

Provinces and Decentralized Territorial Entities at the Heart of the February 18, 2006 Constitution of the Democratic Republic of the Congo: Which form of State?

Kangaseke Mbaka¹, Kisala Mwansa Netty²

Faculty of Law at University of Lubumbashi

Abstract: *The study that we have conducted in the context of this article turned to the subject of the form of the State established by the constitution of February 18, 2006 which carries within it the provinces and territorial entities decentralized (city, commune, sector and chiefdom). In the light of certain provisions of the said constitution, in particular, Articles 2, 3, 201, 202, 203, 204 and 205, we have found that the constituent instituted regionalism at the level of the provinces insofar as the provinces possess firstly immense competences with regard to the constitution and the political institutions proper to exercise their competences, which translate the autonomy which is corollary of the judicial personality? At the level of decentralized territorial entities, decentralization has been instituted. By virtue of this decentralization, the decentralized territorial entities have a legal personality which confers on them administrative, financial, technical and human autonomy.*

Keywords: Political regionalism, Decentralization, Constitution, Province, Decentralized territorial entities

1. Preliminary

On February 18, 2006, a constitution was elaborated resulting from a referendum which expresses the will of people. Within this constitution, there are two kinds of territorial sub-state entities that are provinces and decentralized territorial entities (city, commune, sector and chieftaincy). Such an assertion is based on Article 3 and Article 2 of the same Constitution. Indeed, Article 2 paragraphs 1 and 2 states that the Democratic Republic of the Congo consists of the city of Kinshasa and 25 provinces with legal personality.

These provinces are: Bas-Uele, Equateur, Haut-Lomami, Haut-Katanga, Haut-Uele, Ituri, Kasai, Eastern Kasai Oriental, Congo Central, Kwango, Kwilu, Lomami, Lwalaba, Kasai Central, Mai-Ndombe, Maniema, Mongala, Nord-Kivu, Nord Ubangi, Sankuru, Sud Kivu, Sud Ubangi, Tanganyika, Tshopo, Tshuapa.

In article 3, it says that the provinces and decentralized territorial entities of the Democratic Republic of the Congo have legal personality and are run by local bodies.

The constituent of February 18, 2006 did not mention clearly within the constitution which form of State is the DRC, meanwhile the question of form of State is very crucial to any jurist since every State in the world is governed by a form of state that its people have chosen. It is undoubtedly proven that each state in the world has a territorial organization attached to some form of State. In this regard, Anne-Marie le Pourhiet demonstrates in her book entitled "Droit constitutionnel" that among almost two hundred States that counts the international community about twenty or so (whose territories however cover a large part of the planet: United States of America, Canada, Brazil, Mexico, Argentina, Australia, India, South Africa, Russia, Germany,

Austria, Switzerland, Belgium, etc.) are in the form of federal states; while other states have a unitary form¹. The form of the state is understood here as a mechanism that consists of the distribution of power between the central level and the other sub-national territorial entities. Starting from Anne-Marie's ideas, there are two main forms of State namely:

- Unitary state and;
- Federal state.

However, there are also other forms of state that Anne-Marie considers as intermediaries and that we will discuss in the context of this article.

The form of organization of State concerns first of all the distribution of subjects between those which are governed by national standards and those which are governed by local standards, as well as the manner in which these latter standards are set².

This is what Raymond Carré de Malberg, in his general theory of State, published in 1920, the state is "a community of men, based on a territory and having an organization from which results for this group in its relationships with its members a superior power of action, of command, of coercion"³.

Thus, in its classical definition, A State is a legal entity is made up of the combination of three constituent elements

¹ Anne-Marie le Pourhiet, *Droit constitutionnel*, cinquième éd. Economie, Paris 1997, P.18

² Georges Burdau, François Hamon et Michel Trpper/ *Droit Constitutionnel*, 26thed. L. G. D. J Paris Cedex 1999, P.85

³ Raymond Carré de Malberg cited by Aurélien BAUDU, *Droit constitutionnel et institutions politiques*, ed. Lextenso 2015 P.27.

(population, territory and political authority) and to which is recognized the quality of subject of international law⁴.

