

STATE–BUILDING, CITIZENSHIP AND THE *BANYARWANDA* QUESTION IN THE DEMOCRATIC REPUBLIC OF CONGO¹⁾

Sadiki Koko
Department of Politics
University of Johannesburg, South Africa

Abstract

Since achieving independence in June 1960, the Democratic Republic of Congo (DRC) has been grappling with the question of the citizenship of *Kinyarwanda* and *Kirundi*-speaking populations settled on its territory at different historical periods, herein referred to as the *Banyarwanda*. While there is evidence of the presence of some *Banyarwanda* communities on current Congolese territory prior to the advent of Belgian colonisation in the area, the majority of the *Banyarwanda* currently living in the DRC are descendants of those brought into the country through colonial immigration and labour recruitment processes, political exile and refuge as well as clandestine migration. Using a historical perspective, this article analyses the manner in which the question of the citizenship of the *Banyarwanda* has been handled in the DRC since the establishment of the Congo Free State in 1885. The article locates the roots of the problem in the poorly designed colonial policies surrounding the relocation of these populations to the Kivu region. However, the article acknowledges that the sole shortcomings on the part of colonial authorities would have never had the current consequences if it was not for the inconsistencies of the different post-colonial governments that have ruled over the DRC. Instead of resolving the citizenship question in an effective and sustainable manner, all these governments have based their respective responses to the issue on short-term political expediencies as dictated by the balance of forces within the country, the

Kivu area and the Great Lakes region at a particular juncture.

1. Introduction: State-Building, Citizenship and the Case of the Democratic Republic of Congo

... in order to get a better understanding of the present DRC conflict, the issue of citizenship needs some specific attention. The citizenship issue has to be understood as one of the main challenges of future peace efforts (Vlassenroot 2002:501).

German Sociologist Max Weber (cited by Kabemba 2011: 23) defines the state as "a corporate group that has compulsory jurisdiction, exercises continuous organisation, and claims a monopoly of force over a territory and its population...". In this regard, the state represents the societal framework that, within any society, supercedes all other societal organisations to which it can never be reduced. It "focuses on the need for the depersonalization of the exercise of power" (Young and Turner 1985: 12) while its *raison d'être* consists of providing citizens with public goods, including security and order, health services, socio-economic opportunities, an equitable judicial system and infrastructure facilities such as roads and other means of communication.²⁾

Inasmuch as societies are diverse around the world, so have there been different processes of state formation. Whereas state-building in Europe, for instance, was "associated with the pressures of war-making, the need to obtain greater tax returns and the emergence of a broad class of 'citizens' demanding institutions that act in the public interest" (OECD 2011), the state in much of Africa is a direct product of European colonisation on the African continent as precipitated by the 1884-1885 Berlin Conference. The external nature of the African state meant that the real process of state-building throughout the continent could only take off after the advent of independence.

According to the Organisation for Economic Co-operation and Development (OECD) (2008: 13-14), state-building is a "purposeful action to develop the capacity, institutions and legitimacy of the state in relation to an effective political process for negotiating the mutual

demands between state and societal groups". It can be equated to state formation, which can be understood as "the dynamic, historically informed, often contingent process by which states emerge in relation to societies" (OECD 2008: 13). In other words, state-building is the process through which the overarching management body of a society establishes and entrenches the necessary institutions designed to ensure its exclusive control over the community and enable it to deliver collective goods expected by all members of the group. In this regard, state-building is different from nation-building in spite of the observed trend, especially among American scholars and policy makers, to use the two interchangeably. Nation-building refers to a set of strategies, generally imagined by the elite in society, aimed at forging a sense of common (national) identity among people carrying different linguistic, racial, ethnic and other characteristics. If anything, nation-building helps to 'homogenise' the population of a state, resulting in a shared feeling of equal citizenship belonging.

Citizenship is the relation of an individual to a state as forming part of it or being one of its members. However, more than just belonging, citizenship connotes the rights and obligations derived from the act of belonging to the state. Citizenship is therefore about a state, meaning that the state constitutes a necessary condition for the existence of citizenship rights and obligations (William 2004: 49). Insofar as Africa is concerned, it ought to be noted that citizenship rights emerged with the advent of independence since colonial administrations were not empowered in international law to bestow citizenship status upon the colonised over whom they ruled. Meanwhile, post-colonial experience in Africa regarding the issue of citizenship attests to the fact that citizenship laws are relatively restrictive while national citizenship in much of the continent remains grounded on ethnicity and directly linked to one's attachment to the soil of the ancestors or the homeland (Young 2007: 256; Nzongola-Ntalaja 2007: 71). Furthermore, due to its dominant ethnic dimension (a clear legacy of colonialism), citizenship in most African countries is perceived as a community right, the African individual deriving his/her citizenship status through his/her membership to the ethnic group. Moreover, to a very large extent, practices surrounding the question of citizenship (including the crafting of citizenship laws) in many African countries remain strongly influenced by individual countries colonial heritage, rather than by their particular circum-

stances (Herbst 2000: 243-244). Lastly, citizenship in Africa also continues to be characterised by the doubts expressed by some governments regarding the validity of the national origins of some of their citizens, even if settled in the country before independence (Chabal 2009: 98).

As will become clear in later discussions, the practice of citizenship in the Democratic Republic of the Congo (DRC) follows on the 'African model' described above. It continues to perpetuate the distinction between 'ethnic citizenship' (reserved to those with ancestral claim on the land) and 'civic citizenship' (the one linking all inhabitants of the state to the latter) (Mamdani 1996) as was already the case under Belgian colonial rule. Citizenship remains grounded on ethnicity and, for a long time, this has contributed to creating confusion around the citizenship right of people of Rwandan and Burundian descent.

Like the vast majority of its counterparts on the continent, the Congolese state is a product of colonisation that lasted for 75 years, embracing the forms of a private estate of Belgian King Leopold II (1885-1908) and formal Belgian colony (1908-1960). At independence, on 30 June 1960, the country found itself confronted with the necessity to redirect the premises of its state-building process from the racially-charged colonial violence toward the embrace of popular legitimacy. Concomitantly, independence also brought about the urgent need for the clarification of the question of citizenship, a crucial step toward fast-tracking the process of nation-building in the country. This question was mainly relevant with regard to populations of Rwandan and Burundian heritage due to the fact that their fast-growing number in the Belgian colony had already triggered frictions among 'local' populations and that Congo's independence coincided with social revolts in Rwanda and the subsequent arrival of Rwandan refugees in the country. In this regard, it ought to be recalled that Belgian colonisation brought into Congo a number of territorial enclaves inhabited by *Kinyarwanda*-speaking populations, including Bwisha, Gishari, Jomba, Kamuronza and the Idjwi Island currently located in the Kivu region. Furthermore, as a direct consequence of Belgium's take-over of Burundi and Rwanda following Germany's defeat in World War I, Belgian colonial authorities moved a large number of populations from its new League of Nations mandate of 'Rwanda-Urundi' into Congo through massive relocation on humanitarian and labour recruitment necessities while overlooking 'clandestine' population

movements from the former to the latter.

One of the long-term implications of the Belgian policies on the migration of *Kinyarwanda* and *Kirundi*-speaking populations toward Congo has been the complication of the question of their citizenship in post-colonial DRC. Yet, it ought to be added that the sole shortcomings on the part of colonial authorities in this area would have never had the current consequences if it was not for the inconsistencies of the different regimes that have ruled over the DRC since the country's independence. Instead of resolving the citizenship question in an effective and sustainable manner, all these regimes have based their respective responses to the issue on short-term political expediencies (Jackson 2007: 482) as dictated by the balance of forces within the country, the Kivu area and the Great Lakes region at a given time. The consequence of this short-sighted approach has been the postponement or, at best, the continuous containment of the crisis instead of a definitive resolution, let alone transformation.

Research has demonstrated that the Congolese state has gone through a winding path of rise and decline with regard to its building process (Young and Turner 1985). The colonial take-over of October 1908 inaugurated a long period of the rise in state capacity. This trend prevailed until the mid-1950s when rising demands for public participation from indigenous people sparked a process of destabilisation. Independence thus occurred amidst a context of decline with regard to the capacity of the Congolese state. Rather than curtailing this trend, independence further pushed the state to the brink of implosion as symbolised by the Katanga and South Kasai secession attempts as well as the *Lumumbist* rebellions of the early 1960s. The second phase of the rise of the Congolese state was inaugurated by the 1965 military *coup* led by General Mobutu, a trend that persisted until 1974 when the ill-advised nationalisation policies of the 'New Regime' triggered a new phase of state decline. This process of decline is yet to be totally reversed in spite of ongoing efforts by international and national stakeholders to work toward reaffirming the state since the conclusion of the 2002 Inter-Congolese Dialogue (ICD) in South Africa.

It ought to be noted that as much as the state-building process in the DRC has gone through a winding path of rise and decline, so have tensions relating to the question of citizenship varied in intensity according to the (perceived and/or real) capacity of the state. In this

regard, the most protracted inter-community confrontations over the issue of autochthony and citizenship in Kivu have taken place within the context of the near-collapse of the Congolese state as symbolised by the *Lumumbist* rebellions in mid-1960s (War of *Kanyarwanda*) and the 1990s transitional process and thereafter (Masisi Wars, First Congo War, Second Congo War). This is a clear indication that, notwithstanding the inadequacies surrounding Congolese citizenship laws, state failure provides the ground for citizenship-related tensions to turn into violent inter-community confrontations and wars.

This article discusses the question of the citizenship of the *Kinyarwanda* and *Kirundi*-speaking populations of eastern DRC, herein referred to as the *Banyarwanda*. The article is both historical and analytical. Through a chronological approach going as far back as 1885 (the year of the establishment of the Congo Free State [CFS], prelude to the Congolese 'modern' state), the article analyses the extent to which the inconsistencies on the part of the different regimes that have ruled over the DRC with regard to the management of the *Banyarwanda* question have contributed toward turning the latter into a major stumbling block to peaceful social co-existence and even a permanent threat to human and state security in the country. The next section of the article seeks to define the *Banyarwanda* before locating them on the Congolese politico-administrative landscape.

