CHAPTER 5

Traditional chiefs and traditional authority in Kinshasa

Philippe Ibaka Sangu

Introduction

After gaining their independence, many an African national government has used its capital city to symbolise the emergence of a new nation and to reflect its central authority. However, these two processes have not been uniform since different postcolonial regimes have developed approaches to nation building and to state formation at different stages and in differing ways (Bekker & Therborn 2012). This is true of the Democratic Republic of the Congo (DRC) where, after its independence in 1960, four successive regimes (between 1960 and 2016) have intervened in the built environment of the capital city.

The aim of this chapter is to identify which policies and practices these postcolonial regimes have applied to traditional chiefs in Kinshasa and how traditional authorities in this capital city have adapted to these interventions. Moreover, the ways these chiefs and their authority structures have adapted vary both over time as well as in different zones of the capital city. In other words, the various forms of coexistence of traditional and modern urban institutions are fixed neither in time nor in space (Ibaka 2019).

A concise history of the capital city culminating in the introduction of modern urban institutions will first be presented. This section will include a discussion of the demarcation into three zones of the geographical region of what is now the province of Kinshasa. Subsequently, traditional chiefs and traditional authorities both in the DRC and in Kinshasa will be presented. This is followed by examples of exchanges between central governments and traditional chiefs in Kinshasa during the postcolonial period.

The 1980s establishment of a national legal institution designed to legalise the coexistence (*cohabitation*) of the state and traditional authorities changed the nature of this relationship in the DRC as a whole. Its application to chiefs in Kinshasa will be identified as an important milestone in the process of traditional chiefly adaptation in the capital city. The focus will then shift to a discussion of the different ways in

which traditional chiefs have adapted to urban realities in each of the three zones of Kinshasa. Evidence from three case studies including interviews carried out by the author (Ibaka 2019), one in each zone, will supplement this analysis. A key feature of these divergent processes of adaptation is the issue of land tenure.

The informal nature of service delivery for most Kinshasa residents is the context within which conclusions will be drawn. It appears that most chiefly authority in the capital city is diminishing, though a degree of coexistence (*cohabitation*) endures.

The development of Kinshasa as the capital city of an independent DRC

During the period from 1888 to 1910, Léopoldville was the capital of Stanley-Pool, one of the administrative districts of the colonial Belgian Congo. From 1910 to 1930, Léopoldville became the capital of the district of Moyen-Congo and, in 1929, the city became the seat of all colonial state departments. This administrative situation was retained until Congo became independent in 1960 (Kiaku Mayamba Niangi 2015: 33).

Léopoldville did not legally gain the status of a city until June 1941. Earlier, it was designated as an 'urban district' and was divided into two zones: the urban zone and the indigenous zone in the south (Munayi Muntu-Monji 2010: 49). Over the last two decades before independence, the city grew rapidly in size and incorporated the neighbouring settlement of Kimwenza (Kiaku Mayamba Niangi 2015: 34). On 30 June 1960, with a population of 443 000, Léopoldville became the capital of independent Congo and it was not until the Ordinance Law of 1968 that the city took on the name, Kinshasa (Kiaku Mayamba Niangi 2015: 35). Kinshasa was granted the status of a province in 1982, enabling it to receive the same powers and responsibilities as those of all the country's other provinces. As a province, it was governed by an appointed governor at the head of a provincial government tasked with implementing central government directives to modernise the city. In 1982, its population was 2 338 000, a figure that had risen to 12 624 000 by 2017 (Populationstat 2020).

The names of the presidents who have reigned over national governments in the DRC may be used to identify the four postcolonial regimes: Joseph Kasa-Vubu (1960–1965), Joseph Désiré Mobutu (1965–1997), Laurent Désiré Kabila *pere* (1997–2001) and Joseph Kabila Kabange *fils* (2001–2016). As the first president, Kasa-Vubu promoted the ideals of l'ABAKO (Alliance or Association of the Bakongo), an ethnicity-based cultural movement that was transformed into a political party on the eve of independence. Subsequently, during his lengthy period of rule, Mobutu employed the rhetoric of nationalism under single party rule (N'Sele Manifesto 1965: 6). It was during this regime that the National Alliance of Traditional Authorities of Congo (ANATC), a national legal institution designed to legalise the coexistence (*cohabitation*) of the state and traditional authorities, was promulgated. The short and conflictual tenure of Laurent Kabila culminated in his assassination and the presidential regime of his son. Joseph Kabila Kabange employed the rhetoric of 'revolution of modernity' to call for both industrial as well as agricultural reforms in the DRC (Kambila Kankwende wa Mpunga 2017: 131).

