Researching livelihoods and services affected by conflict
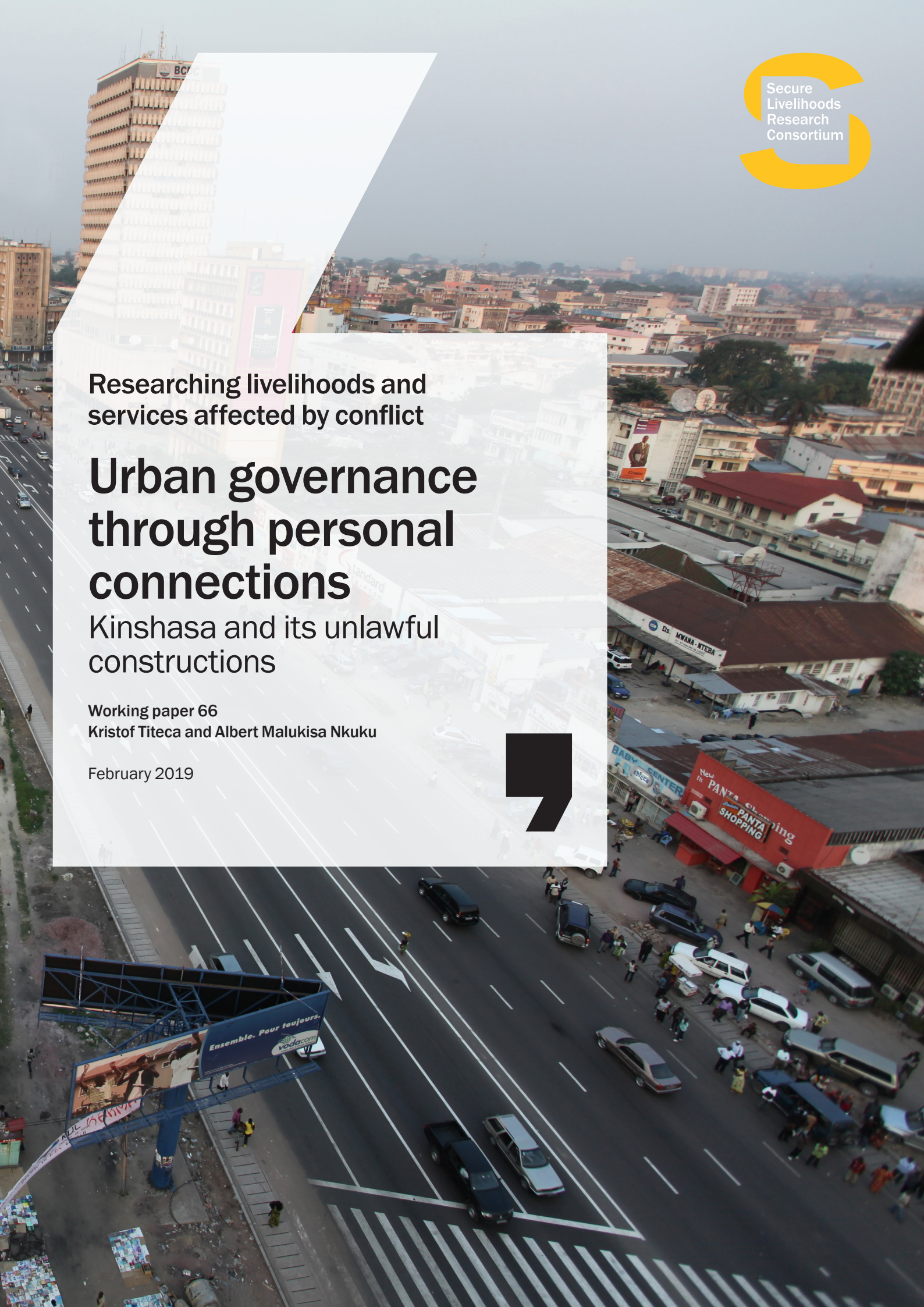
Urban governance through personal connections

