

ARMED FORCES OF THE REPUBLIC OF CONGO DEMOCRATIC ORGANIZATION STRUCTURE AND LEGAL BASIS

By Baudouin WIKHA TSHIBINDA*

INTRODUCTION

The former Belgian colony, Congo is the largest country in Africa. It is most populous after Nigeria, Ethiopia and South Africa. Under dictator, Marshal Mobutu since the 1965 coup, it became representative of the corruption in Africa.¹

Democratic Republic of Congo is a post-conflict country. The various crises that the country has experienced date back to the time of the country's independence. The country was plunged into a multifaceted crisis that prompted the army to run the country for over thirty years unchallenged. The army set up a dictatorial regime that was followed by a long transition to finally arrive in 2006 to the establishment of democratic institutions needed to restore stability in order to allow for development.

The period before the 2006 elections saw the emergence of armed factions that resembled those that followed independence. The conflict in DR Congo will involve fourteen parts in the struggle: the government, the RCD, MLC, RCD-ML, the Mayi-Mayi, the Hema and the Lendu, the foreign guests and uninvited Angola, Namibia, Zimbabwe and Rwanda, Burundi, Uganda, the Hutu Interahamwe and each for mobile individuals².

The army plays an important deterrent for each state. Deterrence is a way of preventing conflict in relations between states. It consists of a state to arm themselves fully to discourage any other State which may have expansionist intentions of the state armed. Arming allows states to have power³.

In fulfilling their mission, it happens that the military posed some behaviors that affect either the military discipline or the law. These acts do not go unpunished. The authors are exposed to either the disciplinary or legal action by military courts.

In approaching a study of the Congolese army, it raises a number of questions related to its organization and structure:

Does the army play its role of protecting the territorial integrity?

How the Congolese army is organized to fulfill its mission?

What are the structures of the Congolese national army?

What are the various legal texts constituting to the legal basis for the military?

What about the submission of the military to civil power and contribution to socio-economic development?

* Head of Work at the University of Lubumbashi

¹ An attack against society, Emotion Edition, Paris, Tome I, 1999 316.

² Kalaba MUTABUSHA, The socio-economic crisis, civic education seminar organized by Konrad Adenauer on the conditions of crisis prevention and sustainable peace in the Democratic Republic of Congo, 17-19

³ MERLE, M., Life International, Armand, Paris, p. 119.

We will try to follow up this series of concerns raised in this analysis which will form the hypothesis of our work:

The history of the Congolese army date back to the colonial period. The Berlin conference gave birth to the Congo Free State (CIS) which like any country adopted an instrument of defense and security. The police force, which is mixed between an army, a police station and police⁴. At that time, the defense of territorial integrity was guaranteed by the police which was relayed by the Congolese National Army in the mission of protecting people and property.

It should be noted that from the accession of the DR Congo to its national and international sovereignty, it was a serious problem of succession to the Belgian and European officials who supervised the Congolese in the army, they occupied the grades below that of sergeant, a school until 1959 Warrant was created. But the events that followed failed to train officers to take over in the army. Some troops were assigned higher grades without any proof of training. Independence leaders advocated for the replacement of the white man with black man at all levels. The black man was to be master of his own destiny.

Every country needs an army to defend its territory against a number of potential threats, which can be internal (rebellion, secession, crime, etc.) or external attack of a country that has referred expansionist. This situation creates insecurity which does not allow the public to go about their business as usual. The important role of the army is to secure the country.

The mission of defending the national territory is not the only prerogative of the army. Section 62 of the current constitution is a duty and a right to all Congolese to defend the country and its integrity against a threat or external aggression and compulsory military service may be established under conditions laid down by law⁵.

As for structures, the Congolese army has three forces with their support service, this is the land force that is often supported by tanks and armored vehicles. Of the naval force that patrols the lakes, rivers and ocean, with naval vessels and air force at the end which protects DRC's airspace. These structures are headed by a Joint Staff.

Regarding the organization structure that manages the defense is the Supreme Council of Defense which is chaired by the Head of State, in his absence or incapacity by the Prime Minister. There are the General Staff that manages the three forces, it is headed by the Chief of Staff General. Each force also has a Staff at the national level, by province, district and territory.

The Armed Forces are governed by the Constitution of the Republic, we have the articles 187 and following that speak of the Armed Forces and many other laws and regulations. There is also Law No. 023/2002 concerning military justice code, the Legislative Decree of 24 November 1964 on the organization of the repressive action of military courts when they are substituted for the courts of law.

Our study focuses on the Armed Forces of the Democratic Republic of Congo, how they fulfill the mission of protecting the territorial integrity and the protection of persons and

⁴ Preface by Professor Kaumba Lufunda Book Mabiälla Mantuba on the social history of the police (1886-1960) the living conditions of soldiers in the colonial army in the Belgian Congo.

⁵ Article 62 of the Constitution of February 18, 2006.

property on an area which is the Democratic Republic of Congo. How they are organized and structured on the legal basis. Delimitation in time, brings us to the date of independence which is the starting point of the Congolese army, with a look at the colonial period to understand its evolution.

Our thinking apart from the introduction and conclusion focuses on four key points. The first point concerns the general considerations. This defines the military, gives the mission of the army and the various phases through which the Congolese armed forces have increased. The second point is how the Congolese army is organized, at the head of the army there is the supreme commander of the armed forces who chairs the Board of Governors of the defense that decides on the movement of troops, then comes the staff joint, followed by the forces. The third point deals with the structure of the Congolese army, it identifies the different structures of the Congolese army. The fourth talk of the legal basis of the Congolese army. These are various legal texts constituting the legal basis for the army of the Democratic Republic of Congo. These texts live from colonial times to date.

I. GENERAL CONSIDERATIONS

I.1. DEFINITION OF THE CONCEPT

The armed forces of a country representing different organizations and the military means that a State dedicated to the implementation of its policy of defending its territory. It is a military unit of a large enough variable depending on the nations and over time. Thus we can mention the example of the Soviet army, French, American, German, Angolan, Rwandan, Burundian, Congolese, etc.. Each country has an army that ensures the protection of the integrity of its territory.

The army can also refer to a structured set of soldiers with their equipment and infrastructure. Large amount of people, animals, of similar objects.

Greater or lesser number of troops assembled in a body to make war, great power, great army, a small victorious army, invincible army failed, beaten, routed army, army in good order, army headquarters, etc⁶..

Section 51 of the Charter of the United Nations grants a right of legitimate defense to a state before an armed attack on the use of force or use of force to repel the aggressor. Thus, according to the idea of this provision, only the armed attack justifying the use of force. A state can not cope with this situation when it has an army capable of dealing with this attack.

The army is called sometimes in the circumstances, so we have a lot of nicknames in the armed forces, sometimes these are units within the army that is nicknames. In DR Congo, there were units with nicknames including, Ngum, Kamanyola, moura, Colagrel, DSP, and Tiger Diabos of DR Congo that was based in Angola, red beret, green beret, military police, Kadogo , GSP, GSSP, Republican Guard.

The professional army is recognized by the fact that she knows the limits of their duties, confined to homeland defense and combat readiness. The military have expertise and skills in the management of violence, but must be placed under civilian authority legitimate, without

⁶ <http://www.mediadico.com/dictionnaire/définition/arme>. (July 12, 2010)

the right to intervene in the selection of the latter.

The officer should not be driven by economic or political interests but rather motivated by a sense of social obligation codified by such notions as honor and support⁷.

This design gives the military a relative autonomy from the rest of society. The job of the military is to fight or prepare to do so and in any case to participate in the political life of a nation.