We say that the definition given by Mr. Aurélien is insufficient because, having considered only the basic elements, forgetting the elements of form which are: sovereignty and international recognition.

The silence of the constituent of 2006 arouses within researchers some scientific reflections that allow them to find out the form of the State instituted by this constitution.

This study we are conducting as part of this article is to look for the form of the government established by the Constitution of the Democratic Republic of the Congo which, concomitantly has established these two sub-state local bodies that we have indicated above.

Throughout our work, we are examining this question of the form of the State.

2. The Form of the State Established by the February 18, 2006 constitution

The February 18, 2006 Constitution, in relation to the form of the State remained silent as we said in the preliminary, insofar as it did not show explicitly or expressly the form of the State that characterizes the DRC but it is limited to showing that the DRC is a united and indivisible State⁵.

But in the light of certain provisions of the Constitution, such as Articles 3 and 2, it allows us to state that there was a choice to set up a political regionalism in provinces on the one hand and an administrative decentralization in decentralized territorial entities on the other hand⁶. This political regionalism materializes by and through the range of competences granted to provinces compared to other decentralized territorial entities, and those competences move towards a political autonomy. It is true that in the scientific arena, opinions are diverse and do not have the same overall point of view in the sense that each scientist develops his argumentation.

This is the case with Jean Louis ESAMBO, in his book entitled, "La constitution du 18 Février 2006 à l'épreuve du constitutionnalisme: contraintes pratiques et perspectives", who considers that the debate on the form of the State was presented during the examination of the process of drafting and adopting the Constitution. He shows that in the political and constitutional history of Congo, the question has been the subject of an important literature and, in order to satisfy both parties, the form of the proposed

State combines the elements of the unitary State and those of the federal state⁷.

An analysis of the constitutional distribution of competences between the State and the provinces with legal personality allows, however, arguing that the form of the proposed State seems closest to the federal State. The constituent seems to have been preoccupied by the concern not to name this form of the State to avoid frustrations on the part of the defenders of the one or the other form of the State⁸.

He believes that the choice of the form of the State is not in itself a necessary and sufficient condition for the development of a country. It all depends on how the option has been set, understood and applied⁹. We fully agree with the author's point of view that the choice of the form of the State is not in itself a necessary and sufficient condition for the development of a country. It all depends on how the option has been set, understood and applied.

But we do not agree with him when he asserts that the constituent has put together the elements of Federalism and Unitarianism to satisfy the defenders of both forms. This divergence between his point of view and ours lies on the fact that one cannot conceive of the form of the State to satisfy the political passions, because, since the choice lies on the passions, a development can never be reached or a general interest can never be set as the ultimate goal. But the choice of the form of the State must be linked to the culture of the general interest and the laws that must govern all Congolese. This is how we can affirm the advent of development.

OSWALD NDESHYO RURINOSE is on the same path as the previous since the two thinkers agree that it is federalism that fits better for the Congolese society.

In fact, OSWALD NDESHYO believes that the federal form is less confrontational and is adapted to the problems of the Congolese society. It is the only sustainable and unambiguous solution to the problem of political integrity and sustainable peace for a country whose ethnical, cultural and economic, linguistic sectionalism is profound¹⁰.

Jean Louis ESAMBO, in his conclusions, believes that the hugeness of the country and the need to endow provinces and decentralized territorial entities with the means of their policies could justify the adoption of a federal form of the State. The new State configuration enshrined in the

⁴ Aurélien BAUDU, *Droit constitutionnel et institutions politiques*, ed. Lextenso 2015 P.27.

⁵ Constitution of February 18, 2006 in its introduction.