Kinshasa and its unlawful constructions

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Kristof Titeca and Albert Malukisa Nkuku

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Written by
Kristof Titeca and
Albert Malukisa Nkuku

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About us

The Secure Livelihoods Research Consortium (SLRC) is a global research programme exploring basic services and social protection in fragile and conflict-affected situations. Funded by UK Aid from the UK Government (DFID), with complementary funding from Irish Aid and the European Commission (EC), SLRC was established in 2011 with the aim of strengthening the evidence base and informing policy and practice around livelihoods and services in conflict.

The Overseas Development Institute (ODI) is the lead organisation. SLRC partners include: Centre for Poverty Analysis (CEPA), Feinstein International Center (FIC, Tufts University), Focus1000, Afghanistan Research and Evaluation Unit (AREU), Sustainable Development Policy Institute (SDPI), Wageningen University (WUR), Nepal Centre for Contemporary Research (NCCR), Busara Center for Behavioral Economics, Nepal Institute for Social and Environmental Research (NISER), Narrate, Social Scientists' Association of Sri Lanka (SSA), Food and Agriculture Organization (FAO), Women and Rural Development Network (WORUDET), Claremont Graduate University (CGU), Institute of Development Policy (IOB, University of Antwerp) and the International Institute of Social Studies (ISS, Erasmus University of Rotterdam).

SLRC's research can be separated into two phases. Our first phase of research (2011–2017) was based on three research questions, developed over the course of an intensive one-year inception phase:

- State legitimacy: experiences, perceptions and expectations of the state and local governance in conflict-affected situations
- State capacity: building effective states that deliver services and social protection in conflict-affected situations
- Livelihood trajectories and economic activity under conflict

Guided by our original research questions on state legitimacy, state capacity, and livelihoods, the second phase of SLRC research (2017–2019) delves into questions that still remain, organised into three themes of research. In addition to these themes, SLRC II also has a programme component exploring power and everyday politics in the Democratic Republic of Congo (DRC). For more information on our work, visit: **www.securelivelihoods.org/what-we-do**

Acknowledgements

Acronyms
and glossary

DG	Director General
DGRAD	*Direction Générale Des Recettes Administratives* (General Directorate of Administrative Taxes and Other Financial Receipts for Central Government)
DGRK	*Direction Générale des Recettes de Kinshasa* (General Directorate of Revenues in Kinshasa)
DRC	Democratic Republic of the Congo
PALU	Unified Lumumbist Party

'Big men'	Powerful men, nodes in personal networks who can exert powerful political and economic leverage
Branché	To be well connected
Constructions anarchiques	Unlawful constructions
Chef de cellule	Cell leader (communal level body)
Communes	Communes
Grosses moulures	'Big shots'
Invisibles	Informal revenue
Mamans	Women
Rapportage	Upward profit sharing
Le réseau	The network
Retrocession	Upward profit sharing

Contents

Executive summary

Kinshasa has been growing rapidly in the past few decades, not only in terms of population, but also spatially, as it has expanded in a largely, unplanned manner. This paper addresses how urban governance takes place where the state is only weakly present. It does so by focusing on *constructions anarchiques*, or unlawful constructions, which are present all over the city. Although they are in breach of government regulations (e.g. building in areas where they are not supposed to) and carry with them a range of negative consequences (such as vulnerability to erosion or floods), they continue to take place and are often protected against state measures.

The paper shows how urban governance is a multi-actor and multi-policy affair – the way in which the city is governed, planned and regulated is not the monopoly of the state regulatory framework, but enacted, contested and protested through a variety of other actors. Connections and interpersonal relations are central to the way in which urban governance unfolds in Kinshasa. This is seen within the urban administration, and in the way in which state actors relate with the wider population. While this is the case worldwide, it is particularly prominent in the Democratic Republic of the Congo (DRC) and its capital. Here, these personal connections have a profound effect on the expansion of the city and the continued existence of unlawful constructions.