I.2. MISSION OF THE ARMY

The mission of the military is defined by Article 187 paragraph 2 of the 2006 Constitution which states: *Their mission is to defend the integrity of national territory and borders. Under the conditions laid down by law, they participate in peacetime the economic, social and cultural development and the protection of persons and property.*

The "threat against national security" is an existential concept in which the military tend to include both the separatist guerrillas or ideological, that organized crime or political protest⁸.

The military mission is to ensure at all times in all circumstances and against all forms of aggression, security and territorial integrity and the lives of the people. It can also be serious when circumstances threaten the security and territorial integrity of a friendly country or in case of aggression at the request of that country, the army may involve combat units⁹. If necessary the Congolese Armed Forces can also be supported by troops of friendly and allied countries. During the War of 02 August 1998, troops of Zimbabwe, Namibia and Angola fought alongside the Congolese army in the framework of SADC countries.

The threat of internal security is emerging as a result of the interference of the military in civil cases. The Congolese army since the eve of independence and its development has had to deal with riots, rebellion and secession. This has continued with the Mulelist rebellion and the East (1964), the mutinies of the former Katanga gendarmes in Stanleyville (1964), the War of Bukavu with the 10th commando battalion Schramm (1967), the attack of Luashi Kisenge and by mercenaries from Angola, under the command of Bob Denard (November 1967) war of "eighty days" (March 1977 June 1977) the war of Kolwezi (May 1978); War Moba Moba 1 and 2 and the War of the ADFL. During all these wars, the military played an important role inside the country. The mission of the army is confused between it and the police¹⁰.

I.2.1. DUALITY ARMY-POLICE

In a number of interventions is to disperse the demonstrators is to subdue the insurgents, the military is often in support of the national police, when it can not neutralize the protesters or in the event of overflows.

Several times in the city of Lubumbashi, where the student demonstrations, or the common people claim against the power cuts or against murder, the police are often supported by either

⁷ Dubus, A. and REVISE, N., *People's Army, King's Army*, L'Harmattan, Paris, 2002 170.

⁸ Dubus, A. and REVISE, N., *Op. cit.*, p. 75

⁹ Articles 1, 2 and 3 of Law Decree No. 001/2002 of 26 January 2002 on the general organization of defense and the Congolese Armed Forces.

¹⁰ Mukendi Nkashama and KABEYA Mukamba War, and sociolinguistic mutations in the Democratic Republic of Congo (1960-1999), PUL, Volume II, Lubumbashi, 2000, p. 133.

the Republican Guard or military police are special units of the national army. These units often operate to control the situation which is beyond the police.

But the coexistence of these two units is not always easy, because the line between the two bodies is unclear. The police and army are two rival bodies. The army still treats the police to be poorly trained, poorly paid, corrupt, considered to have the condescendence the army. Jurisdictional disputes were numerous, but clashes have been limited. Both institutions are still in competition, but respect each other. The military often apply for internal security missions. The elite corps of the army are such occurred alongside the police¹¹

The Congolese army has not as a specific mission, in theory the police responsible for internal security and the military for external security, but in reality the boundaries are blurred compared to the operational strategies adopted. For the simple reason the police management is often entrusted to officers of the armed forces often based on the model of the army to organize the police. They create in the police special intervention units, elite units. This creates an ambiguity between the army and police.

I.2.2. ARMY FOR DEVELOPMENT

The very notion of development is unclear. It is indeed often confused in the minds of key players, with the concepts of growth, modernity and national integration¹².

The army of the DRC has within it a specialized unit "engineering company", a unit filled several skills, she specializes in almost all areas. There are mechanics, masons, drivers, engineers, electricians, plumbers, etc..

During the massacre on the campus of Lubumbashi in 1990, such as military engineering company, based in Likasi with government funding Lunda Bululu had rehabilitated the halls of Lubumbashi. The same company had built the Lualaba District Office and its annexes, the office that houses her life the services of the state.

Pursuant to section 187 of the Constitution of February 18, 2006, in peacetime, the military can contribute to the development of the country.

From 50 years, a question arises in every country was then called the Third World: that the military or civilians assume the mission of better socio-economic development?

At the time, most Western authors opt for the military. Civilians are too corrupt and acting on their own sectoral interests, they would prove unable to provide conditions conducive to political progress of nations. On the contrary, the military detached from party politics are supposed to place the collective interest above special interests.

But the case of DR Congo is inversely to the principle of economic growth experienced by some third world countries. We have seen the military be involved in the looting of mineral resources of the country, is used as a cover or cover for a fee. The army instead of being for the benefit of the people working in the smuggling, drugs, arms trafficking, prostitution, rape, crime, gambling houses or counterfeit currency.

¹¹ Dubus, A. and REVISE, N., Op. cit., p. 120.

¹² Ibid, p. 125.

The consequence of an army involved in the anti-values, it becomes less effective, send a real battle, the soldiers are not prepared. This is an opportunity to make money, sell arms, bullets, diverting food for the military front, sometimes being in league with the enemy to deliver the troops.

The case of the entry of ADFL troops of Laurent Kabila's army against MUBUTU shows an example of an army engaged in anti-values. Kabila's troops took all the territory without a fight, with a few fronts as KISANGANI and Keng where the Marshal drew a line impassable to test the degree of loyalty of his army against the famous slogan military in Lingala, a language National Democratic Republic of Congo, "Makila na Biso na po Ekolo, po na guide, live Zaire Zaire deep", which literally translates as "our blood for their country, for the guide"¹³, long live the Congo, RAM DR Congo ". There has been despite the slogan of an army disorganized, poorly prepared, poorly paid, which brought Laurent Désiré Kabila to power in the struggle of 1997.

I.3. HISTORY OF THE CONGOLESE ARMY

The Congolese army has changed names several times, passing through several stages. It began with the police since 1885 until 1960, and Congolese national army after independence (ANC), becoming Zairian Armed Forces (FAZ). At the advent of Mzee Laurent Desire Kabila, she moved to the Congolese armed forces (FAC) only to be armed forces of the Democratic Republic of Congo (FARDC).

I.3.1. PUBLIC POWER

It was created in 1885 when Leopold II had just taken possession of the Independent State of Congo, now Democratic Republic of Congo, he commanded the Department of Home Affairs. Thus it will create a military force and police for the state.

In 1886, many officers were seconded to the Belgian Congo to set up a military force. The police force was not comprised solely of Belgian officers, there was also the Swedes, Danes and other Europeans.

The police conducted a military campaign during the World War 1914-1918, was in East Africa, Cameroon, Rwanda, Burundi and especially in the territory of present-day Tanzania. She won several military victories (Tabora, Mahenge) thus gaining the respect and confidence of their allies the Portuguese and British¹⁴.

During this period, the police was organized in 21 companies, plus the separate units of artillery and engineering, each company was to include four white officers and one hundred fifty soldiers Africans, 80 completed the Congolese staff.

History tells us that the Congolese and Belgian officers took place automatically Europeans of different organs that were the officer corps in the CIS The troops deployed in Katanga was specially constituted an autonomous force of six companies and unit cycling.

¹³ Marshal Mobutu as head of the party-state has allocated himself qualifiers, among other guide of the revolution, father of the nation, founding president and others to just sit dictatorship.

¹⁴ BANZER WA Banza, study behavior of the armed forces of the Democratic Republic of Congo, Memoire licensing Criminology, University of Lubumbashi, Lubumbashi, February 2010, p. 42

Overall, the police consisted of a body of twelve thousand one hundred men, divided between twenty-one companies. Over time, the police already had about 1914 more or less 17,000 soldiers recruited under the quota system and the conditions for continued forced recruitment.

