "revisited" (Haski, 2021). After he took control of a majority of Parliament in 2020, his regime began investigating the shares of Gécamines in a joint venture with Tenke Fungurume Mining (TFM), which is majority owned by the Chinese Molybdenum Group. Tshisekedi established a commission of inquiry to evaluate the value of minerals being extracted by Tenke Fungurume to recover Gécamines' rights. Simultaneously, Amos Hochstein, a senior advisor for energy security in the Biden administration, made two subtle trips to the DRC to confirm that the renegotiation of contracts was ongoing (Gras, 2023). A DRC court selected an interim overseer to start managing the TFM project. However, the Chinese Molybdenum Group, which holds the majority of shares in the TFM, rejected the DRC's court verdict, hence creating intense conflicts and potentially leading to legal actions against Gécamines over obstructing exports. In July of 2022, the DRC had ceased exports from the TFM. But the partners eventually reached a settlement in April 2023, when the Chinese company agreed to pay higher royalties to

the DRC state.²⁷ In the same vein, in December 2022, the US government, in an attempt to regain some lost ground to China, where “75 percent of the world’s lithium-ion batteries are made” (Skibell, 2023), signed a Memorandum of understanding (MOU) with the Congolese and Zambian governments in December 2022, “to facilitate the development of an integrated value chain for the production of electric vehicle (EV) batteries in the DRC and Zambia” (as cited in Byamungu, 2023). However, executing the policy of contract renegotiation with Chinese companies proved considerably more challenging. Although the US had anticipated it would break China’s strong influence in the DRC’s mining sector under Tshisekedi’s tenure, progress was slow (Liffran and Kibangula, 2017). To understand this, we must remember that the same formal and informal obstacles that Tshisekedi faced in his struggle against his archrival Kabila in the first two years since his election were also present in his battle against Chinese interests. This was confirmed in an interview by a MDVC party representative, who noted that

Tshisekedi’s policy aimed to cooperate with the US in order for him to survive politically. But his promises were difficult to realize because his presidential powers were limited by the existence of the FCC-CACH government. Thus, the more Kabila was present in the FCC-CACH cohabitation, the more Tshisekedi was unable to execute what he had promised the US. [...] Tshisekedi’s orders had to first pass through Kabila.

Nothing could be concluded without the endorsement of his predecessor.²⁸

As another interviewee, a senior EITI representative, reiterated, “Tshisekedi controlled Gécamines, but not multinationals, since the contracts had already been signed. However, he

²⁷ *Mining Technology*. 20 April 2023. See <https://www.mining-technology.com/news/cmoc-congo-royaltiesdispute/?cf-view>

²⁸ Individual Interview 30, October 28, 2021, MDVC.

could renegotiate their contracts and control the revenue raised through royalties. The mines are in the hands of foreign partners under long-term contracts. Hence, it was difficult to change them in five years.”²⁹ Shedding light on the Sicomines contracts signed between the Kabila regime and China, Byamungu (2023) observed that the move by the US to push President Tshisekedi to revise the Sicomines contracts had not yielded a positive outcome. Thus, as we can see, the US Tshisekedi proximity was based on mutual interest, where Tshisekedi sought the US support to break free from the shadow of his predecessor in the FCC-CACH cohabitation setting, while the US sought to leverage on Tshisekedi’s tenure to regain control over the DRC’s critical minerals that were still controlled by China. For these reasons, Tshisekedi maintained proximity to the US, especially in the two years of ruling in a cohabitation context (Mbeko, 2021).

Meanwhile, Tshisekedi was strategizing how to overturn the FCC parliamentary majority and break free from Kabila. His shrewdness not only in shaping domestic political dynamics, but also in strategically aligning with the US, enabled him to form a new parliamentary majority, following the mass transhumance of FCC deputies to his newly formed Sacred Union of the Nation Coalition (Musavuli, 2021). Indeed, the US ambassador to the DRC, Mike Hammer, was regarded as a key architect of the rupture between the FCC and CACH coalition; he was openly critical of the FCC parliamentary majority and explicitly supported Tshisekedi throughout the FCC-CACH power struggle (Ibid). However, despite significantly weakening his archrival, Joseph Kabila, and gaining complete control of government institutions, the jury was still out on whether Tshisekedi can revise these contracts in order to establish a “win-win” relation (Mbeko, 2021). By that time, the concept of “renegotiate” had ceased to be used; Tshisekedi’s regime instead spoke of “evaluation” (Forson, 2021). A concrete manifestation of this subtle change was

²⁹ Individual Interview 60, February 2, 2022, EITI.

seen in Tshisekedi's decision to direct Christophe Lutundula, the Foreign Affairs Minister, to work with Chinese investors to form a Sino-Congolese commission that would examine areas of common interest to secure a win-win contract (Olander, 2021). This cautiousness, conveyed by the Tshisekedi government, must also be understood in light of his own interests and those of his inner circle. In effect, nearly all multinationals in the DRC operate as joint ventures with Gécamines. Some of the Congolese partners of these companies were allies of Tshisekedi's camp within the *Sacred Union* and benefited from these unfair contracts (Liwanga, 2021).

Despite these obstacles, however, it appeared that the balance of power had subtly but surely shifted after the change of leadership in both the US and the DRC, which saw the rise of Tshisekedi and Joe Biden to power (Byamungu, 2023). By August 2021, several mining contracts awarded to Chinese firms were halted after an audit. Immediately later, the US agreed to provide \$1.6 billion to the DRC over 5 years as part of a cooperation agreement (van Dalen and Gopaldas, 2023).

Conclusion

Through the prisms of rentier state theory and neopatrimonialism, this chapter demonstrated the continuity and adaptability of the predatory systems of the old regime in the mining sector during the cohabitation period. It showed that despite the change of leadership following the 2019 alternation, the neopatrimonial system that sustained elites' control over the mineral rents endured. However, the cohabitation led to an unusual level of competition amongst elites, as this time the whole system was not led by one ruling clique, as it had been historically, but by two rival groups of elites: that of the former president and his allies in the elected assemblies, and that of the new president. This was a new dimension that characterized the politicization of the mining sector.

In the early phase of cohabitation, Tshisekedi's efforts to exert control over Gécamines were constrained by the FCC's legislative majority, which curtailed his authority to make appointments at Gécamines. What followed was a stalemate in the appointment of senior officials at Gécamines as the two rival camps competed over patronage distribution. Thus, for nearly two years (January 2019 to December 2020), Tshisekedi ruled with restrained powers, since his CACH coalition held minority seats in parliament.

After the rupture of cohabitation, following the shift in parliamentary majority, Tshisekedi replaced Kabila's allies in various strategic positions at Gécamines. However, despite his control of Gécamines, his attempts to reform and assert control over the larger mining sector were hampered by pre-existing contracts that were signed during Kabila's era. Thus, the change at the management level at Gécamines did not entail a radical change of the system in the mining sector. The former ruling elites who held significant mining interests in the joint ventures between Gécamines and foreign multinationals were not replaced. The predatory system of the former regime endured under Tshisekedi. Rather than ejecting the Kabilists from the system of predation, the system simply incorporated new predators. Kabila kept his interests in mega contracts in the joint ventures between foreign multinationals and Gécamines. This demonstrates the resilience of neopatrimonial networks that metamorphosed to adapt to new leadership while maintaining the same predatory structure of resource distribution and control. A key area to locate the shadow of Kabila was deep within the supply chains of goods and services. The mining sector is often misconstrued as solely focusing on mines and contracts, but a significant portion of the financial stakes of the former ruler lay in the supply of goods and services to the mining companies. This is where Kabila built his market by controlling the supply market to foreign mining companies. Dislodging Kabila from the mining sector is a tedious task, due to the

intricate nature of these contracts, many of which are under operation. However, changes were largely observed at the artisanal mining level, where Tshisekedi's allies managed to dislodge many of Kabila's cronies. This competition was seen in Lualaba, a copper-cobalt mining capital of the DRC, not at the level of a large mining company like Glencore, but in artisanal mining and in the supply of goods and services to the mining companies.

The chapter also showed that the power struggle between Tshisekedi and Kabila must be situated within the larger geopolitical power battle between the United States and China over the control of the DRC's critical minerals. Kabila awarded these contracts to Chinese conglomerates, while abandoning the US that sponsored his ascension to power. As a result, Tshisekedi's close relations with the US throughout the cohabitation period signalled an effort by the US to influence his administration to regain control over the Congo's vast mineral wealth.

The removal of Kabila's allies and their replacement with Tshisekedi's loyalists revealed the continuity of predatory practices and the neopatrimonialism system through the elites' capture of the mining revenues. In a nutshell, the power struggle over the control of the mining sector during the cohabitation period underscores the complexity of dismantling the neopatrimonial system in a rentier state. What the cohabitation changed was not the neopatrimonial nature of the mining sector, but rather the fact that this sector at that time included two rival groups fighting one another, thus increasing the level of competition within the sector. Hence, a meaningful shift required more than just a change in leadership at the managerial level of a mining parastatal like Gécamines; it required a complete overhaul of the political and economic structures that sustain rentier state dynamics and neopatrimonial governance.

Chapter 6: The King is gone, long live the Crown? Party Transhumance, Realignment, and the Fate of Kabila's Legislative Majority

Introduction

The surprising results of the 2018 presidential and legislative elections in the DRC opened the door to an unprecedented cohabitation between the Kabila and Tshisekedi camps. Though the former lost the presidency, it did win a comfortable legislative majority. The struggle between the two rival groups thus unfolded in the elected assemblies and in the bicephalous executive. The vehicle for Kabila's influence was embodied in the legislative majority that defended his legacy, the *Front commun pour le Congo* (FCC). FCC was not a political party; it was rather a large coalition of parties. The very core of the FCC was Kabila's own *Parti du peuple pour la reconstruction et la démocratie* (PPRD), which was then supported by several smaller pro-Kabila political parties. The post-2018 period was therefore one where the Kabila and Tshisekedi camps negotiated and fought over the legislative arena, each trying to consolidate their position. If at first, they agreed to form a coalition, named the FCC-CACH coalition, it became clear that each soon tried to weaken, if not overpower, the other. The formal cohabitation did not mean a peaceful quest for some kind of political power-sharing. Each group sought to dominate its rival. In the end, it is the presidential camp that succeeded in that regard: the Tshisekedi camp succeeded in progressively unstitching the legislative majority of their Kabilist rivals. The FCC coalition, in an advantageous legislative position the morning after the 2018 election, was eventually overpowered by the presidential camp. How did this happen? How did the formal cohabitation eventually crumble, paving the way for a full domination of the presidential camp, even before the 2023 election?

This chapter argues that Kabila's control of the National Assembly through the FCC coalition was his Achilles' heel. The central vulnerability of this coalition was that it relied mostly on Kabila's own party, the PPRD, which held only 52 seats out of the FCC's 341 seats. FCC was therefore a fragile coalition that rendered it susceptible to Tshisekedi's tactical gambits to consolidate power. A coalition, by nature, is more vulnerable than a single-party majority. The multitude of microstructures of political parties within the FCC coalition weakened its structural rigidity and made it prone to defection towards Tshisekedi's appeal. Had Kabila controlled the parliamentary majority through PPRD, the outcome might have been different. The absence of a shared ideological foundation within the FCC further exacerbated its fragility. However, these structural weaknesses alone did not lead to its collapse. Tshisekedi had to also adeptly exploit these vulnerabilities through calculative maneuvers. As an agent, he lost a couple of battles but found ways to exploit to its maximum the FCC's structural weaknesses.

It is in this context that the mass transhumance of the FCC deputies towards Tshisekedi's Sacred Union occurred. Despite the initial stability at the onset of the FCC-CACH cohabitation, the defection of Kabila's FCC deputies progressively gained momentum. Access to economic opportunities, including privileges and benefits, was the bond that solidified the loyalty of the deputies to Kabila's FCC coalition. While in power, Kabila's caciques had access to several material benefits, including appointments to government posts, lucrative business contracts and financial benefits. However, after leaving office, Kabila did not have the same level of authority and capacity to access and distribute material benefits to his allies like he did while still in power. Consequently, this weakened his grip on his allies as their loyalty diminished. Tshisekedi, for his part as the head of state, held some capacity to distribute these resources and benefits,

which he utilized to entice these FCC deputies to shift to his camp, granting them access to the same benefits and privileges they enjoyed under Kabila's rule.

In this chapter, I explore the metamorphosis and ultimate disintegration of the FCC coalition during the FCC-CACH cohabitation. First, I present some theoretical reflections that will help decipher the struggle between the two camps in the legislative arena. Second, I provide some basic historical context by tracing Kabila's rise to power and his transformation from a rebel to a civilian ruler. Third, I examine the structural configuration and the fragility of the FCC coalition. Fourth, I investigate the power struggle within the FCC-CACH cohabitation, the transhumance of FCC deputies and the shift of parliamentary majority. Here, I insist particularly on the strategic moves operated by the Tshisekedi camp, as it targeted key Kabilist officials. These moves succeeded as they led to the fall of Kabila's president of the National Assembly, the president of the Senate, the Prime Minister's seat and the ultimate breakdown of Kabila's neopatrimonial system. Finally, I explore power dynamics, intraparty conflicts, transhumance, and realignment within the PPRD party after the collapse of the FCC coalition.

The fluidity of political coalition and the elites' loyalty are key to my study. One might have expected that cohabitation, where different parties control the executive and the legislative branches, would be distinct from a complete alternation, in which both the executive and the legislative branches switch to the new ruling party simultaneously. However, the legislative majority, which was dominated by the allies of former president Kabila, failed to hold its ground; instead, it succumbed to the stratagems designed by the sitting president. Control of the legislative majority alone was not sufficient to prevent Kabila's allies from defecting and pledging allegiance to the new president. I use the concept of "hegemony presidency," which Kieh also employs interchangeably with the concept of "imperial presidency" to denote the

concentration of power in the executive branch beyond the required constitutional limits of the president's authority which is subjected to abuse (Kieh, 2018, p.39) In such cases, the legislative and judicial arms of the government are subordinated to the presidency (Prempeh, 2007, p.788 and 790). In addition, on top of this formal executive dominance, the president also exerts power through informal networks based on a patronage system and personal loyalty (Ibid). (Igwe, 2011) holds that "imperial presidency" is fueled by the president's capacity to access and control the state's resources, which he then utilizes to build his large web of loyal clients, who function as his intermediaries, in exchange for material and/or symbolic advantages (Hyden, 2005, p.104). The role of this informal form of power is well-captured by the concept of neopatrimonialism. It enables us to critically examine the fluidity and fragility of political loyalty and coalitions. although defection may be constrained through informal relations with ruling elites based on personal relations, family and ethnic ties (Kendall-Taylor et al., 2017), patterns of political elite transhumance endured as politicians shifted their loyalties to safeguard their access to rent and proximity to power.

During cohabitation, the DRC's historical hegemonic presidency was constrained as power dynamics between FCC-controlled parliament and CACH-led executive were fluid. The cohabitation period was shaped by a blend of formal and informal power where the president tried to use his constitutional powers to set legislative agendas and issue executive orders, but faced much resistance from the FCC coalition, which often vetoed the president through its vast parliamentary majority at that time. Concurrently, Tshisekedi also built informal webs based on a patronage system and established tactical gambits to stimulate defection within the FCC coalition. This situation was also impacted by the lack of political ideology that should have glued Kabilist deputies' loyalty to their party and coalition. Throughout his tenure, Kabila

maintained his influence over the legislature and government institutions through an intricate patronage network based on the reward of loyalty of his allies with access to state resources and government posts. However, the establishment of the FCC-CACH cohabitation based on a power-sharing scenario limited the flow of these material benefits, disrupting the established patron-client networks. This precipitated politicians to pledge allegiance to Tshisekedi. The defection of the FCC deputies can be interpreted as a strategic adaptation to the changing neopatrimonial landscape in the DRC. In an unpredictable patron-driven political landscape, transhumance became a central strategy for FCC deputies to secure their political survival.

Historical Background

At the dawn of the 1990s, there was a mounting Western pressure for democratization on authoritarian regimes in Africa. The DRC was not an exception to this new wave of democratization. Nevertheless, the DRC's democratization process has undergone agonizing moments. No sooner had Mobutu opened the space for multipartyism at the National Sovereign Conference than Zaire fell into 'liberation wars', resulting in the ousting of Mobutu from power and the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL) rebel movement capturing power. Nonetheless, Kabila's reign was short-lived as he was assassinated in January 2001 while in his office (Turner, 2007). Thus, the sudden demise of Laurent Kabila led to the ascension of Joseph Kabila to power in 2001 (Stearns, 2012).

In an interview, a senior PPRD politician informed me that: "the old guard members of AFDL rebellion who accompanied Laurent Kabila to power and formed his inner circle were the

ones who handpicked Joseph Kabila to inherit his father's seat following his abrupt demise.”³⁰

Joseph Kabila ascended to power at a time when the DRC was fragmented and occupied by various rebel factions into five strategic zones. Indeed, nearly three-quarters of the DRC was under the control of rebel factions. Only one-quarter of the Congo was controlled by the Kabila's government in Kinshasa. Each of the rebel movements had its own capital, established political institution and government, through which they exercised their influence, like a separate state within a state (Talla, 2012).

Thus, Kabila sought to reunite the DRC as a republic by bringing all belligerent groups to the negotiating table to consolidate his power and the authority of the state. This is what led to the creation of the Inter-Congolese Dialogue in Sun City, South Africa, in order to establish democratic structures that would govern the DRC (Smis et al., 2002). Hence, after the inter-Congolese dialogue, Kabila established a government with him as president and surrounded by four vice presidents (Reyntjens, 2007).

The four vice presidents' positions were shared between the Kinshasa government and different armed groups, including Azarias Ruberwa of the Congolese Rally for Democracy (RCD), Jean-Pierre Bemba of the Movement for the Liberation of Congo (MLC), and Zaidi Ngoma, a former RCD rebel leader and leader of the Force of the Future opposition party. Etienne Tshisekedi of the Union for Democracy and Social Progress (UDPS) was expected to be granted one of the vice presidencies' positions but was sidelined and replaced by Zaidi Ngoma, the leader of the Force of the Future party (Beto, 2016). After failing to secure a vice presidency spot in the 2002 transition government, the UDPS began to boycott certain actions of the

³⁰ Individual Interview 7, September 21, 2021, PPRD.

transition government, especially those related to the organization of elections and the 2005 constitutional referendum. Tshisekedi instructed his supporters to boycott the 2005 constitutional referendum and voters' registrations by maintaining that they were rigged in advance in favor of the regime. Eventually, his party, the UDPS, declared it was not going to participate in the 2006 elections (A. Ross, 2017). A PPRD politician I interviewed noted that "Kabila inherited power in a fragile post-conflict context. So, democratization, pacification, reunification, and consolidation of state authority became the leitmotif of his post-war reconstruction plan. As a result, the DRC moved from the transition government to the 2006 general election with a promulgated constitution, a reunified fragile post-conflict state, and established democratic structures."³¹

Kabila also understood the necessity to metamorphose from a military to a civilian ruler. For this, he needed a political party. This paved the way for the People's Party for the Reconstruction and Democracy (PPRD), created on March 31st, 2002 (Matsanza, 2022, p.42). The PPRD was created in the aftermath of the Sun City dialogue. Some delegates who attended the inter-Congolese dialogue, particularly those who occupied the politico-administrative institutions at the provincial levels, were called to Kinshasa to debate the creation of the party (Ibid). Thus, a PPRD politician interviewed added that "The PPRD was created to accompany the plan for the pacification and democratization of the country. Kabila rose to power when the DRC was fragmented and controlled by rebel forces. Hence, the PPRD was born out of this ruin."³²

³¹ Individual Interview 9, September 18, 2021, PPRD.

³² Individual Interview 9, September 18, 2021, PPRD.

It is hypothesized here that the way the pro-Kabila legislative majority was formed in its early stage in 2006 made possible the mass political transhumance Kabila's coalition experienced during FCC-CACH cohabitation. In 2006, Kabila was declared the winner of the elections with 58 percent of the votes against his rival, vice-president Jean Pierre Bemba, who garnered 41 percent (Le Monde, 2006). However, despite this triumph, Kabila's party did not capture power with an absolute parliamentary majority. The PPRD won 111 out of 500 seats, far from the threshold of 251 seats to obtain an absolute majority. Kabila had to rely on his legislative coalition, the Alliance for the Presidential Majority (AMP), comprising PPRD and smaller pro-Kabila parties. Most of these parties were known as "briefcase parties," existing on paper but with no actual political base at the national and provincial levels. They were led by party leaders who are submissive to the president. As Riche aptly argues, "These parties lack a genuine political base at either the national or provincial level. This political structure creates an illusion of power for the presidential majority and helps to increase the number of seats in parliament, [thanks to the mixed electoral system in the DRC which blends first-past-the-post in 62 single member constituency with proportional representation in 438 multi-member constituencies]. The strategy, effective so far, has been to multiply the number of these small satellite parties to swell the ranks of the presidential majority" (Riche, 2015, p.4). In other words, the core operational logic of briefcase parties lies in local alignment. Fielding a PPRD candidate to contest in regions where electorates were loyal to their local leaders or ethnic groups sparked resistance and polarization among the electorates. Thus, the ruling party, PPRD, opted to collaborate with a nominally independent local party, which could attract the electorate while remaining subordinated to it. This transactional alliance enabled local leaders to receive financial support and campaign materials from the PPRD while ensuring that electoral results echoed the

ruling party's national objectives. In essence, briefcase parties served as vehicles for the expansion of the PPRD to manage elections in regions that were competitive and hostile to it.

Apart from these briefcase parties, there were larger parties which were also allied to the presidential majority. These parties had solid parliamentary representation and support at the grassroots level. Some of these larger parties included the Unified Lumumbist Party (PALU) and the Union of Mobutists (UDEMO), which signed accords with the AMP on 30 September 2006 and 16 October 2006, respectively. Altogether, these numerous parties united under the presidential coalition enabled Kabila to secure the absolute majority in the National Assembly with 338 seats out of the total 500 (Makutu and Tshimanga, 2004).

In 2011, elections were organized, but this time Kabila was contesting against Etienne Tshisekedi, an opposition doyen who had boycotted the 2006 elections, alleging the outcomes were predetermined. Kabila triumphed with 48.95 percent followed by Etienne Tshisekedi who had garnered 32.33 percent (Reid, 2013, p.45). However, in the legislative elections, the PPRD won the largest number of seats in the National Assembly, but these numbers plummeted from 111 to 62 (Ibid., p.47). In this context, he lost around 40 percent of his deputies (Reuters, 2012). Thus, Kabila had to rely again on the presidential majority coalition to retain an absolute majority in the National Assembly, gaining more than 340 out of 500 seats (Jeune Afrique, 2012). Some of his allied parties included the People's Party for Peace and Democracy (PPPD) with 29 seats, the Alliance of Democratic Forces of Congo and Allies (AFDC-A) – 15 seats, and the Unified Lumumbist Party – 19 seats (Englebert and Kalumba, 2020, p.33). As we explained above, new elections were supposed to be held in 2016. But Kabila was able to secure an additional two years in power, in breach of the constitution (Clowes, 2016). During the 2-year transition period, he continued to rely on his 2011 legislative majority. In view of the 2018

elections, at the end of the 2-year provisional legislature, Kabila had to prepare his electoral coalition for this important electoral moment. The next section turns to this crucial era.

The FCC: A Large, Loose Coalition

In June 2018, barely six months to the presidential and legislative elections, Kabila's regime enlarged the residential majority by creating the Common Front for Congo (FCC), a coalition consisting of a multitude of microstructure political parties (Englebert and Kalumba, 2020, p.33). One key factor that explains what led to the creation of these small parties, and eventually their entry into the FCC presidential coalition, is well explained by a PPRD politician, who informed me that: "Many FCC deputies started their political careers with Kabila prior to his ascension to power. They are well known to him. In fact, some of the members of the FCC are former members of Kabila's PPRD party. They created their own parties in order to bring their electoral votes to bargain for key posts within the PPRD, such as being nominated to a ministerial position.³³" As we can see, the creation of these small parties seems to be part of a bargaining strategy whereby a politician trades seats in the Assembly for a key position in the state. In this vein, we notice that in 2018 Kabila funded several mosaic and allied parties within the FCC, such as the Alternative Action for Well-Being and Change (AAB), Alliance of Actors for Good Governance in Congo (AABC), Allies Action for the Improvement of the Living Conditions of Congolese (AAAC), and Alliance pour l'Alternance Démocratique (AAD). While these small parties maintained their autonomy, he funded them in order to constitute a parliamentary majority after the alternation (Matsanza, 2022, p.54). As a

³³ Individual Interview 4, September 21, 2021, PPRD.

researcher reiterated during an interview: “Prior to relinquishing power, Kabila financed the electoral campaigns of many of his allies in exchange for their loyalty since he wanted to acquire a legislative majority to continue exerting influence over the new government.”³⁴ While in power, Kabila’s party, the PPRD relied primarily on state resources, including its proximity to certain powerful businessmen, especially the Lebanese, Indians and Pakistani business elites operating in the DRC to finance elections. In exchange, the businessmen were guaranteed protection for their investments (Matsanza, 2022, p.50). It also compelled its allies occupying powerful positions in public enterprises, including those in government and parliament, to contribute 10 percent of their earning to the party. Meanwhile, public oversight authority turned a blind eye when these elites transferred public revenues to the activities of the ruling party (Ibid). Candidates depended on the support from their political coalition or grouping to raise funds for their campaign. Within the FCC, as Matsanza further adds, “each political group had received \$2,500,000 for the campaigns of its national and provincial parliamentary candidates. But the leaders of the groups limited themselves to giving each candidate, indiscriminately, only \$1,100 as campaign expenses” (p.56). Political influence was strongly shaped by closeness to the ruler and the grassroots electoral base one held. However, since resources and positions in the government were limited, inter-elite conflicts emerged over their distribution.

In the aftermath of the 2018 election, as we already saw, the FCC coalition formed a new legislative majority, but this time without Kabila officially in power to exercise executive authority. His party, the PPRD, won 52 seats in the National Assembly, compared to the 62 seats in the 2011 legislative elections. Within the FCC, the PPRD was followed by AFDC-A, a political grouping led by Bahati Lukwebo, with 41 seats. Smaller parties within the FCC

³⁴ Individual interview 37, UNIKIN, November 10, 2021.

included, among many, the PPPD held 22 seats (seven less than in 2011); the Congolese Party for Development (PCD), led by Nehemie Mwilanya, a PPRD member and FCC coordinator, obtained 11 seats.³⁵ All these parties, forming the FCC, controlled an absolute majority with 341 seats out of 500 (Leclercq, 2019).

As we argued above, in the 2006, 2011 and 2018 elections, by founding his legislative majority through a coalition of the PPRD and smaller parties, rather than relying solely on his own party, Kabila embarked upon a problematic path that proved to be costly in the context of the post-2018 coalition. Despite their fragility, the weakness of his coalitions back in 2006 and 2011 was not obvious because Kabila was still in power and continued to exercise executive authority. However, after exiting office, a new troubling era emerged within Kabila's ruling coalition. Despite holding significant influence over his FCC coalition, Kabila was no longer the 'boss of all the bosses'. The executive authority he held for 18 years while in power was no longer in effect after the 2018 presidential election; the bicephalous power, with a former opponent occupying the presidency, and his own party with small allies in the legislative assembly, put his coalition in an increasingly precarious position. It is at this stage that his allies began to challenge his authority and defect to Tshisekedi's camp. In the next section, I analyze power dynamics in the FCC-CACH government and hegemonic presidency in a cohabitation context.