⁶ Félix VUNDWAVE TE PEMAKO, « réflexion sur le régionalisme politique ou la nouvelle décentralisation territoriale » in Congo Afrique, N°15, 2008, P.12

⁷ Jean Louis ESAMBO KANGASHE, *La constitution congolaise du 18 février 2006 à l'épreuve du constitutionnalisme : contraintes pratiques et perspectives*, ed. Braillard academia Bruxelles 2007 P.107

⁸ Ibidem P.108

⁹ Jean Louis ESAMBO KANGASHE, *La constitution congolaise du 18 février 2006 à l'épreuve du constitutionnalisme : contraintes pratiques et perspectives*, ed. Braillard academia Bruxelles 2007 P.108

¹⁰ OSWALD NDESHYO RURINOSE, « le fédéralisme, modèle idéal de la démocratie participative », in G. BAKANDJA, (direction), *participation et responsabilité des acteurs dans un contexte d'émergence démocratique en RDC*. Ed. presses universitaires, Kinshasa 2007, P.70

constitution suggests that the DRC has instituted an atypical and absurd form of federalism that is hidden under the neologism of a highly decentralized unitary State, a constitutional or political regionalism¹¹.

Considering the idea of these two thinkers who estimate that federalism is the most appropriate way to solve the problems of Congo, it is a statement that does not work out because, in the political history of the DRC, be in the fundamental law, this form governed our country but the result was not so good, it was hostile and horrible to the extent that this led to various large crises giving rise to different crises or secessions like that of Katanga; etc.

And we say that the problem of Congolese, it is not the form of the State but on the contrary it is the change of mentality which, preached by the term "culture of general interest and laws".

Felix VUNDUAWE te PEMAKO, thinks unlike the others thinkers that the new constitution promulgated on February 18, 2006 has innovated the organization of a regional State but which still retains the principle of decentralization. So, a unitary State characterized by a political regionalism at the level of provinces on the one hand, and at the lower level of decentralized territorial entities¹².

He shows that if this new constitution instituted a political regionalism at provincial level, it must be said that this constitution still keeps the principles of decentralization. This idea is also ours because competences given to provinces by this constitution with regard to the distribution of competences do not necessarily reflect the characteristics of a federal State in the classical sense of the term.

Provinces are regionalized entities and they are different from provinces under the fundamental law, which were true federated states. The principles of decentralization are materialized by and through decentralized territorial entities that are city, commune, sector and the chieftaincy.

3. Regionalism at the Provincial Level and Decentralization at the Level of Decentralized Territorial Entities

a) Regionalism at the Province Level

It is true that most constitutions and laws of African States in general and those of the Democratic Republic of the Congo in particular are in favor of decentralized unitary state but it must be stressed that federalism is exceptionally adopted in Ethiopia, Nigeria and recently also in Somalia under the provisional constitution of August 1, 2012. The difference between political regionalism, federalism and unitarianism is

a problem in the Democratic Republic of the Congo. We demonstrated this above, some think that the February 18, 2006 Constitution is of a federal essence considering the distribution of competences between the central power, the provinces and the power of the local entities whereas others locate it in regionalism.

This political regionalism is materialized by and through a strong political autonomy granted to provinces. This autonomy allows provinces to enjoy a free administration of their natural, human, technical, financial and economic resources.

Reconciling Article 3 and the other articles of the Constitution, such as articles 2, 4, and especially articles 195 to 206, which relate to provincial political institutions, as we said above, gives us a good reason to say that a province is becoming with regard to this constitution a regionalized political territorial entity. Indeed, the most crucial element that has to be addressed here is the political autonomy to provinces manifested in and through two aspects:

First, they are endowed with specific management institutions. These institutions are: the provincial assembly and the provincial government.

These institutions enjoy a broad own legitimacy in relation to the central ones in the exercise of their missions. This legitimacy finds its foundation in the elections of the MPs by direct universal suffrage which is different from the election of the provincial governor and his teammate "vice-governor", so ministers are invested by the provincial assembly.

It is also a body that may put an end to the functions of the governor and vice-governor and provincial ministers since they are responsible before it. This is done either by a motion of no-confidence or a motion of censure. The first is to remove a provincial minister who would fall under the so-called cessation of the quality of MPs, otherwise, when they do not properly perform their duties.

Second, in the same logic of the legitimacy of provincial institutions under Articles 201, 202, 203, 204 and 205 not only they have concurrent competences between them and the central government, but also specific competences given them¹³. They are known by constituent as: "exclusive competences".

