

# INITIATING TRANSITIONAL JUSTICE IN THE DEMOCRATIC REPUBLIC OF THE CONGO

OPPORTUNITIES FOR  
STABILITY AND REFORM

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## INTRODUCTION

Since gaining independence in 1960, the Democratic Republic of the Congo (DRC) has endured decade-long cycles of political instability, military coups, authoritarian rule and violent conflict. Despite multiple peace agreements and international interventions, the Congolese state has struggled to assert lasting authority, particularly in the eastern provinces. This policy brief places the current crisis in historical context and outlines actionable transitional justice responses to help support long-term peace and governance.

## BACKGROUND

### A historical overview of the country's conflict

Five days after gaining independence on 30 June 1960, the DRC faced its first military crisis. Soldiers of the national army, the *Force Publique*, mutinied, demanding promotions and social benefits equal to those of their white counterparts.<sup>1</sup> Since then, the country has experienced numerous popular rebellions.<sup>2</sup>

In response to early unrest, Army Chief General Joseph-Désiré Mobutu staged a military coup d'état against President Joseph Kasavubu, seizing power and ruling for 32 years. On 17 May 1997, the *Alliance des Forces Démocratiques pour la Libération du Congo-Zaïre* (AFDL), led by Mzee Laurent Désiré Kabila and supported by Rwanda and Uganda, overthrew Mobutu. However, on 2 August 1998, Kabila faced a new rebellion from the *Rassemblement Congolais pour la Démocratie* (RCD).

On 17 December 2002, the war formally ended with the signing of the Global and Inclusive Accord in Pretoria, South Africa. Between 2003 and 2006, the DRC underwent a political transition marked by the election of President Joseph Kabila. During this transition, a new military movement, the *Congrès National de Défense du Peuple* (CNDP), led by Laurent Nkundabatware, emerged in the eastern DRC.

On 23 March 2009, the Congolese government (GDRC) signed a peace agreement in Goma with the CNDP to end the rebellion.<sup>3</sup> In mid-2010, the CNDP rebranded itself to the March 23 Movement (M23), claiming that they sought to enforce the terms of the 2009 agreement. In November 2012, M23 briefly took control of Goma with great flair before withdrawing under international pressure. In 2013, the Congolese national army (the *Forces Armées de la République Démocratique du Congo*; FARDC), with the support of the Force Intervention Brigade (FIB) of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), comprising soldiers from South Africa, Malawi and Tanzania, launched a military offensive, defeating M23.<sup>4</sup>

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1 Jean-Claude Willame, "La mutinerie de la Force publique et l'intervention des troupes belges," in *Patrice Lumumba : La crise congolaise révisitée* (Paris: Karthala, 2000), 119–159, <https://shs.cairn.info/patrice-lumumba--9782865372706?lang=fr> (accessed 11 May 2025).

2 Benoît Verhaegen, "Les rébellions populaires au Congo en 1964," *Cahiers d'études africaines* 7, no. 26 (1967): 345–359, [https://www.persee.fr/doc/cea\\_0008-0055\\_1967\\_num\\_7\\_26\\_3100](https://www.persee.fr/doc/cea_0008-0055_1967_num_7_26_3100) (accessed 16 May 2025).

3 Accord de paix entre le gouvernement de la RDC et le CNDP, 29 March 2009, <https://afrikarabia.com/wordpress/wp-content/uploads/2014/01/accord-CNDP-RDC-23-mars-2009.pdf> (accessed 11 May 2025).

4 Adolphe Kilomba Sumaili, "La CIRGL et le règlement des différends dans la région des Grands Lacs : cas de la rébellion du M23," *Revue Québécoise de Droit International* (2015): 203–218.

Ten years later, M23 resumed military operations against the GDRC in North Kivu province. Corneille Nangaa, the former president of the Independent National Electoral Commission (*Commission Électorale Nationale Indépendante*; CENI), joined the rebellion together with the Alliance Fleuve Congo (AFC). In 2023, Nangaa accused Kabila and Félix Tshisekedi of conspiring to manipulate the 2018 election results.