The classification of the national economy of the DRC as that of a rentier economy – where access to its enormous natural wealth is controlled by the national government

Figure 1. The three zones defined by urban planning and land tenure, Kinshasa 2011

Source: De Saint Moulin (2011: 28); adaptation (author) 2018

and its associated elites – has been both a shared characteristic and the main driver of development during the last three regimes, those of Mobutu, Kabila *pere*, and Kabila *fils*. Both Kabila presidents have, in this respect, reproduced the Mobutu system of patrimonial governance. The DRC has major ongoing security challenges (especially in north Kivu), an economy that is broadly informal and a history of distrust between ordinary citizens and elites (Trefon 2009: 16). Accordingly, the relationships between chiefs in Kinshasa and DRC presidents were driven by the chiefs' attempts to reconcile themselves with the patrimonial system and to gain where they could from the wealth controlled at the top.

Kinshasa's current economy is also largely informal. The primary sector includes agriculture, animal husbandry, fishing and forestry, industrial sector manufacturing, mining and construction; and the service sector – as may be expected in a capital city – includes hotels and restaurants, repair services, leisure activities, tourism as well as domestic services, utilities, business services, banking and financial services, transport and telecommunications. Nevertheless, the informal non-agricultural and the informal agricultural sector are significantly larger than their formal counterparts.

The postcolonial urban development of Kinshasa began in earnest at the start of the Mobutu regime. On 2 December 1968, a city ordinance was promulgated which incorporated into the city of Kinshasa the traditional Bahumbu and Batéké sectors as well as the Benkana chieftaincy as municipalities. A state decree in 1969 saw the number of city municipalities rise to 24. In terms of this decree, the vast majority of suburban areas neighbouring the former colonial city centre were established as municipalities (Munayi Muntu-Monji 2010: 283). In each, an appointed *bourgmestre* headed up the municipal council which in turn was tasked with the modernisation attempts initiated by the city and, subsequently, the provincial government. By the year 2011, the physical area of Kinshasa (and its resident population) had grown significantly. The population growth was due both to in-migration as well as to the incorporation of rural, traditional communities within new and expanded provincial boundaries. From the 1970s, accordingly, modern urban institutions – the municipal council, the municipality itself and municipal courts (often called peace courts) – were

proclaimed to cover Kinshasa's geographical area, with varying degrees of success or failure regarding service delivery.

As shown in Figure 1, the physical area of Kinshasa may be considered to comprise three zones, each defined by city planning and land tenure criteria: the former colonial centre (*ancienne cité*), the planned region outside this centre (*cités planifiées*) and the periphery (*périphérie*) where neither city planning nor state land tenure regulations in the municipal areas of jurisdiction have been applied comprehensively.

Traditional chiefs and traditional authorities in Kinshasa

A brief overview of the postcolonial legal context of traditional authority in the DRC points toward two forms of access to such authority. The first is the rotating form, in which the different lineages arising from clans having the same origin and a common ancestor rule alternately. The second is the non-rotating or fixed form, in which the descendants of the lineage of the ruling clan are exclusively granted recognition as leaders, without power sharing (Article 15 of the Vade Mecum). After being appointed according to customary rules, leaders are enthroned as chiefs. This distinction has resulted in a number of cases of disputes over power and administration within the chieftaincy. The effective power of the traditional chief consists of three elements: the investiture of the chief who then enjoys indisputable power; the possession of a territory (chieftaincy or grouping) whose boundaries are known to its neighbours and the tenure of which is customary; and the issuing of a decree of recognition by the public authorities, issued by the minister of internal affairs (Article 13 of the Vade Mecum).

When a chieftaincy finds itself in an urban area, three primary challenges to the legitimacy of its authority develop.