I.3.2. Congolese National Army

The Congolese National Army (ANC) was founded after independence which took place June 30, 1960. It was obtained after numerous discussions with Belgium, which held that it takes place after 30 years. He landed a very serious problem among Congolese to take over white officers for the control of the situation throughout the territory or the situation had become unmanageable. The claims, repeatedly expressed by men in uniform, had attracted the attention of person: the Africanization of cadres, readjustment of wages, improved working conditions, implementation of promises made to deserving soldiers¹⁵.

The mutiny was the logical consequence of the negligence claims of the men in uniform. In this regard General Janssens addressing the Congolese troops who demanded he wanted discipline, he will tell them in this term: "Before independence tied after independence." This term shocks the conscience began Congolese troops by men who did not understand the merits of independence and in political circles it was a challenge to the independence of the young Republic.

Lumumba's speech created a climate of hostility against Belgium. The situation will be widespread throughout the country due to lack of officers able to master the troops to be raised throughout the country.

On the eve of independence, the Democratic Republic of Congo was torn by wars of secession and rebellion: the secession of Katanga led by Moise Tshombe and the secession of South Kasai (1960-1962) led by Albert Kalonji Mulopwe; Antoine Gizenga rebellion in the Eastern Province (1960-1961); the Mulelist rebellion and those of the East (1964), these wars have affected the ability to deal with all these movements¹⁶.

During this period, the ANC was facing a lot of resistance groups, including the army of Katanga, the resistance of Albert Kalonji South Kasai, the rebel group of Antoine and Mulele-Mai¹⁷ and various mutinies. Faced with this reality the ANC found itself unable to contain all these movements on the ground.

War is a good time to Congo where people believe in magic, witchcraft. Note the military leaders running in the house became for processes of multiplication, invulnerability to bullets, disappears when one is in an ambush.

A more contemporary use of deception ancient sorcerers was updated during the recent civil war in Congo. Witchcraft always increases in wartime, but this example of deception is exceptional

¹⁵ Elikia M'BOKOLO, Director of the School of Advanced Studies in Science, afterword to the book of MABIALA MANTUBA.

¹⁶ Mukendi Nkashama and KABEYA Mukamba War, and sociolinguistic mutations in the Democratic Republic of Congo (1960-1999), In 40 years of independence, Volume II, PUL, 2004, p.133

¹⁷ Mulele Mai: is a resistance group led by Pierre Mulele who opposed the power of Leopoldville, the group practices used fetishists who were to undergo rites during a ceremony to make them invulnerable to bullets and other sharp objects during the combat.

African youth were recruited to join the rebel army that swept south-western Congo. They controlled at some point one fifth of the territory. To ensure an army of vicious and fearless leaders of the rebellion made use of witchcraft to convince that they were invincible warriors, promising them that if an enemy bullet touched them it becomes straw. August 14, 1964, after the ritual of witchcraft, the soldiers were heading Luluabourg (now Kananga) full of confidence. Dr. Alexander Reid tells of the battle that ensued:

On the morning of August 14, they (the army of the ANC) ambushed eight truckloads of rebel soldiers with two-thirds of the way to Lusambo and cut down almost all. The few survivors Lusambo informed of their losses, which made the victory that changed the camps in our region of Mongo and destroys the fear of witches and taboos.

These are the animistic beliefs that make so rependu such deception possible. It is estimated that this army, with its forces rooted in witchcraft was responsible for over 100,000 deaths before being defeated. Soldiers and civilians alike had lost their ability to reason clearly and able to defend themselves, because they had put their faith in witchcraft¹⁸.

I.3.3. ZAF

HOROLD CROUCH by a comparison of Southeast Asia is noted that in the country or social structures are still relatively unstable governments dominated by the military can bring political stability that fosters economic growth¹⁹.

This rule has not spared the DR Congo after the discord, political strife, secessions, rebellions and mutinies since independence, allowed the army to take power. A statement by the commander of the Congolese National Army will decide the following: *For over a year, the Congolese National Army fought against the rebellion, at one point, held a nearly two-thirds of territory of the Republic. While it is almost defeated, the High Command of the Army regrets that no effort was made on the side of the political authorities to help the suffering people coming out now in mass of the bush by confidence in the Congolese National Army. The race for power of politicians likely again to bloodshed Congolese, all commanders of the Congolese National Army, meeting this Wednesday, November 24, 1965 around their commander in chief, took in consideration of the foregoing, serious decisions:*²⁰

The army has taken and continues to assume a major role politically, but economic and sociocultural. It is conventional in the developing countries that the military take over running the country. Some argue that this commitment is needed in emerging nations. The involvement of military policy aimed at stabilizing the political situation and contributing to nation building.

According Horold²¹, factors promote the politicization of the armed forces: the loss of credibility of the civil government due to incessant bickering for power, the persistence of serious internal security problems, the absence of an imminent external threat and the belief of Army to be the guardian of the nation.

There are also historical circumstances that may explain the commitment of the military struggle for independence, the army based on the revolutionary legitimacy (the inability of the

¹⁸ WOLFORD, M., truly free from the bondage of witchcraft, Zambia, Christian Literature Press, SD p. 67.

¹⁹ HOROLD CROUCH, quoted by Dubus, A. and REVISE, N., Op. cit., p. XVII.

²⁰ Excerpt from the proclamation of the High Command of the Congolese National Army on 24 November 1965

²¹ CROUCH HOROLD cited by Dubus, A. and REVISE, Op. cit., p. XVIII.

traditional policy has managed the country)²².

Jean-Jacques Rousseau wrote: "The strongest is never strong enough to be always the master unless he transforms strength into right and obedience into duty"²³.

The name of the Democratic Republic of Congo continued until 1971 to be replaced by the name Republic of Zaire, which, according to supporters of Mobutu regime was confusing the need to avoid. The seizure of power by Mobutu's army plunged into tribalism; many officers were in Ecuador, where he himself was a citizen. He ended up making the military Lingala language.

I.3.4. Congolese Armed Forces

Since 1965, the country experienced a strong regime that plunged into a total crisis, Laurent Desire Kabila at the head of a movement called the Alliance of Democratic Forces for the Liberation of Congo acronym AFDL will fight for the Mobutu regime free the country from the dictatorship that lasted 32 years.

The army may be cited as the Congolese Armed Forces to defend territorial integrity. The forces of Laurent Désiré have been called liberation by having left the country in a regime without sharing that ruined completely the Democratic Republic of Congo.

I.3.5. Armed Forces of the Republic Of Congo

After the death of Laurent Desire, the country was plunged into a crisis similar to that of the years since independence. The various movements that have fought with Laurent Desire will dissociate to start their own struggle. After the death of Laurent Desire Kabila, took power will be Joseph Kabila Kabange, son of the late Laurent Kabila in agreement with the Kabila government and the military father.

Over time the military will become the Congolese Armed Forces of the DRC, "FARDC" in acronym.

II. ORGANIZATION OF THE CONGOLESE ARMY

Armed Forces of the Democratic Republic of Congo headed by a Supreme Council of Defense which is chaired by the President of the Republic. The Board coordinates all activities relating to the security and defense. It decides all movement of troops as the army of the Congolese National Police.

II. 1. THE BOARD OF DEFENSE

II. 1. 1. SUPREME COMMANDER

The Congolese Armed Forces are organized on the principle of a single structure. The direction is exercised by the president. He is supreme commander of the Congolese Armed Forces, he chairs the High Council of Defence²⁴.