This paper analyses the following economic and political incentives behind these personal connections and urban governance dynamics:

■ Economic incentives: various actors in the public administration are pressured to feed *les invisibles* (as informal revenue is called) up the hierarchy. *Les invisibles* act as a major facilitator for unlawful constructions and a general neglect of urban plans, providing financial opportunities for civil servants.
■ Political incentives: the protection of populations within these unlawful constructions constitutes an important source of political capital for local and national politicians. By protecting unlawful constructions, politicians are able to collect votes and build constituencies
■ The way in which the city is governed, and the development of particular sites, therefore, depends on the connections one has and the leverage one is able to exercise through these relationships. The importance of 'big men' is also explored. 'Big men' act as nodes in these personal networks: their leverage allows the installation and provision of public services. However, given the personalised nature of these services and the instability of political functions, their services are fragile and unpredictable.

Three key lessons for policy-makers:

1 **Formal policies are often not adhered to.**
We recommend looking beyond formal policy measures, such as policies to destroy unlawful constructions or other urban planning instruments. Our research show that formal policies are secondary to existing power-relations and the economic and political incentives.
2 **Economic and political incentives are crucial.**
We suggest looking at the economic and political incentives in place both within the public administration, and in relation to the general population. Financial profit and electoral gain play central roles in the way in which urban governance takes place and continuing in unlawful constructions.
3 **Different scales are interconnected.**
We recommend focusing on the ways in which the various levels and scales of government –actors and institutions – are interconnected, instead of focusing on one level in itself. For example, the behaviour of street-level bureaucrats – who are largely focused on revenue extraction – in relation to unlawful constructions can only be understood by looking at the economic pressures they face from higher administrative levels, where bureaucrats are expected to feed revenue upwards.

1 Introduction

Kinshasa has been growing rapidly in the past five decades: from 400,000 inhabitants in 1960 (Pain 1984; Lelo 2011), to an estimated population today of 12,000,000. Spatially too, the city has been growing rapidly: it grew out of the current commune of Kintambo at approximately 3 km² and is currently 10,000 km² (Ayimpam, 2014; Lelo, 2011). Kinshasa today can be described as 'not one but many cities at once' (Fourchard, 2018: 17).

The urbanisation of Kinshasa happened, largely, in a spontaneous manner, contrary to old and new development plans for the city (De Boeck and Jean-Pierre, 2006; Lelo, 2011; Pain, 1984). Constructions, residential and commercial, have been erected everywhere. In the absence of social housing or real estate firms, individuals, rich or poor, wanted a plot or a field in a city where 'permanent renting remains synonymous with a social failure' (Lelo, 2008: 22). This led to a proliferation of fragile and/or improvised constructions for poor populations,[1] which were constructed side by side with modern and imposing constructions for the rich.

Many of these unlawful constructions are illegal and are locally called *constructions anarchiques*. Importantly, many of those who are building illegally are aware that they are building in an area where they are not supposed to. In the words of a government official, 'in order to justify themselves, these actors argue that they are not the first and not the last to do these things'.[2] These actors do not respect the city development plan or urban planning norms (Pain, 1984; Lelo, 2011 and 2018) and the application of government policies to prevent unlawful constructions are met with resistance and are rarely implemented, as reflected in some common sayings in Kinshasa: *to boyi ba conseillers*[3] (we do not want any counsellors) or *okanisi yo nde okobongisa ville yango*[4] (you think you are the one to put order in this city).

What are the formal rules for urban planning? In theory, anyone who wishes to realise a construction project in durable or semi-durable materials must obtain a permit

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1   In the communes with population coming from Bandundu and Kongo Central, the phenomenon in which land was taken from colonial actor was called *sala ngolo zaku*; 'fend for yourself' or '*débrouillez-vous*'.