The first is simply that the process of urbanisation draws large numbers of migrants from various clans into the territory of the chieftaincy, outsiders who do not recognise the traditional authority of the chief and the traditional institutions of his chieftaincy. The second is the establishment in this territory of modern urban institutions, such as the municipality, its council and court, and its *bourgmestre*; institutions that propose for residents rules other than those proposed by traditional institutions.

Third, and of primary concern, is the issue of land tenure. Chiefs supervise land under communal tenure. As claimed by a chief in 2018: under communal tenure, the role of the chief is not to sell land; he gives it to those who ask for it for their use, at the price of various gifts from the beneficiary. The chief shares the fruit of the sale of the land with his family; the community finds its share in work and other community activities created by the transfer (Ngandoli Musoni, interview conducted in Kinshasa on 7 November 2016). In the urban context, however, land reform promotes state and private ownership of land by using a process of cadastral surveying and registration.

Accordingly, it is apparent that chieftaincies within the boundaries of the province of Kinshasa – whether they have claims as original residents or are migrant chieftaincies – are required to adapt to all three challenges. Before turning to the ANATC – a legal association intended to regulate traditional-state affairs in the DRC – and how chieftaincies have coped with adaption in Kinshasa, the following presents a description of a number of examples of exchanges between central governments and

traditional chiefs in Kinshasa during the postcolonial period.

In the decade between 1970 and 1980, the central government under Mobutu planned a number of hillside urban settlements in Kinshasa. They included Cité Salongo in Lemba, Cité Maman Mobutu in Mont-Ngafula, Cité Verte and the Cité de l'Habitat pour l'Humanité (Habitat for Humanity) in Selembao. These cities were built on steep slopes of the hillsides and formed part of what has become the planned zone of the capital city (Lelo Nzuzi 2008: 60). In addition, during the Mobutu period, a presidential stock breeding centre was established in the municipality of N'sele. The president interacted personally with the chiefs of the Nguma and Mabana clans and this breeding centre created employment for local residents.

During the regime of Kabila *pere* (1997–2001), the president established a central Department of National Agriculture and obtained arable land in the municipal area of Kingakati/Plateau-Maluku in Kinshasa. Production was intended for the markets of the capital city as well as for what was called 'strategic reserves.' These developments are reported to have taken place by way of collaboration between the president and local chiefs. Similarly, during the regime of Kabila *fils* (2001–2019), collaboration with local chiefs is reported to have led to the purchase by the president of a farm at Kingakati for personal use. In both cases, agricultural employment for locals had been created (Mudi Nini-Manshwo, interview conducted in Kinshasa on 27 January 2018).

Figure 2. Chief Ebalavo M. Davin, Groupement Kimwenda à Mont Ngafula

Source: Author (Kinshasa, December 2017)

The establishment of the ANATC and its activities in Kinshasa

Prior to the establishment of the ANATC in 1995, the traditional chiefs of Kinshasa had already organised themselves into the Téké-Humbu Committee of traditional chiefs. The aim of this committee was to settle disputes related to traditional rights and to ensure the development of the communal lands they believed belonged to their ancestors, the first occupants of Kinshasa. Toward the end of the Mobutu regime, the central government decided, for the DRC as a whole, to create an Association – the National Alliance of Traditional Authorities of Congo (ANATC) – to oversee the involvement of traditional chiefs in the affairs of the country and to promote grassroots development in their areas of jurisdiction (Article 3 of the Articles of Association). The ANATC is managed by a National Committee that delegates powers to Basic Committees each of which is responsible for traditional affairs in a province (Articles 52–53 of the Articles of Association). Its head office is in Kinshasa.

In 2004, an extraordinary general assembly of ANATC adopted the ANATC's Internal Regulations. Its secretary-general, Chief Pene Mayenge, in his opening address, recalled that the Association had become disorderly due to the lack of competent and effective leadership. 'This situation,' he said, 'has resulted in us missing a lot of opportunities in the face of the political issues of the day. The Alliance has lost all its credibility both inside and outside (Kinshasa and) the country as a whole. This is why we have decided to convene this Assembly, so that we can speak the same language, [...] and set up a new National Executive Committee that can help us reshape our story' (General Assembly 2004: 6). The issue of weak leadership was put down to disagreements, *inter alia*, in Kinshasa, between traditional chiefs who had entered into bargains with political and administrative authorities in conflict with one another as well as with the guidelines of the Association.