2. *Banyarwanda*: Definition and Location on the Congolese Politico-Administrative Landscape

Etymologically, the concept *Banyarwanda* (singular *Munyarwanda*) means 'Rwandans', 'Rwanda nationals' or 'people from Rwanda'. However, in the context of this article, the term *Banyarwanda* refers to *Kinyarwanda* and *Kirundi*-speaking populations established on the Congolese territory in different historical periods. Some of them were incorporated into the DRC at the time of the delineation of the territory of Belgian Congo in 1910. Others were brought into Congo by Belgian colonial authorities in their effort to curb overpopulation in Rwanda and address the shortage of manpower in Congo's agricultural, mineral and infrastructure construction sectors. Others came to the country on their own volition as 'clandestine' migrants during the colonial period

as well as since Congo achieved independence in 1960. A last group is made up of different generations of refugees escaping recurring state-sponsored repression and violence in post-colonial Rwanda and Burundi.

The reasons for this expansive definition, in spite of the obvious distinction between the two communities, are three-fold. Firstly, the process of the incorporation of both *Banyarwanda* and *Barundi* into the DRC, as described above, followed the same four-pronged model including the original incorporation in 1910, relocation for humanitarian and labour necessities, 'clandestine' migration during and after colonisation as well as the refuge process. Secondly, throughout the historical evolution of the Congolese state, the question of their right to Congolese citizenship has been contentious in the same fashion. For instance, all Congolese laws regarding their citizenship have defined them as two inseparable groups. Thirdly, the spreading anti-*Banyarwanda* sentiment in Congo in general and in Kivu in particular has to a large extent targeted members of both communities.

There are two major *Banyarwanda* communities in the DRC, located in the South Kivu and North Kivu provinces respectively. In South Kivu, the *Banyarwanda* are found in the Territories³⁾ of Fizi, Mwenga, Uvira and Idjwi. The *Banyarwanda* found in Idjwi are predominantly *Tutsi*. They live side by side with *Bashi* and *Bahavu* (who are themselves regarded as a sub-group within the *Bashi* ethnic group). As stated earlier, Idjwi (681 square kilometres) was one of the *Banyarwanda*-inhabited areas incorporated into the Belgian colonial possession during the 1910 territorial demarcation between Germans and Belgians. The vast majority of the *Banyarwanda* found in Fizi and Mwenga are equally *Tutsi* and are generally referred to as the *Banyamulenge* and the presence of their core group in the region predates Belgian colonisation in Congo. This group extends further south in the territory of Uvira. In Fizi, Mwenga and Uvira, the *Banyamulenge* constitute a minority group to the *Babembe*, *Balega* and *Bifulero* (and *Bavira*) respectively (Turner 2007: 81). To a very large extent, the *Banyamulenge* are regarded by other South Kivu-based Congolese ethnic groups as Congolese citizens.⁴⁾ Hence, the general tendency by all other *Banyarwanda* — especially the North Kivu *Tutsi*, some of whom are descendants of the 1959 Rwandan refugees and post-colonial clandestine migrants — to identify themselves as the *Banyamulenge*. This confusion is further worsened by

some media reporting and academic writings that tend to use the words *Banyamulenge* and *Banyarwanda* interchangeably. Lastly, there is a *Banyarwanda* community in one of the three counties (*Collectivités*) making up the Uvira territory, namely *Plaine de la Ruzizi* (644 square kilometres). In contrast to their counterparts above, the vast majority of these *Banyarwanda* are *Hutu* (Ministère du Plan 2005b: 17) and their core group traces its origin to Burundi. Hence, they are generally referred to as *Barundi*. Because the other two *Collectivités* (*Bifulero* and *Bavira*) in the Uvira territory are referred to by the names of the dominant ethnic groups inhabiting them, there is a tendency, especially among the *Hutu* themselves, to refer to the *Plaine de la Ruzizi* as the *Collectivité* of *Bahutu*.

Just like their South Kivu counterparts, the North Kivu *Banyarwanda* are not homogenous with regard to their settlement in the region. Some, in Rutshuru, settled in Congo prior to Belgian colonisation; others (mainly in Masisi and Rutshuru) were brought to the region by Belgian colonial authorities through their immigration and labour policies; still others (mainly around Goma) came to the region as refugees on the eve and in the aftermath of Rwanda's independence in 1962. To this latter group should be added the post-1970s refugees and other post-colonial clandestine migrants (Willame 1997: 61). In North Kivu, the *Banyarwanda* are thus mainly found in Rutshuru, Masisi and Nyiragongo territories as well as in the city of Goma and its surroundings. In contrast to the South Kivu *Banyarwanda* — who do not constitute a dominant demographic group in the province (compared for example to the *Bashi*, *Balega* and *Bifulero*), the North Kivu *Banyarwanda* are a very large community, the second largest in the province behind the *Banande*. In both Rutshuru and Masisi, they are by far the most dominant demographic group. Another important feature of this group is the importance of the refugee category in its midst. In fact, since the Rwandan revolution of 1959-1962, the majority of Rwandan (*Tutsi*) refugees crossing into Congo have flocked toward North Kivu. This explains the observed fast growth of the *Banyarwanda* population in the region throughout the years and the resulting inter-community tensions.

Beside the two major *Banyarwanda* communities mentioned above, there is a very small community of the *Banyarwanda* in North Katanga around the areas of Moba and Kamina. They are called *Banyavyura*, possibly a misspelling of *Banyauvira* (meaning people

from Uvira) (Willame 1997: 83). They were moved to the region by Belgian authorities to work in the construction and mining industries. Since the First Congo War (1996-1997), there has been an ongoing migration of the *Banyavyura* population from North Katanga towards the Ruzizi Plain in South Kivu. The migration was initially encouraged by the Rwandan government during the First Congo War in its attempt to unite the *Banyamulenge* and the *Banyavyura* so as to push the claim for an autonomous administrative territory for this community. But the migration later became a strategy for the *Banyavyura* to escape the mounting hostility directed against them at a time when relations between the *Balubakat* (*Luba* of Katanga) and the *Tutsi* reached a breaking point during Laurent-Désiré Kabila's presidency.

The exact number of the total *Banyarwanda* population in the DRC is difficult to tell, just as is the case with the number of members of all other ethnic groups making up the country. This is simply due to the fact that no population census has been carried out in the DRC since 1984. As a consequence, there are vast disparities among sources with regard to estimating the total number of the *Banyarwanda*. For instance, the Universal World Atlas (cited by Gachuruzi 1999: 59) puts the total number of the *Banyarwanda* in the DRC in 1994 at 4 000 000. Such an estimate raises serious questions of reliability as it represents over 70 per cent of the combined population of the Kivu provinces in the same year, which stood at just over 5.5 million (Ministère du Plan 2005a: 34-35; Ministère du Plan 2005b: 25-26).⁵⁾ The same applies to the total population of the *Banyamulenge*, with contrasting estimates in the year 1996 ranging from 40 000 (Willame 1997: 91; Kisangani 2012: 121) to 450 000 (Afoaku 2005: 136).

3. Belgian Colonisation in Congo and the *Banyarwanda* Question, 1885–1960

One dominant feature in the process of Africa's balkanisation, as decided upon by European powers at the Berlin Conference, was the total neglect of local realities in the delineation of what would become European colonial territories in Africa. As a consequence, several identical African populations found themselves cut across two or several distinct territories, on the one hand, while some pre-

colonial integrated political entities (kingdoms, empire) were 'chopped' and attributed to different colonial administrations, on the other hand.

With regard to the *Banyarwanda*, it has already been argued that colonial territorial delineation brought into Belgian Congo *Banyarwanda*-populated areas such as Jomba, Bwisha, Kamuronza, Gishari and the Idjwi Island, which did not depend politically on the ancient Rwandan Kingdom and were not under Rwandan domination in any sense (Turner 2007: 108-109; Newbury cited by Willame 1997: 97). Bwisha and Gishari currently form part of the Congolese North Kivu territories of Rutshuru and Masisi respectively. This demarcation took place in 1910 when Belgian and German colonial authorities signed a convention in Brussels, specifying their respective African possessions in the Great Lakes. But more interesting was the case of the *Banyamulenge*. They did not settle on a specifically *Banyarwanda*-populated territory prior to the 1910 convention. Instead, they initially settled in the Ruzizi Plain in the late 19th century, and then moved to Lemera before finally establishing themselves on the *Babembe*-dominated territory of Fizi, on the heights of Itombwe plateaux in 1924 (Vlassenroot 2002: 502). Since their first establishment in the region predated the 1910 convention, they identified with the Belgian colonisation in Congo, rather than the German (and later on Belgian) order in their 'native' Rwanda (Chajmowicz 1996: 115).

However, the description above should not overshadow the ongoing disagreements among specialists with regard to the settlement of the *Banyarwanda* in eastern DRC as well as the pre-colonial status of a number of territories in which they lived (Gachuruzi 1999: 52; Kisangani 2012: 170). Long before the creation of the Congo Free State (CFS), Vlassenroot and Huggins (2005: 128) argue, significant numbers of *Kinyarwanda*-speaking people, including those currently known as the *Banyamulenge*, inhabited the highlands of both North Kivu and South Kivu. Yet, the two authors are quick to concede that "it is difficult to find credible evidence of the first arrival of immigrants of Rwandan descent in the Kivus...".