2   Interview, 15/04/2018, coordinator of the territorial planning unit.

3   Interview 28/03/2018 with a local leader in Mont-Ngafula.

4   Interview 02/07/2017, with an advisor of the provincial minister of land and urban matter.

to do so from a mixed commission.[5] In the current context of decentralisation, the delivery of such authorisation is within the jurisdiction of the central government for buildings of more than two stories, and of the provincial government for buildings that do not reach this level. In practice, this mixed commission only exists by name, while other key agencies and services of the national state and city, which should formally be involved, are also ignored (Lelo, 2011; Fumunzanza, 2011). As it stands, urban planning norms and procedures are rarely followed.

In addition, the destruction of unlawful constructions is problematic. Kinshasa City Hall is responsible for the destruction of illegal constructions and should act on the decrees signed by the ministers of land affairs, the Minister of Urban Planning and the Governor of Kinshasa. Yet in reality, only a minority of these buildings are destroyed by City Hall's bulldozers, with the majority of illegal constructions continuing to exist.

Unlawful constructions have a range of negative impacts in Kinshasa. First, erosion has been observed,[6] mainly on the hills, due to insufficient or absent sanitation networks (De Boeck, 2006; Lelo, 2018). Secondly, the city suffers from flooding,[7] which is partly due to the ways in which unplanned and unlawful constructions lead to sewer obstruction. Thirdly, there are increasing cases involving the collapse of multi-storey buildings that were constructed without permission (and are hence illegal).[8] These issues often result in significant material damage and even death. Lastly, these constructions have seriously eroded the green belt of Kinshasa, causing concern for air quality and biodiversity (Lelo, 2011; Kassay, 2010).

Given all of these negative impacts, why do these unlawful constructions continue in Kinshasa? What are the factors preventing urban development from following formal regulations? These are the questions this paper will engage with. By answering these questions, we aim to show the various ways in which urban governance happens in Kinshasa. We argue that the financial incentives play a key role. As with much of the Congolese administration, civil servants active in the field of urban planning rely heavily on unregistered financial dynamics, which hinders effective policy enforcement. Political incentives also matter: political actors have little incentive to support the demolition of unlawful constructions, which are often occupied by their key constituents. Political elites too have a major role in the development of these illegal occupations – by installing them themselves in these areas and in turn, attracting more people to live there.

Methodologically, this paper is the result of qualitative research undertaken in 2017 and 2018 in Kinshasa, as part of the SLRC project. The research comprises a combination of a review of the grey literature and available documents, participant observation and interviews. Overall, 406 interviews were conducted with a range of actors, such as civil servants from the Ministry of Land and Urban Affairs at the national, provincial and communal level; their advisers (e.g. at the Governor's office, the ministries and so on); local chiefs (such as the '*chefs de quartier*'); police officers; various actors involved in unlawful constructions; analysts on these issues; and others.

5   Composed of the Head of division of Urban Planning and delegate of the Minister of Environment; a delegate of the land registry, a delegate of the *Société des Architectes du Congo*; a delegate of the Office of Roadways and Drainage; a delegate of the electricity parastatal (*Société Nationale d'Electricité*); a delegate of the parastatal for the distribution of water (*Société Nationale de Distribution d'Eau*); a delegate of the parastatal for post and telecoms (*Société Congolaise des Postes et Télécommunications*); five other members designated by the governor. *Article 9 de l'arrêté ministériel n° 027/CAB/MIN.URB.HAB/CJ/AP/CEH/2012, du 03/03/2012, portant réglementation de la procédure de délivrance de l'autorisation de bâtir et institution d'un cahier spécial des charges y relatif en République Démocratique du Congo.*

6   Radio Okapi (2014). 'Kinshasa : plusieurs quartiers menacés par les érosions', Published on 10/03/2014 and consulted on 15/11/2018 (www.radiookapi.net/actualite/2014/03/10/kinshasa-plusieurs-quartiers-menaces-par-les-erosions).