The President declared war by order in council of ministers deliberate on the advice of the Superior Council for Defence and approval of the national assembly and senate.

²² Ibid

²³ ROUSSEAU, JJ., *The Social Contract*, Flammarion, Paris, 1992 32.

²⁴ Articles 83 and 86 of the Constitution of February 18, 2006

Section 192 of the Constitution of February 18, 2006, establishes the Board of Governors of the defense, it is chaired by the President in case of absence or incapacity, by the Prime Minister.

The High Council of Defence is responsible for:

- Formulate guidelines for the negotiation of the defense;
- Decide and coordinate all activities in defense of all interested departments and agencies;
- Identify the human, financial and material resources to devote to the defense;
- The measures to promote the needs of the Armed Forces²⁵.

In wartime, it is established a special committee of the defense. This committee assists the president in the conduct of the war.

II.1. 2. Joint Staff

The Congolese Armed Forces include a ground force, air force, a naval force, a logistics base, services and specialized body of military justice and military colleges.

They are headed by a general officer bearing the title of Chief of Joint Staff. The Chief of Staff controls all forces, the central logistics base, the military regions and specialty services. He is assisted by the Chief of Staff Headquarters and assisted by three deputy chiefs of staff headquarters.

II.1. 3. States Forces Staff

At the head of each force, there is a general who holds the title of Commander of force. He is assisted by a Chief of Staff and three deputy chiefs of staff. They ensure the operation of their respective forces under the authority of the Chief of Joint Staff.

There are also specialized units that are managed by senior officers or generals. The commanders of the units operate under the authority of the Chief of Joint Staff. This is the case of central logistics base which is under management of the commander of the logistics base, the Republican Guard with its various detachments in several provinces and districts is managed by a commander of the Republican Guard. Colleges are run by a military commander of the military groups of colleges.

The body of military justice is organized to punish acts committed by elements of the armed forces and the Congolese National Police. This repression is in accordance with Article 1 of Legislative Decree of 24 November 1964 on the organization of the repressive action of military courts when they are substituted for the courts of law: When following the proclamation of State of Emergency, the repressive action of military courts shall be substituted, in whole or part of the territories to those of courts of law under Article 124 of the constitution, the powers and jurisdiction of military courts are fixed by this decree.

The Military Judicial Code governs the organization and operation of military courts. Personal skills and material to each instance is determined by the Judicial Code. Military courts know the territory of the Republic, military offenses punishable under the provisions of the Military Criminal Code. They also experience all kinds of offenses committed by the military and punished in accordance with the ordinary criminal code.

²⁵ Article 15 of Decree-Law No 001/2002 of 26 January 2002 on the organization of defense and Congolese armed forces

They are competent to interpret administrative acts, regulations or individual and to assess the legality of this review when, depends on the outcome of criminal proceedings before them. Submission to the military law begins to militia and volunteers of all kinds from that moment or agent committed to this end, they did, after having first read of military law, the statement that they are subject to these laws.

II.1.4. Military Region

It includes all units of land forces, air force, naval force, the logistics base and regional specialist services is below the designated zone defense. Military Region is comprised of one or more levels of operational command international force whose mission is to coordinate the military efforts of defense. The boundaries of the military region may correspond to those of one or more administrative provinces. The commander of Military Region is appointed and relieved of these duties by the president. He meets the Chief of Joint Staff.

Military Region is subdivided into one or more brigades that control effectively the battalions. The battalions are in turn subdivided into companies. The brigade is under order from a superior officer or general named commander of the brigade. It meets the Commander of Land Forces of the operation of units under its authority. Other structures are organized as specialized units throughout the Republic.

II.2.ORGANIZATION OF GRADES

In accordance with Legislative Decree No. 226 of 7 May 1999 establishing the wearing of distinctive signs and ranks among the Congolese Armed Forces "FCC" ranks in the Armed Forces are classified in three categories:

1. Extra-Category: is reserved for senior executives at the summit of the military command of the country. This distinction returns automatically to the Supreme Commander and other executives appointed by the supreme commander wearing badges other than the Supreme Commander;
2. Category: is a class reserved for officers, noncommissioned officers and officers;
3. Order: is reserved for soldiers.

II. 2. 1. GENERAL OFFICERS

- The first category is equivalent to lieutenant general, three stars and two gold bars resting on a passing red;
- The second category is equivalent to Major General, two stars and two gold bars resting on a passing red;
- The third category is equivalent to brigadier general: one star and two gold bars from one based on red.

II. 2. 2. SENIOR OFFICERS

- The fourth category is equivalent to Colonel: three stars and a gold horizontal bar resting on a black background;
- The fifth category is equivalent to lieutenant colonel, two stars and a horizontal bar gold based on a passing black;
- The sixth category is equivalent to Major: a star and a horizontal bar gold to black.

II. 2. 3. Junior officers

- The seventh category is equivalent to the captain, three gold stars from one based on green

- The eighth category is equivalent to lieutenant: two gold stars on a green way;
- The ninth category is equivalent to lieutenant: one based on a gold star from green.

II. 2. 4. SUB-OFFICERS AND GRADES

- The tenth category is equivalent to the CWO: a star between two silver bars on a passing blue;
- The eleventh-category is equivalent to Warrant Officer First Class: a star and a silver horizontal bar resting on a passing blue;
- The twelfth-category is equivalent to Warrant Officer Second Class: a silver star based on a passing blue.

II. 2. 5. ORDERS

- The first-order equivalent to corporal;
- The second-order equivalent to private first class;
- The third-order equivalent to the soldier.

It should be noted that the aforementioned Decree Law establishing the grades in the Democratic Republic of Congo lends some confusion in practice with regard to the category of warrant officers and soldiers. Thus, another act was waiting for the regularization of the port of grades.

II.2.6. FIFTIETH ANNIVERSARY OF THE DRC

Since June 30, 2010, the Congolese armed forces have changed the rank insignia and holding that now remains in force throughout the whole of the Republic. These loops which determine the colors in the rows, red shall be displayed by the generals, while the stars above determine the grades.

A star will be a brigadier general, two major generals, lieutenant general three and four army general.

The category of senior officers will be remarkable for the yellow color which will be placed on the head of a leopard as it is major (a leopard head) Lieutenant Colonel (two head) and three full Colonels.

Junior officers will focus on the bottom (from) blue arrow to a second lieutenant, first lieutenant for two and three for the captain.

NCOs will first class from the green.

III: THE STRUCTURE OF THE ARMY

The Congolese Armed Forces are headed by the Joint Staff which covers all the forces in the Democratic Republic of Congo. The Joint Staff is composed of three forces (army, navy and air), the central logistics base, specialized services and body of Military Justice.

III. 1. The Joint Staff

The Joint Staff is headed by a Chief of Staff. He has authority over all forces, the central logistics base, Specialty Services, the military regions, as well as the heads of specialized units²⁶.

²⁶ Article 17 of Decree Law No. 001/2002 on the general organization of defense and Congolese armed forces.

He is assisted by the Chief of Staff headquarters and assisted by three deputy chiefs of staff headquarters, respectively, which manages the administration, operations and logistics. Whoever is responsible for administration oversees the administrative operation of the Armed Forces. It deals with staff, administrative, correspondence, payroll, military, etc..

Deputy Chief of Staff for Operations handles the movement of troops whenever the external security is threatened. While that of logistics, responsible for the management of cartage, the filing of armament, military clothing and military ration.

III.2. LAND FORCES

It includes Actuator:

- Battalions and regiments of infantry and tanks;
- Support units;
- Support units;
- Support services and schools.