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In November 2022, the Eastern African Community (EAC) deployed a peacekeeping mission to secure the buffer zone between M23 and the FARDC. The EAC forces aimed to de-escalate the conflict in North Kivu province. After roughly one year, the GDRC found the EAC's mission to be ineffective and refused to renew it. In early December 2023, EAC forces pulled out, and soldiers from the Southern African Development Community Mission in the Democratic Republic of Congo (SAMIDRC) immediately replaced them.

Despite these efforts, the conflict re-escalated in January 2025. Within three weeks, the AFC/M23 forces seized the key cities of Goma and Bukavu. To date, M23 continues to conquer new territories and reaffirms its ambition to overthrow President Tshisekedi's regime.

### The main drivers of the conflicts

Much has been said about natural resources being the primary cause of the country's conflicts and instability. However, what remains unsaid is more revealing: the DRC's chaotic governance and mismanagement of public funds. The roots of conflict in the country arise from the interplay between political and economic factors.

Politically, the lack of committed leaders undermines the nation's progress. Former Minister of Finance, Nicolas Kazadi, criticised Tshisekedi's administration for fostering a culture of corruption. "Within five years, the state created 53 new technical bodies without budget planning. The Parliament has seen its operating costs multiply tenfold, increasing from US\$1,754,385.90 in 2017 to US\$16,491,228."<sup>5</sup> Central institutions, namely the president of the republic, the government, parliament and the judiciary, consume nearly 60% of the country's resources.<sup>6</sup> The operating costs have left the Congolese government with insufficient funds to reform the state apparatus and public services.

This mismanagement has worsened poverty and deepened public frustration. Millions of Congolese live without access to basic public services such as health care, education, security, water and electricity. Despite the nation's hydroelectric potential, only 21% of the Congolese population has access to electricity, and 30 million people

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5 Ibid.

6 Interview, Nicolas Kazadi, 4 May 2025, <https://web.facebook.com/watch/?v=677726081783687>.

lack access to clean water.<sup>7</sup> Of children aged under five, 43% suffer from chronic malnutrition, despite vast agricultural capacity.<sup>8</sup> The push to change the Constitution, which limits presidential terms to two, further fuels political unrest and escalates conflict.

Since resuming military operations, M23 has consistently claimed that it seeks to protect the Constitution from violations by Tshisekedi's regime. On 16 November 2016, during a public event in Lubumbashi, Tshisekedi declared, "Who is going to forbid me, the guarantor of the Nation, from modifying the Constitution?"<sup>9</sup> This statement intensified fears of authoritarian consolidation. Following the seizure of Goma and Bukavu in early 2025, along with threats to other towns, the AFC/M23 vowed to resist the president's efforts to change the Constitution.<sup>10</sup> In the same declaration, Nangaa cited constitutional justifications for the armed insurrection.<sup>11</sup>

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The economic situation further worsens the country's political crisis. According to the World Bank, nearly three-quarters of the country's 102.3 million citizens live on less than US\$2.15 per day. The country's gross domestic product (GDP) per capita, currently at less than US\$630, ranks among the lowest globally, despite multinational corporations extracting Congolese minerals and generating trillions in profits.<sup>12</sup> Meanwhile, state institutions continue to consume tax money without generating any value. Former Minister Nicolas Kazadi has alleged that some officials earn excessive salaries of US\$50,000 per month, while other members in their administrative councils collect as much as US\$100,000 monthly.<sup>13</sup> This discrepancy in financial allocations and politicians' excessive greed together weaken the country and prevent efforts to address the root causes of conflicts and instability.

### The Congolese experience with regard to transitional justice initiatives

In the early 1990s, the DRC first encountered transitional justice during the *Conférence Nationale Souveraine* (CNS). The CNS established two commissions: the Commission on Human Rights Violations and Assassinations and the Ill-gotten Gains Commission. These bodies documented the most significant human rights violations and acts of corruption committed between 1965 and 1990, making them the precursors to Congolese transitional

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7 "RDC : Seuls 21,8 % des ménages ont accès à l'électricité, et beaucoup de maisons sont mal construites," *Greenafia*, <https://greenafia.com/rdc-seuls-218-des-menages-ont-acces-a-lelectricite-et-beaucoup-de-maisons-sont-mal-construites/>; UNICEF, "Eau, hygiène et assainissement," <https://www.unicef.org/drcongo/ce-que-nous-faisons/eau-hygiene-et-assainissement> (accessed May 2025).