7   RFI (2018). 'RDC : Kinshasa continue de compter ses morts après les inondations', Published on 05/01/2018 and consulted on 16/11/2018. (www.rfi.fr/afrique/20180105-rdc-inondations-kinshasa-inondations-ngaliema-bandalungwa-barumbu-limete.

8   Le Phare (2013). 'Effondrement d'immeubles : quid des normes urbanistiques ?', Published on 15/10/2013 and consulted on 15/11/2018: (www.lephareonline.net/effondrement-dimmeubles-quid-des-normes-urbanistiques) RTBF (2016). 'RDC : six morts dans l'effondrement d'un immeuble à Kinshasa', Published on 26/10/2016 and consulted on 16/11/2018 : (www.rtbf.be/info/monde/detail_rdc-six-morts-dans-l-effondrement-d-un-immeuble-a-kinshasa?id=9441144).

2 (Urban) governance beyond the state in the DRC

2.1 The disintegration of the state in sub-Saharan Africa and the DRC

Since the late 1970s, processes of state disintegration in sub-Saharan Africa have been particularly intense. This has strongly impacted on the capacity of public administrations, which have suffered from material and technical under-resourcing, organisational deficits and a lack of funds to pay its civil servants. Public services have been severely diminished (Bierschenk, 2010: 7-8; Bates, 2008; Van de Walle, 2001). As the working resources for civil servants seriously declined, civil servants had to 'fend for themselves' by using their state position to secure other sources of revenue, a process which Blundo (2006: 805) describes as 'informal privatisation'. These dual processes of disintegration and informal privatisation profoundly impacted on the functioning of the state, leading to slow procedures and bottlenecks, opacity, manipulation and negotiation, embezzlement with impunity and personalisation strategies (Blundo, 2006: 806-815). A consequence of this was that administrative and regulatory powers were no longer monopolised by the state but instead became the result of interactions between a broad range of actors (civil servants, intermediaries, users), a situation which is continuously renegotiated (Blundo, 2006: 815; Hagmann and Péclard, 2010; De Herdt and Titeca, 2019). As a result, neither the state nor any other institution enjoyed a privileged position or unique legitimacy to enforce its regulatory monopoly (Bierschenk and de Sardan, 1998: 39). In other words, local power became and remains fragmented, and is characterised by 'feeble regulatory ability' (Bierschenk and Olivier de Sardan, 2003: 156, 159). Institutions took on a high degree of flexibility and fluidity, characterised by poorly defined terms of engagement, which were rarely formalised or written down (Bierschenk & Olivier de Sardan, 1998: 37). Exacerbating this is the lack of central control over such institutions; hierarchical bureaucratic state control is neither common nor effective, while non-state actors, such as customary chiefs, also exercise little hierarchical control (De Herdt and Titeca, 2019).

As a result, the introduction of new state policies and regulations are not necessarily followed up and/or implemented. Instead, they are another layer which is 'piled up' on top of existing layers of regulation (Bierschenk & Olivier de Sardan, 1998, 2003). State regulations lack uniform implementation and are implemented partially or not at all, depending on how they feed into existing regulatory practices. Power configurations (between state and non-state actors)

also dictate how state regulations are implemented in particular localities, which again lack uniformity between a country, province or city.

Similar dynamics can also be seen in urban governance in sub-Saharan Africa. Here, formal processes of urbanisation and planning are at best one of the many actors co-producing governance; at worst, they are totally absent. As Lourenço-Lindell (2007: 1879-1880) argues, a key characteristic of urban governance in post-colonial Africa is the 'extensive informalisation of cities, where many existing laws, policies and urban plans do not materialise' (Lourenço-Lindell 2007: 1879-1880). These processes of informalisation have resulted in urban governance which is 'very unstable and fragmented, encompassing multiple sites of power where practices of governance are exercised and contested' (Buscher, 2012: 492). As the state is not the dominant actor in regulatory processes, various actors may have opposing and asymmetrical aims, creating fertile ground for conflict: 'Whatever the motivation and aims, attempts at domination are invariably met with opposition from others also seeking to dominate or from those trying to avoid domination' (Migdal, 2001: 108). As a result, urban centres can be seen as 'complex 'laboratories' which 'embody the spatial, political, social and economic agency of a wide range of actors (state and non-state, formal and informal, public and private, civil and armed)' (Buscher, 2018: 305).