It may also include other major units.

The battalion is a basic tactical unit whose organizational structure includes elements of combat, combat support elements, support elements and elements of support services. In each province, there are a number of military regions, which consist of one or more brigades, also in turn consist of several battalions. The area is a military tactical unit whose organizational structure enables:

- Order effectively battalions;
- Provide a safety distance to all of the brigade;
- To provide supplements to support battalions;
- To increase the autonomy of organic battalions.

Military Region is under the orders of a superior officer or general. It is called "brigade commander," it depends on the commander of land forces.

Katanga Province has a military region called "6th Military Region," it consists of several battalions, the battalions are based in Likasi, Kolwezi, Kipushi Lualaba, etc.. There are also specialized units, like the Republican Guard that is in the 6th Military Region. The units of the naval force are based in Kalemie patrolling along Lake Tanganyika. At the airport the Luano is also based elements of air power. All these forces are coordinated by the military region.

III. 3. AIR FORCE

It is also known as the Air Force, it is made:

- Units-hunting;
- Transport units;
- Units, attack helicopters and air defense ground components;
- Schools.

All these units are under the authority of the commander of the Air Force. The structure and staffing of the units above are determined by the order of the President of the Republic²⁷.

²⁷ Article 39 of Decree Law No. 001/2002 on the general organization of defense and the Congolese armed forces.

III. 4. NAVAL FORCE

The naval force is called navy, it includes:

- Coastal units;
- Lake-units;
- Battalions of marines;
- Logistical support units;
- Schools.

These units depend on the command of the naval force. The structure and staffing of these units mentioned above are determined by the President.

III.5. BASED LOGISTICS CENTER

Command of the logistics base station is placed under the authority of the Chief of Joint Staff. It is headed by a senior officer or general. He is appointed or removed from office by the President of the Republic.

Central logistics base is composed of regional logistics bases that are responsible for providing logistical support of all units deployed forces in all military regions.

Logistics base station is responsible for:

To constantly upgrade the supply of logistics bases and other regional;

- Receive any equipment disposed of in a regional logistics base and ensure repair and maintenance;

Common-store operational and strategic reserves.

III. 6. MILITARY JUSTICE

Body of Military Justice, the organization of military courts as a legal basis of Law No. 023/2002 of 18 November 2002 Code of Military Justice. This law creates a pyramid of military courts in the DRC as follows:

At the bottom we have the police courts, military courts in the following garrison, followed by military courts and courts operating at the top of the pyramid, we have the highest military court.

The high military court has its headquarters in Kinshasa is the capital of the Republic, its jurisdiction extends throughout the national territory. But in exceptional cases, the seat of the High Court can be attached to any other place on order of the President of the Republic²⁸. The military courts were established in the capital of each province. The seats of the garrison courts are established in each district and city, it is established in each jurisdiction of the court garrison, one or more police courts.

The example of the city of Lubumbashi, which is also the capital of Katanga Province, is a full military court that covers the extent of the province. It is as Garrison Court, which covers only the city of Lubumbashi and police courts. The headquarters is located in Lubumbashi at the intersection of avenues Mama Yemo and DJAMENA in the town of Lubumbashi.

III. 7. SENIOR MILITARY SCHOOLS

This is a group of military high schools, is managed by a group commander of military colleges that the rank of officer or general. Established by Decree No. 106/2002 of 19 August

²⁸ Article 7 of Law No. 023/2002 on the Code of Military Justice.

2002 setting up a group of military colleges of the Congolese Armed Forces.

He is responsible for:

- Provide training and development of all officers of the Congolese Armed Forces;
- Approve documents and studies on various doctrines for its publication and broadcast production;
- Participate in the development of regulations, directives and instructions;
- Carry out various studies in the context of training and military education in favor of the supreme commander of the Congolese Armed Forces;
- Assist the Supreme Commander of the Congolese Armed Forces in the organization and control of military education.

The structure, organization and functioning of the group of military colleges are set by the President.

III.8. DIRECTORATE GENERAL FOR DETECTION OF MILITARY Anti- Patriotic Activities

In the Congolese Armed Forces, there is a service detection of anti-country. Established by Decree No. 018/2002 of 24 February 2002, called "Branch Military Detection of Anti-Patriotic Activities," DGDEMIAP in acronym. This structure stop and suppress any activity within the armed forces is likely to endanger the homeland. It has units throughout the country.

III. 9. MILITARY HOME

Its mission:

1. to assist the President in the design and development of defense policy and security;
2. To assist the President in leading and coordinating all activities related to planning, training and equipment of the Congolese armed forces;
3. Do or perform all tasks assigned by the President of the Republic.

The military household includes:

- A firm;
- Three departments namely:
 1. Department operations and organizations;
 2. The Department of Information and Security;
 3. Department administrative and logistical support.
- The departments in turn are subdivided into cells and each cell has a respective spot in the military household.

The firm's mission:

- Assisting the head of the military household in its daily tasks;
- To study the cases submitted to it by the head of the military household.

The firm is composed of:

- A legal adviser and his deputy;
- An assistant chief of the military household;
- An administrative secretary and his deputy;
- Head of a financial service;
- A secretary.

Departments are specialized services covering the following areas:

1. organization, operations and training;
2. intelligence and security;
3. administrative, logistical and technical.

A. The Department of Peacekeeping Operations and organization of cells is composed as follows:

- Operations;
- Organization;
- Training.

It is responsible for:

1. Evaluate the operational units of the Congolese armed forces, national police and the mood of the troops;
2. Ensure the application instructions and directives of the supreme commander of the Congolese armed forces in the organization, operations and training;
3. Liaison between the military household and the Department of Defense, the Joint Staff, the forces and the Congolese National Police.

B. The Department of Intelligence and Security is responsible for:

1. Continuously reassessing both internal and external threat that hangs over the Democratic Republic of Congo;
2. To exploit, analyze and evaluate information relating to defense and security;
3. Maintaining records security of neighboring countries;
4. Maintaining security files of senior army, police, national service and the staff of the military household;
5. Develop standards of military security;
6. Continuously reassessing the security situation of the units, facilities and equipment of the army, police and National Service;
7. To liaise between home and the military security service.

This department includes the following cells:

1. Studies, analysis and evaluation;
2. Documentation;
3. Military security.

C. Finally, the Administrative Department and Logistics is responsible for:

1. To hold the senior administrative file of the army, police and National Service;
2. Ensure the administrative management of the aides of the Head of State;
3. To develop the guidelines of Supreme Commander for the management of military and civil defense, military and national police;
4. To develop the guidelines of Supreme Commander for the acquisition, purchase and management of military equipment and supplies;
5. Verify compliance steps of materials and equipment by the Department of Defense, the Joint Staff, the various forces, the Congolese national police and national service.

This department consists of:

1. Staff;
2. Equipment;
3. Technique

Personnel management of the military household is subject to Law No. 81/003 of 17 July 1981 portant Staff career of public service as well as the state administrative regulations specific to the armed forces.

The head of the military household names and dismisses the heads of departments and legal counsel after approval by the President. They rank of adviser to the minister.

Recruitment of other members of the military household are made by the head of the military household.

IV. THE LEGAL BASIS OF THE ARMY

IV.1. CONSTITUTIONAL TEXTS

Section 219 of the Basic Law²⁹ listed the materials that are the exclusive responsibility of central government, of these materials included the armed forces. The reason for the award was justified in Article 6 which stated: "The Congo is in its present limits, an undivided and democratic state."