These competences are used under provincial edicts and provincial governor orders. The central government cannot censor or annul the legal acts of the province, and vice versa, this proves to a great extent that provincial institutions are autonomous. Except in the context of collaboration with respect in the domains of the central government that can delegate the power of the province as stated in Article 205 of the constitution¹⁴. On this point, it can be deduced that the autonomy of the province is limited when the provincial assembly delegates its power to parliament through an edict and the parliament of the central government is also limited

¹¹ Jean Louis ESAMBO op.cit P.108

¹² Félix VUNDUAWE te PEMAKO, *Réflexion sur le régionalisme politique ou la nouvelle décentralisation territoriale*, in MPOYO KALEMA (direction), *Mandat, Rôles et fonctions des pouvoirs constitués dans le nouveau système politique de la République Démocratique du Congo*, ed. PNUD, KINSHASA 2007 P.82

¹³ Art. 195 of the law N° 08/012 of July 31, 2008 on fundamental principles related to free administration of provinces

¹⁴ Article 205 of the Constitution of February 18, 2006

when it also proceeds to the delegation of its own competences to the provincial assembly.

But it must be stressed that this is not an absolute limitation because it is subordinated to the prior authorization of the delegating authority who can put an end to it¹⁵. The approval of the nomination of the provincial governor and his deputy by the President of the Republic also limits the autonomy of the province. But this simply shows that we are not in a federation of State but in a regionalized unitary State and especially in the framework of the collaboration between these two levels of competences. Also in the framework of the collaboration, the provincial assembly participates in the constitution of the parliament by the election of senators.

In its constitutional mission of representing provinces, the Senate may at any time consult the presidents of the provincial assemblies. The national assembly and the Senate can also send a delegation of MPs to a province for a specific mission.

As we said above with respect to the delegation of powers between the central and the provincial governments, the National Assembly and the Senate may empower by a law, a provincial assembly to issue edicts on subjects of the exclusive competence of the central government.

When the national assembly and the senate put an end to this authorization, the provisions of the edicts promulgated for this purpose remain however in force in the province until the parliament legislates on the subjects. A provincial assembly may also by an edict empower the National Assembly and the Senate to legislate on exclusive subjects of provincial competences. When the provincial assembly puts an end to this authorization, the provisions of the edicts promulgated for this purpose remain in force in the province until the provincial legislature legislates on this subject. But what is true is that national legislation takes precedence over the provincial edict¹⁶.

It is true that the central power and the power of provinces are at two distinct levels, but the State can be represented in provinces. For this purpose, the provincial governor represents the central government in the province, ensuring in this framework the safeguarding of the national interest, the respect of the laws and the regulation of the republic and ensures security and public order in the province.

In subjects falling within the exclusive competence of the central government, the provincial governor coordinates and supervises services which come under the authority of the central power and, correspondingly, in the exercise of his

mission of representing the central government and coordinating decentralized public services in the province; the provincial governor is accountable to the central government. The acts of the provincial governor in these matters are subject to annulment and, if necessary, the central authority may reform or substitute the power of the provincial governor.¹⁷

In case of serious misconduct committed by the provincial governor in the exercise of decentralized public services missions, three procedures are allowed: First, the central power may instruct the provincial assembly to apply articles 41 and 42 of this Constitution in relation to his responsibilities and his accountability before the provincial assembly. Second in criminal matters, to bring him to a court of appeal according to the procedure given in article 68 of this law when it is established that the governor or his vice is guilty of contempt of the provincial assembly and / or other criminal offenses in connection with the exercise of his functions, the provincial assembly puts him in charge of the court. Finally, his administrative acts are brought to the Administrative Court of Appeal¹⁸.

The other procedures relating to the responsibility and the accountability of the provincial governor and his vice are provided in articles 69 and 68 in their fullness of this Act.

b) Decentralization at the level of decentralized territorial entities

Decentralized territorial entities are administratively decentralized territorial public entities with legal personality in accordance with article 3 of the Constitution. There are four decentralized territorial entities, namely: the city, the commune, the sector and the chieftaincy.

As defined by Article 6 of the law on decentralized territorial entities, the city is seen as, firstly, any provincial capital, secondly, any agglomeration of at least 100,000 inhabitants with collective facilities and economic and social infrastructures to which a decree of the prime minister has conferred the status of the city¹⁹. It has organs that allow it to use its competences. This is the urban council and the urban executive council. The urban council is a deliberative body of the city and is led by the councilors. The urban executive council is, contrary to the urban council, a management body of the city and executing the decisions of the urban council as said in article 28 of the aforementioned law.