The concept of a "hegemonic presidency" is often applied to African contexts to describe situations where the executive dominates the political system, subordinate branches of

³⁵ Other long-term allies of the PPRD held significant number of legislative seats such as the Alliance for the Future (AA/a, 22 seats), Alliance of Actors for Good Governance in Congo (AABC-22 seats), CCU-Alliance (8 seats), led by Lambert Mende Kabila's former Minister of Communication, the Movement for the Integrity of the People (MIP, 6 seats), the Alliance for the Future (AA/a, 22 seats), the Alliance of Democrats for Renewal and Progress (ADRP, 22 seats) (Engelbert and Kalumba, 2020, p.33).

government, and concentrates authority in the hands of a single leader. In the DRC, the tendency to personify politics around the president is evident: decisions are highly centralized, and the visibility of power frequently revolves around the ruler rather than institutional processes. Under both Joseph Kabila and Félix Tshisekedi, the presidency has functioned as a focal point for patronage, resource distribution, and policy decision-making, overshadowing legislative and judicial branches.

Power dynamics in the FCC-CACH Cohabitation

The FCC-CACH cohabitation government was born out of the 2018 elections, which propelled an opposition leader, Felix Tshisekedi, to the presidency for the first time in the DRC's history, but with a legislative minority. Tshisekedi's minority coalition, the *Cap pour le Changement* (CACH), held only 48 out of 500 deputies, constituting less than 10% of the total number of national deputies (Boko, 2019; Mwakideu, 2019; VOA, 2020b). The Kabila legislative coalition, as we explained above, controlled 341 seats in the National Assembly, 95 of the 108 seats in the Senate, and 22 of the 26 provinces (Urs, 2020, p.199-200). Through the FCC parliamentary majority, Kabila was able to position his key allies in different positions in government institutions (Crisis Group, 2021).

In the aftermath of the 2018 election, the two rivals decided to form a coalition: the FCCCACH coalition. This coalition, however, was like a Potemkin village. The peaceful coexistence portrayed at the onset of Tshisekedi's reign was a mere smokescreen. In reality, it was a marriage of convenience formed for the sake of political survival and power conquest. It echoed a boxing fight between two rival camps targeting each other's weakest angles. Conflicts intensified as the two rival camps fought for supremacy over each other (Hoebeke, 2021, p.7). Soon after forming the government, disagreements emerged over the sharing of government

institutions. Indeed, it took nearly six months after Tshisekedi was sworn in as president on 24 January 2019 for FCC and CACH to agree on the appointment of Ilunga Ilunkamba as prime minister, and on the partitioning of government posts. In light of its legislative majority, the FCC claimed a majority of seats in the government, including key ministries such as Defense, Justice, and Mining (Crisis Group, 2021). This peculiar cohabitation situation was unprecedented in the DRC's history, and leading political actors had to adapt to it and learn how to best exploit it for their benefit. During an interview, a scholar explained that Congolese political actors were used to situation where “a ruler holds the majority in parliament, [which] implies that, in practice, the DRC political system was not semi-presidentialism but rather presidentialism, with the President in command [...]” but that, for the first time, the President was now facing “a scenario where [he] lacks parliamentary majority both in the Senate and the National Assembly, [which] may unite to table an impeachment motion against the head of state which could potentially lead to a loss of power.”³⁶

The DRC constitution was instrumental in establishing the groundwork for the power struggle between the FCC-CACH cohabitation government. The ways the constitution shares the power between the two heads of the executive explain a lot of the tensions that were to emerge. In addition, as we will see, we must also consider informal practices that fall outside of the constitution, some of which even contradict the formal rules.

According to the constitution, the president appoints the prime minister as the head of government.³⁷ It is the president, however, who convenes and presides over the Council of Ministers' meetings.³⁸ All acts of government are carried out by the prime minister, who is

³⁶ Individual Interview 6, September 21, 2021, Bibliothèque Belge.

³⁷ See article 8 of the DRC Constitution.

³⁸ See article 79 of the DRC Constitution.

answerable to the National Assembly.³⁹ The president's power includes the power to nominate the prime minister, governors (who are elected by parliament and provincial deputies), ambassadors, chancellors and medals of merit. Aside from these presidential nominations, all decisions taken by the president must be countersigned by the prime minister. The constitution states that the prime minister shall be designated from the party or platform that holds the legislative majority. In an interview, a scholar reflected on this obscurity in the powers of the president and the prime minister by stating that: "While the president's order must be countersigned by the prime minister, in reality, the exercise of power in the DRC has historically favored the head of state to the detriment of checks and balances, allowing the executive to exert dominant influence over the legislature and the judiciary. Like in any semi-presidential system, the president is not accountable to parliament. Unlike the prime minister, Tshisekedi is not required to defend his program before parliament. Hence, Tshisekedi shared this executive power with his predecessor while the prime minister, Kabila's ally, ensured that government policies represented the agenda of the FCC coalition."⁴⁰

The FCC-CACH cohabitation government proved challenging. A politician affiliated with the Union for the Congolese Nation (UNC) remarked during an interview that: "In the power struggle between the two rival camps, while the FCC chanted triumphalism, the Tshisekedi camp became increasingly frustrated. There were constant misunderstandings that were difficult to resolve, especially given that Kabila himself did not directly manage his FCC camp but did so through his caciques. The FCC deputies openly humiliated Tshisekedi by opposing his policies, which further exacerbated conflicts between the two camps."⁴¹

³⁹ See article 5 of the DRC Constitution.

⁴⁰ Individual Interview 31, UPN, November 3, 2021.

⁴¹ Individual Interview 59, January 26, 2022, Parliament.

In the first months of the cohabitation, President Tshisekedi was perceived as weak, without real power since the control over government institutions, including national and provincial assemblies, was still under the control of Kabila (Kambale and Dizolele, 2021). The cohabitation seemed to constrain quite heavily the traditional “hegemonic presidentialism” seen in the country’s history and in many other countries, where the executive exercises pervasive power over key institutions of the state, such as the judicial and economic apparatus, including the security apparatus. During this period, although Tshisekedi exercised executive power, this power was vetoed by the FCC parliamentary majority. While Tshisekedi was fighting to establish his neopatrimonial system by consolidating and exercising power, his predecessor was fighting to sustain the status quo. This was confirmed by a senior opposition politician, who is also a scholar, who emphasized in an interview that

All appointments within the army, the police, and the intelligence services had to be approved by Kabila’s cohorts. This is why terms like ‘placebo,’ ‘puppet,’ and ‘marionette’ were used to refer to Tshisekedi. Indeed, one could witness ministers and other close cronies of Kabila openly disrespecting the president. Thus, during this phase, Tshisekedi did not possess the spectacle and aura of power typically associated with a neopatrimonial ruler. However, Kabila was ingenious; as the architect of the engineered 2019 alternation, he ensured that the deal that led him to hand over power to Tshisekedi was witnessed by his friends, including President Uhuru Kenyatta of Kenya, Cyril Ramaphosa of South Africa, and El-Sisi of Egypt, who sent senior delegates to countersign as witnesses. This strategy was meant to compel Tshisekedi to respect the agreement due to the involvement of these heads of state as witnesses. In this

deal, Felix committed not to jeopardize the physical security of Kabila. Thus, Kabila cannot be arrested or imprisoned as is done elsewhere. Kabila was also already legally protected by the Mutinga law establishing the immunity of former heads of state. He is legally immune with an amnesty on his life. The security of Kabila's immediate family, including his assets, both movable and immovable, is off-limits. It is within this context that Felix assumes power and is bound by this deal.⁴²

Thus, during Tshisekedi's first two years in office, the DRC was under a collegial presidency, but an imbalanced collegiality in favor of Kabila, since the former did not have control over state institutions. The majority of the political, administrative and military personnel were still loyal to Kabila, who also continued to maintain significant influence over Tshisekedi (Englebert and Kasongo, 2021).

However, the cohabitation did leave open what we could call Kabila's Achilles' heel: he was no longer formally in power, and he was vulnerable to his own diminished formal power, which gave him much less leverage than he had when he was president. This left some room for Tshisekedi's potential capacity to use his formal and informal leverage to co-opt Kabila loyalists gradually. A scholar summarized quite well what we can now interpret as Kabila's awareness that his authority was more fragile than ever, now that he was no longer in power: "There were some occasions when Kabila organized meetings with FCC deputies at his farm in Kingakati, in the outskirt of Kinshasa, to seek reassurance of their loyalty, but they were more focused on securing their personal interests and political survival. Kabila himself, on several occasions, had

⁴² Individual interview 26, Private House, October 24, 2021.

mentioned that he lacked even fifteen loyal allies within his circle.”⁴³ We can certainly assume, as did this informant, that Kabila knew very well the nature of the ties most of the FCC deputies had towards him: “individuals who are less concerned about public good and engage in politics primarily for personal interests... ‘praetorians’ who are only interested in power. Thus, since they were mainly interested in power and their self-interests, they committed many errors while engaging with Tshisekedi’s camp. Instead of opting for carrots and sticks in the FCC-CACH power struggle, Kabila’s caciques were not flexible and underestimated Tshisekedi, which contributed to their fall from power.”⁴⁴

As we explained in the introduction to this chapter, we must remember that in the DRC, as in many other countries, parallel informal norms and practices weigh on the formal structure of the government. The neopatrimonial nature of the regime, coupled with the significant power delegated to the presidency, forms a massive informal web, comprising both the formal and informal factions of presidential advisers, senior military and intelligence officials, businessmen, political elites, and religious leaders, that the executive authority circumvents the formal structure. Neopatrimonialism and the ‘hegemonic presidency’ were to play an important role in Tshisekedi’s capacity to move out of his apparent position of weakness, as we shall see in the next sections, which will show how Tshisekedi has incrementally unstitched Kabila’s coalition, targeting powerful figures as well as regular deputies. This was an uncertain process, and it took almost two years to proceed, without any guarantee of its eventual success.

⁴³ Individual Interview 6, September 15, 2021, Bibliothèque Belge, Kinshasa.

⁴⁴ Individual Interview 5, September 21, 2021, Bibliothèque Belge, Kinshasa.

How the foundation of the pyramid began to crumble

In this section, I show how a combination of elite conflicts within the heterogeneous FCC coalition over limited government posts and diminishing private goods, combined with President Tshisekedi's strategic moves, contributed to the successful unstitching of Kabila's legislative majority. This was taking place in a context where, behind the image of a cohesive coalition, the "FCC's unity was fragile" and relied on access to patronage, material incentives, and intimidation (Hoebeker, 2021, p.6). In about two years, the transhumance of FCC deputies from Kabila's coalition to Tshisekedi's camp allowed the latter to acquire a new legislative majority without even needing to organize fresh elections. I analyze this progressive shift of power through four key "acts": the substitution of key judicial appointments; the unseating of the Kabilist presidents of both the National Assembly and the Senate; and the ousting of the Kabilist Prime Minister. With the loss of the legislative majority, as I will show, the intensification of PPRD intraparty fighting reaches new levels.

A prologue to the successive ousting of legislative and executive Kabilist leaders resided in a key tactical move that targeted the highest echelons of the judiciary. In July 2020, President Tshisekedi appointed three judges to the Constitutional Court. The three of them were perceived to be close to him (Wolters, 2020). Two of the three judges who were replaced at the Constitutional Court were then surprisingly transferred to the Court of Cassation. He appointed Dieudonne Kaluba Dibwa, as president of the Constitutional Court, who replaced Benoit Lwamba Bindu after he resigned earlier in June 2020 (Radio Okapi, 2020b). Thus, on October 14th, 2020, members of the *Bureau du conseil supérieur de la magistrature*, after visiting Tshisekedi, declared that the presidential orders were legal and constitutional. A few days later, on 21 October 2020, all three appointed judges were sworn in (Vondi, 2020), triggering a

protestation response from the FCC, including the FCC's allied Prime Minister, Ilunga Ilunkamba, who also found it difficult to block these presidential orders. Overall, as Wolters (2020) nicely sums up this judicial drama, with the appointment of the three judges, “by losing control of the constitutional court, Kabila lost the ability to manipulate elections and, with it, the ability to guarantee his followers that the FCC will be back in power in 2023.”

Once Tshisekedi secured these judicial nominations, President Tshisekedi declared the beginning of a “consultation” of the political class on 23 October 2020. After this consultation, Tshisekedi announced the end of the cohabitation and designated a negotiator who would identify a new majority for his newly formed coalition, the Sacred Union (DW, 2020b). This announcement in itself was a major dramatic event. But it remained an announcement, with little implication unless actual changes occurred at the legislative level. The concrete task ahead was more dire and required much work: dismantling of the FCC domination at the legislative level (National Assembly Presidency and the Senate) and executive level (the Prime Minister).

The Dismantling of the FCC’s Legislative Majority (Act I): Targeting the National Assembly Presidency

In this section, I illustrate how elites’ conflicts within the FCC coalition resulted in the impeachment and subsequent downfall of Jeanine Mabunda, the FCC president of the National Assembly, and her replacement by a former Kabilist who shifted his loyalty in favor of President Tshisekedi, Christophe Mboso. This section reveals the fluid nature of political loyalty, the ensuing effect of transhumance, and Tshisekedi’s shrewdness and agility to navigate through an unfavorable political setting and orchestrate a strategic legislative shift and consolidate power.

The FCC-CACH power struggle gained momentum as Tshisekedi vigorously began to challenge Kabila's parliamentary dominance (Hoebeke, 2021). In the beginning, Tshisekedi faced persistent hurdles in exerting authority, which was hampered by the FCC parliamentary majority (Kambale and Dizolele 2021). As we recall, in April 2019, Kabila had strategically appointed Jeanine Mabunda, a PPRD elite, as President of the National Assembly to maintain a tight grip on the National Assembly. Typical of any cohabitation, where the executive and the legislative majority are in two different camps, Mabunda, as the leader of the opposition to Tshisekedi and president of the National Assembly, remained loyal to Kabila and actively blocked President Tshisekedi's reform policies in the National Assembly, including even resorting to threats of impeaching the president. This clash between the National Assembly and the executive was tangible in various contexts. For example, during the power struggle over the control of key institutions such as the Constitutional Court, she opposed the approval of the three new judges Tshisekedi had appointed to the Constitutional Court in July 2020 and the nomination of the president of the CENI, arguing that those appointments were never made with the consultation of the FCC. Consequently, she mobilized the FCC deputies to boycott the swearing-in ceremony of the new judges appointed by Tshisekedi (Kitsita, 2020). At the same time, PPRD leaders were denouncing the Tshisekedi camp of disbursing \$7000 to each 500 deputies to shift their loyalty in favor of the president (Actualite, 2020b). However, Mabunda's leadership in the National Assembly encountered strong turbulence when Tshisekedi began to undermine the fragile unity within the FCC parliamentary bloc. The first clear manifestation of Tshisekedi's strategy targeting the FCC cohesion was precisely seen at work in this episode surrounding the national assembly chairmanship of Mabunda. Specifically, a number of deputies, including FCC deputies, began threatening Mabunda's authority.

In effect, by the end of 2020, 250 deputies, including several others from the FCC deputies, signed a petition motion to impeach Mabunda by accusing her of “opaque management of the National Assembly’s coffers”, creating conflict, and division in the National Assembly by blocking the swearing in of new Constitutional Court judges appointed by Tshisekedi (Bujakera, 2020). During the debate process of her impeachment, physical fights erupted in the National Assembly (Kavannagh, 2020). Nonetheless, she was ultimately impeached from her post as president of the National Assembly after 281 out of 484 attending deputies (out of 500) voted in favor of her impeachment (Gras and Tshiamala, 2020c) Her ejection as president of the National Assembly on December 10, 2020, granted Tshisekedi an enormous victory and marked the beginning of a shift in the balance of power (Bujakera, 2020). Thus, the fall of Mabunda demonstrated deep discontents and tensions within the FCC. Many of the coalition parties within the FCC felt shortchanged in the sharing of the cake, and some members felt sidelined in the decision-making process and were only provided with *‘fait accompli’* (GEC, 2019a). To make the situation more dire for the FCC and Kabila, in a few days after Mabunda’s fall, 24 out of the 26 pro-Kabila provincial governors declared their allegiance to Tshisekedi’s Sacred Union (Tshiamala, 2020).

The day after the fall of Jeanine Mabunda, Tshisekedi’s allies nominated Christophe Mboso to replace Mabunda as the new president of the National Assembly. Christophe Mboso was a former ally of Joseph Kabila and a member of the FCC coalition who had defected to Tshisekedi’s camp. He was the oldest deputy and had served in successive regimes as minister in different dockets under Mobutu’s regime; he was also a senator during the 2002 transition period, and a national deputy under Kabila’s regime (Radio Okapi, 2021b). He was therefore a former Mobutist, a former Kabilist, and now a new Tshisekedist. He was the true embodiment of

transhumance politics. Following his nomination, the FCC immediately accused Mboso of playing to the tunes of Tshisekedi's power game (Rolley, 2021; Zounmenou, 2021). Despite these allegations, during the contest for the presidency of the National Assembly, the FCC coalition did not present a candidate for the same position it had controlled before the impeachment of Jeanine Mabunda. As a result, Christophe Mboso emerged as the sole candidate for the presidency, securing a landslide victory with 389 out of 391 votes (Radio Okapi, 2021c). This outcome was the result of a process that saw Tshisekedi ingeniously navigating the complex political landscape and strategically consolidating his control over the National Assembly.

Having shifted from being a long-term ally of Kabila to joining Tshisekedi's Sacred Union (Congovirtuel, 2021). Mboso became instrumental in Tshisekedi's pursuit of multiple reforms (Muamba, 2021a). However, with Kabila losing the strategic speaker of the National Assembly's position, the party's fierce internal struggles became even more visible. During an interview, a PPRD politician explained that "Facing persistent defections of FCC deputies, the PPRD sought to develop a new strategy to counter the new majority that Tshisekedi was aiming to form. He formed a crisis committee in December 2020 to address the challenges within the FCC. The new crisis committee focused on addressing the deep internal crisis the FCC was experiencing."⁴⁵ Kabila designated his key ally and former minister of foreign affairs, Raymond Tshibanda, to head the crisis committee (Radio Okapi, 2020c), including many other close associates. They recommended the restructuring of the FCC coordination team and condemned senior FCC members for the failures of the FCC coalition, including Nehemiah Mwilanya Wilondja, the FCC coordinator, Emmanuel Shadary, PPRD Permanent Secretary, Aubin Minaku

⁴⁵ Individual Interview 20, October 7, 2021, PPRD headquarter.

and Evariste Boshab, both senior PPRD members, and Azarias Ruberwa (Mediacongo, 2020c). The creation of this crisis committee revealed the deep-seated elite's power struggle within the FCC coalition and its attempt to maintain group cohesion. Thus, Kabila sought to limit the damage of defections in the coalition to fight the shifting political landscape and safeguard his political survival.

The Dismantling of the FCC's Legislative Majority (Act II): Targeting the Senate Presidency

Having successfully targeted the FCC president of the National Assembly, the Tshisekedi camp then began eyeing the other key legislative position: the Senate presidency. The surgical unstitching of the FCC legislative domination was progressing step by step.

In the aftermath of the 2018 legislative election, the FCC, thanks to its legislative majority, could claim the Senate presidency. This position is tremendously important, being the second most senior in the state apparatus. Not surprisingly, the election of the president of the Senate led to a fierce battle between powerful FCC figures who sought this position. The greatest battle was fought between Thambwe Mwamba against Bahati Lukwebo. The winner of this intra-FCC competition was Thambwe Mwamba, who became president of the Senate on July 27, 2019 (Hoebeke, 2021, p.6). Thambwe Mwamba commanded an immense majority of around 80 senators, while Bahati Lukwebo relied on the 13 senators of his AFDC party, including the discontent members of the FCC, and opposition deputies from the G7 and the MLC. But the contest for the position of the president of the Senate left serious fissures within the FCC coalition (Zoom Eco, 2019). The Tshisekedi camp quickly understood that it could capitalize on

the intra-FCC antagonisms created by this election. In a battle to reconfigure the parliamentary majority, Tshisekedi appointed Lukwebo as “information-gatherer” (or *informateur*) in charge of meeting FCC elected officials to inquire about their positions, with the hope of forming a new parliamentary majority for him. Later, on 23 January 2021, a delegation made up of 42 PPRD deputies met the *informateur* Lukwebo and declared that they had adhered to Tshisekedi’s Sacred Union (Radio Okapi, 2021a). In March 2021, over 300 national deputies had adhered to the Sacred Union (Bashi, 2021).

In the Senate, the Achilles’ heel of the Senate president was his sulphurous background, made of dubious economic operations he had conducted throughout his long political career. Seven months after he was nominated Senate president, the first criminal accusations against him were launched. On February 1st, 2020, the IGF accused Thambwe Mwamba of embezzling Senate funds. The Attorney General of the Court of Cassation, Victor Mumba Mukomo approved the inquiry into his questionable withdrawal of three checks valued at EURO 2 million, USD 1 million, and Congo Francs 1 million in January of 2020 (Kitsita, 2021). Facing enormous pressure from Tshisekedi, Thambwe Mwamba resigned as president of the Senate on February 5, 2020, moments before the debate of the petition demanding his resignation. Most officials from his office had already resigned prior to his own resignation. Only Sammy Badibanga, the first vice-president and key ally of Tshisekedi, retained his position. As a key pillar of Kabila in the Senate, the downfall of Thambwe Mwamba, who had been in place for just six months, significantly weakened Kabila’s influence (Gras, 2021c; Holland, 2021a).

Once the FCC Senate president was removed, the next task was to find the right person to replace him and ensure Tshisekedi’s camp’s control over this key legislative position. This person was Bahati Lukwebo, the FCC politician who had lost the race for the Senate presidency six

months earlier. As explained above, this fierce battle had left some unhealed political scars, which the Tshisekedi circle easily exploited. Lukwebo held a grudge after this defeat, for good reasons: his party, the Alliance of the Democratic Forces for Congo (AFDC) was the second biggest party in the FCC, second to the PPRD, and he was also considered as a likely successor of Kabila due to his financial muscle, and broad electoral support base at the grassroots level in Eastern Congo, given his origin from South Kivu. But despite all these assets, Lukwebo complained of being shortchanged by being allotted less numbers of ministerial positions (Titeca and Thamani, 2018). Ultimately, he lost the battle for the Senate presidency against his rival FCC competitor. This explains why the Tshisekedi camp found in him the perfect target for their strategy. They established contacts with Lukwebo in October of 2019 (Gras, 2021a). Despite these setbacks, he remained loyal to Kabila. Why, then, did he later defect? The political context and its milieu had changed during cohabitation. Although Kabila assumed the powerful position of the ‘moral authority’ of his FCC coalition, after exiting office, he had ceased to be ‘the boss of all the bosses’, losing the capacity to make the final decision, especially over the country. Lukwebo’s divorce from the FCC was confirmed on July 10, 2019, after he was indefinitely suspended from the FCC (RFI, 2019e) during a conference of the FCC leaders. Lukwebo reciprocated by announcing the withdrawal of his AFDC-A party from the FCC coalition (GEC, 2019b). Later, he began negotiations with the CACH coalition, which at that time held a minority of seats in parliament. While Lukwebo had intensified talks with the Tshisekedi camp, Kabila strategized on how to weaken him. The FCC began to coerce the AFDC-A deputies, a strategy that proved successful, given that in July of 2019, 21 of the party’s 37 deputies defected from Lukwebo’s camp and pledged loyalty to Kabila. Governors and vice-governors, including provincial deputies, were also called to pledge allegiance to the newly formed leadership of

AFDC-A or else they would be excluded from the FCC (GEC, 2019b). A day later, AFDC-A renegades assembled and excluded their leader, Lukwebo, from the party. The conference of presidents and representatives of AFDC-A new leadership designated Nene Nkulu as the new president to fill the vacuum (Makale, 2019). Lukwebo fought back and found a way to win the battle against these “renegades” (GEC, 2019b). Lukwebo was a suitable candidate for Tshisekedi because he was a person with a sense of strategy; he was unlikely to overshadow him in the 2023 presidential race, and his strong local support in Eastern Congo could be beneficial. After defecting to Tshisekedi’s Sacred Union, Bahati Lukwebo was elected president of the Senate with 89 out of 98 votes. Consequently, the FCC was weakened from within, leading to 80 out of 108 senators shifting to the Sacred Union (RFI, 2021a). The election of Bahati Lukwebo as president of the Senate culminated in the formation of a new majority in the National Assembly and shifted the balance of power away from Kabila and in favor of Tshisekedi.

The Dismantling of the FCC’s Role in the Executive: Targeting the Prime Minister

The embodiment of the cohabitation between the FCC and the CACH resided in the power-sharing taking place in the executive itself. In effect, with the 2018 elections, the executive was divided between the president and the prime minister, each being supported by opposite political forces. The prime minister could count on the support of the FCC majority in the National Assembly in his standoff with the president. Not surprisingly, then, the Tshisekedi camp’s strategy, in its attempt to dismantle the FCC’s share of power, consisted of targeting the prime minister. Hence, just as it tried and eventually succeeded in ousting FCC leaders of the National Assembly and the Senate and replacing them with loyalists, Tshisekedi sought to do the same with the FCC prime minister. This is what this section explains.

Following the 2018 election, it took five months for the Kabila and Tshisekedi camps to finally agree on who would become the prime minister: Ilunga Ilunkamba was nominated as prime minister on May 20, 2019. It took another three months for the prime minister to put together his government. It comprised 65 members, 42 from the FCC and 23 from CACH (RFI, 2019f). As expected, the new government had to deal with contradictory forces, with the FCC legislative majority seeking to ensure it followed the Kabila line, while the official shared executive situation forced the prime minister to work with the president. As a university scholar and former PPRD member explained:

The prime minister did not have many initiatives other than what was communicated to him to execute. Hence, he found himself between a rock and a hard place. At some point, he felt like resigning because of being given contradictory orders. One could actually feel that he would not accept some orders. The prime minister was under enormous pressure from Kabila, who had appointed him to oppose Tshisekedi's maneuvers that could threaten the powers of the FCC.⁴⁶

The FCC utilized its parliamentary majority to block Tshisekedi's appointments of his allies to various strategic positions in the government. However, as we explained above, Tshisekedi found ways to fight back, notably through the nominations of three new judges to the Constitutional Court in October 2020. It was this court that eventually "allowed parliamentarians to leave their former political groups and join new alliances. This decision allowed deputies to

⁴⁶ Individual Interview 45, UNIKIN, January 20, 2022.

switch political allegiance without the risk of being let go by their original parties and consequently losing their seats” (Crisis Group, 2021).

Hence, just as it happened with the chairmanship of the two legislative assemblies, in the months following the formation of the government, the Tshisekedi camp maneuvered to exploit tensions and rivalries amongst FCC deputies and government members. The goal was to convince enough FCC deputies to support a vote of no confidence against the prime minister.

On 22 January 2021, 301 deputies endorsed a motion of no confidence proposed by Cherubin Okende, a national deputy affiliated with Moise Katumbi’s *Ensemble pour le Changement* the opposition party. However, some FCC deputies who remained loyal to Kabila refused to participate in the voting process, arguing that the process was not following the proper rules. Despite their protest, while some tried to boycott the vote, on January 27th, 2021, 367 out of 382 MPs voted to dissolve Ilunga Ilunamba’s government (Gras, 2021b). For this operation to succeed, it required a significant number of FCC deputies to vote in favor of the no-confidence vote. We must recall that Tshisekedi’s CACH only had 48 deputies, while the FCC had 341 of them. This meant that the Tshisekedi camp was able to convince enough of these FCC deputies to support its motion and oust the FCC prime minister and his government.