After Germany lost World War I, its African possessions of Burundi and Rwanda were allocated to the Belgians as mandates from the League of Nations and, later on, trustees of the United Nations (UN). It is during this period that the first massive movements of Rwandan and to a lesser extent Burundian populations toward Belgian Congo occurred through three processes, namely the *Mission d'Immigration*

des Banyarwanda (MIB), labour recruitment and political refuge (Pabanel 1991). However, in addition to these three processes, private movements were also undertaken due to, amongst others, the porosity and artificiality of borders, the common demographic characteristics and historical links among communities. Furthermore, the nature of colonial territories, especially after 1925 when Rwanda and Burundi became the 'Territory of Ruanda-Urundi' and were attached to Congo to form the 'Territory of Congo and Ruanda-Urundi' with a unified administration, a unified army and a single central bank, also contributed to the free movement of people from Rwanda and Burundi to the more prosperous Belgian Congo.

The MIB was established in 1937; its mission was two-pronged, namely to alleviate demographic pressure (which had already led to food crises and famine) in Rwanda and to provide Belgian planters in Kivu and mining companies in Katanga with a cheap labour force (Willame 1997: 41; Pabanel 1991: 33). In order to ensure both transparency and fairness, the involvement of the hosting community was considered imperative. It is in this context that a formal *acte de cession*⁶⁾ was duly signed between colonial authorities and the *Hunde* chief Kalinda. The latter *agreed* to cede 350 square kilometres of land in exchange of FB29 600⁷⁾ paid in reparation (Pabanel 1991: 33; Kisangani 2012: 173). The occupation of the 'availed' territory by Rwandan immigrants occurred in three phases: between 1937 and 1949 when a few Rwandan families moved to Gishari; between 1949 and 1953, coinciding with widespread famine in Rwanda and leading to the relocation of nearly 6 000 Rwandan families to Gishari; and between 1953 and 1959 with increasingly higher numbers of Rwandan families migrating to Congo, resulting into the overcrossing of the initially delineated areas as newcomers pushed toward Washali-Mokoto within *Hunde* territory (Pabanel 1991: 33).

Pabanel (1991: 34) observes that further implementation of the MIB started to raise problems mainly due to already high densities among native populations in Kivu as well as the fact that the newcomers not only brought along their own social structures, but were also engaged into 'land conquest' to the detriment of the natives. Opposition from natives to the continued relocation of the *Banyarwanda* was further justified by the ever-increasing number of the latter. By 1959, Lemarchand (2009: 14; 209) notes, the *Banyarwanda* were 10 times as numerous as the indigenous population in Rutshuru; in

Masisi, they represented nearly two thirds of the population. In total, 184 089 *Hutu* and 52 233 *Tutsi* were reported to be permanently settled in Kivu (mainly in Masisi and Rutshuru), making the *Banyarwanda* the third largest group in the Kivu province after the *Banande* (390 704) and the *Bashi* (382 572). A report by the Congolese national Ministry of Planning (2005a: 32) asserts that from an initial 60 000 as the total number of Rwandans to be relocated to Congo through the MIB process, by 1955 there were at least 170 000 Rwandans established in the Kivu region. To the 'official' migrants, Kraler (cited by Turner 2007: 113) adds "many more [who] may have come on their own accord, joining resettled relatives, friends and neighbours".

In addition to the MIB policy, the collective relocation of Rwandan populations toward Congo by Belgian authorities took the form of labour recruitment. It was designed to compensate for the shortage of manpower in the fledgling mining, transport and agricultural sectors. In order to achieve this goal, colonial authorities decided to establish in both Rwanda and Burundi (both faced with excessive populations) liaison offices tasked with recruiting potential workers for the farming and mineral zones in Kivu and Katanga. Pabanel (1991: 33) estimates the total number of people to have been moved through this process at 80 000.

However, the problem was that this humanitarian-inspired and economy-driven relocation of the *Banyarwanda* took place in the context of a relative legal uncertainty regarding the question of citizenship since in international law, the Congolese nationality and the Congolese as far as they represented the nationality of a state had disappeared with the Congo Free State (CFS) in 1908 (Van der Kerken cited by Nguya-Ndila 2000: 293). In fact, under the CFS, Congolese citizenship was regulated by the decrees of 27 December 1892 and 21 June 1904 (Nguya-Ndila 2000: 290). Both legislations granted citizenship status to all indigenous Congolese as long as they continued to reside the territory of the State and submitted themselves to the laws of the latter (Ndeshyo 1992). Furthermore, every individual leaving the territory of the State, with no intention to return, had to officially notify the general governor. Failing to do so meant that the individual was still confined to the legal obligations of the Congolese subject (Nguya-Ndila 2000: 292).

However, the advent of formal colonial rule on 18 October 1908 meant that the two decrees above lost any legal value. Whereas the

legal implication of Belgian colonisation onto Congo — if only based on the strict application of the traditional rule in international law on the matter of succession of states (Nguya-Ndila 2000: 293) — would have consisted of granting all Congolese Belgian citizenship, the latter "were in reality mere subjects who did not enjoy basic rights related to their national status" (Lutula cited by Tshiyoyo 2002: 37). This sentiment is echoed by Verstraete (cited by Lambert 1998) as he argues that there could be no Congolese citizens in Belgian Congo inasmuch as the territory in which they lived did not enjoy a state status. Instead, they were regarded as 'Belgian subjects' or 'Belgians of colonial status'. In similar vein, a ruling by the court of Liège (Belgium) on 23 January 1923 stated that indigenous Congolese had acquired Belgian nationality, without necessarily becoming Belgian citizens (Ndeshyo 1992). Nevertheless, one notable observation is that despite the disappearance in legal terms of Congolese citizenship through the advent of Belgian colonisation, "the expression of Congolese nationality [had] been preserved in texts, which regulated the Belgian nationality with colonial status" (Nguya-Ndila 2000: 293). For instance, Section 4 of the colonial Charter (which served as the constitution of Belgian Congo) classified, in terms of legal statuses, the residents of Congo into three categories, namely Belgians, Congolese registered in the Colonies and foreigners enjoying all the civil rights recognised by the legislation of Belgian Congo (Nguya-Ndila 2000: 293).

The case of Rwanda and Burundi was made more complex following the resolution of the Council of the League of Nations dated 22 April 1923 that forbade the mandatory powers (in this case Belgium) to expand their nationalities to the inhabitants of the territories under mandate, notably through naturalisation *en bloc* (Nguya-Ndila 2000: 297). In this context, the extension of Belgian colonial power to Rwanda and Burundi simply meant that natives of Rwanda and Burundi had joined their Congolese counterparts in becoming Belgian subjects or Belgians of colonial status.

Notwithstanding the contradictory legal interpretations that seek to provide the best explanation on the implications of the historical settlement of the *Banyarwanda* on the DRC territory and its significance for their right to Congolese citizenship, it ought to be noted that "[t]he Belgians pursued an incoherent policy towards the Kinyarwanda-speaking Tutsi pastoralists of Uvira and Fizi, the people who later

would call themselves Banyamulenge. For decades, they ignored their presence, or considered them to be foreigners" (Turner 2007: 80). It is possible that this line of thinking adopted by the colonial administration ended up being shared by missionaries and other European academics researching on African anthropology and ethnology in the early years of colonisation. For instance, "Father van Bulck indicated no presence of Kinyarwanda-speakers in South Kivu in his *Carte linguistique du Congo belge* of 1954" (Turner 2007: 78). However, in spite of the ambiguities indicated above, in November 1959, the Belgian parliament adopted Ordinance No 25/554 stating that people originally from Rwanda and Burundi that had settled in the Belgian Congo before 1949 were eligible and entitled to take part in the local elections (Kalala cited by Tshiyoyo 2002: 37). This point is further discussed in the next section.

4. The First Republic, 1960–1965: The Banyarwanda Question as a Peripheral Issue

Congo gained independence on 30 June 1960 amidst a disturbing lack of adequate preparation (Young 1986: 120). As a result, the country slid into political instability merely four days after the independence ceremonies. From a regional perspective, Congo's independence coincided with a period of national turmoil in Rwanda starting in 1959 with what is known as the '*Hutu* Revolution' or 'Social Revolution' that not only succeeded in overthrowing the Rwandan *Tutsi*-dominated monarchy in 1959 but also paved the way for Rwanda to achieve independence in July 1962 as a Republic.

The Rwandan 'decolonisation crisis' was thus to 'offer' Congo its third major wave of Rwandan migration (after the colonial era MIB and labour recruitment). Two main factors distinguished members of this wave from their predecessors. Firstly, virtually all of them were *Tutsi* as opposed to the previous waves that included both *Hutu* and *Tutsi*, with the former making up the majority of the group. Secondly, although they entered Congo as political exiles and refugees and they were, to a very large extent, identified as such by the United Nations High Commissioner for Refugees (UNHCR) and even accommodated in refugees' camps in Masisi, Walikale and Kalehe, the num-

ber of those who still identified themselves as refugees continued to shrink as a result of their 'integration' in the Kivu society. Ultimately, the refugees embarked on a process of total 'disappearance' starting in 1967 when the newly established Mobutu regime decided to close off all the refugees' camps so as to conform with the prevailing pan-Africanist view on the refugee issue in a year when the DRC prepared to host the summit of the Heads of State and Government of the Organisation of African Unity (OAU) (Willame 1997: 46). The UNHCR (cited by Willame 1997: 46) estimates the official number of Rwandans (*Tutsi*) having crossed into the DRC to seek asylum to stand between 50 000 and 60 000 for the period 1959-1961, with the vast majority of them settling permanently in Congo.

The presence of a large Rwandophone community made it easier for these refugees to "melt-in", especially since Hutu-Tutsi tensions were not as great as they would become later on. A series of changes in the law on nationality ... and the laxity of the administrators charged with enforcing the law, made it relatively easy for refugees having arrived after 1959 to gain Congolese citizenship (Turner 2007: 114).