8 Ibid.

9 Félix Tshisekedi, declaration at Lubumbashi, 18 November 2024, <https://www.radiookapi.net/2024/11/18/actualite/politique/felix-tshisekedi-lubumbashi-qui-est-celui-la-qui-va-minterdire-moi-le>; see also video footage at <https://www.youtube.com/watch?v=7P8CphfAHE>.

10 Corneille Nangaa's declaration, [https://www.youtube.com/watch?v=jI5vKY\\_k2xQ](https://www.youtube.com/watch?v=jI5vKY_k2xQ).

11 Ibid.

12 J. Cannon, "The key factors fueling conflict in Eastern DRC," *Mongabay*, 14 February 2025, <https://news.mongabay.com/2025/02/in-eastern-drc-the-history-of-conflicts-is-fueled-by-new-factors/>.

13 Kazadi, *supra* note 6.

justice. The two commissions proposed a range of transitional justice measures, including truth-telling mechanisms, prosecuting alleged perpetrators of severe human rights violations, and memorialising victims of violence by building monuments in their honour. Amnesty was deliberately excluded in order to combat impunity.<sup>14</sup> Unfortunately, Mobutu refused to enforce these recommendations.

The second significant transitional justice initiative emerged from the 2003 *Accord Global et Inclusif*, which created the Truth and Reconciliation Commission (TRC). Comprised of key conflict actors, the TRC lacked impartiality and independence. In 2006, it ultimately failed and was dissolved.

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The government has established three technical bodies to support transitional justice: the National Fund for Reparations for Victims of Sexual Violence and Victims of Crimes against Peace and Security (FONAREV),<sup>15</sup> the Inter-institutional Commission for Assistance to Victims and Support for Reforms (CIA-VAR) and the Special Fund for Reparation and Compensation for Victims of Ugandan Armed Activities in the DRC (FRIVAO). While FONAREV addresses victims' needs and care across the DRC, as a multi-institutional body, CIA-VAR has also been tasked to support victims and institutional reforms. Unlike FONAREV and CIA-VAR, FRIVAO is a specific reparation fund created on 6 December 2019 to exclusively assist victims of Uganda's military activities in the DRC. It manages the money paid by Uganda as a result of its illicit military activities in the DRC, as decided by the International Court of Justice (ICJ).<sup>16</sup>

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14 A.K. Sumaili, *La justice transitionnelle au miroir des réalités congolaises* (Enghien: Les éditions du Pangolin, 2019), 373; See, also, A.K. Sumaili, *L'expérience congolaise de la justice transitionnelle* (Enghien: Les éditions du Pangolin, 2018).

15 Fonds National de Réparation des Victimes (FONAREV), <https://www.fonarev.cd/> (accessed 7 June 2025).

16 International Court of Justice, "Case Concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)," <https://www.icj-cij.org/case/116> (accessed 7 June 2025).

## INITIATIVES AND INTERVENTIONS REGARDING TRANSITIONAL JUSTICE

### Transitional justice's potential to address the drivers of political and economic conflicts

In its holistic approach, transitional justice combines the right to truth, the obligation to prosecute wrongdoings, clemency, the right to reparations, and the enforcement of guarantees of non-recurrence.<sup>17</sup> This approach has significant potential to foster strong institutions for a lasting peace. The International Rescue Committee (IRC) describes the Congolese conflicts from 1998 to 2002 as the deadliest after the Second World War.<sup>18</sup> Therefore, the DRC must establish a national transitional justice policy with clear objectives and a well-defined timeline to correct its historical trials and failed efforts since the CNS.

By focusing on guarantees of non-recurrence, the country can effectively overcome governance weaknesses. On 6 December 2005, the United Nations (UN) General Assembly adopted Resolution 60/147 to outline the content of guarantees of non-recurrence for a post-conflict country as follows:

Guarantees of non-repetition should include, where applicable, any or all of the following measures, which will also contribute to prevention: (a) Ensuring effective civilian control of military and security forces; (b) Ensuring that all civilian and military proceedings abide by international standards of due process, fairness and impartiality; (c) Strengthening the independence of the judiciary; (d) Protecting persons in the legal, medical and health-care professions, the media and other related professions, and human rights defenders; (e) Providing, on a priority and continued basis, human rights and international humanitarian law education to all sectors of society and training for law enforcement officials as well as military and security forces; (f) Promoting the observance of codes of conduct and ethical norms, in particular international standards, by public servants, including law enforcement, correctional, media, medical, psychological, social service and military personnel, as well as by economic enterprises; (g) Promoting mechanisms for preventing and monitoring social conflicts and their resolution; (h) Reviewing and reforming laws contributing to or allowing gross violations of international human rights law and serious violations of international humanitarian law.<sup>19</sup>

In the same vein, the Guidance Note from the UN Secretary-General issued in March 2010 stated:

Public institutions that helped perpetuate conflict or repressive rule must be transformed into institutions that sustain peace, protect human rights, and foster a culture of respect for the rule of law. By reforming or building fair and efficient public institutions, institutional reform enables post-conflict and transitional governments to prevent the recurrence of future human rights violations.<sup>20</sup>

17 Sumaili, *supra* note 15 at 67.

18 International Rescue Committee (IRC). *Crise au Congo, "5,4 Millions des Morts,"* <http://www.rescue.org/news/crise-du-congo-54-millions-de-morts-selon-une-tude-de-l-4332> (accessed 15 May 2025).

19 United Nations General Assembly. Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. UN Doc. A/RES/60/147, 6 December 2005, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx> (accessed 15 May 2025).

20 United Nations. Guidance Note of the Secretary-General: United Nations Approach to Transitional Justice, March 2010, [https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/TJ\\_Guidance\\_Note\\_March\\_2010FINAL.pdf](https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/TJ_Guidance_Note_March_2010FINAL.pdf) (accessed 26 May 2025).

Also, swift budget cuts and responsible financial management are urgent to ensure enough funds are available to support institutional reforms. The four central institutions account for 60% of the overall national budget. For instance, a member of the Congolese Parliament is paid a monthly salary of US\$21,000 in addition to other bonuses and attendance tokens, while a primary school teacher drops to about US\$100. This practice is also to be found in the military and with regard to other civil servants.

According to Law No.18/021 of 26 July 2018 regulating the lives of former Congolese heads of state, a former president is awarded a monthly salary equal to 30% of the salary of the acting president. In 2019, the then Minister of Finance, Sele Yalaguli José, published on his Twitter account the pay stub of former President Kabila, which showed US\$690,000. This budget imbalance deprives the GDRC of the funds necessary to initiate courageous institutional reforms. Such a budget discrepancy fuels permanent social unrest and mistrust between the people and institutions. In summary, substantial cuts are needed to make available enough funds to build strong guarantees against future non-recurrence.

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### By addressing the imbalance in financial resources allocation and fighting impunity, the DRC can gradually transition from turmoil to self-reliance

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Economic rights are as necessary as political rights because they ground day-to-day life. To tackle widespread poverty, we must promote the guarantee of non-recurrence. By addressing the imbalance in financial resources allocation and fighting impunity, the DRC can gradually transition from turmoil to self-reliance. The majority of people languishing in poverty creates a fertile ground for recruitment by armed groups and other criminality, as well as aggravating migration and brain drain. Investing sufficient funds in the judiciary will significantly enhance the vetting process, allowing us to eliminate civil servants with unacceptable behaviour. Just as a zero-tolerance policy was introduced to combat sexual violence, so the DRC must also establish one to combat the embezzlement of public funds.

### The necessity of transitional justice efforts

This section outlines the importance and relevance of transitional justice in the DRC and proposes actionable, actor-specific recommendations to support effective implementation.

#### *Relevance of transitional justice for the DRC*

The DRC's persistent instability and conflicts over the past three decades stem partly from its unwillingness to enforce a comprehensive transitional justice process. Armed violence and large-scale human rights abuses continue to undermine national stability. Since gaining independence on 30 June 1960, the country has never implemented a thorough or holistic transitional justice approach.

Transitional justice offers a viable path to addressing these long-standing issues. Truth-telling can transform public narratives and provide recognition for victims whose suffering has long gone unnoticed. By sharing their experiences, Congolese victims can articulate their needs for reparations. Using a combined *top-down* and *bottom-up* approach in truth-seeking can catalyse a reconciliation process that puts victims at its centre.