Soon after the shift of the parliamentary majority, many FCC deputies, including 24 of the 26 DRC’s provinces, declared they had pledged allegiance to Tshisekedi’s Sacred Union (Berwouts, 2021). This seems to confirm what a Congolese scholar stated in an interview, which is that “when Kabila relinquished power and could no longer distribute material benefits to his cronies, power dynamics shifted as his allies moved to join Tshisekedi, who had gained control of

government institutions.”⁴⁷ With a new parliamentary majority under his control, Felix Tshisekedi was able to nominate a cabinet of his preference after two years of ruling under Kabila’s shadow (DW, 2021). As a result, the political landscape was reshaped, and a new order was established. On February 15, 2021, Tshisekedi appointed as prime minister Sama Lukonde, the former CEO of Gecamines, the state mining parastatal. His appointment led to Tshisekedi’s control of government ministries, legislature, judiciary, and security apparatuses (Aljazeera, 2021). Sama Lukonde’s government was unanimously endorsed in the National Assembly with 410 out of 412 deputies.

Although it is very difficult to know exactly how the Tshisekedi camp convinced each FCC member to vote against the FCC prime minister, we cannot fail to notice that many of these FCC deputies who shifted to Tshisekedi’s Sacred Union were rewarded with government positions. For example, Jean-Pierre Lihau, a dissident PPRD member, was appointed as deputy prime minister and Minister of Civil Service. The Justice docket, previously held by the PPRD, was then headed by Rose Mutombo Kiese, president of the *Cadre Permanent de Concertation de la Femme Congolaise* from the civil society, who is also a close ally of Tshisekedi. Nicolas Kazadi, a powerful advisor of Tshisekedi, was appointed as Minister of Finance. Powerful opposition members who joined Tshisekedi’s Sacred Union were also awarded ministerial posts. Katumbi’s party, *Ensemble pour la Republique*, which held 70 deputies, was granted five ministerial positions, including Foreign Affairs, then headed by Christophe Lutundula. Cherubin Okende, who introduced the vote of no confidence against the FCC allied prime minister was appointed as Minister of Transport. Jean-Pierre Bemba’s *Mouvement de Liberation du Congo* (MLC) opposition party joined Tshisekedi’s Sacred Union and was given the Ministry of the

⁴⁷ Individual Interview 42, UNIKIN, November 18, 2021.

Environment. Tshisekedi's key coalition partner in the 2018 election, Vital Kamerhe's UNC, maintained four ministerial positions, including the Budget Ministry, which was headed by Aime Boji, the party's interim secretary general. However, the UNC lost the position of the government spokesperson, Patrick Muyaya from the *Parti Lumumbiste Unifié* (PALU) (RTBF, 2021a).

The Life of Kabila's PPRD party after the collapse of the FCC Pyramid: Intraparty fighting and realignment

In this section, I illustrate the substantial transformation that occurred within the PPRD after the collapse of the FCC-CACH cohabitation, including elites' conflicts and continued transhumance of its key members. I also demonstrate how the PPRD has restructured to navigate the intricacies of the post-cohabitation phase.

The rupture between the FCC and CACH posed a serious challenge to many of Kabila's allies, who were used to the privileges associated with being in power. After Tshisekedi formed the legislative majority under the Sacred Union coalition, several of PPRD's senior representatives defected to Tshisekedi's camp or opted for independent political paths by creating their own parties as a bargaining tool for power. This pattern can be illustrated with a few well-known figures, whose trajectories are quite revealing. Willy Bakonga, a former minister and prominent figure in the PPRD party, was granted a presidential pardon by Tshisekedi and later decamped from PPRD to join Tshisekedi's Sacred Union. He was sentenced on 30 April 2021 to three years in prison for money laundering, but he aligned with Tshisekedi to mitigate the judicial pressure that significantly weighed on him (Scoop, 2022). Similarly, Matata Ponyo, the longest-serving prime minister during Kabila's tenure and a PPRD member, also left and created his own party,

Leadership for Governance and Development (LGD). His departure from the PPRD is primarily attributed to the various corruption scandals and legal cases that have been heavily weighing on him. However, while channelling his own political future, he faced significant pressure from Tshisekedi, through the judicial system, to compel his compliance with the law (Matininfo, 2021). Other notable figures like Théophile Mbemba Fundu, former Kabila's Chief of Staff and Minister of Higher Education and Universities during Kabila's tenure, also left and formed his own party, the *Alliance pour l'Alternance et le Progrès* (APP), to pursue an independent political path (Radio Okapi, 2021). André-Alain Atundu, former general administrator of the National Intelligence and Protection (SNIP) under Mobutu, who joined the National Intelligence under Laurent Kabila and later defected to join Joseph Kabila's regime, where he assumed the role of spokesperson for the Presidential Majority (MP), and defected to join Tshisekedi's Sacred Union ten months before the 2023 elections (Tshiamala, 2023).

Evariste Boshab, a central figure in Kabila's regime, also left the PPRD to form his own party, the Alliance for Citizen Actions (ACC) (Kabamba, 2022), which is affiliated with the Sacred Union. Boshab held significant positions in Kabila's government, including Secretary General of the PPRD (2007), President of the National Assembly (2009-2012), and Minister of Interior and Security (2014-2016). His move to align with the Sacred Union coalition also reflected ethnic coterie as both leaders share the same Baluba ethnic origin. Indeed, many 'Baluba' deputies who were members of the PPRD and FCC left to support Tshisekedi due to the influence of ethnic or regional ties. This was evident on 3 January 2022 during Tshisekedi's tour of his political fief, Tshikapa, the capital of Kasai province, where he met with elected national and provincial deputies of this region. Among these deputies was Evariste Boshab, who shifted to support

Tshisekedi's presidency. This ethnic dimension is at the core of this scholar's analysis, who explained in an interview that

Kabila relied on his allies from his Katanga origin. His political base primarily rests on his PPRD party and his natural electoral stronghold, comprising mainly the Swahiliphone region, particularly in his ancestral Katanga region. On the other hand, Tshisekedi's regime is dominated by his Kasai home turf or Baluba ethnic kin. As a result, the DRC's political landscape reflects these sociological dynamics, prompting numerous Baluba deputies elected under PPRD and members of the FCC coalition to defect to Tshisekedi due to tribal and regional affiliations. Additionally, Congolese politicians follow the direction of the wind. They move where their interests lie. They are versatile and prefer aligning themselves with those in power.⁴⁸

The defection of Kabila's caciques to Tshisekedi's Sacred Union demonstrated the erosion of Kabila's power and the rise of Tshisekedi as the new center of political gravity.

With all these senior leaders defecting to the Tshisekedi camp, the PPRD had to start relying on "young Turks" in the management of the party. On December 15, 2021, François Nzekuye, who headed the communication and media department, was appointed to replace Didier Minara, who defected to Tshisekedi's camp, as the new president of the PPRD parliamentary group (Muamba, 2021b). Other younger leaders included Jimmy Kitenge, Jean Serge Tshiben, and Aristote Ngarime, who were appointed on January 12, 2022, as National Secretaries in charge of the party's communication department (Mokolo, 2022). Additionally, intraparty conflicts within the PPRD led to the emergence of factions like the Revolutionary Force for Change (RFC/PPRD),

⁴⁸ Individual Interview 32, November 3, 2021, UPN.

led by a PPRD cadre, Jimmy Ngalasi, who sought to challenge the dominance of Kabila's old guard. While Shadary's bloc held onto power to maintain the status quo, the RFC/PPRD sought to mobilize the youth against the old guard's dominance (Matininfo, 2021).

In a nutshell, the fall of the PPRD and its FCC coalition from power after cohabitation precipitated the continuity of transhumance of Kabila's allies to the new regime. Several former Kabilists have transformed into Tshisekedists to safeguard their personal interests to adapt to the shifting political dynamics, but in doing so, they actually nurtured this same political dynamic. In doing so, they confirmed the neopatrimonial logic of the political game.

Conclusion

Through the prism of neopatrimonialism, this chapter examined how Joseph Kabila's power gradually diminished during the cohabitation period. In particular, I investigated the metamorphosis and ultimate disintegration of the FCC coalition. First, I analyzed how Kabila, despite ceding executive power to the opposition, continued to exert significant influence over his successor, Felix Tshisekedi. Second, I demonstrated how Tshisekedi, who rose to power with a minority coalition, succeeded in dismantling the parliamentary majority, led by the former autocrat and shifted the balance of power. While several studies have shown that neopatrimonial rulers sustain power through a patronage network, where the ruler gains the ruling elites' support and loyalty by dispersing material rewards and government posts and contracts (Bayart, 1993; Bratton and van de Walle, 1997), this very neopatrimonial logic undermines the autonomy of formal institutions such as the legislature, the judiciary, and the electoral commission, enabling the ruler to consolidate hegemonic control over state institutions. Thus, formal institutions are

prone to executive control. This is how a hegemonic presidency defined post-colonial states in Africa.

While neopatrimonial rulers hold hegemonic control over state apparatuses, the DRC's neopatrimonial ruler, Felix Tshisekedi, did not have complete control of state institutions. Instead, he formed a cohabitation government with his predecessor, Joseph Kabila, following an incomplete alternation. This cohabitation arrangement allowed Tshisekedi to control the presidency, while his predecessor controlled the legislative majority.

However, as explained Kabila's formal exit from the executive office significantly impacted the functionality of his neopatrimonial system. Kabila's control of the legislature through the FCC coalition rather than his PPRD, as a single majority was his Achilles' heel. Since the 2006 elections, Kabila's legislative dominance was based on a loose coalition, bonded by patronage and distribution of material rewards. Coalitions by nature are more susceptible to collapse than a single-party majority. While the FCC portrayed a semblance of a formidable majority, its foundation was based on a loose network of microstructures of parties, which were bound by material incentives rather than an ideology. Lacking executive authority after exiting the presidency, Kabila's pervasive access to state resources and ability to sustain his patronage network had waned. This deprived his allies of the benefits that had previously sustained their loyalty. Despite forming an enlarged FCC coalition, his capacity to sustain the rent-seeking behavior of his allies was constrained by the limited access to material rewards. As a result, conflict over the sharing of the limited resources intensified within the FCC, resulting in the emergence of factionalism and fierce competition. It made the coalition vulnerable to the

strategic moves of President Tshisekedi, who progressively targeted all the weakest points of the Kabila coalition.

Second, the chapter showed that Tshisekedi's agency, which was manifested through calculative political maneuvers in key institutions, was pertinent in permeating the structural fragility of the FCC. By leveraging his executive authority and access to state resources, Tshisekedi redistributed patronage, triggering a wave of mass transhumance of FCC deputies to his camp. This led to the fall of his loyalists occupying key institutional positions, including the speaker of the National Assembly and the Senate, and the Prime Minister, which culminated in the disintegration of Kabila's neopatrimonial network. Thus, the absence of an amalgamated organizational structure or shared ideological basis rendered the FCC susceptible to Tshisekedi's tactical gambits that exploited the heterogeneity microstructure of political parties that formed the FCC coalition. This structural fragility significantly contributed to the collapse of the FCC.

Chapter 7: Bending the Rules before Playing the Game: The Battle over the National Independent Electoral Commission (CENI) and the Rise of Tshisekedi's Influence

Introduction

The democratization process initiated by the West and imposed on former warlords and political elites, after years of upheaval, led to the organization of the 2006 general elections and the promulgation of a new constitution on February 26, 2006 (Pollet-Panoussis, 2008, p.453). However, elections did not reflect democratic ideals as the then-incumbent ruler, Joseph Kabila, bent the rules of the game to his favour. As a key player in the battle for power, Kabila tactically placed his loyalists in key positions in the Independent National Electoral Commission (CENI) to guarantee victory in the elections. Similar power grab gambits were utilized in the 2011 elections against his archrival, Etienne Tshisekedi, who swore himself in as president at his residence before being placed under house arrest by the Kabila regime (Butty, 2011; Mwakideu). Despite being bound by the constitutional limit in 2016, Kabila extended his 16-year reign by an additional two years before ultimately relinquishing the presidency in 2018. After being compelled to cede power, he endorsed his People's Party for Reconstruction and Democracy (PPRD) secretary general, Emmanuel Shadary, as his successor. After 18 years in power, Kabila faced mounting international pressure to step down, limiting his ambitions to vie for a third term. Diplomatic pressure from the US, the African Union, the European Union, and neighboring states such as Angola created a legitimacy crisis that made overt electoral manipulation untenable. While the electoral commission (CENI) had been a powerful instrument used by Kabila to prolong his rule, it failed to prevent his successor's defeat in the 2018 presidential elections, despite his control over this institution. Thus, the option of the CENI to announce

Kabila's candidate as the winner of the 2018 presidential elections would have triggered massive unrest and potential international isolation. Instead, Kabila opted to negotiate a deal to transfer power to an opposition candidate, Felix Tshisekedi, while expecting to maintain his control over his successor (Englebert, 2019c). Thus, the regime's acceptance of the electoral outcomes was not accidental. It sought to manage the alternation rather than winning at all costs, prioritizing regime survival over electoral triumph. Tshisekedi's electoral triumph reflected a calculated compromise that enabled the Kabila regime to avoid international backlash and domestic revolt while ensuring the regime's continuity through a power-sharing arrangement. In this sense, the CENI did not fail per se as it delivered a managed electoral outcome consistent with the regime's broader strategic interests.

The basis of this chapter is to examine the political struggles that emerged after Tshisekedi's ascension to power during the cohabitation period, between the FCC and CACH, two rival camps of the cohabitation that fought over a key political institution, the *Commission électorale nationale indépendante* (CENI). Given its critical role in the organization of elections, and therefore for one's access to power, the CENI has been at the center of the tense relations between the Kabilists and Tshisekedi's circle. The power struggle, like the other struggles we analyze in this dissertation, unfolded in two different phases: first, when the two camps each controlled one branch of the government (when the FCC coalition controlled the legislative majority while the CACH controlled the executive branch); and second, after Tshisekedi managed to break free from Kabila's influence in the legislative assembly. Once the president could finally count on the support of the legislative branch, he faced a choice regarding the future of the CENI: he could either push further reforms that would ensure the autonomy of the CENI, thereby giving a chance to democracy to consolidate, or he could borrow the playbook of

his authoritarian predecessors, transforming the CENI into an instrument of presidential power. As we will show, Tshisekedi opted for the second option. The conclusion is thus unequivocal: Tshisekedi, once a champion of an autonomous CENI, which he envisioned as a necessary tool to consolidate democratization, in fact reverted to the old tricks of his autocratic predecessor. Finding himself at a critical juncture, he did not opt for a path of democratization but rather confirmed that the DRC was “locked in” on an authoritarian path.

The remainder of the chapter is structured as follows: first, it provides some brief analytical insights from the literature that has analyzed the role of Electoral Commissions (ECs) in authoritarian regimes. It then offers some historical background, highlighting how, before our current case, electoral commissions have been instrumentalized by Congolese rulers. It will then analyze how the Kabila and Tshisekedi camps fought over the CENI in the first part of Tshisekedi’s administration. It will finally demonstrate how the presidential camp consolidated its grasp over the CENI after it secured a majority in the National Assembly.

Theoretical Reflections

This chapter analyzes the power struggle between the FCC and CACH over the control of the CENI through the prism of the concept of neopatrimonialism, as deployed in inspiring studies on authoritarianism and electoral commissions (ECs).

In his study of the informational role of electoral commissions, Kerr (2024) proposes a theoretical model to analyze how electoral commissions (ECs) facilitate different stakeholders – the regime in power, the opposition, and the public – to assess the electoral processes, which in turn shape the credibility and legitimacy of the elections and ultimately strengthens the regime’s stability (p.31). Autonomy and capacity are the key factors that enable the ECs to positively

impact the electoral process. High autonomy and capacity enable ECs to effectively mitigate electoral malpractices (p.35). However, “the degree of autonomy in the appointment process is influenced by the extent to which the executive branch dominates the appointment process” (p.37). Thus, although ECs can be constitutionally safeguarded as autonomous, they may lack genuine autonomy when the incumbent ruler holds the capacity to influence ECs delegates through informal practices like “bribery and threats of intimidation” (p.38). Consequently, autonomy raises the prospects of electoral rigging by the ruler while capacity “is instructive for understanding administrative irregularities” (p.42). Thus, both autonomy and capacity impact the degree of trust in the ECs’ impartiality (p.45). On the one hand, high autonomy restricts electoral rigging by raising the cost of manipulative tactics such as violence, bribery, and intimidation of the voters by the regime (p.46). On the other hand, when ECs' autonomy is low, incumbents easily manipulate electoral outcomes, even when the opposition leads with the majority of the votes. With low autonomy, rulers also avoid rigging tactics, which can be very costly to execute before the election, as well as expensive campaigns like the cooptation of opposition dissidents (p.47). Lower ECs’ autonomy also leads the opposition to anticipate rigged results in favor of the incumbent, which reduces their trust and raises their chances of boycotting elections (p.48). On the other hand, high-capacity impacts trust in the electoral process by exposing the risks of electoral fraud (p.51). Stage three of the model explains how electoral attitudes and behaviors of both the elites and citizens affect the quality and legitimacy of elections (p.57). Strong autonomy and capacity improve election quality by raising voter participation, curbing electoral fraud and irregularities, and ensuring that the losing candidates accept electoral results (p.58).

In this process, the role of the judiciary is critical in how ECs function. Langford et al. (2021) further advanced the debate regarding the ECs’ capacity and autonomy. They found that

greater ECs' autonomy and capacity result in lower electoral violence and higher electoral legitimacy (p.61). Although autonomy and capacity are linked to reduced electoral violence, only capacity seems to strengthen confidence in elections. Furthermore, and this is very important, they find that the judiciary plays a crucial role in the connection between ECs and electoral trust and violence. A high degree of judicial autonomy is closely linked to lower electoral violence and increased trust in electoral integrity. Established democracies promote robust judicial oversight, which in turn strengthens ECs, consolidating democratic principles. Thus, their results underscore the role of a strong judiciary in safeguarding electoral integrity by strengthening ECs (p.79). In the same vein, in his study of the ECs in Malaysia, Shah (2021) also found that judicial reluctance to review the EC's decisions has contributed to persistent flaws in Malaysia's electoral democracy (p.60).

Our understanding of ECs also requires that we pay attention to neopatrimonialism. In their study, Lundstedt and Edgell (2020) maintain that consolidating ECs' capacity discourages neopatrimonial practices by making it less viable for politicians. A well-functioning EC enhances election legitimacy, thereby raising the cost of clientelism. As a result, electorates are less likely to be swayed by material favors when a more legitimate electoral process and greater scrutiny are put in place, which compel them to have stronger reasons to vote for a candidate. As we know, when neopatrimonial, or clientelist, practices are widespread, voters' electoral participation transforms into a transaction, undermining their genuine political representation. In other words, strong EC strengthens voters' confidence in elections as a reliable method of selecting leaders, devoid of neopatrimonial practices (p.10). Not only can a strong EC foster genuine participation, but it also diminishes the likelihood of *violent* participation during electoral periods. In effect, Opitz et al (2013) argue that when ECs are inclusive and embrace

collaboration among stakeholders, they enable political actors to negotiate key electoral issues peacefully. Through their comparative analysis of ECs in Malawi (2004), Ethiopia (2005), and Zanzibar (2005), they revealed that fostering inclusivity is more effective than legal independence in addressing electoral integrity matters (p.713). In competitive authoritarian regimes, inclusive ECs foster trust and encourage non-violent political engagement. However, when opposition parties lack influence over the electoral process, as seen in Ethiopia (2005), they are more likely to reject the electoral outcomes through unlawful means, fueling instability (p.714).

Some nuances can be brought into the theoretical reflection at this point. In effect, Campion and Jega (2023) find significant variation in ECs' autonomy and capacity, but no evidence connecting their weakening to democratic backsliding in Africa. Through a comparative analysis of ECs in Zambia and Ghana, they illustrate that while backsliding can weaken ECs' integrity, ECs may still manage to oversee a legitimate transfer of power (p.375). In Zambia, while backsliding considerably weakened the national ECs' institutional integrity, it can still oversee an accepted power transfer. The case of Ghana also confirms this dynamic. But democratic backsliding, coupled with “[e]scalating polarization, particularly in the digital age, and the weakening of mechanisms that build political consensus around the delivery of elections,” can affect public trust in ECs operations (p.390). In the specific case of Kenya, Erlich and Kerr (2016) found that over the years, confidence in ECs tends to diminish after polarized elections, largely due to doubts about their autonomy and capacity. After the 2013 elections, Kenyans who supported losing presidential candidates or were dissatisfied with the EC's handling of the electoral process were prone to losing faith in the institution (p.672). Apart from the 2002

elections, the national EC has lost the confidence of a large segment of the population after the conduct of the elections (p.682).

Overall, these different studies allow us to better measure the critical importance of ECs. A key lesson to be drawn here is that when neopatrimonial leaders can weaken the autonomy and capacity of ECs, it produces various effects that are detrimental to democratization. When ECs are subservient to incumbent control through neopatrimonial mechanisms, we notice a decline in genuine participation, in popular trust in these institutions, further democratic backsliding, and a rise in electoral violence. As these studies have illustrated, executive authority can influence ECs through informal networks of appointed loyalists who are sustained through clientelism. This is further exacerbated when the judiciary is also at the service of the executive power. The president's control over ECs underscores how the regime navigates the domestic and external pressure for democratization by circumventing the formal structure through neopatrimonial practices, creating a façade of institutional legitimacy while maintaining control over the electoral process.

The Electoral Commission in the DRC: A Brief Historical Background

The DRC has held elections in three critical phases of its modern history: At the end of the Belgian colonial rule (1957-1960); the 22 May 1960 parliamentary elections that laid the ground for independence, and under the third republic (2006-current) (Sango et al., 2022, pp.641-642). Mobutu established a one-party authoritarian regime that barely held elections, and when it did, it was about crowning a sole candidate (1970 and 1984) in a referendum voting style. After the

fall of Mobutu, the ascension of Laurent Kabila to power further stalled the democratization process that began in the early 1990s. His ephemeral period was not based on the democratization experience. This section focuses on the historicity of the electoral commission during the transition period (1990-1997) to the Kabila eras, both Laurent Kabila and Joseph Kabila.

The Electoral Commission during transition

In the early 1990s, electoral contests that were largely dormant under Mobutu's one-party rule gained momentum during the opening of multipartyism in the transition period (GEC, 2021). The electoral commission, known at that time as the National Election Commission (CNE) was formed as an autonomous entity by the High Council of the Republic – Transitional Parliament (HCR-PT) to organize transparent elections. It was composed of 44 members, shared equally between Mobutu's presidential majority (MP) and the opposition platform, the Sacred Union of the Radical Opposition (USOR). While some NGO members were selected to join the CNE did not have specifications for civil society representation in the electoral commission (NDI et al., 1996, p.12). However, CNE operations were delayed until 1996 due to conflicts between the two rival camps over the appointment of its members (Ibid). There were challenges in forming a balanced commission, reaching consensus on decisions, and addressing technical and financial constraints, which significantly impacted the electoral process (p.25). Indeed, the CNE itself was under the control of the Mobutu regime, which also controlled its budget, financial activities, and major administrative roles. As tension intensified, Nzongola-Ntalaja, the vice-president of the CNE, stepped down in summer 1992, accusing the CNE of lacking interest

in conducting an impartial election (Ibid). Thus, while Mobutu supported the formation of the electoral commission, he sabotaged its operations (Gec, 2021, pp.29-30). Following its formation, tension emerged between Mobutu and the opposition over its autonomy, a major stumbling block to Mobutu's attempt at preserving power at all costs (Ibid). Thus, although the electoral commission was established by different stakeholders as an autonomous entity, it remained subservient to the ruler (Hengelela, 2017, p. 31).

The Politicization of Elections under Joseph Kabila (2006-2018)

It is only with the ascension of Joseph Kabila to power that democratization gained some momentum. During this period, the CEI was formed by the Global and Inclusive Peace Agreement, signed between warring factions in Pretoria on April 4, 2003, to transition from power grab through armed conflict to democratization (Lomandja, 2017, p.60). The CEI was designed as an entity with equal representation shared between eight stakeholders engaged in political negotiations. It consisted of five key "components" who were part of the Inter-Congolese Dialogue, including civil society members who were known as "Force vives," along with government and opposition representatives, and members of armed groups, the Rally for the Congolese Democracy (RCD) and the Congolese Movement of the Revolution (MLC). The remaining three entities included delegates from other armed groups, the "RCD-National (RCDN, RCD-Mouvement de Liberation (RCD-ML) and the Mai-Mai militias" (Gec, 2021, p.7). Overall, the CEI had 21 delegates (CEDAC, 2004),⁴⁹ reflecting the power-sharing

⁴⁹ See CEDAC, 2004 article 8 <https://repositories.lib.utexas.edu/server/api/core/bitstreams/b2ee3131-08cf-4151bff4-7b08d3c8b477/content>

agreements from the Global and Inclusive Agreement. Thus, the design and distribution of posts at the CEI mirrored the asymmetrical balance of power between belligerents, which enabled political parties to hold significant control over the CEI (Lomandja, p.64). Religious organizations, a component of the civil society groups, were selected to lead the CEI, with Abbé Appolinaire Malu Malu, a Catholic priest, appointed as president. The remaining seven positions were shared between the government and seven rebel groups (GEC, 2018, p.5; Gec, 2021, p.8). Prior to being appointed as a CEI president, Malu Malu was a close collaborator of Kabila (Gec, 2018, p.5). Thus, as we can see, the formation of the CEI, although structured as independent in the legal text, is a product of political settlement between belligerents and not a democratic process. Its design mirrored the imbalanced power relations between stakeholders. Thus, the CEI was not autonomous, as it was under the heavy influence of political factions involved in the transitional government (European Union, 2007, p.26).

The law of June 5, 2004, adopted during the transition (2003-2006) period, formally enshrined the rule that, alongside civil society organizations, political parties were granted the right to appoint delegates to the electoral commission. In the process, they selected their own loyalists (Gec, 2021, p.7).

The end of the transition (2003-2006) period marked the end of the "1+4" transitional system – where the president shared power with four vice-presidents – and its principle of equitable power-sharing across all levels. With his victory in the 2006 presidential election, Joseph Kabila became the sole authority in charge of state institutions. With a majority in the National Assembly, Kabila swiftly moved to consolidate his control over the future electoral administration, by appointing his loyalists to the CEI (GEC, 2021, P.8). For instance, abbé Apollinaire Malu Malu, who had already been in place, was appointed once again as CEI

president on behalf of civil society, raising suspicions of collaborating with the regime (GEC, 2021, P.8).

The 2006 Constitution abolished the plenary assembly, a decision-making body, of the CEI, including the civil society and belligerent factions that were part of the Inter-Congolese Dialogue, to engage in the selection of CEI officials. Under the 2006 electoral law, the appointment of new CEI members was exclusively granted to the ruling majority, which was allocated four members, while the opposition was given three members. While these members were theoretically expected to be “independent,” the restructuring of the CEI dismantled the previous balance of power within the electoral commission (GEC, 2021, p.9).

However, the regime has consistently maintained a tight grip on the electoral commission by exploiting the rift and lack of consensus between religious denominations, mandated to designate its president, in which the regime appoints its loyalists to lead the CEI. For instance, Malu Malu, Kabila’s confidante, was appointed twice (2006 and 2013) as president of the electoral commission, despite opposition from the Catholic Church, operating under the National Episcopal Conference of Congo (CENCO) (Gec, 2021, p.8). This was not a neutral choice: before his appointment, Malu Malu worked as an expert at the Strategic Studies Office attached to the office of the President, raising suspicions over the interference of Kabila’s regime (Ibid). His appointment, regardless of religious affiliation, reflected the regime’s strategy of influencing the CEI members (Ibid).