As stated earlier, Congo's decolonisation process was ill-prepared. Neither were Belgians willing to depart from the colony, nor were Congolese ready to manage effectively the state. Yet, mutual distrust among them meant that they both feared the risks of delaying independence. One consequence of this lack of preparation was that Congo's independence constitution, the so-called *Loi Fondamentale du 19 mai 1960 relative aux structures du Congo* (hereafter Fundamental Law), was written by the Belgian parliament while Congolese politicians prepared for independence (May 1960) elections.

Surprisingly, the Fundamental Law did not clarify adequately the issue of citizenship in the future independent Congo, a point clearly highlighted by Vlassenroot and Huggins (2005: 130) as they write, "[e]ven during the Round Table Conference prior to the hand-over of power from the colonialists to the Congolese, the status of the Banyarwanda remained undecided". It is difficult to find a comprehensive and convincing explanation to this legal shortcoming on the part of the Belgians, especially taking into consideration the fact that their own MIB and labour recruitment policies had brought into Congo 'individuals' whose status needed clarification at the momen-

tous time of independence.

But, in the spirit of Belgian legislators, the post-independence Congolese state was bound to assume the legacy of its colonial predecessor. In its Article 2, the Fundamental Law provided that the different (colonial) laws, decrees and legislative ordinances, their implementation measures, as well as all other regulatory provisions existing until the date of 30 June 1960 should remain in place for as long as they were not explicitly abrogated. With regard to the issue of citizenship, it is interesting to note that Resolution No 2 of the political Round Table of February 1960 (relating to the organisation of the future state of Congo) stated that the independent state of Congo would emerge within the confines of the borders of the Belgian Congo territory and its *inhabitants* would have, on the conditions to be specified by law, the same nationality (Nguya-Ndila 2000: 297-298). But the question arises: to whom did the category 'inhabitants' apply?

Furthermore, building on Ordinance No 25/554 of November 1959 mentioned earlier, Resolution No 11 of the Brussels Round Table emphasised that voting rights were granted to Congolese, to males of Congolese mothers and to nationals of Ruanda-Urundi residing in Congo for the last ten years (Ndeshyo 1992). The same reasoning applied later when the Belgian parliament issued the electoral law of 23 March 1960. It stated that people from Rwanda-Urundi who had resided in Congo for at least 10 years were allowed to vote (Ndaywel 1998: 701; Willame 1997: 46). Ndeshyo (1992) further notes that among all Africans, including those from neighbouring countries, only people from Ruanda-Urundi were eligible to vote, implying that they enjoyed civil and political rights.

The implication of the electoral process discussed above was that Rwandan and Burundian migrants settled in Congo before 1950 "were for all practical purposes citizens of the Congo [though] legally their citizenship status remained uncertain" (Nzongola-Ntalaja 2007: 73). The uncertainty of the legal status of Rwandan and Burundian migrants is also highlighted by Nguya-Ndila (2000: 298) as he argues that "[i]t is suitable to note [...] that the right of vote granted to the immigrants in 1960 was not followed by a recognition of nationality in their favour". This becomes more obvious when considering Article 255 of the Fundamental Law which states that unless determined otherwise, the electoral law of 23 March 1960 will regulate any other legislative or provincial election organised *before the adoption of the*

country's final constitution.

Beyond mere legal interpretations, it should be acknowledged that some *Banyarwanda* participated in both the Political and Economic Round Table Conferences in Brussels in early 1960. Prominent among them was Anicet Kashamura, the chairperson of the *Centre de Regroupement Africain* (CEREA) party which subsequently joined Lumumba's nationalist alliance. In the May 1960 elections, the CEREA emerged as the largest political party in Kivu. It also won 10 of the 137 seats in the National Assembly, a score that placed it as the country's fifth largest political party (Kadima 2002: 80). CEREA's alliance with Lumumba paved the way for Kashamura (a *Tutsi* from Idjwi Island) and Marcel Bisukiro (a *Hutu* from Rutshuru) to be appointed Information Minister and International Trade Minister respectively in Lumumba's short-lived cabinet (June – September 1960) (Kanza 1972:107).

As argued earlier, the granting of voting rights to Rwandan and Burundian immigrants in Congo rested on transitional or provisional grounds since the Fundamental Law provided in its Article 3 that its provisions would only remain in place until a national constitution and its related institutions would have been set up. In this context, the Constitution of Luluabourg (Kananga) of August 1964 became the first Congolese-crafted legislation dealing with the issue of Congolese citizenship.

The Luluabourg constitution provided that Congolese citizenship could only be granted to individuals whose parents (one or both) were members of one of the ethnic groups established on Congolese territory by 18 October 1908. As a consequence, all *Banyarwanda* transplanted to Congo through the MIB and labour recruitment policies as well as all the post-1959 refugees could not qualify for Congolese citizenship (Willame 1997: 46). However, as a group, the *Banyamulenge* could claim Congolese citizenship according to the 1964 constitution since their settlement on the heights of Itombwe plateaux predates 1908. The same applied to the *Banyarwanda* located in Idjwi Island whose incorporation in the Belgian Congo was not a result of any migration.

A careful reading of the Luluabourg Constitution helps reveal a lack of clarity and logic. Firstly, in spite of granting citizenship on the date of independence (30 June 1960), when Congo actually became a state, it sends the point of origin to qualify for citizenship to October

1908, at the beginning of colonisation (notwithstanding the fact that, as discussed earlier, Congolese citizenship could not operate under the colonial dispensation). Secondly and more importantly, the Luluabourg Constitution attaches Congolese citizenship to ethnic belonging. The implication of this logic would be that since there were *Kinyarwanda* and *Kirundi*-speaking people (both *Hutu* and *Tutsi*) in Congo prior to October 1908, as attested by the case of the *Banyamulenge*, all transplanted, labour migrants, clandestine migrants as well as political refugees could claim Congolese citizenship since they all belonged to the same ethnic group. And this argument can even be further expanded to mean that all immigrants from other neighbouring countries who found themselves on Congolese territory on independence day — for as long as they could prove to share ethnic identity with their counterparts living in Congo — could claim Congolese citizenship (Ndeshyo 1992).

The Luluabourg Constitution was short-lived due to the 24 November 1965 *coup d'état* by the Congolese army led by Lieutenant-General Mobutu who subsequently installed himself as the country's new president. The *coup* signalled the end of the First Republic and the beginning of the Second Republic.

5. The Second Republic, 1965–1990: The 'Nationalisation' of the *Banyarwanda* Question

According to Ndaywel (1998:700), the Mobutu regime displayed a disturbing openness toward Rwandan and Burundian immigration within the solidarity framework of the former Belgian Africa. However, one specific 'innovation' under the Second Republic, as far as the management of the citizenship of the *Banyarwanda* is concerned, was the direct involvement of the latter in the political and legal processes regarding the granting of citizenship.

As a starting point, it should be recalled that the major trend of the movement of the *Banyarwanda* toward Congo between 1965 and 1990 took the form of 'clandestine migrations' (beside the refugee waves of 1972 and 1973). Four main factors facilitated these clandestine movements, namely the permeability of borders separating Burundi, Rwanda and Congo; land hunger in Burundi and Rwanda;

fear of 'ethnic' repression (as was the case for instance in and after the 1972 and 1973 military takeovers in Burundi and Rwanda respectively) and 'family reunification' as Burundian and Rwandan families with relatives already established in Congo sought to join the latter. Yet, very often, these clandestine migrants and refugees did not register as asylum seekers or refugees upon their arrival in Congo. Instead, they assimilated socially and established themselves as Congolese (Tshiyoyo 2002: 24; Pabanel 1991: 35).

The new constitution enacted by Mobutu in August 1967 following a countrywide referendum did not provide a detailed definition of Congolese citizenship, except stating that Congolese citizenship was unique and exclusive (it could not be held concurrently with any other citizenship) and that a specific citizenship law would clarify the conditions for the recognition, acquisition and loss of Congolese citizenship (Article 11). In May 1969, Mobutu appointed Barthélemy Bisengimana as the Director-General (or Chief of Cabinet) in the presidency, a position the latter held until February 1977. An educated electrical engineer, Bisengimana had served, during his study days, as the chairperson of Rwandan students at the University of Lovanium (currently University of Kinshasa) where he graduated in 1961. By granting massive political and economic promotions to *Rwando-phone* leaders, Ndaywel (1998:703) observes, the Mobutu regime was providing them with the opportunity to seek ways to 'save' their entire community, including illegal immigrants, an issue that would compromise further relations between *Banyarwanda* and non-*Banyarwanda* populations in the Kivu region.⁸⁾

The regime enacted three laws on citizenship, namely Ordinance-Law No 71-002 of 28 March 1971, Law No 72-002 of 5 January 1972 and Law No 81-002 of 29 June 1981. Ordinance-Law No 71-002 had a single article which provided that people of Rwandan and Burundian origins established on the territory of Congo before 30 June 1960 qualified for Congolese citizenship (Ndaywel 1998: 703). A literal reading of Ordinance-Law No 71-002 leads to the conclusion that it actually granted Congolese citizenship to all Burundian and Rwandan individuals that had been moved into the DRC through the MIB and labour recruitment programmes, but more importantly to all Rwandan political refugees (including Bisengimana himself) that had crossed into Congo in the early hours of the Rwandan Hutu Revolution. However, according to Ndeshyo (1992),

rather than granting Congolese citizenship to the *Banyarwanda* per se (since they were already citizens), the Ordinance-Law simply sought to put an end to contestations, exactions and other ill-treatments inflicted on the *Banyarwanda* by other Congolese ethnic communities in the eastern region and ill-intended politicians.