The city owns and manages financial, economic, technical and human resources.

The second decentralized territorial entity is the commune which, under the terms of the law on decentralized territorial entities, is understood as any territorial capital of the territory, any subdivision of the city or any agglomeration having a population of at least 20,000 inhabitants to which a

¹⁵ Jean-Michel KUMU KINGIMBI, *le statut juridique des provinces dans la constitution congolaise du 18 février 2006 : des entités « régionalisées » dans un Etat UNI (TAIRE) ?*, mélanges Célestin NGUYANDILA. *La République Démocratique du Congo : les défis récurrents de décolonisation, de l'Etat de droit et du développement économique et social*, ed. Presses universitaires de Kinshasa ; 2007, P.944

¹⁶ Article 62 in fine of the law N° 08/012 of July 31, 2008 on fundamental principles related to free provinces administration.

¹⁷ Article 66 of the law N° 08/012 of July 31, 2008 on fundamental principles related to free provinces administration.

¹⁸ Article 67 of the law N° 08/012 of July 31, 2008 on fundamental principles related to free administration of provinces.

¹⁹ Article 7 of the organic law n°08/016 of October 7, 2008 on composition, organisation and functioning of decentralized territorial entities in their relationship with the State and provinces.

decree of the Prime Minister has conferred the status of commune²⁰. As the city, a commune has two organs, the first is called the communal council, and the second is the communal executive council. The communal council is a deliberative organ of the commune. In the term of the constitutionalist, it may be called a legislative organ at the communal level. The communal executive council does not have the same role as the first.

It is made of the burgomaster, deputy burgomaster and two members called communal aldermen. It is the organ of management and execution of decisions rendered by the communal council. The commune has its own budget that allows it to operate its jurisdiction; it has the autonomy of administrative, financial, economic, human and technical management.

The third decentralized territorial entity is the sector which, according to Article 66 paragraph 2 of the above-mentioned law, has made the decentralized territorial entities effectively a generally heterogeneous group of traditional independent communities organized on the basis of custom. It is headed by a leader elected and invested by the public authorities. It is administered in accordance with the provisions of this law.

However, the customary groupings of which it is made of retain their customary organization within the limits and under the conditions provided by this Law which defines the status of customary chiefs²¹ all powers transferred to cities and communes are also transferred to it.

It has two organs that are the sector council and the sector executive council. The Sector Council is a deliberative sectoral body. Its members are called sectoral councilors.

The sector executive council is a management and executive body of the decisions of the sector council. The sector also has its budget as a decentralized territorial entity that is incorporated in the provincial budget as other entities. Since the sector chief is the sector's authority, he is also the chief authorizing officer of the sector's budget, which is the program of his activity or of his institution or body.

The last decentralized entity is the chieftaincy. The law makes no definitional distinction between the chieftaincy and the sector because article 69 talks of the sector or chieftaincy which is a subdivision of a territory and the definition given to the sector is that given to chieftaincy as far as we know.

Relationship between Decentralized Territorial Entities, Provinces and the State

This relationship is mainly in terms of representation, which is a principle. At the level of decentralized territorial entities,

²⁰Article 28 of the organic law n°08/016 of October 7, 2008 on composition, organisation and functioning of decentralized territorial entities in their relationships with the State and provinces.

²¹Article 66 of the Organic Law n°08/016 of October 7, 2008 on composition, organisation and functioning of decentralized territorial entities and their relationships with the State and provinces.

the principle of representation of the State and the province at the same time by local decentralized territorial authorities also ensures the coordination and the follow-up of the services of the State and the province in their respective entities. Also, the exercise of transferred competences of the State is done under the authority of the Governor who may delegate his powers to the administrator of the territory.²²

In the framework of the guardianship over the acts of the decentralized territorial entities, the governor of the province exercises, under the conditions prescribed in this law, the supervision over the acts of the decentralized territorial entities. He may delegate this competence to the territory administrator, because the administrator of the territory is the representative of the State and the province in his jurisdiction as provided by the law fixing territorial subdivision within the provinces.²³

This guidance is done by either a control before and after depending on the case.²⁴

The control before may be done, for example, in the preparation of a preliminary draft budget in order to validate the financial records with the macroeconomic assumptions used in the national budget forecasts, revenue projections and consideration of mandatory expenditures; the creation of taxes and the issue of loans in accordance with the law on the nomenclature of taxes and financial law etc.