Prior to the conduct of the 2011 elections, a new electoral commission, known as the Independent National Electoral Commission (CENI), was established on 28 July 2010⁵⁰ to replace the CEI (Mavungu, 2013, p.30). A new CENI president, Pastor Ngoy Mulunda, was also

⁵⁰ See Organic Law No. 10/013 of July 28, 2010.

appointed as a representative of civil society, thereby replacing Malu Malu. However, Mulunda was also regarded as a key ally of Kabila. Hailing from Katanga province, like Kabila, Mulunda is considered one of the co-founders of Kabila's ruling party, PPRD, and was also part of Kabila's campaign team in the 2006 elections (Mavungu, 2013, p.31). The new Organic Law of July 28, 2010, under Article 10, designed a CENI with seven members split between the majority (four members) and the opposition (three members) (Lomandja, p.65). Rather than appointing genuine independent members, both rival camps – the majority and the opposition – appointed their allies to the CENI (Lomandja, p.65). During this period as well, the CENI remained politicized. The notion of independence of its delegates was merely a façade as members of the CENI were political appointees (GEC, 2018, p.5). This new structure barred civil society, despite its request and explicitly allocated a prevailing position to the presidential majority (Ibid). However, opposition parties rejected the new distribution of posts at the CENI. Vital Kamerhe of the UNC and Etienne Tshisekedi from the UDPS refused to be represented at the CENI. Tshisekedi had refused to participate in the 2006 elections, while Kamerhe had left the PPRD to create his own party, UNC (GEC, 2018, p.6).

In April 2013, the CENI organic law was amended to restore the Plenary Assembly that existed under the CEI and guaranteed “the effective involvement of civil society as the third component alongside the Majority and the Political Opposition.” Despite being depicted as an entity responsible for decision-making within the electoral commission, the Plenary Assembly's role remained minimal: “it is involved in the adoption of the budget, the activity reports produced by the board and planning election operations” (Gec, 2018, p.6). The number of CENI members was also increased from seven to thirteen, comprising six from the presidential

majority, four from the opposition, and three from civil society, “appointed by religious organizations, women’s organizations, and civic and electoral education associations” (Ibid).

In 2013, Apollinaire Malu Malu made a comeback and was recalled as president of the CENI, despite opposition from the CENCO, which had argued that Malu Malu was clearly not an independent member of civil society as he had worked for years for Kabila. Except for the CENCO (the Catholic church organization), seven (out of eight) religious organizations backed Malu Malu’s candidacy, despite his leaning with the regime (p.7). Since 2013, the CENI has reserved the appointment of its president to eight religious groups. However, the CENCO has been excluded from occupying this seat due to its strong critical stance against the regime. The remaining seven religious institutions have been viewed as less hostile to the regime (p.7).

Additionally, the CENI’s bureau comprised six members: three from the presidential majority, two from the opposition, and one from civil society, who assumed the presidency of the CENI. Within the bureau, the presidential majority retains dominance, occupying key posts such as the vice president, deputy rapporteur, and treasurer (Gec, 2018, p.6). Thus, despite the formation of a new CENI in 2013, the electoral commission remained politicized (Ibid).

In October 2015, Malu Malu resigned due to health reasons and was replaced by Corneille Nanga, formerly CENI’s deputy executive secretary. The Catholic Church refused to take part in the voting process that brought Nanga, who was fronted by the Church of Christ in Congo (ECC), to the helm of the CENI. They argued that there was a lack of debate surrounding the latter’s candidacy (Gec, 2018, p.7). The appointment of two other CENI members from the civil society component in 2013 was another area of conflict. The law states that one delegate should be chosen from “women’s organizations defending women’s rights,” and the other from an “organization for civic and electoral education.” However, Malu Malu was strongly condemned

for playing a key role in the appointment process, which obviously breached the law. This change was regarded as a tactic to neutralize organizations that were perceived as more aggressive toward the president (p.7).

As we can see, over the years, the creation of an EC, though an important step for the potential democratization of the regime, never really played the role that one could hope for such a critical institution. In terms of its autonomy and capacity, despite the numerous reforms it went through, the CENI, under its various guises, remained under the formal and informal control of the president, while also being fully politicized, with representatives who were reporting to their political organizations. The 2018 election, however, did produce an unprecedented result: the ruling party's candidate did not win the presidency, despite being in charge of the CENI. It did exhibit that although controlling the CENI was important for the ruling party, it was not enough to secure the electoral outcome it so hoped. It is therefore in this context, with a compliant CENI, caught within neopatrimonial networks, but not entirely able to produce the expected electoral outcome, that the post-2018 election period took place. We now turn to that period.

The Battle of the CENI during the FCC-CACH Cohabitation (2018-2020)

This section analyzes the FCC-CACH power struggle over the control of the CENI during the cohabitation period. I examine the maneuvers of the Kabilist FCC-parliamentary majority to appoint a new president of the CENI, Ronsard Malonda, and the counterbalance from civil society, religious organizations, and Tshisekedi's camp, to constrain the FCC from retaining control over the electoral process. During this phase, what was at stake was the control of the CENI, as the two camps were eyeing the next election, which both camps hoped would allow them to take control of both executive and legislative branches. As we will see, in this first

phase, the Kabilist camp sought to keep its hand on the CENI, thereby reproducing the pattern that served it so well since 2006, even though it had not been enough to guarantee a victory at the presidential level in the 2018 election.

During the January 24, 2019, swearing-in ceremony, President Tshisekedi emphasized the need for electoral reforms. This echoed the multiple recommendations for electoral reforms that several entities, including the CENI itself and electoral observer missions, had called for in the past (GEC and Ebuteli, 2022, p.10). However, the persistent call for electoral reforms bore minimal impact as former president Joseph Kabila, through his FCC coalition, sent clear hints that he would seek to maintain influence over the CENI. Kabila's strategy aimed to shape the nomination process of the electoral commission in a way that would safeguard his political influence over the CENI. His ultimate goal was to either present himself as a candidate or back someone else in the 2023 presidential election to recapture power. However, whether the CENI was to be an autonomous agency able to operate freely, without interference from other branches of government, or whether it would, in fact, be instrumentalized by one, became a central question. Overall, as a lawyer observed in an interview: "the power-struggle over the control of the CENI between Kabila and Tshisekedi lay in the alignment of coalitions, political parties prior to the 2023 presidential elections."⁵¹

The sequence of power struggle events began to manifest when the FCC made a move by attempting to influence the appointment of the new CENI president (Leclercq, 2020), who would oversee the 2023 presidential elections. As we explained earlier, eight religious organizations, through consensus, were mandated to appoint the CENI president (RTBF, 2021b). Once their

⁵¹ Interview 13, September 22, 2021, Ministère de la Justice.

decision is made, the National Assembly must ratify their choice, and the Head of State then officially appoints this person. But in June 2020, these religious organizations failed to reach a consensus on appointing the new CENI president (Jeune Afrique and AFP, 2021). Divisions amongst these religious groups created an opportunity for the FCC to seize. It capitalized on its legislative strength to appoint its favorite candidate, Ronsard Malonda. Until then, Malonda was the executive secretary of the CENI (Gras, 2020) but had also been a key player in the organization of the elections in 2006, 2011, and 2018, during Kabila's rule. He had persistently been accused of enabling electoral rigging in favor of the Kabila regime (Yeung, 2020). As a result, opposition parties, civil society organizations, as well as representatives from the Catholic and Protestant churches opposed his nomination, accusing him of having played a central role in the many failures of the 2018 presidential elections; for them, it was unthinkable that he could lead the CENI for the next electoral round (Hoebeke, 2021, p.9).

In spite of these grievances, the speaker of the Lower House, Jeannine Mabunda, a member of the FCC, instructed religious organizations to designate Malonda as president of the CENI in compliance with the April 25, 2013, Organic Law of the CENI.⁵² Despite the lack of consensus and disputes that emerged between the eight religious groups in charge of appointing the CENI president, six of them, except the Catholics and Protestants, chose Malonda as the likely president of the CENI (Betga, 2021). The two religious groups had opposed Malonda's appointment because he was working under the shadow of the former president of the CENI, Corneil Nangaa. Thus, his presence was considered a continuity of Kabila's influence over the CENI (Radio Okapi, 2020a; DW, 2020a). Additionally, despite being a Catholic himself,

⁵² Organic Law No. 10/013 on the organization and functioning of the Independent National Electoral Commission as amended and supplemented to date, JORDC, Special No. of April 25, 2013.

Malonda's candidacy was ironically being pushed by the Kimbanguist church, where he is not a member (Radio Okapi, 2020a).

Thus, civil society groups and opposition parties, including Tshisekedi's UDPS, organized street protests to condemn the support of Ronsard Malonda's candidacy by the FCC-dominated National Assembly (Ligodi, 2020). Several appeals were also made asking Tshisekedi to reject the approval of Malonda's candidacy at the helm of the CENI. On July 3, 2020, the Catholic and the Protestant Churches wrote a letter to President Tshisekedi, petitioning him to reject Malonda's candidacy (Mfundu, 2020; MINGA, 2021, p.64; Nzumea and Dorcas, 2020). These appeals were acknowledged by Tshisekedi through a memo addressed to the president of the National Assembly dated 13 July 2020, in which he stated that the conditions for Malonda's appointment were not fulfilled (Ligodi, 2020), in that he did not meet the requirement of a consensus from religious organizations.⁵³ Tshisekedi agreed with this demand and rejected Malonda's candidacy as CENI's president.

Subsequently, civil society members, the Catholic Church, and some opposition deputies united to form a group they called the G13 to intensify their call for electoral reforms. The G13 members included "Patrick Muyaya (*Parti lumumbiste unifié et alliés*, PALU/A), Juvénal Munubo (*Union pour la nation congolaise*, UNC), Jacques Ndjoli (MLC), and Paul Nsapu, civil society member" (GEC and Ebuteli, 2022, Annex 24). They began their reform initiatives on July 11, 2020, by initiating the "Call for National Consensus on electoral reforms" (Gec and Ebuteli, 2022, p.10). On September 17, 2020, ten deputies from the G13 submitted a bill to the

⁵³ Lettre du Président Félix Antoine Tshisekedi à la Présidente de l'Assemblée nationale, Kinshasa, 13 juillet 2020, Inédit.

National Assembly comprising 18 ambitious policy recommendations. The bill proposed a shift from proportional representation to a simple majority system, including imposing penalties against the president of the CENI and other individuals in charge of transmitting and aggregating electoral results in case they failed to publish results by polling stations. G13 also recommended publishing of results by polling station at the voting center immediately after they are counted; they also barred candidates from contesting for two seats at the same level (e.g. national deputy and senatorial seats simultaneously) in the same electoral contest; and prohibiting candidates from giving money or material benefits to the electorates during the campaign period. (Mediacongo, 2022; Gabin, 2022). G13 member, National Assembly deputy Patrick Muyaya, explained some of the G13 demands regarding CENI:

With a view to guaranteeing a certain balance in the composition of CENI, we proposed equal representation of all parties. We also proposed reinforcing collegiality to avoid giving the impression that CENI is the sole concern of its president. We also want to strengthen the power of the plenary, which will become a control body (Africanews, 2020).

Reproducing the Autocrat's Playbook: Taking Control of the CENI

By December 2020, Tshisekedi successfully formed a new coalition, the Sacred Union, which replaced the CACH coalition after the collapse of the FCC-CACH government. This new coalition gave him a parliamentary majority and complete control of the government, shifting the balance of power in his favor. As we will see in this section, Tshisekedi shifted gears and went on the offensive to assert his control over the CENI. Tshisekedi did exactly what he criticized his

opponents for doing at the time he could only count on a legislative minority: changing the rules of the game regarding CENI and appointing his own candidates, despite the lack of a consensus amongst religious organizations. In the process, the CENI failed once again to be the neutral institution it was supposed to be. As one of our informants, a member of Kabila's PPRD, said, "the CENI should have been like a church in the middle of the village. However, African rulers in power often seek to control key institutions like the electoral commission, the ministries of justice, defence, and interior. Whoever has control of these institutions holds the capacity to preserve power."⁵⁴ Of course, although this observation seems reasonable, this PPRD member somehow confirmed that his party and former leader had contributed to this lack of autonomy for the CENI for many years. Let us unpack how this turn of events unfolded.

The first decision that indicated President Tshisekedi's intent to control the CENI, after he secured a majority in the National Assembly, was the electoral reform of July 2021, signalling a shift toward authoritarianism rather than democratic consolidation. In effect, on 18 July 2021, the National Assembly adopted an organic law pertaining to the organization of the CENI. This law seemed to have been directly taken out of the previous authoritarian ruler's playbook. The law increased the number of CENI members from thirteen to fifteen members, of which six were allocated to the party holding a majority in the National Assembly, thus Tshisekedi's party, four to the opposition and five to civil society (Tshahe and Roberto, 2021). In other words, ten out of the fifteen CENI members were elected members of the National Assembly; the remaining five, which were officially not affiliated with a political party, constituted a minority.

⁵⁴ Interview 11, September 21, 2021, PPRD Headquarters

In line with the previous provision, the July 2021 CENI law maintained that the president of the CENI be nominated by consensus among eight religious organizations, including the Catholic and Protestant Churches. However, although the law emphasizes an impartial and transparent nomination process, the independence of these eight religious organizations was always undermined by the regime. As previously explained, while they were appointed by religious entities, all previous presidents of the CENI were also either regime insiders or affiliated with the ruling party. Apart from the CENI president, the ruling coalition also held the power to appoint the first vice-president of the CENI, which further consolidated the regime's influence over the electoral commission. While the opposition appoints the second vice president, he played a minority role within the CENI, which restrained his capacity to counterbalance the regime's dominance at the CENI. In sum, the new CENI law of July 2021 did not provide for a more autonomous and capable electoral commission; it rather perpetuated, through the rules of appointment, an agency under the formal influence of the ruling party. Not surprisingly, the actual nominations of the members of CENI were clearly politicized and confirmed Tshisekedi's control over what should have been an autonomous entity. Amongst these nominations, that of its president was naturally quite central. As we recall, Tshisekedi had rejected the National Assembly's nomination of Ronsard Malonda as CENI president in July 2020. The position thus remained vacant until October 2021, when the president appointed Denis Kadima. As a human rights activist stated in an interview: "Kadima had been a member of Tshisekedi's party, the UDPS, and one of the key electoral experts of Tshisekedi during the 2018 presidential elections".⁵⁵ This explains why the same religious organizations (the Catholics and

⁵⁵ Interview 21, October 15, 2021, CNDH.

Protestants) that had rejected the previous candidate during the Kabila regime, Ronsard Malonda, also rejected Tshisekedi's choice of Denis Kadima for the same reason. Just as they deemed Malonda to be too close to Kabila, they also, quite logically, believed the new candidate, Denis Kadima, to be too close to Tshisekedi. For their part, however, the six other religious organizations decided to support Kadima's nomination. Once again, these six other religious organizations supported the favorite candidate of the ruling party: the Kabilists in the summer of 2020, and barely a few months later, the Tshisekedists. Although actual proofs are difficult to gather, there are some indications that the dynamics of patronage may have been at play to explain the support these six religious organizations provided to the regime's candidate for the CENI presidency. Representatives of the Catholics and Protestants alleged that these six religious entities were co-opted by Tshisekedi (just like they had been under Kabila) and thus pushed for the nomination of his favorite candidate. In an interview, a member of the PPRD noted that: "Members of the CENI, especially religious confessions, had faced threats, menace, and corruption from Tshisekedi's presidential advisors."⁵⁶ The human rights activist I quoted above added, "Reverend Eric Nsenga, a member of the ECC [Protestant Church], publicly denounced the fact that he had been contacted and offered \$100,000 and a jeep" if he were to vote for Kadima.⁵⁷ While the amount in question had not been corroborated, the Archbishop of Kisangani and President of CENCO, Monseigneur Marcel Utembi, also disclosed that members from religious entities were pressured by political parties to endorse two unnamed candidates for the CENI presidency, while other contestants were forced to abandon the CENI presidency race in favor of the two key candidates. One religious leader mentioned that he was presented with a

⁵⁶ Interview 11, September 21, 2021, PPRD.

⁵⁷ Individual Interview 21, October 15, 2021, CNDH.

jeep by a member of the religious entities in exchange for his support for a government-backed candidate. Another religious figure disclosed that an individual contacted him at the Beatrice Hotel in Kinshasa and presented him with large sums of money to influence his vote. The CENI president further mentioned a testimony from a religious representative who tried to distribute financial incentives to the six religious organizations (Actualité, 2021b).

Indeed, the Synergy of Civil Society Organizations for Transparent Elections (SOSCET) in its report dated July 18, 2021, on overseeing the election process of the CENI president, also disclosed corruption incidents as a way of influencing the selection process. It pointed out that key political figures from the regime deployed major financial and material incentives to back their preferred candidate as president of the CENI in an attempt to secure the votes of the religious representatives by any means necessary (Le Maximum, 2021).

However, even if six of the eight religious organizations favored Tshisekedi's candidate, theoretically, the rule was clear: religious organizations must reach a consensus amongst all eight of them. Hence, normally, Kadima should not have been appointed as CENI president⁵⁸. Yet, on October 16, 2021, the National Assembly, this time under the control of a pro-Tshisekedi Sacred Union coalition, voted to name Denis Kadima as CENI president, in violation of the consensus rule of the July 2021 electoral reform law. Six days later, on October 22, President Tshisekedi confirmed Kadima's nomination as the new CENI president.

It is worth noting that Kadima's nomination created certain tensions within Tshisekedi's Sacred Union movement. As a senior Lamuka politician told me in an interview, "One of [Tshisekedi's] key allies and 2023 presidential hopeful, Moise Katumbi, [was] uncomfortable

⁵⁸ Interview 14, September 24, 2021, Camp Tshatshi.

with the current configuration of the CENI whose members had been sorted according to their allegiance to Tshisekedi. Since Denis Kadima was considered close to Tshisekedi, then Katumbi argued that the First Vice-president position, which was typically reserved for the presidential majority (the Sacred Union), should have been occupied by his loyalist.”⁵⁹

Apart from the nomination of its president, other nominations at CENI confirmed this trend. An interviewee, a military intelligence officer, noted that: “these pro-Tshisekedi nominations were made possible because the agency in charge of designating CENI members, the Parliamentary Joint Committee, was chaired by Professor Andre Mbata, himself a member of the UDPS,”⁶⁰ and the president of the Political, Administrative and Judicial Commission of the National Assembly (PAJ). Also, according to Article 13, paragraph 3 of the organic law of the CENI, the Joint committee must be composed of equal numbers of deputies from the opposition and the majority selected by the parliamentary group. However, this joint committee (PAJ) was put together at Fleuve Congo Hotel in October 2021 without the participation of the opposition (Actualite, 2021).

Amongst some of the most notable nominations that enabled Tshisekedi to take control of CENI was the first vice president seat, which was given to Bienvenue Ilanga, a dissident member of the FCC. In a way, this person was rewarded for his switch of allegiance to Tshisekedi’s camp. In the same vein, Didi Manara, a FCC member and dissident from the PPRD party, was appointed as second vice-president of CENI. The position of rapporteur was granted to Patricia Nseyi, a member of Tshisekedi’s UDPS. Katumbi’s *Ensemble* – the second political force in Tshisekedi’s Sacred Union– wanted the position of rapporteur in the CENI but faced rejection

⁵⁹ Individual Interview 26, October 24, 2021, Private House.

⁶⁰ Interview 14, September 24, 2021, Camp Tshatshi.

from the UDPS (Isako, 2021). Another UDPS member (and also former member of Tshisekedi's cabinet), Thotho Mabiku Totokani, was appointed as National Executive Secretary of CENI (Wondo, 2022). Beneath him, CENI's Deputy national executive secretary was given to Marie-Josée Kapinga Bondoa, who happens to be from the same ethnic group as Tshisekedi.

Interestingly, one of the individuals nominated to the CENI on behalf of the opposition was Ditu Monizu, a former elected deputy of the ECIDE party, who was dismissed from ECIDE after he had shifted his allegiance in favor of Tshisekedi's Sacred Union. Other CENI positions were also filled with former Kabila loyalists who became dissidents and switched to Tshisekedi's camp. These included Agée Matendo, a FCC member from the ATEC party and DYPRO, who was appointed as Questor. For his part, Jean Ilongo Tokole from AAB-FCC, was nominated as a member of the CENI plenary (GEC and Ebuteli, 2022, p.15).

Of notice, although the nominations of Kadima as CENI president and of the other positions were seen as a successful attempt by the regime to ensure its control of the CENI, an informant reminded us that the main problem still lay within the politicized rules that organize the nominations within the CENI. As he explained,

The opposition, especially Lamuka of Martin Fayulu, did not see Kadima as a threat to the elections but believed that the big elephant in the room lay in the organic law on the organization and functioning of the CENI, which was based on an imbalanced structure. Even if the CENI were to replace Kadima with Cardinal Ambongo of the Catholic Church as its president, the outcome of the presidential elections would have been the same. As for the FCC, Kabila refused to send his representatives to the CENI. Instead, he was exerting pressure to return to the negotiating table to restore the balance of power within the CENI. His camp had joined other opposition groups, such as the Lamuka and

the Catholic Church, that he fought against. Kabila was ready to sign with the Catholic Church and Moise Katumbi to make a patriotic bloc to face Tshisekedi. On October 24, 2021, there was a meeting at the Pentecostal Churches in Central Africa (CEPAC), which brought together members of the Lamuka, including the catholic and protestant churches, and the FCC to sign a joint declaration bloc and launch the street demonstration to force Tshisekedi to renounce his ordonnance.⁶¹

Interestingly, Kabila's FCC, which was experienced in utilizing both formal and informal tactics to take control of the agency in charge of the elections, this time found itself vehemently denouncing the gross manipulations of the Tshisekedi camp. It held that the process of appointing the new president of the CENI was non-consensual and unlawful, maintaining that the electoral law reform was designed to favor Tshisekedi's camp (Gec and Ebuteli, 2022, p.10). An interviewee affiliated with the FCC coalition described the situation as "a state in anarchism, where a one-man was imposing his will and control over everything, despite a system of separation of powers in place."⁶² In effect, due to the ruling party's capacity to co-opt former pro-Kabila deputies, the CENI thus continued to function without the approval of Kabila's FCC, yet with members who were officially in the FCC but who had switched their allegiance and represented the opposition without the opposition's approval.⁶³

Apart from the reform of the CENI structure and the appointments of its main members, it is important to highlight other strategies the Tshisekedi circles implemented after the legislative change of December 2020. Though they are not directly about CENI, these changes interacted

⁶¹ Interview 26, October 24, 2021, Private House.

⁶² Individual Interview 29, October 26, 2021, Ngaliema Hospital.

⁶³ Interview 64, December 22, 2021, UNIKIN.

closely with the electoral monitoring agency. Hence, as we recall, the G13 had put forward several recommendations in a draft bill to reform the electoral system in order to make it more transparent and fairer. Not surprisingly, with the new legislative majority enjoyed by Tshisekedi's Union Sacrée, the draft bill that the G13 had pushed forward stalled. The proposal was finally discussed as late as April 2022, a year and a half after they had been first proposed (Gec and Ebuteli, 2021, p. 10). The stagnation of the G13 bill intensified conflicts between political groups, leading the opposition to boycott its debate. As anticipated, the eighteen major innovations of the G13 proposals, excluding those involving the constitutional revisions, did not obtain the backing of Tshisekedi's Sacred Union parliamentary majority. The G13 condemned a lack of debate during the scrutiny of their legislative initiative. However, these criticisms and the opposition boycott did not prevent the National Assembly, this time dominated by Tshisekedi's allies, from imposing its version of electoral reforms. The Electoral Reform bill was adopted by parliament and promulgated by the president on 29 June 2022. Overall, however, the new law did not show any sign of initiating genuine electoral reforms. The report produced by GEC and Ebuteli display the list of all the G13 proposals, indicating which ones had been rejected and which ones implemented partially or entirely: 10 out of 18 have been entirely rejected; the remaining were adopted after being reformulated (GEC and Ebuteli, 2022, p.10). This marked another step in an unsuccessful electoral reform.

Although we will explore the judiciary further in the next chapter, it is important to remember here the institutional connections between the CENI and the Constitutional Court. In effect, the latter is responsible for adjudicating electoral disputes after the announcement of the

presidential results by the CENI, including validating presidential results.⁶⁴ On matters of elections, especially capturing and preserving power in competitive authoritarianism, these two institutions – the CENI and the Constitutional Court – operate synchronously. Therefore, the battle for the CENI had ramifications at the level of the Constitutional Court. During this cohabitation period, tension between Kabila’s FCC and Tshisekedi’s CACH intensified when Tshisekedi appointed three judges to the Constitutional Court without consulting the FCC, and evidently not obtaining its approval. They were later sworn in office at the National Assembly in the presence of Tshisekedi and the two chambers of parliament (Ngiambukulu, 2022). To express their discontent, a majority of the FCC deputies boycotted the swearing-in ceremony, including the FCC allied speaker of the National Assembly, Jeanine Mabunda, and the speaker of the Senate, Thambwe Mwamba (Quenum, 2020). Out of 338 FCC deputies, only four were present at the swearing ceremony, including Didi Minara (Mikanda, 2020), who we will see, ended up being appointed as Vice President of the CENI on behalf of the FCC, without the latter’s approval.

Another crucial key pre-electoral phase that is often overlooked in the electoral rigging process involves the logistical and administrative preparations of elections, which strongly affect their impartiality. A key aspect of this phase is the mapping of the polling stations, which determines the geographic distribution of voting centers across the country. This stage is important as it lays the ground for electoral rigging by strategically placing more polling stations in regions with a high concentration of the regime’s sympathizers. In an interview, a civil society member added that: “After the regime gained control over the CENI, the electoral rigging

⁶⁴ See DRC’s 2006 Constitution, article 161, paragraph 2.

process began with the cartography of the centers and bureaus of votes in the pre-electoral operations.”⁶⁵ The manner in which polling stations were mapped influenced voter access, turnout and electoral outcomes. One of the initial signs of potential electoral rigging was the CENI’s decision to begin mapping polling stations before even launching the voter registration process, as it rushes to conduct elections within the anticipated December 2023 deadline.

However, this decision was condemned by the opposition and civil society groups as they regarded it as a breach of the rules of the game governing the electoral process. Indeed, the law requires the CENI to release the maps of polling stations thirty days prior to the launching of campaigns. Hence, the mapping of polling stations before the voters’ registration process raised suspicions by the opposition that it was being done to rig elections in favor of the regime (RFI, 2022c). Opposition groups were also concerned by the lack of supervision of the mapping process. The G13 had recommended the engagement of all stakeholders in the mapping process, which it maintained should be open and transparent. However, the National Assembly has sidelined the opposition, opting instead to grant the CENI the authority to solely manage this operation. Thus, the opposition has raised concerns that the CENI might seek to inflate voter registration centers in the constituencies supporting the regime. In general, opponents of Tshisekedi fear that the CENI may disproportionately allocate voter registration opposition electoral bases and those of the USN (GEC and Ebuteli, 2022).

⁶⁵ Interview 21, October 15, 2021, CNDH.

Conclusion

This chapter has demonstrated that President Tshisekedi, despite his UDPS party's pro-democracy history, ultimately reproduced the neopatrimonial logic of his predecessor, Joseph Kabila. During the cohabitation period, the CENI became a key battleground for the Tshisekedi and Kabila camps. Political elites from both the FCC and CACH used patronage strategies such as access to state resources, appointments, and legal reforms to influence the CENI. I illustrated how both the FCC and Tshisekedi's camp utilized patronage tactics such as political appointments, financial incentives, and access to resources in exchange for the elites' loyalty and influence over the electoral commission.