This truth-telling process will clarify how authorities should handle amnesty and parole, identify individuals who should face prosecution, and determine the appropriate judicial format through mixed chambers or an international criminal tribunal, especially given the involvement of foreign actors in the DRC's conflicts. Additionally, truth-seeking and truth-telling initiatives can offer an opportunity to design the way forward for new state institutions.

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As said earlier, decades of corruption, brutality and institutional collapse have eroded public trust. To restore credibility and improve service delivery, and reform all state institutions, it is necessary to begin with vetting convicted and alleged perpetrators.

*Actionable and actor-specific transitional justice efforts to ensure efficient implementation*

To address and potentially eliminate the political and economic grievances described above, key stakeholders must act urgently.

The central government should:

- Draft and adopt a clear, actionable national policy for a holistic transitional justice process;
- Develop a national strategy for enforcing this policy;
- Integrate transitional justice principles into peace talks and negotiations;
- Address and then reduce budgetary imbalances to have enough money available to fund reforms; and
- Prioritise strong institutional reforms to encourage guarantees of non-recurrence.

Civil society should:

- Sensitise people on transitional justice matters to strengthen the demand;
- Train grassroots actors in transitional justice issues; and
- Intensify campaigns that promote transitional justice at the grassroots and community level.

Technical and financial partners of the DRC should:

- Mainstream transitional justice in development programming;
- Support civil society and community-based organisations in promoting transitional justice at the grassroots level;
- Fund academic research that informs transitional justice efforts; and
- Build institutions that guarantee non-recurrence.

## Existing and potential challenges and opportunities for implementing transitional justice interventions

### *Existing challenges*

The DRC faces persistent and emerging challenges that hinder the implementation of a holistic transitional justice framework. The most critical challenges are the following:

- Poor governance, which continues to jeopardise any hope for meaningful transitional justice interventions;
- Efforts to revise or extend constitutional term limits threaten democratic principles and governance;
- The failure to organise transparent and credible electoral processes, which fuels insecurity and empowers political opportunists;
- The lack of judicial and security services reforms; and
- Limited state presence and authority across the country.

### *Opportunities for implementing transitional justice*

Despite these challenges, several opportunities exist to support the development of transitional justice mechanisms in the DRC:

- The adoption of a new reparations law aimed at supporting victims of past violence;
- The designation of public institutions, including FONAREV, CIA-VAR and FRIVAO, to be responsible for victims' care and support; and
- Widespread public support for transitional justice, as expressed during consultations conducted by the GDRC.

## CONCLUSION

Transitional justice offers a framework for addressing historical grievances and fostering national reconciliation. The DRC must actively implement comprehensive and fortified transitional justice mechanisms and processes to rebuild and reclaim its status as a modern, stable state. The government can establish a foundation for long-term stability, greater respect for human rights, and improved basic service delivery. The recommended actions outlined in this policy paper provide a path toward reshaping and promoting the rule of law in this nation.

## **AUTHOR BIOGRAPHY**

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Prof. Adolphe Kilomba Sumaili was awarded a doctorate in laws from the *Vrije Universiteit Brussel* (VUB) in Brussels in March 2016 after gaining a masters degree in international law and the settlement of disputes from the UN Mandated University for Peace (UPEACE) in Costa Rica in 2011, and a *licence en droit* at the *Université Catholique de Bukavu* (UCB) in 2006. He is currently full Professor of international law, human rights and transitional justice in the law faculties of various Congolese universities, including *Institut Supérieur des Techniques Médicales de Bukavu* (ISTM-Bukavu). Founder of his own law firm, Professor Kilomba has been a certified lawyer at the Bar of Bukavu/DRC since 2009. He currently chairs the Congolese Centre for Transitional Justice and Human Security ([www.ccjt-sh.com](http://www.ccjt-sh.com)), and he is also Editor-at-Large at the Congolese Review of Transitional Justice. He speaks French and English in addition to his native Swahili and Lingala.



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The Centre for the Study of Violence and Reconciliation is an independent non-governmental organisation established in South Africa in 1989. We are a multidisciplinary institute that seeks to understand and prevent violence, heal its effects, and build sustainable peace at the community, national, and regional levels. Through our research, advocacy and psychosocial support work, and in collaboration with communities affected by violence, we seek to enhance state accountability, promote gender equality and build social cohesion, integration and active citizenship.

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