Made up of six provinces, it was inconceivable that each province is endowed with its own army, plunging the country into a total balkanization. Although the military has been the domestic jurisdiction, it had been unable to deal with rebellion and secession.

Section 251 was devoted to the Armed Forces which provided: "*The military contingent is set annually. The law determines, has force only for one year, unless it is renewed*³⁰."

The constitution of the first in August 1964 called Title X Luluabourg devoted to a chapter on law enforcement. It should be noted that the constitution provided for a federal state. The police were held in police, gendarmerie and armed forces. Each province had a police force that depended on it. The Gendarmerie was part of the national army while having its own structure³¹.

The army was in the service of the Congolese nation as a whole. No authority could divert it from its own ends. No one could organize training military, paramilitary or militia or maintain a private army or subversive youth.

Recruitment, organization, rules of discipline, service conditions and the rights and military obligations were fixed by legislation. The establishment of foreign bases was prohibited; no foreign troops could occupy or cross the territory in violation of the law.

²⁹ Article 219 of the Basic Law of 19 May 1960 on the structures of the Congo.

³⁰ Article 251 of the Basic Law of May 19, 1960.

³¹ Articles 159, 160, 161, 162, 163 and 164 of the Constitution of the 1st August 1964.

Regarding the intervention, the army could not operate outside the country under the conditions determined by law.

The armed forces could intervene in the internal affairs of a province and thus supplement the police in the case set by national law.

As for the constitution of June 24, 1967, Article 30 provided: *"The President shall appoint and dismiss provincial governors.*

He shall appoint and dismiss prosecutors.

It is the supreme commander of the armed forces and police. He appoints and dismisses officers of the armed forces and police ..."

The constitution recognizes the February 18, 2006 the President of the Republic of quality supreme commander of the armed forces and chairman of the Supreme Defence³².

Sections 187 and above determine the structures and missions of the armed forces, which are those of defending the territorial integrity and national borders.

In peacetime, they contribute to the economic, social, and cultural and protect people and property. The constitution prohibits on pain of high treason, the organization of military or paramilitary formations.

IV. 2. LEGAL TEXTS AND REGULATIONS

Apart from the constitutional, we also have laws and regulations. With regard to regulations, there are texts made by the President in matters in the field of law and regulations. Still speaking of regulations, there are also texts made by the Minister of Defence.

The Presidential Decree No. 86/014 of 27 June 1986 focuses on national defense and homeland security. This Order organizes the personnel management department of national defense in two directions, one responsible for civilian personnel and general services and the other in charge of military personnel.

Ordinance No. 94/025 of 4 April 1994 on the body of transmission within the FAZ. This act creates transmission troops under the authority of the Chief of General Staff. This body advises the Minister of Defence and the Chief of Staff. Ensure the command, coordination and control units. It provides, coordinates and develops the efficiency and speed of information transmission, information, instructions, orders and decisions between levels of command, coordination and execution of the Zairian armed forces.

Decree Law No. 226 of 7 May 1999 establishing the port of grades and distinctive within the Congolese armed forces "FCC". This Decree-Law establishes the ranks in the armed forces and the classification of three categories namely:

1. Extra-category;
2. Category;

³² Article 83 of the Constitution of February 18, 2006.

3. Order.

The extra category is reserved for the summit of the military command of the country. Class officers, NCOs and officers. And the order is reserved for soldiers.

Decree-Law No 001/2002 of 26 January 2002 which deals with the general organization of the defense and the Congolese armed forces. This Decree-Law on Defence which is to ensure at all times in all circumstances and against all forms of aggression, security and territorial integrity, and the lives of the people.

This law regulates the use of forces and resources. Conditions in relation to age, gender, how the government can do, the identification of persons, animals, materials, products and others may be requisitioned.

The same decree contains provisions on the management of the war, the direction of the defense as its territorial administration and operation of the defense, the organization of the Congolese armed forces.

Decree No. 024/2002 of 24 February 2002 establishing the military household of the President of the Republic. This text establishes a structure that is designed to manage the security, military, national service and the Congolese National Police, as the head of state is the president of the Superior Council of Defence.

Decree No. 019/2003 of 2 March 2003 on the organization and functioning of the military household of head of state. It considers all matters relating to defense and security and all other matters submitted to him by the head of state. It prepares the decisions to be taken by the Head of State concerning national defense, police, national service and the security service.

The military household evaluates the operational units of the Congolese armed forces, national police and the mood of the troops. It operates and analyzes all military intelligence, political and other.

It gives technical advice on the purchase and acquisition of equipment and military equipment. She is the liaison between the Chief and Department of Defense.

Decree No. 018/2002 of 24 February 2002 setting up a specialized service called the Congolese armed forces branch of the Military Detection of Anti-Patriotic Activities, DGDEMIAP. This structure is responsible for suppressing the armed forces in any anti homeland.

Decree No. 106/2002 of 19 August 2002 setting up a group of military colleges of the Congolese armed forces. These colleges ensure military training and development of all officers of the Congolese armed forces. Approve the documents and studies on various doctrines ensure publication and dissemination produce, etc..

Decree No. 108/2002 of 19 August 2002 creating the Directorate of Logistics. This is a structure within the armed forces who oversees the transport, supply, order, production and agriculture.

Within the logistics base, there are central repositories that are non-mobile facilities and depend on the general staff. Logistics base station is responsible for logistical support, supplies, transportation of military regions and logistics units. These logistics bases are located at: Boende, Bukavu, Kananga, Kikwit, Kindu, Lubumbashi, Matadi, Mbandaka, and Mbuji-Mayi.

Decree No. 110/2002 of 19 August 2002 laying down the structures and organization of the logistics base station Congolese armed forces. This Decree determines the structures that comprise the logistics base station:

1. A main state;
2. Battalions;
3. Central repositories;
4. Cells logistics.

Central logistics base of the Congolese armed forces operates administratively under the authority of the Chief of Joint Staff of the armed forces and the operational and strategic under the authority of the President of the Republic, Supreme Commander of Armed Forces Congolese.

Decree No. 066 of 9 June 2002 on the demobilization and reintegration of vulnerable troops present in the fighting forces. Following the war situation in DR Congo has known in the ranks of armed groups as the armed forces, there have been vulnerable. By this means the child soldiers, girls or boys under 18, disabled, chronically ill, elderly, widows and orphans.

These groups should be protected for their integration into the socio-economic development in the Democratic Republic of Congo. By this act, two structures were responsible for the implementation within each jurisdiction, namely the Ministry of Defence and Human Rights.

IV. 3. MILITARY JUSTICE

Military justice is governed by three documents, namely:

Legislative decree of 24 November 1964 on the organization of the repressive action of military courts when they are substituted for the courts of law. This act regulates the enforcement action following the declaration of a state of emergency. Military courts replace the ordinary courts on all or part of the territories concerned.

Ordinance-Law No. 71/082 of September 2, 1971 focuses on disciplinary system for judges and clerks military. This order holds the disciplinary judge or clerk of the duties of his state, honor or dignity of his duties that constitutes a disciplinary offense. It establishes the various disciplinary measures, the procedure for disciplinary action and punishment and the authorities empowered to impose disciplinary sanctions.

Law No. 023/2002 of 18 November 2002 is on the military justice code. This text organizes the military courts in the Democratic Republic of Congo, the jurisdiction of the courts, proceedings before military courts, judgments and remedies ordinary extraordinary.