The control after is used by the supervisory authority after the act of the authority over which the guidance is used has been laid. The purpose of this control is to check the conformity of the act or acts with the provisions relating to the reports provided by the law on decentralized territorial entities and/or the constitution within the limits of the competences of each entity. For example, a governor of the province may suspend a mayor of the city who may do certain acts that encroach on the general interest.

4. General Conclusion

"Provinces and decentralized territorial entities at the heart of the 18 February 2006 Constitution of the Democratic Republic of the Congo: Which form of State?" was the subject of our research.

Certainly, the constituent has remained silent with regard to the form of the government established by the 18 February 2006 Constitution. But however, it has been demonstrated that the Democratic Republic of the Congo is a united and indivisible State. This unity and indivisibility do not lead us to conclude that it is a decentralized unitary form, as some scientists claim, without questioning or consulting the constitution and other organic laws with regard to the

²² Articles 93, 94 of the Organic Law n°08/016 of October 7, 2008 on composition, organisation and functioning of decentralized territorial entities and their relationship with the State and provinces.

²³ Article 8 of the Law N° 10/011 of May 18, 2010 on fixation of territorial subdivisions within provinces.

²⁴ Articles 95 and 96 of the Organic Law n°08/016 of October 07, 2008 on composition, organisation and functioning of decentralized territorial entities and their relationships with the State and provinces.

functioning of the sub-state legal entities that make up the Democratic Republic of the Congo in order to understand or detect their relationships with the central power. We have are to say that their statements are “gratuitous.”

In the light of Article 2 of the Constitution which says that the Democratic Republic of the Congo consists of Kinshasa and 25 provinces endowed with legal personality and also in the light of Article 3 which stipulates that the provinces and the decentralized territorial entities of the Democratic Republic of the Congo have legal personality and are managed by local bodies and especially articles 201, 202, 203, 204 in connection with the distribution of competences or subjects between the institutions of central government and provinces (parliament and provincial assembly), it should be stated without any hesitation that the constituent of 18 February 2006 has established regionalism at provincial level and decentralization at the level of decentralized territorial entities. It is therefore a regionalized unitary state.

This regionalism at the provincial level manifests itself by and through the political autonomy granted to provinces. This independence gives them (provinces) a legitimacy that is manifested by the fact that they have their own institutions and other services attached to them. These institutions are as follows: the provincial assembly and the provincial government.

The provincial assembly acts by edicts and is a deliberative body of the province before which the governor of the province and his teammate, the vice-governor as well as the provincial ministers are responsible. In accordance with its prerogatives vested in it by virtue of the constitution, the provincial assembly can put an end to the functions of the governor, the vice governor and the provincial ministers when a mismanagement or an imperfection is established or when there is a poor malfunction in relation to their programs or for other reasons specified by law. This procedure goes through either a motion of no-confidence when the target is to remove one single person or a motion of censure when the target is to get the whole government out.

It should be noted with firmness that when a motion is passed against a provincial governor, the entire government is censored, insofar as it is the governor who appoints provincial ministers with the exception of the vice-governor who is also elected by the provincial assembly under the conditions fixed by the constitution.

In the same context of legitimacy, provinces have their own different powers from the central power that is called by the constituent “exclusive provincial competences”. But also competences that concurrently engage the central government. These competences are used under edicts and decrees of the provincial governor.

The central government can neither censor nor cancel the legal acts of provincial institutions. This proves in great sufficiency the autonomy of the province. But it must be stressed that this autonomy is limited to certain limits that stem firstly from the fact that the investiture of the governor

and the vice-governor is subject to a prior authorization of the President of the Republic. This shows that we are in a regionalized unitary State and not in a federal state.