As could be expected, Ordinance-Law No 71-002 was controversial, at least as far as Congolese Kivu-based communities were concerned, and hard to implement. According to Nguya-Ndila (2000: 299), even if communities and leaders in Kivu "were to agree to acknowledge the existence of the Banyarwanda of Congolese origin, confusion would prevail between those determined Congolese by root and the immigrants from the period of European occupation and even later". But even more ironically, Ordinance-Law No 71-002 could not enable a net distinction among post-*Hutu* Revolution Rwandan migrants having entered Congo, setting apart, for example, those who arrived prior to Congo's independence from those who crossed the border thereafter. However, should the difficulty to distinguish between the *Banyarwanda* lead to the application of a 'blanket' approach consisting of either denying all of them Congolese citizenship or granting the latter to all of them?

In contrast to Ordinance-Law No 71-002 which was directly enacted by Mobutu (as he constitutionally shared legislative power with the National Assembly), Law No 72-002 of 5 January 1972 relating to Congolese citizenship was approved by the National Assembly. It placed the point of origin for people of Rwandan and Burundian origins to acquire Congolese citizenship to January 1950 (as opposed to June 1960 for Ordinance-Law No 71-002). Although Congolese citizenship was still linked to ethnicity and October 1908 was considered as the founding moment of the Congolese state and citizenship, Article 15 of Law No 72-002 stated that people of Rwandan and Burundian origins who had been established in the Kivu⁹⁾ province before 1 January 1950 and had subsequently continuously lived in the country were granted citizenship as from 30 June 1960.

Contrary to the widespread view that Law No 72-002 opened the door of Congolese citizenship to Rwandans and Burundians established in Congo, it was actually a dissimulated retreat compared to Ordinance-Law No 71-002. This sentiment is echoed by Ndeshyo (1992) as he argues that the provisions of this law were in contradiction with Ordinance-Law No 71-002 while at the same time violating

the rights of *Kinyarwanda* and *Kirundi*-speaking people established in the Congo between 1950 and 1960.

Law No 72-002 only applied to Rwandan and Burundian immigrants brought to Congo by Belgian authorities through the MIB and labour recruitment policies and other 'undocumented' individuals as long as they had established themselves in the country before January 1950. It apparently applied to nearly 300 000 individuals mainly located in Masisi and, to a lesser extent, in Rutshuru, Walikale and Goma. One category excluded by this law was, undoubtedly, the post-1959 political refugees' group (Willame 1997: 53). It is at this level that the problem arises. If Ordinance-Law No 71-002 had already incorporated all the *Banyarwanda* settled in Congo before independence to the country, what was then specific or new about Law No 72-002? The irony in the entire process was that while Law No 72-002 was in conflict with Ordinance-Law No 71-002, it did not abrogate the latter. Perhaps, as Ndaywel (1998: 703) suggests, Law No 72-002 was simply intended to provide the implementation modalities of Ordinance-Law No 71-002 while at the same time being in conflict with some provisions of the latter.

Notwithstanding the reasons provided by Ndeshyo earlier regarding the motivation behind the enactment of Ordinance-Law No 71-002, Nguya-Ndila (2000: 304) points to the socio-political and economic conditions prevailing in the country as well as the role played by the newly appointed Bisengimana. In his view, the latter sought to spare the *Banyarwanda* the measures of nationalisation which would target the interests of foreigners from November 1973 onward. However, besides sparing the *Banyarwanda* the looming measures of nationalisation, Bisengimana was equally eager to help them become beneficiaries of the same policy and of the July 1973 land law reform¹⁰⁾ as the attribution of nationalised lands, ranches and plantations in the Kivu region would later prove (Willame 1997: 54). Indeed, the rise of Bisengimana enabled many *Tutsi* individuals, including refugees that had fled the *Hutu* revolution in Rwanda some years earlier, to become the privileged recipients of huge tracts of lands, especially land that had been either abandoned by Belgian farmers in 1960 or confiscated from them during the nationalisation process (Prunier 2009: 49; Lemarchand 2000: 10). Among those *Tutsi* refugees who fled the Rwanda revolution, "Kasungu received 10,000 hectares, Ngizayo (sic) 2,000, Bisengimana himself received one of the big-

gest ranches in the region, over 5,000 hectares" (Lemarchand 2009: 14). Meanwhile, 90 per cent of all European plantations nationalised in Masisi and Rutshuru went to the *Banyarwanda* while, in Masisi alone, they owned up to 45 per cent of the arable lands (Tsongo cited by Willame 1997: 54-55).¹¹⁾ As a result, thousands of peasant families in Kivu were dispossessed from both their ancestral land and their only means of survival. Although there is evidence that not all *Banyarwanda* benefitted from the riches corruptly acquired by their elite, the latter's agrarian 'success' won the community very few friends, contributing to their stigmatisation by the other ethnic communities in the region (Prunier 2009: 49).

According to Pabanel (1991: 38), the main problem with Law No 72-002 was the confusion and falsification of identity documents in Congo. As was the case with Ordinance-Law No 71-002, the promulgation of Law No 72-002 resulted into the mysterious disappearance of all post-1960 immigrants. Moreover, Law No 72-002 failed to address the fears of 'autochthonous' communities in Kivu regarding the political and economic implications of a 'blanket policy' of granting citizenship to Rwandan and Burundian immigrants. Politically, some communities (such as the *Bahunde* in Masisi) were already outnumbered by the *Banyarwanda*¹²⁾ while, economically, all communities that had played host to the immigrants continuously 'lost' portions of lands to 'accommodate' the 'newcomers' and their cattle, a serious threat to agriculture-based societies.

Law No 72-002 was abrogated by Law No 81-002, promulgated on 29 June 1981. The new law took the citizenship question in Congo back to its original point. It affirmed 1885 as the founding year of the Congolese state and citizenship as did the Congo Free State authorities. Furthermore, just like the Luluabourg Constitution, it attached citizenship to ethnicity as one's citizenship was determined by one's descent to one of ethnic groups that formed part of Congo at the time of the establishment of the Congo Free State. But more importantly, Law No 81-002 distinguished itself from all previous laws relating to Congolese citizenship in terms of its perspective on the citizenship of Rwandan and Burundian immigrants. On the one hand, it emphasised the principle of acquisition (on an individual case) as the only way for immigrants — whatever their case and generation — to access Congolese citizenship. On the other hand, it asserted that foreign nationals who would acquire Congolese citizenship through this

new legal dispensation could not qualify to occupy political office at any level.

According to Ndeshyo (1992), just like Law No 72-002, Law No 81-002 was irregular, unfair and arbitrary; it violated the cardinal legal principle of 'non-retroaction of laws' as the latter only apply to present and future situations, taking their date of enactment as the point of departure. In this context, despite abrogating Law No 72-002, Law No 81-002 could not, in principle, strip the *Banyarwanda* of a right they had enjoyed for over a decade and even more. In Gnamo's (1999: 327) view, the measure of stripping the *Banyarwanda* of Congolese citizenship as introduced by Law No 81-002 was not only a flagrant human rights violation, but also politically absurd. He questions the competence of a state, created some three decades previously, to deny the citizenship rights of a people who had lived on its territory for a longer period.

Law No 81-002 'was never implemented' (Kisangani 2012: 178) due to, amongst other things, the difficulty of distinguishing between different *Banyarwanda* groups in the country and the existing identity cards of the *Banyarwanda* were never revoked (Turner 2007: 87-88). Still, putting emphasis on ethnic ancestry was deemed to be problematic. In fact, as already argued, by virtue of sharing the same ethnic identity with the *Banyarwanda* settled in Congo before 1885, all other *Banyarwanda* could claim right to Congolese citizenship through Law No 81-002. In similar vein, their leaders could equally secure their Congolese citizenship through the discretionary powers entrusted to the President by Article 15 of the law to grant 'grand citizenship' to individuals that had rendered 'eminent services' to the state (Willame 1997: 59).

With its 'radical' approach, Law No 81-002 only contributed to exacerbate the citizenship crisis in Congo. In this regard, in 1982, Joseph Mutambo (a *Munyamulenge*) presented his candidacy for parliamentary elections. However, his name was struck from the candidates' list by the Central Committee of the (single) ruling party on the ground of doubtful citizenship. In reaction, the *Banyamulenge* refused to partake in the electoral process, burning voting booths in Uvira and Haut Plateau in the process (Vlassenroot 2002: 506; Turner 2007: 87). Five years later, two other *Banyamulenge*, Dugu wa Mulenge and Musafiri Mushambaro, were denied the right to run for parliamentary elections for the same reasons (Kisangani 2012:123). In

1989, government dispatched the *Mission d'Identification des Zairois au Kivu* tasked with identifying nationals in Kivu and northeast Katanga and thus settling the citizenship status of the *Banyarwanda* located in these areas once and for all. However, the mission never completed its work due to a number of "technical and political difficulties" (Kisangani 2012: 123-124). As a result, the 1989 local elections could not be held in North Kivu (Willame 1997: 61).

By lumping together all generations of *Banyarwanda* immigrants in Congo, Law No 81-002 merely set the ground for future confrontations between *Banyarwanda* migrants and the Congolese state, on the one hand, and between the former and other Kivu-based ethnic groups, on the other hand. This uneasy situation prevailed in the country until the decree of the democratisation process by President Mobutu in April 1990.

6. The Transition, 1990–2006: The Dialectics of the *Banyarwanda* Identity and Political Power Conquest

When the democratisation process was decreed by Mobutu in April 1990, the repercussions of the controversial citizenship laws enacted by the regime had produced tensions and at times clashes between the *Banyarwanda* and non-*Banyarwanda* in Kivu. Whereas the former complained against 'state-sponsored robbery' of their Congolese citizenship, the latter blamed the state inability to implement effectively Law No 81-002, especially with regard to its implications for the large land properties in the hands of the *Banyarwanda*. For these conflicting reasons, both groups actually despised the Mobutu regime and held it responsible for their respective misfortunes.