IV.4. INTERNATIONAL INSTRUMENTS

Democratic Republic of Congo, like other countries of the world had to ratify international instruments in several areas. On the Condition of the Wounded and Sick in Armed Forces in the campaign on improving the wounded, sick and shipwrecked members of armed forces at sea, on treatment of prisoners of war, the protection of victims of conflict international armed, the Non-Proliferation of Nuclear Weapons, the limitation or prohibition of the Use of Certain Conventional Weapons which may be regarded as the traumatic effects and the prohibition of the use and stockpiling of antipersonnel mines .

IV.4.1. IMPROVING THE FATE OF WOUNDED AND SICK

This convention is in time of war declared or any other armed conflict, the contracting parties are treated humanely in all circumstances, people who do not participate in combat, including members of armed forces who have laid down their arms people who have been out of hostilities by sickness, wounds, detention or any other cause.

The International Committee of the Red Cross, as an impartial humanitarian body, may offer its services to warring parties, collect and treat the wounded and sick.

The wounded and sick of a belligerent fallen into enemy hands shall be prisoners of war and rules of international law applicable to them.

IV.4.2. The wounded, sick and shipwrecked

This is the Geneva Convention II of 12 August 1949 for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea.

The Contracting Parties undertake to deal with humanity in all circumstances and without adverse distinction based on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.

The wounded or sick and shipwrecked are collected or treated by the International Committee of the Red Cross. The Convention applies to forces embedded in the operations.

IV.4.3. TREATMENT OF PRISONERS OF WAR

This is the Geneva Convention III of 12 August 1949 relative to the Treatment of Prisoners of War. The parties to this convention are obliged to implement these protective measures, whenever in time of war or other armed conflict. While this condition is not recognized by one of them, same is the case of occupation of all or part of the territory. They must treat them humanely and in all circumstances the prisoners.

Prisoners of war:

- Members of the armed forces of a party to the conflict;
- The other militias and members of other volunteer corps, including those of organized resistance movements belonging to a party to the conflict;
- Members of regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power;
- Members who accompany the armed forces without actually being members thereof;
- The crew members, including commanders pilots and apprentices of the merchant marine and the crews of the aircraft;
- The territory of a non-occupied territory to the approach of the enemy, spontaneously take

up arms to fight the invading forces.

The Convention applies from the fallen power of the enemy until their final release and repatriation. The agreement authorizes the representatives or delegates to visit all places where prisoners of war.

IV.4.4. PROTECTION OF CIVIL PRISONERS

This is the Fourth Geneva Convention of August 12, 1949 on the Protection of Civilian Persons in Time of War. During the war or other armed conflict, the contracting parties have an obligation to protect civilians. The Convention does not apply to non-signatories. The parties not participating in hostilities must be treated humanely in all circumstances without exception.

The Contracting Parties shall refrain from any treatment that affects the life and person, hostage taking, attacks on the dignity and the conviction and execution without trial. These provisions of Part II cover all people in the conflict.

IV.4.5. International armed conflicts

The Additional Protocol to the Conventions of 12 August 1949 relating to the Protection of Victims of International Armed Conflicts. This protocol applies in cases of declared war or other armed conflict which may arise between two or more of the high contracting parties even if the state of war is not recognized by one of them.

In addition, in case of occupation of all or part of the territory of the Contracting State. It applies to all powers parties to the agreement. People who do not participate in combat must be treated with humanity without distinction. They should not be damaged to life, physical integrity, the taking of hostages, in the dignity and conviction without trial.

IV.4.6. NON-INTERNATIONAL ARMED CONFLICT

This is the Protocol II Additional to the Geneva Conventions of 12 August 1949 on the Protection of Victims of International Armed Conflicts. The protocol obliges all contracting parties to respect and ensure respect for this Protocol in all circumstances.

It requires states to the protection and the rule of the principles of international law, civilians and combatants. This Protocol supplements the Geneva Convention of August 12, 1949.

IV.4.7. NUCEAIRES WEAPONS

The Treaty on the Non-Proliferation of Nuclear Weapons on 12 February 1970. This treaty is an obligation on States with nuclear weapons that are part of the Treaty undertakes not to transfer anyone to nuclear weapons or other nuclear explosive devices directly or indirectly, or assisting, or to encouraging or inducing a state that does not have to acquire or manufacture.

Non-nuclear states that are part of the Treaty not to receive anyone transfer a nuclear weapon or other nuclear explosive device, not to manufacture or acquire or receive any assistance.

The state non-nuclear weapon party to the Treaty undertakes to accept safeguards, as stipulated in an agreement to be negotiated and concluded with the International Agency for Atomic Energy, in accordance with regulations of the Agency. The institution shall ensure the use of nuclear weapons should not be diverted from peaceful use. The Treaty provisions

should not be interpreted as affecting the inalienable right.

It should be recognized that the international community still remember the atrocities that the world has experienced during the two world wars. The bomb on Hiroshima and Nagasaki, whose raw material came from the Democratic Republic of Congo Shinkolobwe pushes the international community to ensure the export of raw uranium to international security.

IV.4.8. WEAPONS EFFECTS AND INJURIOUS

That the Convention on Prohibitions or Restrictions on the Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of October 10, 1980.

In the procedure, the Convention provides for the ratification, acceptance, approval or accession and the Secretary General of the United Nations is the depositary.

IV.4.9. ANTI-PERSONNEL MINES

This is a convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Antipersonnel Mines and on Their Destruction, Convention of 18 September 1997.

Article 2 of the Convention defines "anti-personnel mine" come as a mine designed to be detonated by proximity or contact of a person and that will incapacitate, injure or kill one or more persons.

States commit to never under any of the circumstances:

1. Use antipersonnel mines;
2. Develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, antipersonnel mines;
3. Assist, encourage or induce any way anyone to engage in any activity prohibited to a State Party to the Convention.

CONCLUSION

Congolese constitutions were inspired by the Belgian constitution, which establishes the incompatibility between the position of elected officials and the civil service or military. It was also established that the Prime Minister has a majority in parliament which excluded the military. In 1965, the army had come to counteract the political class to seize power in violation of the constitution which excluded certain military functions and management of political power.

In DR Congo, the army managed to paralyze the business, the peasantry, the working class, trade union associations, the press, NGOs, religious groups that did not take advantage counterbalance the weight of the army. It was a kind of safety net for those who ran the political power under the pretext of public interest or national level.

Currently, there is the resignation of army officers seeking to manage the power. But the same reflexes military always come back when it comes to leading the destiny of the population. Excite does a spirit of military cultures that distinguish national cultures?

Yet this question is meaningless in the developing countries and the military were able to exercise an unchallenged domination of the political, economic and social³³. The military spirit guides the universal political and economic behavior regardless of local context. The perception that the military can have their special qualities is of course not spontaneous. It is the product of socialization gained in the military academies and in the units themselves. Training and education of staff generate the values, skills, specific logic, a particular worldview. They influence the perception they have of themselves and by extension, the image they have of civilians³⁴.

Professor Kaumba LUFUNDA speaking from the Congolese army said about the course of our history, we note a gradual evolution of the army, which is part of the political, the Colonial Army, the police, was an army of occupation. At independence, the Congolese National Army is an army of peace because of the rebellions. Under the Second Republic, at least those lucky days, the Zairian armed forces reached the moment to become a military deterrent. What should be the new Congolese army? It should not consider calmly and courageously the establishment of an army whose key concept would be the response³⁵.