The autonomy of the province is also limited by the delegation of competences. In fact, the provincial assembly can delegate part of its realm to the central government and vice versa. But this delegation is not absolute in so far as the delegating authority can put an end to it. This is done through collaboration between provincial institutions and the central government. At the level of decentralization, the constituent has set up four decentralized territorial entities which are the city, the commune, the sector and the chieftaincy. These entities establish relationships between themselves, the State and the provinces. This relationship is established primarily in the context of representation...

The advice given to Congolese, our compatriots is to think that the problem of the development of Congo does not depend absolutely on the form of the State but rather on the culture of laws of the country and the culture of general interest. That is to say, Congolese must make the DRC a state of law in which the administrative authorities are under the laws and not above the laws or otherwise the respect of the texts that govern the DRC is disbanded. Governors and governed ones respect the constitution which is a founding instrument and protector of the fundamental rights of citizens and / or of civil liberties as well as other ordinary laws etc.

May those who hold the management of the country (public property) do it for the fulfilment of the general interest and not for their own interests. Because Congolese have even made up a sentence when someone comes on power: “now it's our turn”, their turn means embezzlement, theft, malfeasance, retaliation, etc. All these things do not serve for the general interest and therefore for the development of the country. And we blame those who think that the constituent has set up Unitarianism and federalism to satisfy on one hand, the defenders of former and on the other hand, defenders of latter who have been fighting since 1960, because a form of state cannot be chosen to satisfy the political passions but rather for the development that would somehow benefit Congolese people.

So, the culture of law and the culture of general interest will lead us to a quick, systematic and harmonious development even though one chooses federalism, Unitarianism or all other forms of the State like the present regionalism.

References

- [1] The Constitution of February 18, 2006.
- [2] Organic Law N° 08/012 July 31, 2008 on fundamental principles related to free administration of provinces.
- [3] Organic Law N° 08/016 of October 07, 2008 on composition, organisation and functioning of decentralized territorial entities and their relationships with the State and Provinces.
- [4] Organic Law N° 10/011 of May 18, 2010 on fixation of territorial subdivisions within provinces.

- [5] Anne-Marie le POURHIET, *Droit constitutionnel*, cinquième éd. Economie, Paris 1997.
- [6] Georges Burdeau, Francis HAMON et Michel TROPPE, *Droit constitutionnel*, 26th éd. L.G.D.J Paris cedex 1999.
- [7] Aurélien BAUBU, *Droit constitutionnel et institutions politiques*, éd. Lexenso 2015.
- [8] VUNDWAVE TE PEMAKO, « réflexion sur le régionalisme politique ou la nouvelle décentralisation territoriale » in Congo Afrique.
- [9] Jean Louis ESAMBO KANGASHE, *la constitution congolaise du 18 février 2006 à l'épreuve du constitutionnalisme : contraintes pratiques et perspectives*, éd. Braillard academia Bruxelles 2007.
- [10] OSWALD NDESHYO RURINOSE, « le fédéralisme, modèle idéal de la démocratie participative », in G. BAKANDJA, (direction), *participation et responsabilité des acteurs dans un contexte d'émergence démocratique en RDC*. Ed. presses universitaires, Kinshasa 2007.
- [11] Félix VUNDUAVE te PEMAKO, *Réflexion sur le régionalisme politique ou la nouvelle décentralisation territoriale*, in MPOYO KALEMA (direction), *Mandat, Rôles et fonctions des pouvoirs constitués dans le nouveau système politique de la République Démocratique du Congo*, éd. PNUD, KINSHASA 2007.
- [12] Jean-Michel KUMU KINGIMBI, *le statut juridique des provinces dans la constitution congolaise du 18 février 2006 : des entités « régionalisées » dans un Etat UNI (TAIRE) ?*, mélanges Célestin NGUYANDILA. *La République Démocratique du Congo : les défis récurrents de décolonisation, de l'Etat de droit et du développement économique et social*, éd. presses universitaires de Kinshasa, 2007.
- [13] Félix VUNDWAVE TE PEMAKO, « réflexion sur le régionalisme politique ou la nouvelle décentralisation territoriale » in Congo Afrique, N°15, 2008