This chapter illustrated two main phases in the battle over the control of the CENI. During the first phase, President Tshisekedi controlled executive authority without a legislative majority. Consequently, the FCC leveraged its parliamentary dominance to attempt to impose its ally, Ronsard Malonda, as president of the CENI. However, despite the FCC's backing, Malonda's candidacy failed due to strong resistance from Tshisekedi's camp and civil society. Tshisekedi ultimately utilized his executive prerogatives to block Malonda's appointment.

This chapter demonstrates the interaction between structure and agency. Kabila's authoritarian legacy and patronage networks, including his legislative majority and rent distribution, are structural factors that constrained Tshisekedi's executive authority. However, within these constraints, Tshisekedi exercised agency by identifying vulnerabilities, leveraging elite divisions, and enticing them with key government posts, and redirecting certain resource

flows to disenchanted FCC, enabling him to shift the parliamentary majority and consolidate his authority.

In the second phase, after gaining control of the legislative majority, Tshisekedi ultimately captured the CENI while sustaining a democratic façade. He utilized two strategies to exert influence over the CENI: the amendment of the organic law and the appointment of his loyalists to key positions. He amended the organic law of the CENI, which introduced an asymmetrical distribution of posts in the CENI, granting the regime with majority of seats and weakening the opposition and civil society. He also positioned his loyalists in strategic positions at the CENI, including appointing Denis Kadima, who was seen as close to the regime.

Faced with a critical choice between consolidating democracy and entrenching authoritarianism, Tshisekedi pursued the latter. By preserving a democratic façade while deploying clientelist practices and patronage, Tshisekedi reproduced the same authoritarian logic that shaped Kabila's rule. While the CENI is constitutionally recognized as an autonomous institution, its independence was undermined by the executive authority through neopatrimonial practices. As Kerr (2024) emphasizes, the executive's domination in the appointment process significantly undermines the autonomy of the electoral commission, exposing delegates to informal practices such as "bribery and threats of intimidation" (p.38). Consequently, weak electoral commissions erode autonomy, foster mistrust, and heighten the risk of electoral violence (Kerr, 2024; and Langford et al., 2021). Thus, Tshisekedi's coalition, the Sacred Union, became the electoral vehicle accompanying Tshisekedi to preserve his power. Pre-electoral maneuvers were established to enable the regime to preserve power in the 2023 presidential elections.

Using the incumbency advantage, this chapter confirms that the CENI remained a tool of presidential control and authoritarian resilience rather than an independent guardian of democracy. During the cohabitation period, there was no clear sign of who would get control over it, as both camps fought one another. This created a certain level of uncertainty and unpredictability that differed from the previous eras. What commenced as a promising electoral reform and democratic consolidation was transformed into an exercise of elite cooptation. Thus, Tshisekedi's management of the CENI demonstrates the continuity rather than rupture of the old neopatrimonial logic that continued to influence the CENI.

Chapter 8: Neopatrimonialism and the Shadows of Judicial Control: Formal Rules, Informal Networks, and the Consolidation of Power

Introduction

The judiciary has always been a central cog in the construction of the authoritarian machinery in the DRC. The unprecedented cohabitation period initiated by the Tshisekedi presidency partially changed the usual script. As this chapter will demonstrate, the peculiar configuration produced by the 2018 election created an intriguing combination of familiar dynamics and unique ones. The familiar aspect resided in the codification of ethnic belonging as a mechanism of political gatekeeping and the neopatrimonial management of the judiciary and its instrumentalization by the ruling elites. While cohabitation was formally political, it rested on the uneasy coexistence of two ethnic-regional blocs: the Katangan-Swahili of southeastern region and the Kasai-Baluba of the central DRC. Each sought to secure its share of appointments and rents while preventing the other from achieving total dominance. Joseph Kabila's political base was anchored in the Swahili-speaking regions of Katanga and parts of the eastern provinces, where kinship and linguistic affinities allowed him to maintain a loyal military and bureaucratic core. This ethnicized patronage system did not exclude other groups outright but created a hierarchy of access in which proximity to the Katangan-Swahili network correlated with political security and material reward. Baluba networks controlled key posts within the judiciary even before Tshisekedi's formal victory in 2018. Tshisekedi's presidency had partially inverted this distribution: while he lacked direct control over mineral rents, he used state appointments, infrastructure contracts, and foreign policy alignments to channel resources toward Kasai networks and allies. The effect was a partial re-ethnicization of the rentier system— with

different beneficiaries, but the same logic. In the DRC, ethnic identity operates as both the social rule and the spatial map of patronage.

What was unique, at that time, was how cohabitation transformed this key institution into a battleground between the two rival camps, each seeking to control it. My central argument is that the judiciary continued to operate, to a large extent, through the logic of neopatrimonialism, but this time it was a bifurcated neopatrimonial logic, as it was the subject of intense struggles between two rival groups.

To develop this argument further, it is important to recall what the scholarship on neopatrimonialism explained about the peculiar role of the judiciary in neopatrimonial dynamics. In effect, through the prism of hegemonic presidency, I demonstrate how, despite cohabitation, the neopatrimonial framework was reproduced, with the judiciary serving as a tool for authoritarian power consolidation. As we recall, in the chapter devoted to our theoretical framework, I have defined hegemonic presidency as “the illegal exercise of presidential power both beyond the constitutional and statutory boundaries” (Kieh, 2018, p.36). Under the hegemonic presidency, the executive authority weighs heavily over the legislature and the judiciary (Kieh, 2018, p.44). It relies on a patronage system, where the president leverages his control over state resources to award his loyalists with material benefits, including contracts and key government posts as a channel of distributing neopatrimonial spoils (Bach, 2011).

Hegemonic presidency endures through its appointment authorities, which serve as its fuel (Ibid). As we focus specifically on the judiciary in this chapter, it is important to understand that the president’s power to appoint most judges and other top positions in the judicial apparatus implies that the individuals thus appointed depend on the president’s goodwill to retain their positions. Judges who are expected to be impartial and guarded from political influence risk

losing their post if their judgment (s) displease the hegemonic presidency (Ibid). As Smith (2023) cogently argues, the hegemonic presidency's influence over the judiciary stems from the executive powers bestowed on the ruler to appoint judges, which in itself undermines democracy (p.62). Political loyalty is crucial in appointing judges to higher judicial roles, including being granted lucrative benefits (p.66). In competitive authoritarian regimes, rulers generally rely on informal tactics such as personal threats, manipulation of patronage obligations, bribery, and material rewards to influence the judiciary (Llanos et al., 2015). In their analysis of competitive authoritarian regimes, Levitsky and Way also point out that the ruler may resort to threats and violence to undermine the judiciary (Levitsky and Way, 2002). The regime may also utilize 'telephone justice' to influence judicial cases "over the phone by those with political power rather than through the application of law" (Hendley, 2009; Smith, 2023, p.74, quoting Hendley 2009, p.242).

This control over the judiciary is important, given the significance of the judiciary in an authoritarian regime's survival and consolidation. In effect, autocrats utilize the judiciary to resolve power-sharing conflicts within the ruling coalition by granting coalition members special influence within the judicial apparatus (Aguilar and Figueroa, 2014, p.1). Judges, prosecutors, and courts play a crucial role in helping the ruler to suppress opponents and consolidate power through cooptation. They serve as extensions of the regime's security apparatus by providing the regime with sensitive information on opponents (Aguilar and Figueroa, 2014, p.7). Autocrats also utilize prosecutors and specific courts, like military tribunals, to intimidate and undermine opponents while exhibiting a façade of legality (p.7-8). Prosecutors play a crucial role as a "police patrol," by regulating the actions of potential or real adversaries (p.8). As the "legal arm" of the regime, they probe opponents and gather intelligence on adversaries for the ruler, who

then decides to either employ repression or cooptation (p.9). Despite controlling coercive security apparatus, autocrats opt to utilize courts when faced with internal dissent. To suppress internal dissents, autocrats seek first support from within, enabling them to affirm their legitimacy and cast their rivals as illegitimate. This tactic allows them to foster division among insiders and isolate and punish enemies from within (Shen-Bayh, 2018). Hence, courts are powerful arenas for autocrats to exhibit their powers and their opponents' weaknesses (Ibid). They serve as a stage for autocrats to prosecute their challengers for alleged offences against the regime. ShenBayh insists particularly on the ritual dimension of trials in autocratic regimes. As she argues, the prosecution process of opponents, from accusation to the ruling, serves as a public ritual of reinforcing collective beliefs. When a ruler's authority is contested by an insider, this ritual solidifies loyalty among the ruling elites and shows that the ruler is firmly in charge (Ibid). In times of uncertainty, courts serve as a space of consolidating autocrats' authority and suppressing potential threats without resorting to physical violence, as the trial itself serves as both punishment and evidence of the ruler's power (p.324).

With these theoretical reflections in mind, we are now better equipped to understand with more accuracy how a neopatrimonial ruler operates with the judiciary, as Tshisekedi increasingly did after his electoral victory in 2018.

Tshisekedi came to power at a time when his Luba ethnic group was well represented in the judiciary, which facilitated the consolidation of judicial support in his favor. Kabila who maintained control over a judiciary with diverse ethnic composition and relied on patronage levers to ensure compliance. After Tshisekedi's accession, the pre-existing Luba presence simply became a structural advantage that he could exploit, accelerating judicial alignment along both ethnic and patronage lines. The Luba dominance in the judiciary observed under Tshisekedi

represents an instrumental shift, rather than a fundamental break in logic. Patronage remained the operative mechanism: loyalty was reinforced through appointments, career advancement, and political favors. Tshisekedi's ability to consolidate judicial support was facilitated by existing Luba representation, but the key determinant of judicial behavior remained access to privileges and alignment with presidential interests. Patronage is the dominant mechanism, especially in multi-ethnic institutions where loyalty cannot be secured solely through identity. This explains how Kabila maintained control over officials from other ethnic groups without provoking overt resistance or regional backlash. As demonstrated in my dissertation, the DRC's politics are patronage-driven at their core, with ethnicity acting as a strategic modifier rather than a determinative factor.

He who controls the judiciary can achieve two goals: first, knowing that the judiciary is a powerful and lethal arm of the state, it can help as a neopatrimonial conduit to nominate loyalists (and secure further their loyalty), who can then protect the ruler and his allies. Judges and magistrates provide preferential legal treatment to the ruling elites in exchange for job security, material benefits, promotions, and judicial posts. Second, it can be used to weaken and punish current enemies, but also potential future adversaries (or, in other words, today's allies who could become tomorrow's rivals). But these two goals, as we will see, could not be taken for granted in the immediate aftermath of the 2018 election, precisely because the executive power was divided. His relationship with the judiciary was therefore more complex than most of the cases discussed in the literature, where the autocrat does not share power.

Finally, I cannot conclude this section without insisting on the fact that although the informal nature of these neopatrimonial actions is crucial, it is important to remember that the formal institution of the judiciary is not a mere façade; it plays a crucial role in the everyday

functioning of the regime. In effect, the formal existence of the judiciary enables the regime to project the impression of the very existence of the rule of law in the country, and with it, of a democratic legitimacy. This, in turn, can help consolidate the regime.

Before analyzing how the battle for the judiciary operated after the 2018 election, this chapter begins with an overview of the historical context of how successive rulers, from Mobutu to the Kabilas, father and son, utilized the judiciary as a tool of power consolidation. I then provide a brief description of the DRC's judicial apparatus. The empirical core of the chapter then examines how the pro-Kabila FCC sought to sustain its judicial control as Tshisekedi fought back to consolidate his authority. This power struggle is analyzed through the prism of two pivotal events that unfolded during the cohabitation period: the Minaku-Sakata Bill and the appointment of new judges to the Constitutional Court. Under the Minaku-Sakata bill, I illustrate how the FCC sought to expand the powers of the Justice Minister to curtail Tshisekedi's attempts at controlling the judiciary. I then explore how Tshisekedi began to gradually consolidate his judicial control after nominating new judges to the Constitutional Court. Lastly, I investigate how the Tshisekedi regime simultaneously utilized the judicial apparatus as a tool of protecting allies and coercing adversaries into submission. Those adversaries include both actors belonging to opposite parties, but also those who used to be from his own political family, whom he deems to be potential rivals. I explore this double-edged sword role of the judicial apparatus through a number of cases, including the 100-Day Emergency Program, and several other individual corruption scandals implicating allies, enemies from within, and adversaries of the regime.

Centralized Authority and Judiciary Power in the DRC: a Historical Perspective

Throughout the Congo's history, from the colonial era to the post-colonial period, the judicial apparatus has always been subservient to the ruler and functioned as a tool for power preservation (Savage and Kambala wa Kambala, 2008, p.338-339). After seizing power in 1965, Mobutu dismantled the semi-presidential system established during the first republic (1960-1964) to escape from the chaotic power struggles that emerged in the first post-colonial government between Prime Minister Patrice Lumumba and President Joseph Kasavubu (Afoaku, 1997, p.73). In 1967, Mobutu promulgated a new constitution, which enabled him to consolidate his authority by transforming the political and administrative structures of the government. Consequently, the National Assembly became a rubber stamp of the executive, with the premier position discarded (Kabwit, 1979, p.386). The boundary between the three arms of the government became fuzzy, and the judiciary operated under the Diktats of Mobutu, whose utterances essentially served as the law (Afoaku, 1997, p.73). That same year, he founded the Popular Movement of the Revolution (MPR), which became a state-party (Ibid). The judiciary was transformed into a component of the MPR⁶⁶ rather than an independent institution (Kengowa-Dongo, 1975; Liwanga, 2012, p.197-198). Thus, Zaire's judicial system epitomized the Belgian colonial legal system (Meditz and Merrill, 1994, p.322). However, Mobutu also incorporated customary laws into the constitution as part of his power consolidation stratagems (Ibid). The public prosecutor was compelled to submit to the justice minister, who served as both a judicial authority and an agent of the regime⁶⁷ (Ibid). Magistrates were members of MPR and executed their duties in alignment with the party manifesto. At the district level, state bureaucrats

⁶⁶ See Article 28 of the 1974 Constitution of the Republic of Zaire.

⁶⁷ Also see Article 10 of the 1982 Code of Judicial organization and Competence (COCJ).

oversaw magistrates' loyalty to Mobutu (Ibid). Cases directly implicating the regime's loyalists were either dismissed or deliberately adjourned (p.323). Key regime's opponents, including civil society activists, religious leaders, and scholars, were prosecuted and imprisoned. Etienne Tshisekedi, the father of President Felix Tshisekedi, leader of the Union for Democracy and Social Progress (UDPS), was advocating for multipartyism and was frequently arrested by the regime in connivance with the judiciary, as epitomized in 1982, when he was charged with "plotting to overthrow the government" (Fritscher, 1998).

By the dawn of the 1990s, Mobutu's tight grip on power began to weaken. On 17 May 1997, Laurent Kabila's Alliance of Democratic Forces for the Liberation of Congo (FDL) marched into the DRC's capital, Kinshasa, to oust him with the support of Rwanda and Uganda, whose troops he later expelled and began to fight against. His 200 deputies, handpicked, lacked authority and were never consulted (Le Monde, 2000). He also banned all opposition parties and imprisoned his opponents, like Etienne Tshisekedi. Etienne Tshisekedi had thus been jailed by both Mobutu and Laurent Kabila. Kabila's rule bore striking similarities to that of Mobutu's. He ruled with an iron fist, centralizing the executive, legislative, and judicial powers (Ibid).

Under Kabila's reign, the judiciary remained subservient to the executive. He exerted control over the Supreme Judicial Council (CMS), an entity which oversees the appointment of judges, enabling him to solidify his judicial control (Human Rights Watch, 2004, p.5). He amended the constitution to amplify his executive authority, impeding the democratization process (Nzongola-Ntalaja, 2002, p.1). However, his reign was short-lived as he was assassinated by his bodyguard on January 16, 2001 (Aljazeera, 2021). He was later replaced by his son, Joseph Kabila, who was sworn into office on 26 January 2001 (Vick, 2001).

During Joseph Kabila's reign, the judiciary was again utilized to weaken opponents, including journalists and human rights activists, many of whom were either arrested, prosecuted, imprisoned, or executed. A notable example was Jean-Pierre Bemba, a former warlord and Vice President during the 2003 transitional government (Reuters, 2018). Bemba, a fierce rival of Kabila in the 2006 presidential elections, rejected the results, resulting in clashes between Bemba's and Kabila's forces in Kinshasa (Timberg, 2006). Bemba, who later fled to Europe, was arrested by the Belgian authorities in Brussels and transferred to the International Criminal Court (ICC) on war crimes charges (Bavier, 2007). His supporters linked his transfer to the ICC to the Kabila's regime, which it alleged sought to eliminate a powerful rival (Bavier, 2008; Crisis Group, 2018). Thus, Joseph Kabila established an ingrained system of impunity, where regime loyalists enjoyed judicial protection and victims' complaints were, in most cases, unaddressed.

During an interview, a local human rights activist testified that:

Many victims of opposition protests, like Denchald Kapangala, Rosi Mukendi, including myself, who filed complaints during the Joseph Kabila regime, had never been served with justice. I was among the victims of demonstrations organized by the *Committee Laïc du Congo*. I filed a complaint and was even interviewed by a joint commission established during Bruno Tshibala tenure as Prime Minister. This commission included MONUSCO, Civil Society, and the Ministry of Human Rights, led by Marie-Anne Mushobekwa. Justice has never been granted in my case. I also reported on the cases of several families who were victims of various occurrences,

including those whose houses were destroyed. Unfortunately, there was a lack of fair justice⁶⁸.

Thus, Kabila exerted his influence within the judiciary through his loyal allies, who executed his orders in exchange for benefits such as appointments and promotions within the judiciary. These loyalists formed a protective network within the judicial apparatus. When Kabila exhausted his two-term limit in 2016, his regime utilized the judiciary to enable him to extend his regime by two years (France 24 and AFP, 2016; Le Monde et al., 2016).

Kabila also used the judicial system to eliminate key opponents as the 2016 presidential elections approached. Vital Kamerhe, a prominent opposition figure, was charged with defamation against a national deputy, Wivine Moleka (Berwouts, 2014), most probably to prevent him from contesting for the presidency (Kongolo, 2015). Moise Katumbi, a former Kabila's ally and the governor of Katanga province, also faced a similar fate after announcing his presidential candidacy (Human Rights Watch, 2016). He was charged by the judiciary with recruiting mercenaries and engaging in property fraud (Rigaud, 2018), in an attempt to obstruct his presidential bid (Bos, 2018). An international arrest warrant for Katumbi was also issued by the Kabila regime (Ibid). This judicial pressure enabled Kabila to block Katumbi's presidential bid, forcing him into exile (Freytas-Tamura and Wembi, 2017). As the 2018 presidential election approached, Kabila utilized the Constitutional Court to bar another political heavyweight from contesting in the presidential race, who had already been targeted by his father, as we saw above: Jean-Pierre Bemba (AP, 2018).

⁶⁸ Individual Interview 14, September 24, 2021, Camp Tshatshi.

The judiciary was also used by the Kabila regime as a tool for protecting ruling elites, including high-ranking military officers and maintaining regime stability. Through selective application of justice, politically sensitive cases involving regime insiders were either halted, dismissed, or decided in favor of individuals aligned with the regime. A 2012 investigation conducted by the United Nations Group of Experts had linked Kabila's former Chief of Staff of the land forces of the Congolese army, General Amisi Kumba, to illicit arms trafficking and ammunition to armed groups operating in eastern Congo and profiting from illicit mineral trade (France24, 2012). However, in 2014, instead of facing punishment, he was promoted to the rank of a commander to lead the First Defense Zone of the Congolese army, responsible for security in Kinshasa and Western Congo (Ntung, 2014).

Overall, from the establishment of the Mobutu autocracy to the Kabila, father and son, authoritarian and competitive authoritarian regimes, the judiciary has been used by these neopatrimonial rulers as a tool for the consolidation of their authority. As the country was about to move to the 2018 presidential election, the question was whether the DRC would witness a reproduction of this framework, or if the political dynamic was about to change, given the unprecedented situation of an incumbent Congolese president who accepted not to seek re-election (nor to stage a military coup d'état or an armed movement to stay in power). How did the newly elected president, the first in the country's history not to emerge from the incumbent establishment, engage with the judicial apparatus?

The Congolese Judicial Structure in 2018: A Brief Presentation

Before moving on to the analysis of the cohabitation struggle over judicial institutions, it is important to offer a brief description of the judicial system in the DRC when Tshisekedi took over. This will facilitate our understanding of political actors' maneuvers in that system.

The current judicial structure is a product of the 2006 Constitution, which in itself stems from the Global Peace Accord of December 17, 2002, signed in Pretoria between belligerent factions that established a transition government (United Nations Security Council, 2005). The Judicial framework is made of different components, which together constitute its bedrock: the Constitutional Court, the Court of Cassation, the Council of State, the Supreme Military Court, and lower civil and military courts and tribunals.⁶⁹ In this section, I will limit my analysis to three key components: the Constitutional Court, the Court of Cassation, and the Council of State, as they are the most relevant to this study.

The Constitutional Court serves as the first organ of the judiciary and is, above all, in charge of controlling the constitutionality of the laws (Article 160). In addition, and this is where it is central to understand its role in the cohabitation struggle, it oversees matters related to the President of the Republic. As stated in Article 163, "The Constitutional Court is the criminal jurisdiction of the Head of State and the Prime Minister in the cases and conditions stipulated by the Constitution." It also plays a key role in elections, presiding over electoral disputes and ensuring adherence to constitutional principles during electoral disputes for presidential elections, legislative elections and referenda (Article 161). Hence, both the president and his

⁶⁹ See DRC Constitution, Article 149.

premier are under the jurisdiction of the Constitutional Court, whose key role is to safeguard the constitutional integrity and validate the presidential results after elections.

It comprises nine judges, who are led by a president, who also heads the Superior Council of the Judiciary, a governing body of the judiciary (Article 152). Understanding the Constitutional Court's nomination rules is important to this chapter. Although parliament designates some judges, the final appointment authority to the Constitutional Court rests with the president. Thus, the appointment process occurs in the following pattern: the president directly appoints three of the nine judges to the Constitutional Court. Parliament, convened as Congress, designates three others, who are then officially confirmed by the president. The remaining three judges are appointed by the High Council of the Judiciary. The mandate of judges lasts for a single nine-year term. However, to maintain continuity, one-third of the judges are expected to be replaced based on a renewal mechanism of three years. The three remaining judges are appointed by the High Council of the Judiciary (Article 158).

The High Council of the Judiciary comprises eighteen members, including the Attorney General of the Constitutional Court, the Chief Justice of the Council of State, the Chief Justice of the High Military Court, and the Attorney General of the Council of State. The President of the Constitutional Court is also the head of the High Council of the Judiciary, the highest judicial authority responsible for managing personnel and implementing legal and judicial policies (Article 152).

In sum, the Constitutional Court is indispensable to the state and acts as the guardian of its existence. It ensures state stability and social cohesion and serves as the final jurisdiction in electoral matters. Thus, its proper functioning is crucial for the smooth operation of the judiciary.

However, as I will demonstrate in the ensuing sections, the politicization of the judiciary creates a major gap between what is said on paper and what happens in the real political world.

Second, the Court of Cassation is the highest court in the DRC's judicial apparatus in matters of ordinary law (Article 153). Its main role is to examine the lower court's decisions in order to ensure their compliance with legal procedures (Nsambi, 2002, p.4). It mainly reviews legal errors rather than re-examining evidence (p.7), and issues final judgements in civil, criminal, and administrative cases (Ibid).

Lastly, the Council of State deals with administrative legal matters and serves as the highest administrative court. It reviews administrative authorities' decisions, guarantees their legality, upholds citizens' rights in their interaction with public administrations, and hears reparation cases linked to material or moral injuries caused by the state (Article 155).

In sum, as per the Constitution's Article 149, the judicial authority is officially designed to remain independent from the legislative and executive arms. Let us now turn to examining how the power struggle over judicial control unfolded between the two rival camps during the cohabitation initiated in 2018.

The FCC-CACH Struggle over the Judiciary

As we recall, President Felix Tshisekedi began his 2018 term in a cohabitation arrangement: his *Cap pour le Changement* (CACH), a minority coalition, held only 48 out of 500 seats in the National Assembly (Mwakideu, 2019). CACH was a product of an alliance between Tshisekedi's Union for Democracy and Social Progress (UDPS) and the Union for the Congolese Nation (UNC), led by Vital Kamerhe. This alliance, born out of the Nairobi Accord signed on 23

November 2018 (Luntadila, 2021), stipulated that should Tshisekedi ascend to power, Kamerhe would become Prime Minister. However, although Tshisekedi won the presidency, Kabila's multi-party coalition, Front Commun pour le Congo (FCC), controlled the majority in the National Assembly with 342 out of 500 seats (Ibid). Thus, as per the Constitution, the FCC held the power to select a prime minister. Due to the FCC legislative majority, Kabila's allies dominated the cohabitation government, including occupying key ministerial posts. Of importance for this chapter, among these ministries was the Justice Ministry (Mwanamilongo, 2019). These appointments reflected the reproduction of the neopatrimonial system of the *ancien regime*. As a human rights activist pointed out in an interview:

FCC operatives were indirectly appointed at the Justice Ministry by Kabila, through his close allies. These appointees were often either friends, relatives, mistresses, or loyalists of Kabila's caciques. Kabila established an intricate system comprising former Mobutists and warlords, and even opposition dissidents, that mainly focused on securing personal interests.⁷⁰ Hence, during cohabitation, Kabila wielded significant influence over the judicial system. His appointed magistrates acted as passive political actors who implemented the FCC agenda and engaged in clientelism.⁷¹

We should also notice that in the first phase of the cohabitation, all 27 judges in the three most important courts presented above (Constitutional Court, Cassation Court and Council of State judges had been selected by Kabila, along with several lower court judges loyal to him (Nantulya, 2021).

⁷⁰ Individual Interview 22, October 15, 2021, CNDH.

⁷¹ Individual Interview 25, October 19, 2021, Law Firm.

During an interview, a legal advisor in the Ministry of Justice confirmed to us this pattern, explaining how the Kabila camp was able to check Tshisekedi in the judicial arena in the first period of cohabitation. He pointed out that:

Tshisekedi could not push for judicial actions against Kabila's caciques because various strategic positions within the judicial apparatus were still controlled by his predecessor, Kabila. Tunda Ya Kasende, a Kabila ally and a member of PPRD was the Justice Minister. Another Kabila ally, Flory Ibenge, was still the Attorney General. Besides, the first president of the Constitutional Court who also served as the president of the Senior Magistrate Council, hailed from the same region as Kabila, the Katanga province, and was Kabila's close ally. Thus, this strategy of appointing loyalists in strategic positions within the judiciary enabled Kabila to maintain significant influence over the judicial system⁷².

In similar terms, a legal advisor in the Justice Ministry underlined in an interview the complexity of the game being played during cohabitation:

The justice minister is expected, in principle, to align with the president and the prime minister. It is unthinkable to see a minister acting in opposition to the regime he is serving. [But in this case] some ministers did not receive orders from the president, but from his predecessor. President Tshisekedi's nominations were blocked by the FCC majority in the National Assembly.⁷³

⁷² Individual Interview 21, October 15, 2021, CNDH.

⁷³ Individual Interview 28, October 26, 2021, Ministry of Justice.