Despite these difficulties, the governor of the province of Kinshasa appointed six members of the arbitration commission of ANATC to deal with customary disputes. Numerous cases have been heard and two recent cases may be mentioned as examples. The first involved disputes in the Kingakati clan in Maluku, and the second in the Mikondo clan in N'sele. The Kingakati case concerned the hereditary Chief Mudi Ferdinand and the self-appointed Chief Munkani who, not being a legitimate successor, was removed from office. Similarly, the Mikondo dispute concerned hereditary Chief Ndola Luzayadio and the pretender, the self-appointed Chief Moba Embama (Esim Eyum, interview conducted in Kinshasa on 4 March 2018).

Within the periphery zone of Kinshasa, some 20 'sectional committees' (associated with ANATC and tasked to identify disputes) in the three peripheral municipalities have been established: ten in Maluku, five in N'sele and six in Mont Ngafula (General Assembly 2004: 24–25). Nonetheless, a number of chiefs of the Téké-Humbu clans of Kinshasa have stated with bitterness that insecurity has become the norm in the city, the actions of ANATC notwithstanding. Chiefs of the Téké-Humbu clan, moreover, called upon urban development agents to provide employment opportunities in the domains of agriculture and road works in their areas of jurisdiction (General Assembly 2004: 25).

Adaptation of chiefs in the three zones of the province of Kinshasa

In Kinshasa, traditional authorities and their chiefs are compelled to coexist with the city's modern urban institutions and with the directives of the central government. In this context, the establishment of ANATC may be viewed as a legal framework defining the coexistence (*cohabitation*) of tradition, state and private sector in an urban environment. Coexistence in this sense is a form of adaptation of traditional authorities to the urban environment.

Adaptation in the ancienne cité of Kinshasa

Urban growth within this section of Kinshasa has led to the displacement of traditional villages. During colonial occupation, sites on the banks of the Congo River were developed for colonial use and the villages of Kintambo, Kinshasa, Kingabwa, and Ndolo (amongst others) were required to resettle to the south, inland from the river. After independence, this urban extension absorbed other villages within its boundaries. In short, rather than being able to adapt, the traditional way of life has been displaced entirely from this zone. Traditional authorities faced with increasing numbers of strangers in their territories, the loss of their communal land, and modern urban institutions imposing new ways of living either attempted to resettle elsewhere in the city or were recognised by the ANATC as honorary chiefs, chiefs in name only.

Adaptation in the planned zone of Kinshasa (the case of Makala-Lemba)

Given rising population densities in the cities of this zone, chiefs and their traditional institutions have had to cope with growing numbers of 'foreigners' who wish to live among the local indigenous people. Formally, these outsiders receive land to occupy by providing gifts to the chief. After having settled down, they enjoy the rights of usufruct under one condition: never interfere in the internal affairs of local customs (Ngandoli Musoni, interview conducted in Kinshasa on 7 November 2016). In theory, the chief and his people learn to live with the newcomers in the village or city.

The case of the chief of the Makala-Lemba clan – located in this zone – however, is sobering. He is one among many Kinshasa chiefs who have sold all their land and have no customary village in which to exercise their traditional authority. 'The chiefs in the middle of the city have hardly any space,' states Sabakinu (Sabakinu Kivilu, interview conducted in Kinshasa on 17 January 2017). More generally, in the municipalities of Kalamu and Limete, as a result of land and cadastral surveying by the state, both customary lands as well as private concessions have been 'fragmented,' leading to the loss of viable communal land (Ngandoli Musoni, interview conducted in Kinshasa on 7 November 2016).

In this zone, accordingly, chiefly authority and traditional institutions are faced with all three urban challenges: growing numbers of strangers, modern urban institutional establishment and loss of communal land. Disputes that flow from these challenges may well be addressed by ANATC that recognises the authority of chiefs in this zone but the trend towards the loss of authority is clear.