The above processes are mirrored in the DRC: first, the disintegration of the Congolese state has resulted in practices of clientelism and patronage (Nzongola-Ntalaja, 1986; Schatzberg, 1991; Lemarchand, 2001; Reno, 2006; Young and Turner, 1985; Zartman, 1995). DRC is widely seen as the 'paradigm of informalisation and criminalisation of the state and the economy' (Petit and Mutambwa, 2005: 467), fuelled by over 30 years of patrimonialism under Mobutu and six years of civil war (Petit and Mutambwa, 2005: 467). Callaghy (2001: 107-8) described the Congolese state as a 'lame Leviathan', which is simultaneously 'soft, yet highly coercive'. It is weakened by patrimonialism and corruption 'such that the performance of key functions slowly declined and in some cases disappeared completely', but continues to be controlled through military control and external support. In these circumstances, the state's regulatory capacities have been seriously affected, and has resulted in the state becoming only one of the main actors co-producing governance. For example and specifically focussing on conflict in eastern DRC, the 'governance without government' literature highlights the emergence

of 'parallel or semi-autonomous power systems that govern access to security and resources' (Vlassenroot and Raeymaekers, 2008: 50). For the Congolese state as a whole, the 'real governance' literature has shown how public services are delivered by a range of actors, and how all of these are involved in co-construction of governance (Titeca and De Herdt, 2011, Titeca et al., 2013, De Herdt and Titeca, 2016).

This decline in governance had an impact on the behaviour and functioning of individual civil servants. Gould described the situation of civil servants in the 70s as 'abject impoverishment ... Negligence of their social needs leaves them to their own devices' (1980: 69). Mobutu's famous quote '*Moto na moto abongisa*' or 'Let each person sort things out at his own level' had a marked impact on the public administration and society at large – it was 'ironically' reinterpreted in relation to the old marshal's kleptocratic behaviour, as an invitation for 'each and every one to steal at his own level of responsibility' (Petit and Mutambwa, 2005: 482). In the words of Rene Lemarchand (1988: 153), what happened was a privatisation of state positions or the drawing of 'personal benefits ... from the appropriation of public office'. The state continued to hire civil servants but assumed that they would 'steal cleverly' (De Herdt et al., 2012).

Although the state budget eventually increased over the years through the renewed engagement of donors throughout the 2000s (De Herdt et al., 2012), these practices remained, termed by Pierre Englebert (2009: 114) the 'capacity of legal command'. Nzeza Bilakila calls this '*la coop*' or the 'Kinshasa bargain': an agreement between two or more parties that provides a return (2004: 20). It can be solicited by a beneficiary or imposed on a victim. Examples of these are various: a civil servant asking for 'something extra'; someone trying to obtain a favour from a civil servant; negotiating a price with a trader or taxi, and so on. In this situation, 'all the state's usual attributes have been influenced by informal privatisation ... public officials – or those pretending to be – have taken over the customary functions and prerogatives of the state, selling their services to their "customers"' (Petit and Mutambwa, 2005: 467).

Central to these behaviours is that the state has become an instrument for accumulation, and therefore remains necessary. This is a central paradox in the Congolese state: although many actions of state actors go directly against state policies, they remain dependent on the state, and continue to rely on the state, its attributes

and its policies, as it allows this accumulation to happen. Civil servants continue to compete for the most profitable position, where they have the best access to the extraction from citizens. Administrations were transformed into 'parcels of power', in which 'each position in the administration providing not only a wage, but also an opportunity for appropriation' (De Herdt, Marivoet & Muhirigwa, 2015: 49; Malukisa, 2017).