Echoing this informant, a senior intelligence officer also highlighted the intricacies of the power struggles over the judiciary control, and the Kabila networks' attempts at subverting the authority of the president in the first phase of the cohabitation. He explained how

During cohabitation, the Justice Ministry played a major role in sustaining Kabila's political survival. The FCC Justice Minister, Tunda Ya Kasende, played a key role in the FCC-CACH tug of war within the judicial system by shielding Kabila's allies from prosecution. During this period, the Justice Minister held significant influence over magistrates and had the capacity to interfere with the investigations of certain cases implicating Kabila's caciques. This was the political influence the FCC held over the judiciary. Thus, Kabila's influence over the judiciary persisted because of the existence of the cohabitation power-sharing deal, which granted him significant influence over government institutions.⁷⁴

However, the cohabitation dynamic began to shift in the second trimester of 2020. This happened in a context where President Tshisekedi, despite the fact that his CACH coalition held a minority of seats, began to undermine the FCC legislative dominance, dismantling it from within, as we discussed previously. Tshisekedi began fighting back within the realm of the judiciary. In this context, a battle between the two camps occurred in July 2020 over the nomination of three judges to the Constitutional Court (Jeune Afrique, 2020a). At that time, Tshisekedi capitalized on the absence of Prime Minister Ilunga Ilunkamba in Kinshasa to appoint three judges to the Constitutional Court without the countersign of the Prime Minister, as the law requires (Article 79 of the Constitution). Instead, these appointments were unlawfully

⁷⁴ Individual Interview 14, September 24, 2021, Camp Tshatshi.

countersigned by the UDPS allied Vice-Prime Minister and Minister of Interior, Gilbert Kankonde. However, Tshisekedi interpreted the relevant Constitutional provisions in a way that justified his action by maintaining that the appointments were made as per the constitution (RFI, 2020b). Consequently, the weak system of checks and balances enabled him to approve the appointments of the three judges to the Constitutional Court. To enforce his order, he was backed by the Superior Council of the Judiciary on 14 October 2020, right before the new judicial year began (Jeune Afrique, 2020b).

In response, the FCC publicly protested these new nominations (Ibid). This set the tone for a period of very tense battles between the two camps: on the presidential side, President Tshisekedi leveraged his executive authority to appoint his key allies to strategic posts within the judiciary in order to consolidate his influence. On the Kabilist side, the FCC sought to maintain its judicial control by leveraging its legislative majority. One of the key points of contention was the Minaku-Sakata Bill, initiated by two FCC deputies. This bill significantly shaped the power struggle between the two camps. It was considered by the CACH coalition as the FCC's scheme to consolidate its judicial control. The next section provides a detailed analysis of the Minaku-Sakata Bill and its role in the shifting power dynamics between the two rival camps.

The Minaku-Sakata Bill

In June of 2020, two FCC deputies, Aubin Minaku and Garry Sakata, introduced what became known as the Minaku-Sakata Bill to the National Assembly. This bill constituted an impediment to judicial independence and significantly intensified the conflict within the cohabitation government. The Minaku-Sakata bill aimed to constrain Tshisekedi's influence

over the judiciary, maintaining his predecessor's dominant position, and significantly hindering Tshisekedi's efforts to consolidate power. It sought to consolidate the powers of the Justice Minister, vesting him with more authority over the judiciary than it already had (Leclercq, 2020). In the end, the bill never passed. Despite its failure, the mere attempt to radically transform the judicial system in itself is revealing of how the FCC sought to use the judicial system as a way to weaken the president, including plotting his impeachment.

The Minaku-Sakata Bill consisted of three main sections: the first section dealt with the organization, operation, and authority of the courts under the judicial mandate. The second part focused on the status of the magistrates, while the third part was dedicated to the organization and functioning of the High Council of the Judiciary. It was placed under the jurisdiction of the political and administrative commission of the National Assembly, where bills are assessed and modified before being presented for votes at the National Assembly. This proposed bill aimed to limit the constitutional powers of the President while bolstering the authority of the justice minister by allowing him to appoint, promote, and dismiss judges (Maneno, 2021). It also sought to reshape the authorities of the magistrates and the Superior Council of the Judiciary by allowing the Justice Minister to sanction judges and join the Superior Council of the Judiciary (Cros, 2020a). These FCC maneuvers were confirmed by a Human Rights Commissioner who informed me in an interview that

The Minaku-Sakata bill proposed that the three judges of the Constitutional Court could not be appointed without the approval of the FCC allied Justice Minister.

The endorsement of this bill could have granted the FCC greater influence over six of the nine judges of the Constitutional Court, as the constitution mandates the Head of State to appoint three directly. This was a crucial step in the FCC plan to

influence the 2023 presidential elections. This scheme was feasible since the FCC still held a formidable majority in both the National Assembly and the Senate⁷⁵.

This pattern was reiterated by another informant, a senior intelligence officer, who explained that:

Tshisekedi found himself restrained by the deal he signed with Kabila prior to forming a cohabitation government. In fact, he acknowledged being stifled as the balance of power within the judiciary still leaned towards Kabila's camp. There was a significant attempt by Kabila's allies within the judiciary to maintain control over the judicial system by adopting the Minaku-Sakata Bill. However, Tshisekedi publicly rejected this bill, which could have granted Kabila's caciques significant control over the judiciary. Thus, the rejection of this bill signalled the beginning of the diminishing influence of the FCC over the judiciary.⁷⁶

As these interview excerpts indicate, this was a pivotal moment for the cohabitation. In effect, magistrates across the DRC opposed the Minaku-Saka bill by maintaining that it infringed upon judicial autonomy. A delegation from the National Syndicates of Magistrates of Congo (SYNAMAC) had even visited Tshisekedi to affirm their objection to the Minaku-Sakata bill (Congo Monde, 2020). This whole event triggered demonstrations in the streets, with hundreds of protesters, including UDPS supporters and civil society members, gathered outside the National Assembly to prevent deputies from debating the bill (Tshiamala, 2020c). Ultimately, CACH deputies decided to abandon the Political, Administrative, and Judicial (PAJ) commission of the National Assembly that was in charge of examining the proposed Minaku-Sakata bill,

⁷⁵ Individual Interview 22, October 15, 2021, CNDH.

⁷⁶ Individual Interview 14, September 24, 2021, Camp Tshatshi.

maintaining that it breached articles 149, 150, 151, and 152 of the constitution, which guarantee judicial independence. Given the sociopolitical pressure described above, the FCC eventually suspended the scrutiny stage of the bill (Wemba, 2020). Nonetheless, Tshisekedi continued to face significant hurdles in asserting his authority as the head of state.

Nominations at the Constitutional Court

The Constitutional Court was another key battleground in the power struggle between FCC and CACH over the control of the justice system. As explained above, the key feature that made the Constitutional Court crucial in the battle of cohabitation stemmed from its mandate to oversee the legality of the president's impeachment in the DRC. Hence, as soon as the Kabilists signalled their intention to use their legislative majority to impeach the President, it became clear that the Constitutional Court would be at the center of the tussle. It is in that context that we can understand the events of the end of 2019 and early 2020. In effect, following a continued deteriorating political environment, the FCC formed a working group whose role was to initiate the impeachment procedure of the president. It maintained that it had identified several instances where President Tshisekedi's executive orders had breached the constitution. These complaints could have been sent to the prosecutor, who was at that time affiliated with the FCC, and could have provoked the convocation of the two chambers of parliament. Consequently, this could have enabled them to suspend the immunities of the president, since both chambers were under the control of the FCC (Rigaud, 2020).

However, on 19 January 2020, while addressing the Congolese diaspora community in London, Tshisekedi threatened to utilize his constitutional prerogative to dismiss ministers and dissolve parliament (VOA, 2020a). The speaker of the National Assembly, Jeanine Mabunda,

responded to Tshisekedi's London Speech by threatening to impeach him (Kambale and Dizolele, 2021). Given the role of the Constitutional Court in the impeachment procedure, all eyes were now on this institution. This is how we must read the strategy of the president towards the Constitutional Court: first, the presidency began to put enormous pressure on the president of the Constitutional Court, Benoit Lwamba (a Kabila appointee) by questioning his legitimacy, interfering in judicial appointments, and initiating administrative maneuvers which ultimately compelled him to resign on 27 June 2020 (Actualite, 2020a; Mediacongo, 2020b; RFI, 2020). This was confirmed by a Human Rights lawyer, in an interview that: "The President of the Constitutional Court, Benoit Lwamba, resigned and left for Belgium [in June 2020]. Afterward, Tshisekedi nominated his ally as Lwamba's successor."⁷⁷.

Then, in July 2020, after the Constitutional Court President's resignation, Tshisekedi appointed three judges to the Court, without the FCC's consent (Hoebeke, 2021). In doing so, he also removed two judges from the Constitutional Court, Jean Obulu and Noël Kilombo, because he perceived them as Kabila loyalists, given that they had validated the provisional presidential results of the 2018 election. They were transferred to the Court of Cassation in flagrant violation of the constitution,⁷⁸ since they would occupy positions at the Court of Cassation while their mandates at the Constitutional Court were still ongoing. They refused to leave their posts at the The Constitutional Court challenged Tshisekedi's presidential decree by citing that they had not completed their mandate as required by the law (RFI, 2020). In compliance with the constitution, especially article 58, paragraph 3, they were legally required

⁷⁷ Individual Interview 5, September 21, 2021, Bibliothèque Belge.

⁷⁸ Individual Interview 21, October 15, 2021, CNDH.

to stay at the Constitutional Court until the end of their mandate (La Tempête des Tropiques, 2020).

These changes further escalated the conflicts between the FCC and CACH, as the president of the National Assembly and the Senate rejected Tshisekedi's nominations, boycotting the swearing-in ceremony of the new judges (Musamba, 2021). On 13 October 2020, the president of the National Assembly, Jeanine Mabunda, and the president of the Senate, Thambwe Mwamba, met with President Tshisekedi to caution him about the constitutionality and legality of the appointment of the three judges to the Constitutional Court. Nonetheless, on 21 October 2020, they were sworn in during a ceremony held in the National Assembly, in the presence of Tshisekedi and 60 CACH deputies; the ceremony was boycotted by the FCC deputies, as well as The Prime Minister and other members of the Government, the president of the Senate, and the president of the National Assembly (UN Security Council, 2020, para 3).

Despite protests from Kabila's caciques, these appointments were accepted because while the FCC appeared united behind the scenes, anger had been brewing for several months within the Kabila camp, as we explained in a previous chapter. Some of his allies no longer felt their interests were safeguarded under the FCC, accusing the old guards of blocking new faces from rising politically. Tshisekedi was courting to poach disenchanted deputies from the FCC and its satellite parties. Many of them transhumance to Tshisekedi's camp out of opportunism to seek positions and material rewards.

Judicial Control, Transhumance, and the Making of a *Mulopwe*

In this section, I analyze how the shifting balance of power over judicial control in favor of Tshisekedi occurred. I use the term *Mulopwe*, meaning “King” in the Luba tribe, to metaphorically sketch Tshisekedi’s power consolidation in the judiciary. Through the prism of *Mulopwe* illustrates how Tshisekedi has relied on informal power dynamics to transcend the formal judicial structure in order to consolidate his judicial control.

I use the concept of *Mulopwe* to examine the interplay between the political salience of ethnic identity and patronage-based loyalty during the cohabitation period. In the DRC, ethnicity is a tool of both political mobilization and power consolidation. While patronage and access to rent played a key role in the power struggle between Tshisekedi and Kabila, ethnicity is a framework through which these privileges were channelled. Thus, Tshisekedi’s rule was based on a combination of ethnic authority and neopatrimonial control over state resources. However, beyond Tshisekedi’s ethnic base, loyalty was preserved through clientelist networks, ensuring that local elites aligned with the president’s agenda. What appeared as identity politics was indeed an expression of patronage logic, where elites mobilized ethnic identity to preserve power.

This explains why Tshisekedi maintained influence outside his ethnic base. Thus, at the local level, patronage systems, including appointments to senior posts, control of budgets, contracts, and development projects, cemented loyalty across ethnic divides. In other words, local elites supported the president to access resources for their constituencies.

Thus, just like how a *Mulopwe*, in the traditional Luba society, exercised and maintained power through a network of traditional chiefs and allies, Tshisekedi established a parallel

informal network of loyalists to circumvent the formal structures of the judiciary, a ubiquitous practice in government institutions. The informal network of allies is largely loyalists from his Luba ethnic group and other close collaborators originating from his home region of Kasai. These tribal appointees have intervened in major judicial cases implicating ruling elites or the regime's opponents, enabling the president to bypass the required democratic practices.

As we saw in the previous sections, although in the first period of the cohabitation, the Kabilists enjoyed the upper hand in their battle over the judiciary, the wind began to slowly change in favor of the presidential camp with the increasing pace of the transhumance of deputies. Echoing what was happening in the other key sectors (security, mining, electoral institutions), Tshisekedi's camp began to co-opt a growing number of Kabila loyalists, gradually depriving the former president of his supporters in key state institutions. Quite obviously, the shift of allegiance was not based on an ideology but was derived from the distribution of material benefits, where politicians traded their loyalty for material goods and appointments in the government. Thus, Tshisekedi capitalized on the culture of transhumance in the DRC to break free from the cohabitation deal. Tshisekedi's gradual power consolidation occurred concurrently with the ethnicization and regionalization of the judicial system. In an interview, a senior opposition leader, "Tshisekedi came to power when his Luba ethnic group were largely the majority within the judicial apparatus. Hence, his accession to power gave them a little weight, and they coalesced to defend one of their own against Kabila's camp. Today, Tshisekedi has the judiciary under his control"⁷⁹. In effect, as this informant explained, many of Tshisekedi's allies were from his Luba ethnic group and Kasai region occupied key positions within the

⁷⁹ Individual interview 26, October 24, 2021, Private Home.

judiciary, such as the Justice Minister, the Attorney General, the President of the Constitutional Court, the First President of the Court of Cassation, as well as the President of the State Council. Hence, under Tshisekedi's reign, ethnicity has been a tool for power preservation, ingrained in the judiciary and several other government institutions, including public enterprises. Thus, echoing the traditional power centralization of the Mulopwe, where kinship, ethnic allies, family ties, and loyalty shaped political organizations, Tshisekedi's judicial control, including power consolidation at large, has been buttressed by the support from his Luba tribe and Kasai region. His presidency has constructed a sense of ethnic solidarity, sustained by a patronage system, which has established a self-regulating system, where loyalty is transacted with material benefits. In the collective memories of contemporary Lubas, President Tshisekedi epitomizes a traditional role of a Mulopwe, as a custodian of his Luba people. In the next section, I explore how informal elites' networks, driven by political patronage, undermine the formal judicial structure.

The Neopatrimonialization of the Judiciary: Protecting the Ruler's Allies, Punishing its Rivals

As President Tshisekedi increasingly consolidated his authority over the judiciary, a pattern became increasingly clear: instead of consolidating the rule of law and therefore breaking with the neopatrimonial authoritarian management of the judiciary in place under the previous rulers, which he had decried much when he was an opponent, Tshisekedi increasingly weaponized the judiciary like his predecessors. This is confirmed by a Human Rights expert, who explained the *modus operandi* of the Tshisekedi regime within the judicial apparatus. He describes it as a three-step process:

When the regime wants to arrest a political adversary, it prepares the ground by using the regime's allied media, human rights organizations, and magistrates. The media, through their journalists, prepare the public by framing a narrative and raising awareness beforehand. Then, Luba ethnic bent civil society organization is closely affiliated with the UDPS insist that justice must be served. The judiciary eventually summons the accused. The ethnicized human rights NGO shares it on social media, even before the accused is summoned to appear before the court. Once the accused appears before the court, UDPS supporters mobilize their militants to demand justice against the accused political adversary. In contrast, corruption cases implicating a regime's loyalists, especially the elites affiliated with the UDPS, often go unaddressed while those of political nemeses are pursued actively [...] Judicial actions tend to be sluggish when they implicate a regime's loyalists, such as a minister or a deputy, but the same judicial apparatus operates swiftly on cases involving adversaries.”⁸⁰

As this section will demonstrate, with the weakening of the Kabilist networks, the presidential circle increasingly instrumentalized the judicial apparatus in two ways: first, with the help of a growing number of loyalist appointees, the judiciary was used to protect the allies of the president. Second, the judicial apparatus became a weapon to punish rivals, both those from the Kabila networks, but also, as importantly, if not more, those from within the Tshisekedi circle, who were considered as traitors and ‘hidden’ rivals of the president himself. As a former PPRD member and Professor explained in an interview, “the Tshisekedi regime utilized the

⁸⁰ Individual interview 21, October 15, 2021, CNDH.

judicial system against former Kabilists [...] Politicians who raised their heads are scrutinized by looking into their management to find elements to condemn them.”⁸¹

The following sections will provide several instances that allow us to see this process unfold, starting with the case of the 100-Day Program.

Protecting Tshisekedi Allies and Punishing Rivals: The Case of the 100-Day Program

The 100-Day Program, which I will first describe in the next paragraph, offers a valuable window to analyze how similar alleged acts of corruption that had taken place in a heavily funded governmental program were treated differently by the judiciary depending on who the individuals are: allies or enemies of the president. At the start of his first term, President Tshisekedi launched what he saw as a legacy program that would epitomize the transformation his electoral victory brought about: the 100-Day Emergency Program. This program, officially launched on March 2, 2019, was initiated without a functioning FCC-CACH government (Gec, 2020, p.3). It sought to execute developmental projects across the DRC. The total budget allocated to this project was \$488 million, an amount that surpassed the total budget of the entire 2019 fiscal year. Seventy percent of the budget of the 100-Day Emergency Program was allocated to the construction and rehabilitation of infrastructure, social housing, and the health sector. This program was mostly financed by the government through the public treasury, with contributions of \$206 million from the government, \$70 million from the Industrial Promotion Fund, and \$23 million from the National Road Maintenance Fund. Despite its initial scope, the 100-Day Emergency Fund continued to expand gradually until it substituted the 2019 Budget Law, enabling the Tshisekedi regime to govern

⁸¹ Individual Interview 45, November 24, 2021, UNIKIN.

without budget revision and parliamentary oversight (Gec, 2020, p.3). Thus, President Tshisekedi relied on close allies within his informal networks in government institutions and state parastatals to implement this program. These webs of elites enabled the new regime to establish an informal economic network that circumvented the bureaucratic formal structure. Not surprisingly, then, cases of corruption began to be exposed to the public. What is critical for my analysis here is the ways in which different actors involved in these embezzlement cases were treated by the judicial system. This 100-Day Emergency Program is thus a good case to observe the pattern of punishing rivals and protecting allies in the judiciary.

In the 100-Day Program, Tshisekedi's allies saw their fate take a positive turn. This was the case with Modeste Makabuza and Benjamin Wenga. In June 2020, Modeste Makabuza, the Director General of the Congolese Construction Company (SOCOC), and Benjamin Wenga, the Director General of the Road and Drainage Office (OVD), were both found guilty of misappropriating public funds in the 100-day program case (Jeune Afrique, 2021b). They were sentenced to five and three years in prison, respectively, for misappropriating \$12 million fund allocated to road construction projects in North Kivu and South Kivu provinces in a televised anti-corruption trial that also led to the sentencing of Tshisekedi's Chief of Staff, Vital Kamerhe, to twenty years in prison (Rigaud, 2021). However, on January 8, 2021, barely six months after they had begun their jail time, they were both released after being granted a presidential pardon through an order prepared by Bernard Takahishe Ngumbi, the Vice Minister of Justice, who had affiliations with Tshisekedi's UDPS party (Agnade, 2021). Their immediate release elicited skepticism, especially given that it was done through a presidential pardon that released prisoners who were jailed for the 2001 assassination of former president, Laurent Desire Kabila (Rigaud, 2021). They were included on the list of the pardoned prisoners,

although the executive order excluded other prisoners who had been sentenced for corruption and misappropriation of public funds (Jeune Afrique, 2021; Rigaud, 2021). Their release was done despite their sentences being confirmed by the Court of Cassation, which denied them the possibility of parole (Rigaud, 2021). No official statement regarding their release was issued, neither from the vice minister nor the presidency (Ibid). They were released from prison despite protests from civil society demanding their return to prison (Ibid).

On the other hand, actual or potential adversaries of the president would face a different treatment and have a different fate. The case of Vital Kamerhe, Tshisekedi's former Chief of Staff, is illustrative of this. Kamerhe had played a key role in the ascension of Tshisekedi to power (GEC, 2019a). But on April 8, 2020, he was arrested and charged with misappropriating public funds, including engaging in money laundering in connection with the two contracts awarded to a Lebanese businessman, Samih Jammal (TV5Monde, 2020). Jammal had been granted more than what was initially stipulated in his contract for supplying 900 prefabricated houses for the military. His company won a contract worth \$115 million (Gec, 2020, p.5). Kamerhe was accused of conniving with Jamail in this shady deal. His trial began on March 11, 2020. For many, his arrest and trial had one cause: Tshisekedi saw him as a potential adversary in the 2023 presidential race (Gras and Tshiamala, 2020b). On that note, a human rights lawyer noted in an interview that:

The panel of judges assigned to the hearing of the corruption scandal linking Vital Kamerhe to the 100-Day Program was predominantly composed of individuals from the Kasai region [Tshisekedi's home region]. The regime has slanted in using judges from predominantly Kasai or Luba ethnic group to influence the judicial system to coerce the regime's adversaries. Magistrates with reputations for integrity have

either been isolated, threatened or even killed, as was the case of Judge Raphael Yanyi, who was in charge of hearing the 100-Day Program corruption scandals of Vital Kamerhe.⁸²

Highlighting the political nature of Kamerhe's judicial problem, this human rights lawyer I interviewed added that

Vital Kamerhe was initially arrested and linked to a pharmaceutical corruption scandal. However, when he presented solid evidence to prove his innocence, including a signature of the Minister of Health, the case was dropped. He was charged with embezzling funds for the construction of road bypasses, but when a signature of Christian Tshisekedi, President Tshisekedi's brother, linking him to the case, emerged, the charges were also dropped. Nonetheless, new charges were brought before the court against Kamerhe involving the misappropriation of funds meant for a prefabricated houses project for the military, resulting in his final condemnation of 20 years in prison.⁸³

Although it is difficult to prove this, it is nonetheless interesting to note that one reason he might have found himself on the receiving end of the judiciary's campaign against him was the notion that, according to the 2018 Nairobi Accord between Tshisekedi's UDPS and Kamerhe's UNC, Tshisekedi agreed to serve a single term and support Kamerhe's candidacy in the 2023 presidential race. If this were to be confirmed, it could confirm further why he was suddenly "punished" as a rival by the judiciary (Nkuku, 2021, p.119; Rigaud, 2021). There are reasons to believe that this claim is plausible. In effect, a few months after Kamerhe's conviction, the public

⁸² Individual Interview 21, October 15, 2021, CNDH.

⁸³ Individual Interview 21, October 15, 2021, CNDH.

prosecutor and judges who played a crucial role in the case were promised prominent positions within the judiciary. For instance, Pierrot Bankenge, the presiding judge who, along with his colleagues, sentenced Kamerhe to twenty years in prison, was appointed by Tshisekedi as President of the High Court of Kinshasa (Vondi, 2020a). He succeeded Judge Raphael Yanyi, who was killed while presiding over Kamerhe's case (Nkuku, 2021; S. B. Tshiamala, 2020b).

In a nutshell, the case of the 100-Day Emergency Program allows us to see with a more granular perspective how Tshisekedi utilized the judicial system to both protect his allies, even if they were in a difficult legal situation, and to punish his (actual or potential) political adversaries, thereby eliminating threats to his regime's survival.

Targeting the Regime's Adversaries: The Case of Matata Ponyo

A second case illustrates how Tshisekedi increasingly targeted is real or potential adversaries, that of Matata Ponyo, a former prime minister, key opponent of Tshisekedi and potential 2023 presidential candidate. Formerly the longest serving prime minister (2012-2016) under Kabila's reign and a PPRD-FCC member, Ponyo chose an independent political path after the end of the cohabitation government (Gras and Tshiamala, 2021). Apart from his pursuit for power, his independent political trajectory was shaped by two judicial cases: the Bukanga Lonzo agro-industrial project and the Zairianization policies of 1973-74. These two cases form the basis of my analysis in this section. I will illustrate how the Tshisekedi regime exploited them to weaken Ponyo's 2023 presidential ambition.

Launched in 2014 during his tenure as prime minister, the Bukanga-Lonzo scheme sought to create twenty-two agro-industrial parks over 1.5 million hectares of land to enhance

the agro-industrial sector and food security in the DRC (Mehta, 2019, p.5). However, the project took a sudden shift due to mismanagement of funds (Ibid). Immediately after the Tshisekedi regime ascended to power, it launched investigations into the Bukanga-Lonzo scandal in 2019, through the General Inspectorate of Finance (IGF), an anti-corruption agency, which linked Ponyo to the embezzlement of \$285 million (RFI, 2021b). He was also linked to the embezzlement of funds meant to compensate the 300 victims of the 1973-74 Zairianization policies implemented under Mobutu's reign. In this second case, the prosecutor accused Ponyo of signing fictitious contracts with creditors, which facilitated payments of nearly \$140 million to ghost recipients rather than the actual beneficiaries (Congovirtuel, 2021a). While these two cases could ostensibly be justified on legal grounds, they have become an imperative tool for the regime to attain the political ends of weakening Ponyo's presidential ambition. This was confirmed in an interview with a professor at the University of Kinshasa, who explained that:

The legal proceedings against Matata [Ponyo] intensified when he began to tour the country as a potential independent presidential candidate. Hence, investigations were opened against him to examine his financial dealings while serving as prime minister during Kabila's regime, especially the agro-industrial Bukanga Lonzo project.⁸⁴

Thus, Ponyo's legal pursuit should be analyzed in the context of the presidential election calendar. He was the second politician to announce his 2023 presidential candidacy after Tshisekedi, while launching his Leadership and Governance for Development (LGD) party (RFI,

⁸⁴ Individual Interview 64, December 22, 2021, UNIKIN.

2022b). By declaring his presidential bid, Ponyo was seeking to expedite his case and push for an acquittal, like he successfully did twice at the Constitutional Court. His presidential bid was a calculative political risk, which enabled him to present himself as an opponent persecuted by the regime. In doing so, he aimed to occupy the political vacuum in his home turf of the Maniema region (RFI, 2022 and RFI, 2023). His grassroots support positioned him as a key presidential contender from the Swahili-speaking Eastern region since other key political heavyweights from the region have either been weakened or coopted by the regime (Leclercq, 2021). In effect, we must understand the fate of Ponyo in light of what happened to all these other leading opponents from the East. The first one, as we explained above, was Vital Kamerhe, President Tshisekedi's key partner in the CACH coalition, who had been imprisoned by the regime on allegations of embezzling public funds in the 100-Day Program. He was only released after abandoning his 2023 presidential ambition in exchange for supporting Tshisekedi. Another example was that of political heavyweight Moise Katumbi, a key challenger of Tshisekedi in the 2023 presidential race. The regime has used an ethnic profiling bill to seek to disqualify him from the presidential race. The targeting of these politicians was meant to weaken the mobilization of the Swahili-speaking voters (Ibid). This is why the Ponyo candidacy was so important for Easterners in the 2023 presidential race.