The democratisation process brought about the logic of representation and, in the long-term, the prospects of multiparty elections. It was thus set to exacerbate the already complex issue of citizenship in Kivu. At the *Conférence Nationale Souveraine* (CNS) held in Kinshasa between 7 August 1991 and 6 December 1992, three *Kinyarwanda*-speaking delegates, including Cyprien Rwakabuba, were discharged due to doubtful citizenship. Rwakabuba was a political activist in the early years of political emancipation in the country and a former member of the CEREA, the Kivu-based political party that

had entered into coalition with Lumumba's MNC-L following the May 1960 elections (see earlier). He had subsequently served as a provincial (Kivu) minister of education, minister in the national government, member of the national assembly and member of the Politburo of the Single Party, the *Mouvement Populaire de la Révolution* (MPR), becoming even the chairperson of the infamous Permanent Discipline Commission of the party. According to Willame (1997:62), by denying *Banyarwanda* leaders access to the national forum, the CNS had contributed to reactivating an ethnic crisis that had remained latent for nearly 30 years.

Furthermore, transitional politics introduced the principle of autochthony, as symbolised by the notion of *Géopolitique*, with regard to the selection of provincial and local leaders. This meant that such leaders had to originate from the constituencies in which they were appointed. In Kivu, the practice of *Géopolitique* reignited the debate of the citizenship of the *Banyarwanda* and its direct consequence was the two Masisi Wars of the mid-1990s.

The First Masisi War¹³⁾ (March-August 1993) pitted 'autochthonous' communities (*Hunde*, *Nyanga*, *Nande* and *Tembo*) against the *Banyarwanda* (both the *Hutu* and the *Tutsi*) and can be regarded as part of provincial and local elites' strategy to control the political arena in anticipation of possible elections. However, the Second Masisi War (July 1995 – October 1996) took place against the backdrop of the Rwandan *Hutu* refugees' crisis in eastern DRC as precipitated by the 1994 Rwandan genocide. The war split the *Banyarwanda* community between *Hutu* and *Tutsi* and was further complicated by the response of the Congolese government to the crisis. Firstly, government was disturbingly biased toward the former *Hutu* Rwandan army and its allied *Interahamwe* militia as they were key components of its grand strategy (supported by France) aimed at destabilising the new *Tutsi*-dominated Rwandan regime. Secondly, on 25 April 1995, the transitional parliament, the *Haut-Conseil de la République — Parlement de Transition* (HCR-PT), adopted a resolution on citizenship calling for the full implementation of Law No 81-002, the repatriation of all Rwandan and Burundian *refugees*, including the *Banyamulenge*, to their countries of origin (Kisangani 2012: 124; Lemarchand 2009: 16) and the ban of the *Collectivité des Bahutu* in the Uvira territory (Willame 1997: 89).

If anything, the continued victimisation of *Tutsi* populations in

eastern DRC — at a time when the defeated former Rwandan *Hutu* army and *Interahamwe* militia continued to assert their control over the Congo-Rwanda border region, even affirming themselves as the Rwandan government in exile (Vlassenroot 2002: 508) — provided Rwanda with the much needed excuse (Dorsey 2000: 339-344) to launch its 'long-prepared military intervention' (Vlassenroot 2002: 508) into the DRC, latter known as the First Congo War.

The First Congo War (October 1996 – May 1997) thus erupted against the backdrop of the controversy surrounding the citizenship of the *Banyarwanda*. Although the question of the citizenship of the *Banyarwanda* was not the actual cause of the war — which had to do with Rwanda's determination to restore security on its border with the DRC and the collapse of state institutions including the army in the DRC (Stearns 2012: 29; De Villers 1998: 85) — there is no doubt that it provided Rwanda with the ideal environment and 'ready-made' Congo-based allies needed in order to launch its military offensive in eastern DRC.

Throughout the war, especially after the mysterious assassination of the rebellion army first commander, André Kisase Ngandu, on 6 January 1997, the question of the citizenship of the *Banyarwanda* seemed to have been settled. In fact, of the 10 members making up the first Executive Council of the rebel movement, five were people of *Banyarwanda* (*Tutsi*) descent, namely Déogratias Bugera (General Secretary of the Alliance, Military Commander for North Kivu and Provincial Commissioner for North Kivu); Bizima Karaha (Commissioner in charge of Security and later Foreign Affairs for America and Oceania); Samson Muzuri (Commissioner in charge of Education); Joseph Rubibi (Deputy Commissioner in charge of Finance) and Anselme Masasu (Commissioner for South Kivu) (De Villers and Omasombo 1998:50-51). To this group should be added Moïse Nyarugabo who served during the war as Kabila's personal secretary and chief of cabinet (Ngolet 2011: 12).

However, the end of the war exposed the AFDL's internal contradictions with regard to addressing the question of the citizenship of the *Banyarwanda*. While the *Banyarwanda* members of the *Alliance des Forces Démocratiques pour la Libération du Zaïre* (AFDL) and their Rwandan allies expected Kabila to overrule Law No 81-002 of 29 June 1981 and the 1995 resolution on citizenship adopted by the transitional parliament, their non-*Banyarwanda* counterparts (including

Kabila himself) were fearful of the response such a measure would have triggered from the society in general and the Kivu region in particular, given the widespread anti-*Tutsi* sentiment among the Congolese population at the time.

Until the eruption of the Second Congo War in August 1998, the question of the citizenship of the *Banyarwanda* remained thus unresolved, prompting some observers to point it as the cause of the war (Mollel 2008: 51-53; Jackson 2006: 106; Tshiyoyo 2002: 3). Instead, notwithstanding the instrumentalisation of the question of the citizenship of the *Banyarwanda*, the second war was caused by the collapse of the regional alliance between Museveni, Kagame and Kabila that had propelled the latter to the DRC's presidency in May 1997. If anything, Kabila made use of the collapse of the regional alliance to enact a new law on citizenship, Law-Decree No 197 of 29 January. Unsurprisingly, the Law-Decree did not abrogate Law No 81-002 (as the *Banyarwanda* would have wished), but simply sought to amend and complement it. In fact, to a large extent, Law-Decree No 197 maintained all contentious provisions of Law No 81-002 that had been rejected by the *Banyarwanda*. It placed the point of origin of Congolese citizenship to 1885 (Article 4). It emphasised individual application as the rule for any adult foreigner to acquire Congolese citizenship (Article 9). Lastly, it barred the foreign individual who acquires Congolese citizenship from occupying any political positions or senior positions within the army, the police and the public service (Article 13).

A close analysis of Law-Decree No 197 indicates that it was strategically designed by Kabila as a tool to improve his popularity and public image among the Congolese (especially in the Kivu region) who regarded the second war as a proxy war being waged by the Rwandan government through its Congo-based agents, prominent among them the *Banyarwanda* (De Villers and Tshonda 2002: 405). However, as a law enacted for political expediency and regime survival imperatives, Law-Decree No 197 could not withstand the test of time. It only remained in place for five years before being replaced by Law No 04/024 of 12 November 2004 relating to Congolese citizenship.

Law No 04/024 was enacted within the framework of the all-inclusive transitional dispensation that prevailed in the DRC between July 2003 and December 2006. The transitional dispensation was itself a direct product of the Inter-Congolese Dialogue (ICD) held in South

Africa in 2002 in order to resolve the conflict behind the Second Congo War (1998-2003). Just like the transitional dispensation it helped establish, the ICD was inclusive of all main Congolese socio-political stakeholders, both warring and non-warring parties. Law No 04/024 was thus drafted and adopted by the transitional parliament¹⁴⁾ before being enacted by President Joseph Kabila on 12 November 2004.

In its preamble, Law No 04/024 states the shared view among delegates to the ICD on the need to resolve once and for all the issue of citizenship considered to be at the root of the first and second wars. It is in keeping with this necessity that the delegates adopted Resolution No DIC/CPR/03 relating to the question of citizenship and national reconciliation, which provided the framework for the drafting of Law No 04/024. The law further provides that it seeks to not only address once and for all the controversies brought about by the country's previous citizenship laws, but also and more importantly to bestow upon the DRC a citizenship law that conforms to international norms and other legal principles relating to nationality, especially the 1961 International Convention on the Reduction of Statelessness.¹⁵⁾

The new law sets the date of independence as the point of departure for Congolese citizenship and the latter applies to all individuals whose ethnic groups, *nationalities* and lands formed part of the colonial Congo (Articles 4 and 6). Whereas previous laws emphasised attachment to an ethnic group as a condition for one to access Congolese citizenship, Law No 04/024 extends that notion to include individuals who belonged to different *nationalities* found in the DRC before 1960. Although the law does not specify these nationalities, there is no doubt that the concept alludes to the *Banyarwanda*, both those settled in Congo prior to colonisation and those brought in by the colonial administration. In so doing, Law No 04/024 thus takes the citizenship question in the DRC to the point where it was after the promulgation of Ordinance-Law No 71-002 in 1971 in spite of avoiding mentioning the words Rwandans and Burundians, herein encapsulated in the vague concept of *nationalities*.

The new law thus grants Congolese citizenship to all *Banyarwanda* settled in Congo prior to colonisation, all *Banyarwanda* brought into Congo through the MIB and labour policies, all *Banyarwanda* who crossed into Congo clandestinely during colonisation as well as all *Banyarwanda* refugees who entered Congo during the Rwandan Hutu Revolution, provided that it is proven that their arrival in Congo pre-

ceded the latter's independence. In a veiled recognition of the 'unresolvable' question of distinguishing among Rwandan refugees between those who crossed into Congo prior to June 1960 and thereafter (and even those who arrived many years later in subsequent waves) it may have raised (just as was the case with Ordinance-Law No 71-002 it has sought to reinstate), the new law states categorically that the onus of proving the foreign status of any individual found in the DRC rests upon the state, through legally sound documentation (Article 45). Although the new law represents perhaps the best deal the *Banyarwanda* could have hoped for under the current circumstances (Jackson 2007: 495), there is need to admit that the different unresolved issues and ambiguities it contains could be exploited by stakeholders on all sides to challenge it in the future.