Adaptation in the periphery of Kinshasa (the case of Maluku and N'sele)

The municipalities of Maluku and N'sele are peri-urban. These former rural areas were part of the traditional Kasangulu territory. As revealed above, from time to time the state has approached customary chiefs in this zone for land to carry out its development and commercial projects within the ambit of the built environment of the capital city. The management of land, particularly in this zone, has become a major bone of contention. Though during collaboration with chiefs in promoting these projects, the state claims to respect communal land rights, realities on the ground differ. As densities in this peripheral zone increase, plots are demarcated, bought and become the property of the buyers. Simultaneously, in areas where communal tenure remains in place and densities are lower, plots are transferred under usufruct. When a non-indigenous person arrives to live among the Téké, for example, a plot for occupation and use is granted free of charge. Arable land is leased over a renewable period of 25 years. When this person leaves the host village, all physical improvements and developments (such as fields, trees, houses, etc.) remain behind for the benefit of the chief and his community. In short, as Kinshasa densifies, the chiefs in these peripheral areas rule over and manage entire villages within which more and more requests for the sale of land (rather than a transfer with usufruct) are made. Insofar as they acquiesce to these offers, they will find themselves in the same position as their colleagues in the city centre: honorary chiefs without land who are chiefs in name only. It is apparent that disputes over chieftaincies and over land in this zone keeps ANATC commissions busy.

Conclusion

The province of Kinshasa and its multiple municipal councils are responsible for the delivery of urban services to their residents. The quality and scope of these services is poor for the majority of this urban population and for a growing proportion of residents as one shifts the lens from the former colonial city centre to the planned zone and subsequently to the peripheral zone (Leclerc-Olive 1997; Trefon 2009; Verdet 2014: 11). Most urban dwellers living in the capital city receive most urban services informally rather than from their municipalities. It is consequently no surprise that many residents consider the traditional institutions of chieftaincies – within the boundaries of Kinshasa – as genuine and worthy of support, even if they do not belong to the chief's clan.

Simultaneously, the precarious nature of urban living in the capital city has led to the proliferation of three forms of chieftaincies that deviate from the generally accepted institutions of traditional authority in the DRC, and accordingly fall outside the ANATC and its legitimisation of the relationship between chief and state. The first, chiefs labelled '*vagabond chiefs*' refer to individuals on the streets who claim chief status and apply for authorisation without support from clan members and without claims to communal land. The second, chiefs labelled as 'self-proclaimed' also refer to individuals who claim chief status and apply for authorisation. In these cases, however, there are residents and a number of local municipal officials who swear allegiance to the self-proclaimed chief. In the third place, there are '*des chefs allogènes*' (chiefs

who have migrated into Kinshasa from elsewhere in the DRC). Typically, these chiefs enter the province with members of their clans and settle together with a number of them. They are not able to make claims to communal land in Kinshasa and are not authorised by ANATC as chiefs in Kinshasa (ANATC 2015).

The Democratic Republic of Congo has experienced the existence of traditional chiefs and chiefdoms before, during and after colonisation. The province of Kinshasa, the capital city of the DRC, shares this experience. Kinshasa, however, has experienced rapid urbanisation and provides residence today to some 12 million Congolese (Verdet 2014). These urban dwellers are a mixture of locally born and internal migrants from different parts of the country and, accordingly, from various traditional clans in the country. Chiefs in the city comprise indigenous chiefs with clans and claims to communal land falling within the area of jurisdiction of the province as well as other chiefs (ranging from migrant traditional leaders to those that are self-proclaimed or vagabond). New urban institutions operating in the same urban areas include *bourgmestres* and their municipal councils.

The challenge for chieftaincies to adapt to this new institutional urban environment is apparent. As identified above, in fact, chiefs and their chieftaincies' have been living within a national state the leaders of whom have monopolised access to the natural wealth of the country. Accordingly, their relationships with these leaders and presidents have been driven by attempts to reconcile themselves with the patrimonial system and to gain where they could from the wealth controlled at the top.

The process of adaptation has not been uniform: its form depends not only on the nature of chiefly authority but also whether institutions find themselves in the former colonial zone, in the new planned zone or in the peripheral zone of Kinshasa. In the former colonial zone, traditional institutions have disappeared and have been replaced by modern urban state institutions; in the planned zone, they have lost much of their authority; and in the periphery, they tend to coexist with their modern equivalents. With the creation of a national institution called the National Alliance of Traditional Authorities of Congo (ANATC), some of the traditional leaders in the city have been offered a statutory opportunity to collaborate and coexist with modern state institutions.

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