In less than two months, Ponyo was subjected to four requisitions from the Attorney General at the Constitutional Court. The first requisition was launched on 28 April 2021,⁸⁵ when the Attorney General requested the National Assembly and the Senate to lift Matata's immunity,

⁸⁵ République démocratique du Congo, Parquet General près la Cour Constitutionnelle (2021). Réquisitoire du procureur général près la Cour constitutionnelle tendant à obtenir des sénateurs Augustin Matata Ponyo Mapon et Ida Kamonji Maserwa (No. 129/RMPI/0001/PG.C.CONST/MOP/2021). See: https://www.mediacongo.net/dpics/files/2021-05-15-08-24-53_REQUISITOIRE_DU_PGR_DES_DEP_NATIONAUX.pdf

suggesting the process be done in Congress, despite the Constitution stipulating that only the immunity of the sitting president and the prime minister can be lifted by Congress, and after doing so, the two must resign.⁸⁶ Hence, lifting Matata's immunity through Congress was a breach of the law as he is a former prime minister. Instead, given his new status as a Senator, he had jurisdictional privileges and was accountable to the Court of Cassation, which holds jurisdiction to try senior government officials (Actualite, 2021). It is obvious that by following the Congress path, the Attorney General sought to ensure the success of his requisition since it is easier to secure approval by the joint chambers comprising 608 parliamentarians – 500 at the National Assembly and 108 in the Senate – instead of relying solely on a small Senate of 108 members. However, senators rejected his requisition and questioned the legal basis of his request, including the Constitutional Court's authority to try a former prime minister who now serves as a senator for actions he made while in office (Fula, 2021). Thus, while the Attorney General's call to investigate Matata was valid, the legal pursuit against the latter sought to attain a political end of weakening him in the presidential race.

After this first unsuccessful request, the Attorney General initiated a second requisition on May 12, 2021 (Fula, 2021). Again, during a plenary session, senators questioned the legal basis of his request and the Constitutional Court's authority to judge a former prime minister, now a senator, for actions he made while in office (Ibid). In his own words, Ponyo described his charges as “political gangsterism” pushed by Tshisekedi's regime (Diallo, 2023), through the Senate and the Constitutional Court to eliminate him from the 2023 presidential race (Ibid).

⁸⁶ See DRC 2006 Constitution article 166.

A third requisition on May 15, 2021, was again initiated by the Attorney General, asserting that the Constitutional Court holds the power to try a former prime minister, irrespective of their current position (Vondi, 2021). Nonetheless, to counter any beliefs that the Senate was hindering a judicial proceeding, it endorsed the prosecutor's requisition and established a special commission to question Ponyo and its conclusions were presented to the plenary for evaluation (Ibid). Despite these efforts, senators again rejected the Attorney General's requisition, with 49 of them voting against and 46 in favor (Lubaki, 2021).

Finally, the Attorney General introduced a fourth requisition of June 24, 2021 (Radio Okapi, 2021d). To ensure success, he pursued a case involving the embezzlement of funds meant for the victims of Zairianization policies of 1973-74 (Actualite, 2021a). The Senate unilaterally lifted his immunity without giving him the legal right to be heard (Ibid). Nonetheless, after providing his defense to the Attorney General, Ponyo was cleared of all embezzlement charges, compelling the Attorney General to dismiss the case.

Ponyo's judicial hunt continued as the Attorney General unexpectedly reopened the Bukanga-Lonzo scandal, which had been repeatedly rejected by the Senate. On July 16, 2021, Ponyo was summoned by the Attorney General's office at the Constitutional Court, with the intention of his summons to be disclosed upon his arrival (Mabada, 2021). However, his legal team opposed the reopening of the Bukanga-Lonzo case for two key reasons: First, the Senate had already deliberated on and rejected it; the decision was formally communicated by the President of the Senate via a letter dated June 21, 2021. Second, the removal of his immunity strictly applied to the Zairianization case, which makes this summons a breach of the law (Ibid).

Ponyo's judicial significantly intensified throughout 2022 and 2023 when he began to prepare for the presidential election. The intensification of his judicial pursuit illustrates that while his case had legal grounds, it was never pursued based on democratic ideals. Instead, it reveals the significant weight of executive powers over the judiciary, with the judiciary serving as a tool for the regime to achieve political ends.

Punishing 'Enemies' from Within: Weaponizing the Judiciary to Punish (Former) Friends

As Tshisekedi consolidated his control of the judiciary over the years, a fascinating pattern began to emerge. The president, having increasingly defeated his Kabilist adversaries, began to focus on critical voices within his own ranks, as well as those who were deemed to be potentially dangerous rivals. The judicial apparatus became a valuable weapon to address these problems. As this professor at the University of Kinshasa explained in an interview, "What was happening was that the Kabila justice system has persisted under Tshisekedi, where those who are being prosecuted are mostly the regime's opponents and renegades."⁸⁷ In light of these acute observations, this section aims to explore the cases of two such 'traitors' or 'enemies from within', Dr. Oly Ilunga and Jean-Marc Kabund, two majors former UDPS figures who were targeted by the judicial apparatus.

The case of Dr. Oly Ilunga, who was the Health Minister from 2016 to 2019, is crucial in expanding the double standard of the justice system during the cohabitation period. Oly Ilunga was a senior representative of the UDPS in Europe. Of importance, he was also the personal doctor of Etienne Tshisekedi, President Felix Tshisekedi's father. Consequently, Oly Ilunga

⁸⁷ Individual Interview 64, December 22, 2021, UNIKIN.

infuriated UDPS in 2017 when he shifted to join Kabila's regime and was appointed as Health Minister in Bruno Tshibala's government (2017-2019). UDPS leaders' anger was also nurtured by the fact that Tshibala himself was a former UDPS member, but he eventually joined Kabila's camp and was appointed in April 2017 as Prime Minister of the transition government (Kibangula, 2017). This explains why, when Tshisekedi rose to power, Dr. Oly Ilunga was considered by the UDPS as an adversary of its regime, despite, or rather because of his past affiliation with the UDPS (Nkuku, 2021, p.115). Despite his former leader's election in 2018 as the new president, Ilunga decided to remain in the government. The considerable lack of trust between Tshisekedi's camp and Dr. Ilunga significantly escalated tensions between them (AFP, 2019). But this lasted only seven months. On July 22, 2019, Ilunga eventually resigned, citing a lack of collaboration related to the introduction of new Ebola vaccines. Tshisekedi did not miss an opportunity to make Ilunga pay for his betrayal: in September 2019, he was arrested and charged with embezzling funds allocated to the fight against Ebola in eastern Congo. The court found Ilunga and his advisor, Ezekiel Mboyi, guilty of misappropriating \$400,000 allocated to the fight against Ebola in North Kivu. They were sentenced to five years of hard labor (Tshiamala, 2020a). The next section focuses on how the regime utilized the judiciary to punish another regime insider, Jean-Marc Kabund, a former UDPS hardliner.

The case of Kabund is another instructive one. Kabund was probably one of the most central architects of Tshisekedi's successful campaign against the FCC. He was a confidant of Tshisekedi and a central figure in the fight to dismantle the FCC (Actualite, 2020c). But perhaps because of that, he became a dangerous figure in the eyes of the president. The judicial weapon was therefore used against him. His political trajectory is linked to his militantism during Joseph Kabila's era and his role in the UDPS's subsequent ascension to power. In August 2016, he was

designated UDPS Secretary General (Gras, 2022) and later promoted as interim president of the UDPS, following the death of the UDPS party leader, Etienne Tshisekedi, in February 2017 (Gras, 2022; RFI, 2019b). Kabund's political stardom gained national prominence during the 2018 presidential election. When Felix Tshisekedi, the son of Etienne Tshisekedi, came from Brussels to take over the leadership of the UDPS to run for the presidency, Kabund launched a populist campaign slogan, "Fatshi Beton," to popularize Tshisekedi during the presidential campaign (Leclercq, 2022). He also participated in negotiations between the UDPS and other parties to form a coalition prior to elections. The UDPS had joined key opposition leaders such as Martin Fayulu, Moise Katumbi, and Jean-Pierre Bemba, who united to form a large coalition called Lamuka, to present a single candidate in the 2018 presidential elections. However, after Fayulu was selected as Lamuka's presidential candidate, Tshisekedi left Lamuka, claiming pressure from his own electoral party. Kabund, for his part, called the Geneva accord a "political suicide" (BBC, 2018) and supported the UDPS and UNC coalition that birthed the CACH coalition, formed under the Nairobi accord (Tshibuyi, 2018).

After the victory of Tshisekedi in the presidential election, he was appointed by the new president as informateur to identify a coalition with the majority in the National Assembly to enable the president to appoint a formateur to form a new government (Mediacongo, 2019). He also played a primordial role in the power-sharing deal between Tshisekedi and Kabila that led to the formation of the FCC-CACH government (Tshibuyi, 2019).

Tshisekedi also appointed Kabund, who was at that time Secretary General of the UDPS, as interim president of the party, and later as First Vice President of the National Assembly after the formation of the cohabitation government, where he actively opposed FCC dominance in the

National Assembly. Consequently, in May 2020, the FCC impeached him from the First Vice President of the National Assembly post (Gras and Bujakera, 2020). This was obvious because at that time, Tshisekedi's CACH coalition held a minority seat in the National Assembly and lacked the legislative strength to resist the FCC's impeachment of its ally. Thus, the fall of Kabund was a significant loss for Tshisekedi, who at that time was in a fierce battle with the FCC.

Following his removal from the First Vice Presidency seat, Kabund became a *de facto* strategist for the Sacred Union, a new coalition formed in December 2020 by Tshisekedi to shift the parliamentary majority to his favor. During the FCC-CACH power struggle, he played a crucial role in convincing the FCC deputies to defect to Tshisekedi's Sacred Union (RFI, 2022; Gec, 2022). He took on a leading role in mobilizing UDPS deputies and was deeply engaged in the negotiations that ultimately led to the ousting of Kabila's ally, Jeanine Mabunda, from the president of the National Assembly post (Actualite, 2020). Kabund was a central architect in the transhumance of FCC deputies in favor of Tshisekedi's coalition. After the mass transhumance of FCC deputies to Tshisekedi's Sacred Union, Kabund was compensated and reinstated to the First Vice President of the National Assembly in February 2021 (Gras, 2022).

Despite his crucial role in granting Tshisekedi a new parliamentary majority, Kabund became the center of a new political storm within Tshisekedi's inner circle, between him and several other presidential allies, such as Tshisekedi's security advisor, Francois Beya, and his Chief of Staff, Guylain Nyembo (Gras, 2022). His loyalty to Tshisekedi became increasingly under scrutiny. After the shift in the parliamentary majority, he was accused of perceiving himself as the kingmaker and, at times, as more powerful than the president. Some sources even mention that the president's advisors perceived him as a "*de facto* president" (Rigaud, 2022).

This created a scenario where two leaders shared command, something which was bound to collapse (Gec, 2022).

The conflict between Kabund and other close allies of the regime reached the pinnacle after an altercation between Kabund's bodyguards and presidential republican guards, including an attack at Kabund's residence in 2022. Consequently, he announced his resignation as First Vice President at the National Assembly and was also removed from his post as interim president of the UDPS, including being expelled from the party (Mulegwa (2022).

Following his departure from the UDPS, Kabund metamorphosed into a staunch critic of the Tshisekedi regime (Leclerq, 2022) and sought to challenge Tshisekedi in the 2023 presidential election. Embarking on a new political trajectory, he launched his own party, the Alliance for Change (A.ch), whose leftist socio-democratic ideological inclinations were closely related to those of the UDPS (GEC, 2022; RFI, 2022b). During the inauguration of his party on 18 July 2022, he was strongly critical of the government, accusing the regime of lacking a clear vision and leadership, and promoting systemic mismanagement and predatory practices at the height of the state leadership (Kibwika, 2022). He further described Tshisekedi as “a danger at the top of the state” (GEC 2022) and presented his party as an alternative to the governance failures of the regime (Kibwika, 2022). His condemnation of the regime and 2023 presidential ambitions positioned him in a direct clash with Tshisekedi's political interests. As a result, the regime leveraged its judicial influence to weaken him politically.

This judicial hunt was done through the Attorney General at the Court of Cassation, who was in charge of ensuring that Kabund's political wings were clipped. On 22 July 2022, a few days after his critical speech against the regime, the Attorney General at the Court of Cassation

initiated a requisition to the Bureau of the National Assembly to open legal actions against Kabund (Diaka and Dieumerici, 2022). However, this requisition was approved on 25 July 2022 by the Bureau of the National Assembly at a time when the deputies were still in recess (Dione, 2022). Accompanied by his party members at the Court of Cassation, he was briefly questioned regarding the allegations made during his party's inauguration. After five hours of questioning, he was released, with a new Court hearing scheduled for August 2, 2022 (Ndanyo, 2022; Radio Okapi, 2022b). During this stage of his judicial pursuit, Kabund still held parliamentary immunity. On 29 July 2022, the Attorney General at the Court of Cassation again requested the Bureau of the National Assembly to lift his parliamentary immunity to enable him to proceed with the judicial actions (Kasongo, 2022). The deputies were still in recess. Finding himself in a hostile environment, Kabund refused to comply with the Bureau of the National Assembly's summons to attend his hearing regarding the procedure for lifting his parliamentary immunity, arguing that he found it unusual that his charges were disclosed to the National Assembly while his questioning by the Attorney General was still ongoing (Baise, 2022). Nonetheless, the Attorney General's requisition was approved on 2 August 2022 (Mulegwa, 2022). He was arrested on 9 August 2022 after attending a hearing at the Attorney General's office at the Court of Cassation and was transferred to *Makala* prison in Kinshasa (Mulegwa, 2022; Reuters, 2022).

While Kabund was in prison, the regime opened another judicial front against his wife, Christine Kasongo Mikembe, who was condemned to six months in prison for allegedly insulting the vice governor of Kinshasa, Gerard Mulumba (Malala, 2022; Nibez, 2022). Again, on November 2, 2022, the Court of Cassation made an inconsistent ruling by declaring that Kabund was in a "preventing detention" while simultaneously under house arrest at Makala prison, an inconsistency which reveals that the disguised intention was to formalize the capture of the

regime's opponent (Kasongo, 2022). As the Court of Cassation delivered its verdict on November 2, 2022, the Attorney General at the Prosecutor's office incorporated seven new charges to the hearing request, breaching article 76 of the judicial procedures of the Court of Cassation and article 101 of the National Assembly's internal guidelines. This verdict is also inconsistent with the five original charges dated August 29, 2022, which were key for the National Assembly's choice to strip Kabund of his parliamentary immunity.

In sum, the cases of Dr. and Jean-Marc Kabund clearly illustrate how the judicial apparatus can be instrumentalized by the neopatrimonial ruler if and when former allies begin to be perceived as threats. In such cases, the difference with real opponents no longer matters; one becomes an enemy to be eliminated by the judicial system.

Conclusion

This chapter has shown that the judiciary, far from functioning as an autonomous institution, was transformed into a key battleground for neopatrimonial system during the cohabitation period. Cohabitation produced both continuity and transformation – a bifurcated neopatrimonial logic where rival camps sought to control state institutions to safeguard their political survival.

In the early stage of cohabitation, the FCC sought to consolidate its control over the judiciary through the Minaku-Sakata bill and tactical appointments to the Constitutional Court. These stratagems reflected familiar neopatrimonial systems inherited from Kabila's rule, where appointments in the judiciary were distributions of patronage rewards to loyal allies and protection of ruling elites from prosecution.

Tshisekedi leveraged the structural weaknesses and elites' conflicts within the FCC over the distribution of limited material goods or government posts to shift the parliamentary majority and gain complete control of the government. After Tshisekedi shifted the balance of power and acquired the parliamentary majority, Tshisekedi began to appoint his allies to key posts in the judiciary, including three new judges at the Constitutional Court, activating a network of ethnic and clientelist allies within the judiciary to consolidate his control. Judges and magistrates were enticed to prosecute the regime's opponents, especially Tshisekedi's rivals in the 2023 presidential elections, in exchange for material rewards and promotions within the judiciary.

Through informal elite networks, the Tshisekedi regime circumvented formal judicial structures, transforming the judiciary into a tool of protecting allies and coercing adversaries into submission, especially potential challengers in the 2023 presidential elections. The use of ethnicity and patronage revealed that while actors had changed, the underlying logic of rule remained intact. Through selective prosecution and politically driven trials, Tshisekedi used the judiciary both as a shield for the regime's allies and a sword against its opponents. The prosecution of Matata Ponyo and Jean-Marc Kabund epitomizes how the judiciary operated as instruments of coercion under a façade of legality. By utilizing ethnic networks, patronage incentives, and formal judicial authority, Tshisekedi transformed the judiciary into a pillar of regime consolidation.

The judiciary, under Tshisekedi, did not democratize but reproduced the neopatrimonial logic of the old regimes. The packaging of the informal elite networks within the formal judicial structure enabled the Tshisekedi regime to exert significant influence over the judicial apparatus. However, the formal practices in the judiciary carried meaning. They provided the regime with legitimacy by purportedly embracing democratic principles and enabling it to exert influence

over the judicial apparatus. The informal web concurrently served as a shield for the ruling elites from prosecution while simultaneously coercing opponents to legal proceedings to weaken them. This double-standard role of the judicial system reproduced the cycle of impunity of the old regime, by protecting the regime's allies and compelling adversaries to submit or face severe punishments such as arrests, prosecutions, or imprisonment.

Chapter 9: Conclusion

“We were expecting my name...it was like a cold shower,” Martin Fayulu (2022), reflecting on the DRC’s 2019 vote (Sylvestre-Treiner, 2022).

Introduction

My PhD dissertation was motivated by the need to understand the obstacles that hinder democratization in the DRC to inform policies aiming at institutional reforms, accountability, and democratic consolidation. In 2018, as a freshman PhD student, I keenly followed the preparations for elections and the intense pressure on former President Joseph Kabila to cede power. This pressure, both external and internal, stemmed from the US and the European Union, and different bodies such as civil society and opposition parties, respectively. I keenly observed the negotiation processes and the formation of coalitions, including the opposition’s efforts to front a single candidate in the 2018 presidential elections.

During this period, Martin Fayulu, leader of the opposition Lamuka coalition, backed by political heavyweights such as Jean Pierre Bemba and Moise Katumbi appeared poised to ascend to power. However, incredibly, the electoral commission declared Felix Tshisekedi as president rather than Fayulu, who was widely expected to win. The aftermath of the 2018 presidential results triggered a wave of debates and narratives both internally and externally, including claims of a “deal” brokered between Tshisekedi and his predecessor, Joseph Kabila, accusing the former of being a “puppet,” or a “figurehead,” a president in “power without power,” implying that Tshisekedi was operating under Kabila’s,

shadow. Thus, I began my adventure by spending 8 months conducting field research in Kinshasa between 2021 and 2022, investigating the unprecedented 2019 alternation and the ensuing cohabitation. Thus, this research represents the foundation of my academic endeavors of the past five years.

This conclusion sums up the findings of my empirical chapters. I first provide an overview of my dissertation before summarizing its significant contributions to the understanding of the power struggle during cohabitation, political transhumance, and authoritarian resilience in the DRC. I finish by looking at the broader implications for future research.

Overview of the main arguments

This research had two main objectives. First, to investigate how a former autocrat, who no longer has an official position, ensures that the opposition remains loyal to the agreement they made and second, to investigate how the new ruler, who rose to power without the legislative majority, managed to gradually dismantle his predecessor's control over the state's institutions and shift the balance of power to his favor during the cohabitation period.

Using the case study of the 2019 alternation of power in the Democratic Republic of Congo, I investigated the transformation of power of the former authoritarian ruler, Joseph Kabila, by tracing his shadow in various key government institutions. In 2019, Felix Tshisekedi became the opposition candidate to lead the RDC's first alternation in power at the presidential level. But his victory, as many have suggested, was predicated on a deal—"a devil's bargain", in Englebert's (2020) words—made with the former autocrat, who would

accept to let the new President ascend to power, in exchange for sustaining Kabila's authoritarian structure.

Thus, the DRC's 2019 unprecedented alternation constituted an interesting puzzle: What happens when a rare peaceful exit of an autocrat and relatively free and fair election produce an unusual form of "cohabitation," in which the executive is led by the former opposition while the legislature remains dominated by the outgoing autocrat's camp?

My central argument was that the capacity of the authoritarian ruler to distribute goods to his allies significantly shaped his ability to exercise his influence over them and, consequently, exert control over institutions. In this context, transhumance emerged as a key factor in shaping the power struggle between rival camps to secure a parliamentary majority. When Kabila was unable to distribute material benefits effectively following his exit from the presidential seat, many of his loyalists shifted to Tshisekedi's camp, which either offered such material benefits or appeared more capable of doing so. Thus, holding the presidential seat is crucial to controlling access to resources and ensuring their continued distribution to key allies. Once Kabila's preferred successor lost the presidential seat, even if his influence spanned over elected assemblies, his ability to allocate resources diminished, prompting elites to defect toward factions with access to such benefits. In other words, access to material goods is essential for a ruler to sustain elite loyalty and prevent mass defections. But material goods in and of themselves are not sufficient to make sense of how the cohabitation unfolded. We also need to understand how a series of more localized power struggles was played out in various arenas of power. The trajectory of this cohabitation was thus also shaped by a myriad of strategic decisions taken to weaken the opponents in the mining sector, the national assembly, the electoral commission, and the judiciary.

Therefore, Tshisekedi capitalized on the elites' political transhumance, driven by a rush to access material goods, to break free from the cohabitation deal with his predecessor by exploiting the fluidity of political loyalty of the elites to his advantage.

Key findings – Cohabitation, neopatrimonialism, and authoritarian resilience

This dissertation examined the FCC-CACH power struggle over the control of key sites, namely the mining sector, FCC/PPRD, the electoral commission (CENI), and the judicial chapter.

Old wine into a new bottle – a change of the guard without a change of the system

The mining sector chapter had three objectives. First, it demonstrated how President Tshisekedi faced significant challenges in his efforts to control the mining sector during cohabitation, and especially the main jewel of the sector: Gécamines. Both Tshisekedi and Kabila sought to exert control through the appointment of their loyalists. However, after the FCCCACH rupture, Tshisekedi's camp gained control over Gécamines, albeit the process remained incomplete as Kabila remained influential in the mining sector. Second, it showed how Tshisekedi's grip on Gécamines did not dismantle the predatory system of the old regime in the mining sector. Lastly, it examined the power struggle in the cohabitation government through the lens of the US-China geopolitical competition over the DRC's precious minerals.

During cohabitation, Tshisekedi faced resistance from the FCC, which wielded significant influence over Gécamines, through previous appointments made by Kabila. Despite Tshisekedi's executive powers, his capacity to maneuver freely was constrained by

the FCC's legislative majority. He was constrained to appoint his allies to key posts within Gécamines and expand his patronage network as he lacked full authority. Thus, Tshisekedi governed without truly reigning, lacking the influence and control typically associated with a neopatrimonial ruler.

Dismantling the Kabila networks in the mining sector proved complex and could not be attained quickly. As I averred, the neopatrimonial management of the mining sector remained unchanged; the battle was over individuals rather than the system itself. Tshisekedi's power consolidation at Gécamines did not equate to dismantling Kabila's predatory influence.

Kabila's influence in the mining sector persisted at two levels. First, at the macro structural level of the large mining companies where he retained significant interests and second, at the artisanal mining level, where Tshisekedi's political clan had gained significant entry. This confirms the argument that Tshisekedi had to share control of the mining sector with his rival in a contested neopatrimonial arrangement.

After nearly two years of cohabitation, Tshisekedi succeeded in replacing Kabila's allies at Gécamines, following his control over the National Assembly. However, Kabila's influence remained ingrained in the mining sector and cannot be fully dismantled in a few years. A closer look at the mining sector reveals that Kabila's allies maintained a strong foothold, particularly through its control of goods and services. The mining sector continues to follow the same political logic that has persisted since the 1960s.

After gaining control of the National Assembly, Tshisekedi restructured the upper management of Gécamines, successfully replacing Kabila's allies with his own loyalists, indicating a power shift. Dismantling Kabila from the mining sector was expected to take

years due to existing contracts with subcontractors that provided goods and services to mining companies. Though Tshisekedi appointed his loyalists to manage Gécamines, gaining control over the mining sector was not something that could be realized through acts of appointments. This is where Kabila's influence persisted. The former regime was not entirely excluded from the current regime.

The power struggle in the mining sector extended beyond the macro level of multinationals to artisanal mining and subcontracts in the supply of goods and services to the mining companies. In Katanga and Kolwezi, Tshisekedi's allies, including his family members, have connived with regional authorities and Chinese investors to exploit minerals, systematically replacing Kabila's in the supply of goods and services to mining companies. As a result, Tshisekedi has replicated Kabila's system rather than reforming it.

Despite the alternation, the management of the mining sector remains rooted in neopatrimonialism and internal fighting within the ruling circle for the spoils produced by neopatrimonialism.

Lastly, I investigated how the geopolitical rivalry between the US and China shaped power dynamics during the FCC-CACH cohabitation. Although the argument so far has primarily focused on domestic dynamics, it is crucial to recognize the role of international actors, particularly major powers and multinationals, in the domestic politics of the DRC. Kabila's alignment with China prompted the US to pressure him to cede power, and it viewed Tshisekedi as key in regaining its influence over the DRC's minerals. Consequently, as Tshisekedi rose to power in 2019, pressure on Chinese companies increased. However,

while Tshisekedi aligned with the US to survive politically, long-term contracts limited his ability to curb China's dominance in favor of the US.

Tshisekedi's US alignment was based on mutual interests. He sought US support to break free from Kabila's shadow while the US sought to leverage on Tshisekedi's power reign to counter Chinese domination of the DRC's mining sector. For these mutual reasons, this proximity helped Tshisekedi form a new parliamentary majority, but renegotiating the long-term mining contracts remains uncertain. Kabila's legacy continues to cast a shadow over the ongoing US-China power battle for control of the DRC's precious minerals, as he initially favored China over the US, which once backed his rise to power.

Coalition fragility, fragmentation, and elites' defections in the National Assembly

In this chapter, I examined the extent to which Kabila, despite ceding executive authority to his opponent, continued to exercise influence over his allies in the legislative branch. My central argument was that Kabila's capacity to maintain a grip on the legislature through the FCC coalition was his Achilles' heel. The main source of vulnerability of the FCC stemmed from the fact that Kabila's control was, in fact, mainly exerted through a loose coalition, in which his own party, PPRD, only held 52 out of 341 FCC seats. During the 2006, 2011, and 2018 elections, Kabila formed his legislative majority through a coalition, comprising the PPRD, its satellite parties and other allies, rather than solely relying on his party. Hence, Kabila's post-2018 political trajectory exposed the structural weaknesses of his coalition that had long been concealed by his incumbency. However, after leaving office and with no executive authority, the FCC entered a period of internal uncertainty marked by power struggles and diminishing patronage networks. Hence, as a

fragile coalition, the FCC became vulnerable to Tshisekedi's tactical gambits, which enabled him to consolidate power. Coalitions are inherently more vulnerable to elite defection, patronage realignment, and executive influence than single-party majorities, since their cohesion depends less on ideological alignment than on the distribution of rent and state resources; Kabila would have wielded more power had he controlled the legislative majority through his own party, rather than relying on a coalition. Tshisekedi had to capitalize on these vulnerabilities through calculated strategies. As an agent, he learned, adapted and endured setbacks, but ultimately succeeded in exploiting fully the FCC structural weaknesses. The absence of a common ideological foundation within the FCC further exacerbated its fragility. Despite the semblance of stability at the outset of the FCC-CACH cohabitation, Tshisekedi was able to trigger defections of the FCC deputies towards his camp. This shift was driven by their realignment to secure access to private goods, economic opportunities, and privileges, which solidified their loyalty. During Kabila's reign, his allies enjoyed material benefits, including government posts, lucrative contracts across various sectors, and financial rewards. However, this dynamic shifted after Kabila's exit from power. During cohabitation, Kabila lacked the authority and capacity to distribute these benefits as he had while in office, weakening his grip on his allies and diminishing their loyalty. In contrast, Tshisekedi, as president, had the capacity to distribute these material resources. Tshisekedi enticed FCC deputies to join his camp, facilitating their access to material privileges they enjoyed under Kabila's reign.