When analyzing the various steps that the Congolese army has known of the Police Force to the Army Forces of the Democratic Republic of Congo. It should be added to the qualifications of Professor Kaumba other concepts that have characterized this army before arriving at the concept intervention. The period of the ADFL with Laurent Désiré Kabila in 1997, the DRC has experienced a so-called army of liberation that the Congolese people out of the dictatorship. A union of the rebel factions to make a coalition to drive Mobutu from power. With the advent of Joseph Kabila in power until elections have become a FARDC army integration, which must include all the movements of former rebels to build a republican army to become a military intervention .

The mission of the military is constitutional; defend the integrity of national territory and borders. Under the conditions laid down by law, they participate in peacetime the economic, social and cultural as well as the protection of persons and property.

The army must be republican, apolitical, serving the entire nation. It should not be at the service of an individual or away for their own purposes under penalty of high treason. The Congolese have questions about the army: its composition, in terms of geography, so even if the Lingala language of the police force has become the most widespread language of the country's different regions, human groups and ethno-cultural training are still very unequally represented in the army.

The army must be subject to civil authority, it is a constitutional principle which exempts the military from the political management of the country to establish a democratic regime. The number of military personnel at all levels and functions of command at all times and under all circumstances, must take into account objective criteria related to physical fitness, education sufficient to morality and a representative of the provinces.

The constitution prohibits any person, under penalty of being prosecuted for high treason, the organization of training military, paramilitary or vigilante groups. It is strictly forbidden to

³³ Boulègue, J., "From the military republican forces: two centuries of questioning of the army in the French company, quoted by DUBUS and REVISE, Op. cit., p. 219.

³⁴ Dubus, A. and REVISE. N., Op. cit., p. 220.

³⁵ Kaumba LUFUNDA, Notes, School of Criminology, University of Lubumbashi, 2006-2007

maintain an armed youth³⁶.

At the top of the Congolese army, there is a Supreme Council of Defense which is chaired by the President of the Republic, which in turn is absent or unable to be replaced by the Prime Minister.

³⁶ Mabile MANTUBA, *Op. cit.*, p. 65.

REFERENCES

I. LEGAL TEXTS

1. Charte des Nations -Unies de 1948
2. Convention de Genève pour l'amélioration du sort des blessés et des malades dans les forces armées en campagne du 12 août 1949
3. Convention (II) de Genève pour l'amélioration du sort des blessés, des malades et des
4. Convention (III) de Genève relative au traitement des prisonniers de guerre du 12 août 1949
5. Convention (IV) de Genève relative à la protection des personnes civiles en temps de guerre du 12 août 1949
6. Protocole additionnel aux conventions de Genève du 12 août 1949 relatif à la protection des victimes des conflits armés internationaux du 8 juin 1977
7. Protocole additionnel aux conventions de Genève du 12 août 1949 relatif à la protection des victimes des conflits armés non internationaux du 8 juin 1977
8. Traité sur la non-prolifération des armes nucléaires du 12 février 1970
9. Convention sur l'interdiction ou la limitation de l'emploi de certaines armes classiques qui peuvent être considérées comme produisant des effets traumatiques excessifs ou comme frappant sans discrimination du 10 octobre 1980
10. Convention sur l'interdiction de l'emploi du stockage, de la production et du transfert des mines antipersonnel et sur leur destruction du 18 septembre 1997
11. Loi fondamentale du 19 mai 1960
12. Constitution de la République Démocratique du Congo du 1^{er} aout 1964
13. Constitution de la République Démocratique du Congo du 24 juin 1967
14. Charte coloniale du 14 octobre 1908
15. Constitution de la République Démocratique du Congo du 18 février 2006
16. Décret-loi n° 001/2002 du 26 Janvier 2002 portant organisation générale de la défense et Forces armées congolaises.
17. Arrêté présidentiel 86/014 du 27 Juin 1986 portant organisation du Département de la défense nationale et de la Sécurité du territoire.
18. Ordonnance n°94/025 du 4 avril 1994 portant création d'un corps de transmission au sein des forces Armées zaïroises.
19. Décret-loi 226 du 9 mai 1999 instituant le port des grades et signes distinctifs au sein des forces armées congolaises « FAC »
20. Décret-loi n° 066 du 09 juin 2000 portant démobilisation et réinsertion de troupes vulnérables présentes au sein des forces combattantes.
21. Décret 018/2002 du 24 février 2002 portant création d'un service spécialisé des forces armées congolaises dénommé Direction Générale de la Détection militaire des activités anti-patrie (DEMIAP) en sigle
22. Décret 024/2002 portant création de la maison militaire du Président de la République.
23. Ordonnance 43/55 du 19 février 1953, poudres, substances explosives et engins meurtriers agissant par explosion.
24. Ordonnance n° 05/100 du 03 mars 1959 portant contrôle des armes à feu et leurs munitions.
25. Ordonnance 86/079 déterminant ces caractéristiques des armes à feu admises sur le territoire nationale à titre d'armes à feu de chasse, de sport ou d'autodéfense et fixant la qualité maximum de munition pouvant être détenues par arme.

26. Loi n° 81/003 du 17 juillet 1981 portant Statut du personnel de carrière des services publics de l'Etat ainsi qu'aux règlements d'administration spécifiques aux membres des forces armées.

II. BOOKS

1. CHEUZEVILLE, H., *Chroniques Africaines des guerres et d'espérance, RD Congo, Ouganda, Ruanda, Burundi, Soudan*, Ed Persée, France, 2002.
2. DUBUS, A. et REVISE, N., *Armée du peuple, Armée du Roi*, Harmattan, Paris, 2002
3. NTUMBA LWABA LUMU, *Une lutte de libération au service d'un pays voisin*, Ediction mémoire collective, Kinshasa, 2006.
4. DE MONTCLOS, M., *Guerres d'aujourd'hui les vérités qui dérangent*, Tchou, Paris, 2007
5. LEVY BERNARD, H., *Réflexion sur la guerre, le mal et la fin de l'Histoire*, Ediction Grasset et Fasquelle, Paris, 2001.
6. *Un assaut contre la société*, Ediction Emotion, Paris, Tome I, 1999.
7. KALABA MUTABUSHA, *Les données socio-économiques de la crise*, Séminaire de formation civique organisé par Konrad Adenauer sur les conditions de prévention des crises et d'une paix durable en République Démocratique du Congo, 17-19 juin 2002, PUL, Lubumbashi, 2002.
8. MERLE, M., *La vie internationale*, Armand Colin, Paris, 1970.
9. BOULEGUE, J., *De l'ordre militaire aux forces républicaines : deux siècles d'interrogation de l'armée dans la société française*, cité par DUBUS et REVISE
10. ROUSSEAU, JJ., *Du contrat social*, Flammarion, Paris, 1992.
11. WOLFORD, M., *Réellement libre de l'esclavage de la sorcellerie*, Zambie, Christian Literature Press, S.D.

III. THESE AND RESEARCH MEMOIRE

1. BANZE WA BANZE, Etude des comportements des forces armées de la République Démocratique du Congo, Mémoire de licence en criminologie, Université de Lubumbashi, Lubumbashi février 2010.
2. ILUNGA NGOY KABALE, Les effets du phénomène « malanda ngulu » au sein d'une structure, Mémoire de Licence en criminologie, Université de Lubumbashi, Lubumbashi février 2010.
3. MUKENDI NKASHAMA et KABEYA MUKAMBA, Guerres et mutations sociolinguistique en République Démocratique du Congo (1960-1999), In 40 ans d'indépendance, Tome II, PUL, 2004

IV. LESSON

1. KAUMBA LUFUNDA, Notes de cours, Ecole de criminologie, université de Lubumbashi, 2006-2007

V. WEBSITE

1. <http://www.mediadico.com/dictionnaire/définition/arme.> (July 12 2010)