7. The Third Republic, 2006–2012: The *Banyarwanda* Question and the Politics of Wishful Thinking

Defying all the odds that characterised the last phase of its transition (2003-2006), the DRC managed to hold its first multiparty free and fair elections in 41 years in 2006. The successful organisation of the elections was at least partly facilitated by the enactment of the 2004 citizenship law analysed above and the adoption of a new constitution in February 2006. These two legal frameworks provided the platform for all adult *Banyarwanda* to partake into the electoral process as both candidates and voters. However, the enactment of the new laws followed by the successful organisation of the 2006 elections and the subsequent completion of the transition did not (and could not) bring an end to the inter-community tensions surrounding the citizenship of the *Banyarwanda* in the DRC. Firstly, no meaningful measure was taken by government to implement Law No 04/024, meaning that the existing *status quo* on the ground continued to prevail. Secondly, the absence of a population register or census prior to the voter registration process meant that all adult *Banyarwanda* qualified to register as voters and, in so doing, to lay claim on Congolese citizenship.¹⁶⁾ Thirdly, the legal reform and the electoral process took place in the context of rising inter-community tensions due to ongoing disagreements among the transition stakeholders and the subsequent

establishment of the *Congrès National pour la Défense du Peuple* (CNDP). In fact, the establishment of the CNDP brought the question of the citizenship of the *Banyarwanda* to its most explosive point. Not only was the CNDP led by a *Kinyarwanda*-speaking person, General Nkunda, it also claimed to have been established in order to protect the *Tutsi* from the threat represented by the *Forces Démocratiques pour la Libération du Rwanda* (FDLR).

The CNDP rebellion was eventually resolved through a negotiated process as represented by the 2009 Goma Peace Agreement, paving the way for the integration of the CNDP's combating units into the Congolese army through the *mixage*¹⁷⁾ process. Three years later, the legacy of parallel chains of command introduced into the army through the *mixage* process lent the ground to the emergence of the *Mouvement du 23 Mars* (M23) in May 2012. The M23 is thus an offspring of the CNDP and draws the core of its membership from this latter organisation. Just as was the case with the CNDP, the M23 is controlled by the *Banyarwanda* — mainly the *Tutsi* — and received support from the Rwandan government with regard to its establishment and operations. Although the M23 does not openly claim (as did the CNDP) to be designed as the protector of *Tutsi* populations *vis-à-vis* the threat posed by the FDLR, the movement has ranked the return of Congolese *Tutsi* refugees from Rwanda and their resettlement in the DRC as one of its central demands. Still, this is not in any contradiction with the movement's official claim of having taken up arms as a result of the Congolese government reneging to the full implementation of the March 2009 peace agreement signed between the CNDP and national government to end the CNDP rebellion. At the time of this writing, the M23 and the Congolese government are locked in peace talks in Kampala, with facilitation from the Ugandan government, while the UN and the Southern African Development Community (SADC) are entangled in a silent battle to determine whether an additional international military deployment mooted for the Kivu region should fall under the existing UN stabilisation mission in the DRC or be independent.

As may be deduced from the discussion above, the ongoing emergency situations in the Kivu region in spite of the enactment of Law No 04/024 and the 2006 elections attest to the persistence of the crisis surrounding the citizenship of the *Banyarwanda*. Yet, government continues to display reluctance to intervene decisively in the mat-

ter. Indeed, since the end of the transition in December 2006, government has failed to carry out any population census that could help distinguish between nationals and migrants in the Kivu region and the rest of the country. In similar vein, government has failed to organise municipal and local elections citing financial problems. However, this official reason can hardly hold given the fact that government was able to raise enough money to organise the second post-transition presidential and parliamentary elections in November 2011. Perhaps, the real reason for the continued postponement of the municipal and local elections partly lies in the government concern over possible social implosions such elections may lead to in places such as Uvira, Fizi, Masisi, Rutshuru and Goma where controversies around the right of the *Banyarwanda* to Congolese citizenship remain rife. Already, the organisation of the 2011 elections in Masisi proved very problematic. Irregularities surrounding the parliamentary elections led to the national electoral commission successfully requesting the Supreme Court of Justice to pronounce their annulment. However, over a year later, the Masisi parliamentary election file was reopened by the commission and the result proclaimed. Five of the seven seats at stake in the area were won by *Kinyarwanda*-speaking individuals (namely François-Xavier Ayobangira, Oswald Mukingi, Jules Mugiraneza, Edouard Mwangachuchu and Boniface Gachuruzi), a clear indication that government was using the result of the parliamentary elections in Masisi as a political tool in its effort to undercut the legitimacy of some of the claims put forward by the M23 rebellion.

8. Conclusion

The state represents the framework within which citizenship rights are acquired and obligations fulfilled. To this extent, the capacity of the state and of its core institutions at any particular juncture constitutes a critical factor in determining its ability to legislate on critical societal issues, including in the contentious area of citizenship, and ensuring that the enacted laws are effectively implemented and complied with.

Insofar as the DRC is concerned, endemic state failure, compounded by repeated inconsistencies on the part of the different regimes that have ruled over the country since Belgian colonisation, has contributed to turning the question of the citizenship of the *Ban-*

yanwanda into a stumbling block to peaceful co-existence and human and state security in the country, especially in the Kivu region. Ultimately, the *Banyarwanda* citizenship question became a key factor — rather a scapegoat — in the successive rebellions experienced by the DRC since the mid-1990s.

Whereas the abovementioned inconsistencies could be explained by the socio-economic calculations of the colonial administration as well as the humanitarian and pan-Africanist concerns of the post-colonial authorities, there is no doubt to the fact that all regimes that have ruled over Congo since the advent of Belgian colonisation in 1908 have sought to use the rapport between the *Banyarwanda* community and the Congolese territory/state as a political tool in their strategy to protect their power and/or legitimate their rule in the eyes of the Congolese people in general, those in Kivu in particular. As far as the post-colonial period is concerned, this has resulted in the enactment of ambiguous citizenship laws dictated by short-term political expediencies and the prevailing balance of forces within the country, the Kivu area and the Great Lakes region at a particular juncture.

Law No 04/024 of 12 November 2004 was designed to settle the intractable question of Congolese citizenship once and for all, especially with regard to the *Banyarwanda*. By expanding Congolese citizenship to nationalities — as opposed to just ethnic groups — located in Congo prior to the country's independence, the law grants Congolese citizenship to all *Banyarwanda* that settled in Congo before 30 June 1960, irrespective of their settlement process. But the law is yet to be implemented on the ground, perhaps a tacit recognition by public authorities of the risks this process would entail. One such risk arises from the virtual inability on the part of government to distinguish between the *Banyarwanda* that stand to benefit from the new law and those others who would qualify as foreign migrants and refugees. Cognizant of these risks, post-transition Congolese authorities have continuously avoided undertaking any population census or organising municipal and local elections in the country. Instead, they remain vested in the politics of wishful thinking and short-term survival, failing to realise that procrastination only contributes to exacerbating further the crisis and sowing the seeds of future instabilities.

From a realistic point of view, there is need to admit that the question of the citizenship of the *Banyarwanda* populations in the DRC can and will never be addressed in an absolutely equitable man-

ner. The prolonged inability of the Congolese state to manage immigration (including that of people from Rwanda and Burundi) in a consistent manner as well as the absence of any population census in the country since 1984 mean that current Congolese authorities cannot distinguish objectively between different categories of the *Banyarwanda* and the corresponding status each of them is entitled to. This leaves the room for some margins of subjectivity that will be impossible to avoid in adjudicating on the matter. But, whatever the scenario, the point of departure remains the strengthening of the Congolese state and its institutions at all levels throughout the country. A strong, functional and inclusive state will ensure that not only consultative processes are followed in the drafting and the implementation of future citizenship laws, but also that the enacted laws are fully and effectively implemented.

Endnotes

1. This article is based on the author's doctoral thesis under the supervision of Professor Yolanda Sadie, University of Johannesburg.
2. Notwithstanding the core functions of the state mentioned above, the 1933 Montevideo Convention on Rights and Duties of States identifies four essential features that constitute a state, namely a permanent population, a defined territory, a government and the capacity to enter into relations with other states (Geldenhuis 2011: 290).
3. In the current administrative organisation of the DRC, the Territory constitutes, alongside the City, the administrative entity slightly below the Province. Territories are located in rural areas; their urban counterparts are called *Communes*.
4. At least until the Second Congo War that has exacerbated anti-*Tutsi* sentiment in the DRC, leading some to question their right to Congolese citizenship.
5. And even if Gachuruzi's (1999: 52) figure of 8 000 000 as the total population of the combined Kivu region in 1999 is taken into consideration, it is still in contradiction with his figure of 4 000 000 *Banyarwanda* in 1994 who, according to him, accounted for "almost 40 percent of the population" of the area.
6. Formal agreement to give up a right, herein land.
7. FB = *Franc Belge* or Belgian Franc, Belgian currency until the adoption of Euro by the Kingdom of Belgium. FB29 600 in 1937 is equivalent to the value of US\$41 836 in 2010 prices (Kisangani 2012: 173).
8. According to Willame (1997: 52-53), the decision by Mobutu to promote