The formal exit of Kabila from the presidency significantly impacted the functioning of his neopatrimonial system, as he lacked executive authority and his pervasive access to state resources had diminished. His enlarged FCC coalition struggled to sustain the rent-

seeking behavior of his allies due to limited material rewards. Conflicts over resource distribution intensified within the FCC, which resulted in the rise of factionalism and elites' competition. These weaknesses made the FCC vulnerable to Tshisekedi's strategic maneuvers, which systematically targeted and exploited the coalition's fragile points.

Tshisekedi shifting gear to assert control over the electoral commission (CENI)

Given its historical role in facilitating the ruler's ascension to power and in contributing, at least in part, to its maintenance in power, the CENI became central to the power struggle between Kabila's and Tshisekedi's camps. This power struggle unfolded in two different phases: first, when each camp controlled one branch of the government, and second, after Tshisekedi broke free from Kabila's influence in the National Assembly. Despite the prevailing push for electoral reforms, Kabila attempted to influence the CENI through the nomination process of the CENI members in anticipation that this would increase his chances of either presenting himself as a candidate or backing someone else in the 2023 presidential elections. The power struggle emerged when the FCC attempted to influence the appointment of a new CENI president, known for his proximity to Kabila. But the presidential camp found a way to block this nomination, while claiming that CENI needed a truly autonomous and impartial leader. Eventually, thanks to his new legislative majority, Tshisekedi shifted gears to assert his control over the CENI. In the process, the CENI failed once again to be the neutral institution it was supposed to be. Tshisekedi utilized two strategies to gain control by appointing his loyalists and amending the organic law of the CENI. Tshisekedi, confronted with a difficult choice of either pushing reforms that would ensure the autonomy of the CENI or borrowing the playbook of his

neopatrimonial authoritarian predecessor, opted for the neopatrimonial authoritarian path, transforming the CENI into an instrument of executive preservation.

After consolidating power, the Tshisekedi regime had lost interest in pursuing electoral reforms it once championed. Despite the opposition's boycott, the National Assembly, controlled by Tshisekedi's allies, pushed its version of electoral reforms. The Sacred Union became an electoral vehicle for supporting Tshisekedi's 2023 presidential bid. As an electoral vehicle, the Sacred Union introduced a new organic law that altered the composition of CENI members, reproducing the old pattern of the ruling party's neopatrimonial domination over CENI. Meanwhile, Tshisekedi confirmed his intention to reproduce practices of the previous authoritarian regime by appointing members of CENI who were loyal to him, including his ally, Denis Kadima, as president of the CENI. Tshisekedi's Sacred Union parliamentary majority sealed Kabila's influence over the CENI. He also appointed supposedly representatives of the FCC opposition to sit in CENI, without the latter's approval.

Ultimately, the Sacred Union remained the sole faction genuinely represented within the CENI either through direct appointments or coopted opposition defectors imposed on the opposition. His neopatrimonial maneuvers mirrored what he criticized when he held a legislative minority, changing the rules of the game by appointing his own candidates to the CENI. These pre-electoral gambits were intended to predetermine the outcomes of the 2023 presidential and legislative elections. Tshisekedi's access to and distribution of resources to his allies was a key tool in shifting the balance of power in his favor, consolidating his power, and gaining control over the CENI. As a result, the CENI remain highly politicized. Instead of achieving a democratization breakthrough, neopatrimonial authoritarianism has

endured, with control of institutions merely shifting from one neopatrimonial ruler to another. Tshisekedi has reproduced Kabila's practices of safeguarding his power by appointing his loyalists to the CENI.

Protecting Allies, Coercing Adversaries in the Judicial Apparatus

In this chapter, I examined how cohabitation transformed the judicial apparatus into a battleground between the FCC and CACH, with both camps seeking to control it. My central argument was that the judiciary continued to function under a neopatrimonial logic; however, this logic became bifurcated due to the intense power struggle between Tshisekedi's and Kabila's camps. First, this chapter shows how, during cohabitation, Kabila maintained significant influence over the judicial apparatus by appointing his loyalists, including magistrates who also acted as passive political agents, and implemented the FCC political agenda and engaged in clientelism. The presence of these Kabila loyalists made it hard for Tshisekedi to pursue judicial actions. These appointments allowed Kabila to sustain political influence and shield his allies from prosecution. However, the power dynamic began to shift in mid-2020 when Tshisekedi successfully permeated the FCC structure and eroded it internally. Tshisekedi's camp began to co-opt a growing number of Kabila's loyalists, gradually depriving Kabila of his supporters in key state institutions. The Minaku-Sakata bill was a major point of contention between the two rival camps. It sought to strengthen the powers of the justice minister by vesting him with significant authority over the judicial apparatus, to significantly curtail Tshisekedi's attempts to control the judicial system. However, the bill failed to pass due to pressure from Tshisekedi's camp and opposition groups. Tshisekedi faced significant hurdles in asserting his authority as head of state during this period.

The Constitutional Court was another key battleground between the two rival camps over the control of the judiciary. Tshisekedi sought to consolidate his influence there by appointing his allies, including three judges to the Constitutional Court, without the FCC's consent. His gradual consolidation of power occurred concurrently with the neopatrimonial ethnicization of the judicial system. In effect, he began to appoint several individuals from his Luba ethnic group and the Kasai region in various positions in the judiciary, such as the Justice Minister, the Attorney General, the president of the Constitutional Court, the first president of the Court of Cassation, as well as the president of the State Council. Instead of consolidating the rule of law and breaking free from the authoritarian management of the judiciary, practices he condemned while in opposition and in the early months of his presidency, he increasingly weaponized the judiciary just like his predecessors. This was achieved through the creation of a neopatrimonial network of loyal elites comprising his ethnic and regional collaborators, to enable him to bypass formal institutions and transform the judiciary into a tool of protecting allies and coercing opponents into submission, especially those who dared to challenge him in the 2023 presidential elections.

The 100-day program provided a crucial opportunity to examine how accusations of corruption in a heavily funded government program were handled differently by the judiciary depending on whether the individuals were allies or adversaries of the president. While some allies of the president who were engaged in corruption scandals received favorable treatment from the judiciary, actual or potential adversaries of the regime faced an entirely different fate. As Tshisekedi tightened the grip on the judiciary after gaining complete control, he focused on internal challenges within his own ranks, neutralizing potentially dangerous rivals. The judicial system was transformed into a strategic

neopatrimonial tool for consolidating power. In other words, during cohabitation, the judiciary functioned as a charade, shaped by neopatrimonial practices and reinforced by informal networks within the judicial system, enabling Tshisekedi to maintain control over the judicial system. Ultimately, the struggle for control over the judiciary was a battle of consolidation rather than a break from the old neopatrimonial practices.

Contributions and broader implications

Apart from its normative significance, this study has both theoretical and empirical contributions. The most obvious contribution is in the field of authoritarianism, especially to the growing body of research on how autocrats cede power and the subsequent fate that befalls them after leaving office. In particular, while there is abundant literature on cohabitation and the peaceful exit of autocrats from power, rarely have scholars studied the two events occurring simultaneously in a single state. I aimed to bridge this knowledge gap and offer new thoughts on cohabitation as perhaps an emerging practice of authoritarian resilience. In Africa and beyond, cohabitation has been perceived as a transient power-sharing mechanism to resolve elites' conflicts and post-election violence. However, this dissertation made a significant contribution to the study of authoritarian resilience by reconceptualizing cohabitation as a gambit of authoritarian adaptation – an unusual institutional configuration that forced two rival leaders to find new ways to redistribute rents and sustain an informal patronage network within formal institutions. Thus, apart from its democratic role, cohabitation should also be viewed as a practice of authoritarian resilience rather than a step toward democratization. Under authoritarianism, cohabitation represents a democratic façade

of pluralism that buttresses authoritarian resilience, but it creates an unusual uncertainty. Key formal institutions such as parliament, the judiciary, ministries, and ruling coalitions vehicles through which informal practices and patronage networks operate, but in the context of cohabitation they do not function as they would normally do when one leader enjoys full power. While in practice, cohabitation gives the appearance of pluralism, it is a means through which the elites preserve their access rent. This dissertation showed that cohabitation arrangements can ingrain, rather than erode, authoritarian rule.

While scholars foresee the political “death” of autocrats after losing power, my study challenged this notion by exploring their political “afterlife” and their efforts to reclaim power. Many studies of authoritarianism have assumed that autocrats’ ultimate goal is to preserve power. However, while these studies acknowledge the crucial role of elections in authoritarian regimes, they have shown that elections are not merely tools for autocrats’ survival but can also be employed by autocrats to exit office peacefully while sustaining their post-tenure authoritarian structures. Hence, the 2019 alternation in DRC could potentially be interpreted as a case of adaptive authoritarian resilience, albeit one marked by significant uncertainty. In other countries which have not had an episode of cohabitation, patterns were more straightforward. After 38 years in power, the former president of Angola, Jose Eduardo dos Santos, conducted the 2017 elections as a strategy for exiting office while sustaining his family’s economic interests and preserving the ruling party MPLA’s dominance. In Zimbabwe, a faction of the ZANU-PF ruling party members, led by the then Vice-President Emmerson Mnangagwa, orchestrated an internal coup that toppled President Robert Mugabe after 30 years in power, while preserving ZANU-PF’s control. The fall of Mugabe and the rise of Mnangagwa merely reconfigured patronage networks

rather than altering the authoritarian structure. Persistent elections in the Republic of Congo and Cameroon have merely legitimized the longstanding authoritarian rulers while sustaining patronage networks.

Similarly, in North Africa, particularly in Egypt's 2012-2014 electoral process and Algeria's 2019 post-revolution transition, the authoritarian structures were reconfigured rather than dismantled, the embedded power networks.

Beyond Africa, similar cases have emerged where elections have been used as tools of autocrats' exit while preserving the authoritarian structure. In Russia, Boris Yeltsin's power transfer to Vladimir Putin in 2000 institutionalized elites' pacts in which Yeltsin's inner circle and oligarchs were protected as Putin consolidated power in exchange for safeguarding the economic interests of those elites. In Latin America, in particular Chile, President Augusto Pinochet utilized a plebiscitary election to cede power while sustaining the regime's authoritarian structures. Thus, these cases reveal that elections in authoritarian regimes can be used as tools of regime reconfiguration or reproduction, enabling the rulers to accommodate elites, restructure power relations, negotiate peaceful exit, and renew patronage distribution under a democratic façade. However, the DRC's cohabitation is both similar and different from these other cases. In this country, elections have become tools for autocrats to co-opt and manage elites through patronage redistribution while preserving the core framework of the authoritarian structure, but the semi-presidential system and the unusual emergence of cohabitation created some uncertainty and pushed actors to develop new strategies to claim control at the top of the state apparatus.

Many studies in the field of authoritarianism in the post-Cold War era have assumed that autocrats' ultimate goal is to preserve power. However, while this study acknowledges

the crucial role of elections in authoritarian regimes, it showed that elections are not merely tools for autocrats' survival but can also be employed by autocrats to exit office peacefully while sustaining their post-tenure authoritarian structures. Hence, the 2019 alternation in DRC could potentially be interpreted as a case of adaptive authoritarian resilience, albeit one marked by significant uncertainty.

In the DRC, the pressure to “democratize by elections” has been championed by both local and international actors for two decades. However, although elections have led to an end of Kabila's incumbency, their outcomes have simply metamorphosed Kabila's authoritarian regime. The structures of the old regime have endured.

During Kabila's incumbency, their outcomes have simply metamorphosed Kabila's authoritarian regime. The structures of the old regime have remained. Thus, the findings obtained from this study have significant implications for both our understanding of authoritarianism and the calls for democratization in the DRC. This dissertation revealed that authoritarian resilience in the DRC is deeply ingrained in neopatrimonial practices. Informal networks, patronage systems, and personalized rule are *Sine qua non* to authoritarian survival. In other words, authoritarian resilience is not primarily sustained through formal repression but through patronage networks. Thus, the transfer of power did not fragilize authoritarianism, but reproduced the usual patterns of elite bargaining and cooptation.

Looking Forward

In light of the theoretical and empirical implications discussed, I want to highlight six avenues for research. First, this study underscores the need for further inquiry into the intricacies of cohabitation in conflict and post-conflict settings. While cohabitation in the

DRC was unprecedented and not shaped by armed violence, the post-cohabitation period proved equally unprecedented. The post-cohabitation political dynamics, in some ways, extended into the realm of armed conflicts. Nowhere has the former president of the electoral commission and the former head of state simultaneously taken up arms against a successor. The former president of the National Independent Electoral Commission (CENI), Corneille Nanga, who proclaimed Tshisekedi's presidential victory following the DRC's 2018 presidential elections, transformed from a civilian into a warlord. He took up arms and led the Congo River Alliance (AFC), the political wing of the M23 rebellion, active in the eastern DRC. Besides, several members of the PPRD joined the M23 rebellion, with Joseph Kabila himself being linked to the M23. At the time of completing this dissertation, his own party, the PPRD, had been suspended by the government after being suspected of collaborating with the M23. Future research should investigate what motivates a former autocrat to pursue such an unprecedented path – from a rebel to a civilian ruler, and back to rebel. What factors have compelled Joseph Kabila to take this dramatic return to armed struggle? What also motivates the former president of the electoral commission to take up arms against the new ruler? To extend this study, future research could examine how cohabitation unfolds in states like Sudan, Mali, South Sudan, Libya, Syria, and the Central African Republic, where political elites rely on armed violence using proxies, rebel forces, militias, or gang networks as a political repertoire or mechanism of political survival. In Libya and Syria, formal institutional structures coexist with competing armed factions. In South Sudan, cohabitation has been employed as a mechanism of managing elites' competition and sustaining patronage networks even as military factions still exert significant control over state resources and governance. Thus, studying these cases can shed

light on how cohabitation operates in settings where the use of armed violence as a repertoire of political survival is pertinent. It can illustrate how cohabitation can coexist with militarized politics.

Second, this dissertation found that geopolitical rivalry between China and the US was a key factor in shaping not only the alternation but also the power struggle in the cohabitation government. However, regional states are deeply ingrained in the political dynamics of the DRC. A study that focuses directly on how the political and economic interests of neighboring states influenced the rivalry between Felix Tshisekedi and Joseph Kabila, including the strategies they have employed to position themselves in the power shift that occurred after 2020.

Third, another avenue of future research is in the coercive security apparatus. The struggle for control of the security apparatus, dominated by Kabila's loyalists, was a key factor in the FCC-CACH power struggle during the cohabitation period. The Congolese coercive apparatus remains fragmented, with several generals still maintaining loyalty to local, regional or former political patrons, including those tied to Joseph Kabila's networks. After 18 years in power, Kabila established an embedded loyalist in the Congolese armed forces, particularly in the eastern DRC, where he maintained stronger influence. Many of these figures remained in place or were partially removed, making it hard for Tshisekedi to exert complete control over the security sector. The persistence of the M23 armed violence in the east and reports of non-compliance by certain military factions may suggest that Tshisekedi's power consolidation has not equated to real authority over the armed forces. The persistence of Kabila's military loyalists within the security apparatus raises key questions about how Tshisekedi has been able to exert control over the security forces due

to fragmented loyalty in the armed forces. Future research should examine the challenges of security sector reform and how it shaped Tshisekedi's power consolidation in the post-cohabitation era.

Fourth, the end of cohabitation creates a gap to investigate how the shifts in the balance of power at the national level shaped local elites' power structures. Future research should explore how local elites at the sub-regional levels, especially in regions dominated by the former autocrat, Joseph Kabila, have navigated the shift in the balance of power after Tshisekedi's power consolidation. In particular, how did Tshisekedi's power consolidation shape local elites' power relations in regions previously dominated by Kabila's networks?

Fifth, local elites in regions with solid Kabila's patronage networks did not simply dissolve their loyalties after Tshisekedi's ascension to power and subsequent consolidation. Thus, exploring how local elites responded, whether through resistance, adaptation, or realignment, allows us to gain a deeper understanding of the durability of neopatrimonial structures and the resilience of informal power networks and the uneven nature of autocrats' authority across the regions. It will enable us to understand why the end of formal cohabitation did not translate into a coherent national political order and why sub-national actors continue to play a significant role in shaping the post-cohabitation trajectory, whether towards stability or conflict.

Lastly, Tshisekedi's Sacred Union is a large coalition comprising Tshisekedi's allies, opposition figures, and former Kabila's allies who defected, for strategic rather than ideological reasons, to Tshisekedi's camp. Future research should investigate the evolution of this mass transhumance and its volatility to determine whether it signifies the emergence

of a more institutionalized party system or merely perpetuates the personalization of political alliances in the DRC. It should further examine how Tshisekedi sustains the Sacred Union in a weakly institutionalized party system. Besides, it should investigate the extent to which the creation of the Sacred Union contributed to the transformation or further fragmentation of the DRC's party system.

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Appendix A: Ethics Approval Notice

Université d'Ottawa

Bureau d'éthique et d'intégrité de la recherche

University of Ottawa

Office of Research Ethics and Integrity

S-06-21-6804 - REG-6804 - Certificat d'approbation éthique / Certificate of Ethics Approval

(English message follows)

Cher/Chère Martin Buhendwa,

Veuillez trouver ci-joint le certificat d'approbation éthique pour le projet intitulé «Democratizing Authoritarianism: How Autocrats Rule after Ceding Power. The case of the Democratic Republic of Congo (DRC) ».

Le certificat est valide jusqu'au : 24-08-2022

Recherche financée : veuillez faire suivre une copie du certificat au [Service de gestion de la recherche](#).

Si vous avez des questions, n'hésitez pas à communiquer avec le Bureau d'éthique à ethique@uottawa.ca ou en composant le 613-562-5387.

Vous pouvez voir votre demande en vous connectant à votre compte [eReviews](#).

Cordialement,

Riana Marcotte
Responsable d'éthique en recherche

Ceci est une réponse automatisée, merci de ne pas répondre à ce courriel.

Dear Martin Buhendwa,

Please find attached the certificate of ethics approval for your research project titled "Democratizing Authoritarianism: How Autocrats Rule after Ceding Power. The case of the Democratic Republic of Congo (DRC) ".

This certificate is valid until: 24-08-2022

Funded research: A reminder that you must provide a copy of this certificate to [Research Management Services](#).

If you have any questions, please contact the Ethics Office at ethics@uottawa.ca or by telephone at 613-562-5387.

You can view your project at any time by logging into [eReviews](#).

Best regards,

Riana Marcotte
Protocol Officer

This is an automated message. Please do not reply directly to this email.

Attachement(s) / Attachment(s)

[approvalLetter1629899288573.pdf](#)

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Appendix B: Ethics Approval Renewal

Université d'Ottawa

Bureau d'éthique et d'intégrité de la recherche

University of Ottawa

Office of Research Ethics and Integrity

22/09/2022

CERTIFICAT D'APPROBATION ÉTHIQUE | CERTIFICATE OF ETHICS APPROVAL

Numéro du dossier / Ethics File Number

S-06-21-6804

Titre du projet / Project Title

Democratizing Authoritarianism:
How Autocrats Rule after Ceding
Power. The case of the
Democratic Republic of Congo
(DRC)

Type de projet / Project Type

Thèse de doctorat / Doctoral
thesis

Statut du projet / Project Status

Renouvelé / Renewed

Date d'approbation (jj/mm/aaaa) / Approval Date (dd/mm/yyyy)

25/08/2021

Date d'expiration (jj/mm/aaaa) / Expiry Date (dd/mm/yyyy)

24/08/2023

Équipe de recherche / Research Team

Chercheur / Researcher Affiliation

Role

Martin BUHENDWA

École d'études politiques / School of Political Studies Chercheur Principal / Principal Investigator

Cédric JOURDE

École d'études politiques / School of Political Studies Superviseur / Supervisor

Conditions spéciales ou commentaires / Special conditions or comments

Appendix C: Questionnaire

The Mining Sector – Gecamines

Interviews with Observers

1. How is Gecamines a center for a power struggle between Kabila and his successor?
2. Which of pro-Kabila's elites still occupy powerful positions in Gecamines?
3. How does Kabila continue to influence Gecamines after leaving office?
4. How does the control of natural resources remain a lucrative source of rent for Kabila's elites?
5. What battle do you see between Pro-Kabila and Tshisekedi's camp in the power struggle over the control of this institution?
6. How has the structure of Gecamines changed since the ascendance of Tshisekedi to power?
7. How does the reshuffle at Gecamines consolidate Tshisekedi's authority?
8. Are pro-Kabila loyalists still beneficiaries of natural resources rents as they were during Kabila's tenure?

In terms of accessing these benefits, what has changed since Kabila left power?

9. Does Kabila continue to distribute rents from Gecamines to his elites to buy their loyalty and support?

How does Kabila distribute the rent among the elites to enable him to consolidate his influence?

10. From your point of view, how is natural resources rent still instrumental in sustaining Kabila's political structure despite ceding power?

Do natural resources rent enable him to consolidate his influence over the elites in his party and the opposition?

11. Based on your observation, Gecamines replaced its pro-Kabila secretary general and senior officials. What is the impact of these changes on the struggle for influence between Tshisekedi and Kabila?
12. In your observation, do you think Tshisekedi has had a limited impact in dislodging Kabila's networks from positions of influence in Gecamines?
13. How has Tshisekedi attempted to place his allies at the top of Gecamines to exert his influence over the state mining company?

14. What is the effect of the creation and management of the Entreprise Générale du Cobalt in the power struggle between Tshisekedi's and Kabila's factions?
15. Who has been appointed at the Entreprise Générale du Cobalt?
What does their appointment reveal about the ongoing power struggle?

Interview with party officials

Intra-PPRD Elites

1. How are party leaders positioning themselves for the elections?
2. How is the party preparing for the 2023 presidential elections?
3. How are the preparations for the 2023 presidential elections being played out in the parties?
4. Is there conflict in the party between elites? Why?
5. What is the infighting in PPRD over the preparation for the 2023 presidential elections?
6. How have members of the party responded to the alternation of power since Kabila left office?
7. How is the PPRD consolidating their political bases in preparation for the 2023 elections?
8. Which elites from other regions are you currently reaching out to expand your national support in preparation for the 2023 elections?
9. Are there members who have left the party?
10. How are elites utilizing their status as currency to bargain for a position in the party?
11. What challenges is the party facing in the nomination process for the leading candidates?
12. How is the party rebranding itself in bid to re-energize itself in preparation for the 2023 elections?
13. How is the current political activities part of the major realignments in preparation for the 2023 elections? How is the PPRD elites positioning themselves?
14. How have the end of FCC-CACH alliance shaped PPRD political realignment in the 2023 presidential elections?

Fighting for the Control of the CENI Interview

with Politicians

15. What are the power struggles between Kabila and Tshisekedi over the control of the electoral commission?
16. What reforms have been made in the CENI and the Constitutional Court since the ascendance of Felix Tshisekedi to power?

17. What do appointments of CENI officials reveal about the power struggle between Felix and Kabila?
18. How have the reforms of the CENI and the constitutional court removed key elements of Kabila's strategy to regain power in 2023?
19. Do the changes at CENI mean that Felix Tshisekedi has more power over the composition of the Constitutional Court?
20. Are the reforms being done at the CENI about making the electoral process in the DRC truly reliable and independent?

The Ministry of Justice

Interview with Observers

1. According to you, through what specific means does former president Joseph Kabila and his party attempt to keep some influence over the Ministry of Justice (JM)? Do you have specific examples that show that he has been successful? Do you have examples that show that he has failed?
2. Based on your observation, in what areas do the two rival groups (that of the current President and the former President) compete with one another over the Justice Ministry (JM)?
3. How has Kabila's influence in the JM contributed to his political survival?
4. In what ways has the structure of the JM changed since Tshisekedi came to power?
 - Who has been appointed to key positions in the JM?
 - What faction do officials in the JM belong to?
5. How has Felix sought to exert his control over the JM? Can you give specific examples where we can see that he has been successful in his attempts? Can you give specific examples where we can see that he has failed?

Appendix D: List of Selected Interviews

Number of Interviews	Profile of the person	Location and Date
1	Carter Center Official	Université Catholique du Congo, Kinshasa, September 9, 2021
2	PPRD Cadre	Restaurant, Kinshasa, September 9, 2021
3	Former PPRD Member	Private house, Kinshasa, September 10, 2021
4	Senior PPRD representative	PPRD Headquarter, Kinshasa, September 21, 2021
5	UPN Professor	Bibliothèque Belge à Kinshasa September 21, 2021
6	Political Observer	Bibliothèque Belge à Kinshasa September 21, 2021
7	Senior PPRD politician	PPRD HQ, Kinshasa, PPRD Sept 18, 2021
8	Senior PPRD politician	PPRD Headquarters, Kinshasa, Sept 18, 2021
9	AFDC-A Politician	Private House, Kinshasa, September 14, 2021
10	Senior PPRD politician	PPRD Headquarters, Kinshasa, September 21, 2021
11	Senior Constitutional Court Judge	University of Kinshasa, September 22, 2021

12	Senior UNC Representative	Private House, Kinshasa, September 25, 2021
13	FCC Member	ICGLR, Kinshasa, September 27, 2021
14	Senior Official at the Ministry of Mines	A Bar, Kinshasa, October 7, 2021
15	Afreview representative	Private House, Kinshasa, October 7, 2021
16	Human Rights Activist	CNDH, Kinshasa, October 15, 2021
17	Human Rights Activist	CNDH, Kinshasa, October 15, 2021
18	Resource Matters Senior Official	Resource Matters, Kinshasa, October 18, 2021
19	Resource Matters Senior Official	Resource Matters, Kinshasa, October 18, 2021
20	ECIDE Senior Representative	Private House, Kinshasa, October 24, 2021
21	UNIKIN, Political Science Professor	Bar, Kinshasa, October 25, 2021
22	MDVC senior official	MDVC headquarters, Kinshasa, October 28, 2021
23	UPN Professor	UPN, Kinshasa, November 3, 2021
24	UPN Professor	UPN, November 3, 2021
25	Senior ECIDE Politician	Private House, Kinshasa, November 4, 2021
26	UPN Professor	UPN, Kinshasa, November 6, 2021
27	UPN Professor	UPN, Kinshasa, November 6, 2021

28	UNIKIN Professor	UNIKIN, Kinshasa, November 6, 2021
29	UNIKIN Professor	UNIKIN, Kinshasa, November 6, 2021
30	BUREC Party Politician	ICGLR, Kinshasa, November 15, 2021
31	Civil Society Member	Bar, Kinshasa, November 16, 2021
32	UNIKIN Professor	UNIKIN, Kinshasa, November 18, 2021
33	UNIKIN Professor	UNIKIN, Kinshasa, November 18, 2021
34	UNIKIN Professor	UNIKIN, Kinshasa, November 24, 2021
35	UNIKIN Professor and former PPRD member	UNIKIN, Kinshasa, January 20, 2022.
36	UNIKIN Professor	UNIKIN, Kinshasa, November 24, 2021
37	UNIKIN Professor	UNIKIN, Kinshasa, January 12, 2022
38	PPRD Official	PPRD Headquarters, Kinshasa, January 8, 2022
39	Lawyer	Law Firm, Kinshasa, January 20, 2022
40	UNC member	UNC Headquarters, Kinshasa, January 5, 2022