- Kinyarwanda*-speakers formed part of his strategy to surround himself with individuals emanating from smaller ethnic groups or, in the case of the *Banyarwanda*, belonging to an insecure and vulnerable community. Such individuals, Mobutu believed, were not likely to threaten his rule.
9. The emphasis on Kivu was in itself problematic since *Kinyarwanda*-speaking populations brought to Congo by Belgian authorities through the labour recruitment process did not all settle in Kivu, some (the *Banyavyura*) having been taken as far as the mining areas and railway construction sites in Katanga.
 10. In July 1973 Mobutu enacted a new land law. The law entrusted all lands in the country to the state, rejected customary titles and sought to put an end to the legal dualism introduced by the colonial administration insofar as land access right was concerned (Stearns 2012: 25).
 11. According to Prunier (2009: 49), "[t]he land grabbing reached such incredible proportions that in 1980 the Land Ministry in Kinshasa had to cancel the 'attribution' of 230,000 hectares (575,000 acres) to the notorious Munyarwanda businessman Cyprien Rwakabuba".
 12. By 1976, the *Banyarwanda* represented 70.6 per cent of the total Masisi population (Willame 1997:54).
 13. In spite of its name, the war was not confined to Masisi alone; it extended to areas in Walikale and Rutshuru territories as well (Turner 2007: 118).
 14. It ought to be emphasised that the senate (upper house) refused to adopt Article 6 of Law No 04/024 that defines Congolese citizenship. At stake were the issues of including the notion of 'nationalities' (as opposed to just ethnic groups) and placing the date of independence as the point of origin of Congolese citizenship (as opposed to 1885 or at best 1908). Eventually, the view of the senate could not stop the enactment of the law since the national assembly (lower house) had approved of Article 6. See, for example, Jackson (2007: 489-490).
 15. The DRC is yet to sign the convention above although the country is signatory, since 21 May 1976, to the Convention on the Elimination of All Forms of Racial Discrimination (Jackson 2007: 489).
 16. The electoral law had provided that the voter's card would serve as an interim identity document. This logic could only anger non-*Banyarwanda* populations who remained adamant on the need to distinguish between Congolese and migrants/refugees among the *Banyarwanda* population.
 17. In the DRC's context, *mixage* refers to an army integration strategy based on establishing new brigades by incorporating sizeable units of former armed groups so as to preserve their homogeneity. It is opposed to *brassage* which consists of establishing new brigades from scratch by incorporating very small units of former armed groups with the aim of ensuring that the new brigades are as heterogeneous as possible.

Bibliography

- Afoaku, O G (2005), *Explaining the failure of democracy in the Democratic Republic of Congo: Autocracy and dissent in an ambivalent world*. New York: The Edwin Mellen Press.
- Chabal, P (2009), *Africa: the politics of suffering and smiling*. London/New York: Zed Books.
- Chajmowicz, M (1996), "Les Banyamulenge enfin à l'honneur!", *Politique Africaine*, No 64, pp 115-120.
- De Villers, G (1998), "Identifications et mobilisations politiques au Congo-Kinshasa". *Politique Africaine*, No 72, pp 81-97.
- De Villers, G and J T Omasombo (1998), "La politique intérieure", in De Villers, G and J C Willame (eds), *République Démocratique du Congo: chronique politique d'un entre-deux-guerres, octobre 1996 – juillet 1998*. Tervuren/Paris: Institut Africain-CEDAF/L'Harmattan, pp 17-220.
- De Villers, G and J O Tshonda (2002), "An intransitive transition", *Review of African Political Economy*, Vol 29, No 93/94, pp 399-410.
- Gachuruzi, S B (1999), "The role of Zaire in the Rwandese conflict", in Adelman, H and A Suhrke (eds), *The path of a genocide: The Rwandan crisis from Uganda to Zaire*. New Brunswick: Transactions Publishers, pp 51-59.
- Geldenhuis, D (2011), "Secession and contested states", In Pavković, A and P Radan (eds), *The Ashgate research companion to secession*. Farnham/Burlington: Ashgate, pp 285-297.
- Gnamo, A H (1999), "The Rwandan genocide and the collapse of Mobutu's kleptocracy", in Adelman, H and A Suhrke (eds), *The path of a genocide: the Rwandan crisis from Uganda to Zaire*. New Brunswick: Transaction Publishers, pp 321-349.
- Herbst, J (2000), *States and power in Africa: Comparative lessons in authority and control*. Princeton: Princeton University Press.
- Jackson, S (2007), "Of 'doubtful citizenship': Political manipulation of citizenship in the D. R. Congo", *Citizenship Studies*, Vol 11, No 5, pp 481-500.
- Jackson, S (2006), "Sons of which soil? The language and politics of autochthony in eastern D.R. Congo", *African Studies Review*, Vol 49, No 2, pp 95-123.
- Kabemba, C K (2011), "Democratisation and the political economy of a dysfunctional state: The case of the Democratic Republic of Congo", *Unpublished PhD Thesis (International Relations)*. Johannesburg: University of Witwatersrand.
- Kadima, D (2002), "Democratic Republic of Congo", in Lodge, T, Kadima, D and D Pottie (eds), *Compendium of elections in southern Africa*. Johannesburg: EISA, pp 62-81.
- Kanza, T (1972), *Conflict in the Congo: the rise and fall of Lumumba*. London: Penguin Books.

- Kisangani, E F (2012), *Civil wars in the Democratic Republic of Congo, 1960-2010*. Boulder/London: Lynne Rienner Publishers.
- Lambert, P Y (1998), "L'exercice de la citoyenneté dans un contexte colonial: le cas des deux Congo jusqu'à 1957", *Cahiers Marxistes*, No 208. (Available at: <http://www.suffrage-universel.be/demo/zrdeco.htm> accessed 14 June 2010).
- Lemarchand, R (2009), *The dynamics of violence in central Africa*. Philadelphia: University of Pennsylvania Press.
- Lemarchand, R (2000), "Exclusion, marginalization and political mobilization: The road to hell in the Great Lakes", *Occasional Paper*. University of Copenhagen: Centre of African Studies.
- Mamdani, M (1996), *Citizen and subject: contemporary Africa and the legacy of late colonialism*. Princeton: Princeton University Press.
- Ministère du Plan (2005a), *Monographie de la Province du Nord-Kivu*. Kinshasa: Unité de Pilotage du Processus DSRP.
- Ministère du Plan (2005b), *Monographie de la Province du Sud-Kivu*. Kinshasa: Unité de Pilotage du Processus DSRP.
- Mollel, A (2008), "Minority rights, nationality and conflict prevention: rethinking the *Banyamulenge* in the Democratic Republic of Congo", *Journal of African and International Law*, Vol 1, No 1, pp 51-82.
- Ndaywel, N I (1998), *Histoire générale du Congo: de l'héritage ancien à la République Démocratique*. Brussels: Duculot.
- Ndeshyo, R O (1992), *La nationalité de la population zaïroise d'expression Kinyarwanda au regard de la loi du 29 juin 1981*. (Available at: <http://www.grandslacs.net/doc/0193.pdf> accessed 2 July 2010).
- Ngolet, F (2011), *Crisis in the Congo: the rise and fall of Laurent Kabila*. New York: Palgrave Macmillan.
- Nguya-Ndila, M C (2000), "The motivations behind Congo-Kinshasa's nationality legislation", in Dooms, R and J Gorus (eds), *Politics of identity and economics of conflict in the Great Lakes region*. Brussels: VUB University Press, pp 289-309.
- Nzongola-Ntalaja, G (2007), "The politics of citizenship in the Democratic Republic of Congo", in Dorman, S, Hammett, D and P Nugent (eds), *Making nations, creating strangers: States and citizenship in Africa*. Leiden/Boston: Brill, pp 69-80.
- Organisation for Economic Co-operation and Development (2011), "Supporting statebuilding in situations of conflict and fragility", *OECD/DAC Policy Brief*. (Available at: <http://www.oecd.org/dac/incaf> accessed 12 February 2013).
- Organisation for Economic Co-operation and Development (2008), "Concepts and dilemmas of state building in fragile situations: From fragility to resilience", *OECD/DAC Discussion Paper*.
- Pabanel, J P (1991), "La question de la nationalité au Kivu", *Politique Africaine*, No 41, pp 32-40.

- Prunier, G (2009), *Africa's world war. Congo, the Rwandan genocide, and the making of a continental catastrophe*. New York: Oxford University Press.
- Stearns, J (2012), *North Kivu: The background to conflict in North Kivu province of Eastern Congo*. London/Nairobi: Rift Valley Institute.
- Tshiyoyo, D N (2002), "The Banyamulenge question and the conflict in the Democratic Republic of Congo", *Unpublished Master's Dissertation (Political Science)*. Johannesburg: University of Witwatersrand.
- Turner, T (2007), *The Congo wars: Conflict, myth and reality*. London/New York: Zed Books.
- Vlassenroot, K (2002), "Citizenship, identity formation and conflict in South Kivu: The case of the Banyamulenge", *Review of African Political Economy*, Vol 29, No 93/94, pp 499-516.
- Vlassenroot, K and C Huggins (2005), "Land, migration and conflict in eastern DRC", in Huggins, C and J Clover (eds), *From the ground up: Land rights, conflict and peace in sub-Saharan Africa*. Pretoria: Institute for Security Studies, pp 115-194.
- Willame, J C (1997), *Banyarwanda et Banyamulenge: violences ethniques et gestion de l'identitaire au Kivu*. Brussels/Paris: Institut Africain/L'Harmattan.
- William, I (2004), "Ethnicity, ethnicism and citizenship: A philosophical reflection on the African experience", *Journal of Social Science*, Vol 8, No 1, pp 45-58.
- Young, C (2007), "Nation, ethnicity, and citizenship: dilemmas of democracy and civil order in Africa", in Dorman, S, Hammett, D and P Nugent (eds), *Making nations, creating strangers*. Leiden/Boston: Brill, pp 241-264.
- Young, C (1986), "Zaire and Cameroon", in Duignan, P and R H Jackson (eds), *Politics and government in African states 1960-1985*. London/Sydney/Stanford: Croom Helm/Hoover Institution Press, pp 120-161.
- Young, C and T Turner (1985), *The rise and decline of the Zairian state*. Madison: University of Wisconsin Press.