2.2   Urban governance in the DRC and Kinshasa

Much of the urban development in the DRC happens outside of the regulatory framework of the state, and much of the infrastructure provision happens without the state. In the DRC, one finds a paradoxical situation in which the state physically is very present – for example through its security services – yet at the same time, is also very absent, for example in the provision of public services or regulation (Buscher, 2012). The end result is a 'cacophony' of different social forces engaged in urban governance pulling in different directions in which 'the Congolese state does not form a united "site" of power' (Buscher, 2012: 492). Analysing urban governance in eastern DRC, Buscher shows how the Congolese state 'is increasingly challenged by other alternative sites of power such as armed groups, a powerful business elite and an increasing presence of international non-governmental organisations (2012: 483). Justice, security, land allocation, water provision, etc. are all "arranged" by these hybrid institutions'. She continues by showing how this leads to strongly contested forms of governance, which have turned the city of Goma into a 'highly fragmented urban space, where power and authority over political, economic and sociospatial resources are being contested between different conflicting forces' (2012: 483).

In Kinshasa, De Boeck and Plissard (2004) urge us to look beyond the material infrastructure of the city[9] and pay closer attention to relational networks, by arguing how they form the locus of much of the 'invisible modalities of urban action' (Simone, 2003).[10] Given the largely absent

state and dilapidated material infrastructure, people have to 'fend for themselves' (MacGaffey, 1987) in the DRC. Personal relationships play a key role in this, as a source of protection and advancement (Malukisa and Titeca, 2018).

On the one hand, this is important for the public administration: given the processes of extraction at play and the general opacity of the public administration, processes of governance become personalised. In this context, Giorgio Blundo (2006: 809) argues how 'The general conviction that the administration works with money and acquaintances, and that it is necessary to protect oneself against possible corrupt practices, throws the users into a ceaseless search for personal angles in the relationship' (2006: 809). Moreover, in our previous work (Malukisa and Titeca, 2018), we have shown how also within the public administration, personal relations are important as a way to protect one's position.

On the other hand, these issues go beyond the public administration as people look for as many relations as possible[11] and not only with civil servants.[12] This accumulation of the 'wealth in people' in Kinshasa (Guyer and Belinga, 1995) has been described in detail by Katrien Pype: 'The ideal for a city-dweller is to be *branché* (to be well connected), meaning to be able to move around in various social worlds and have a well-established network' (2017: 126). This network constitutes various functions: it is 'made up of people who can help one find a job, a partner, money, and solutions for ad hoc problems' (Pype, 2017: 126), and is called *le réseau* (the network). *Le réseau* is central to urban livelihoods: it 'constitutes the most important social space of belonging in an urban context, where kinship ties are weaker and usually described in terms of responsibilities and duties. Contacts are individuals with whom one has (weak or strong) ties, which can be mobilised when needed' (Pype, 2017: 126). In this situation, people try to have connections with as many people as possible (Pype, 2016a: 395, 396);

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9   Specifically, he encourages us to look at the 'unfinished city', 'possibilities of infrastructure', 'invisible architecture', and the human body as a 'main infrastructural unit or building block' of the city.

10   He relates this specifically to the role of the physical body, particularly how 'the physical body, with its specific rhythms, also determines the rhythms of the city's social body and ontologically grounds them. The comprehensive body work that is undertaken by the Kinois often generates specific forms of social life'. (De Boeck and Plissard 2004: 239).

11   De Boeck describes this as 'the absolute and constant necessity to renegotiate these link, to inscribe oneself in as many networks as possible, and engage in as many relationships as possible, offers a mechanism through which strangers and others may be redefined, however briefly, in terms of relatedness, kinship, friendship and autochthony (and possibly also vice versa)' (De Boeck and Baloji, 2016: 120-121).

12   The importance of connections and networks has been shown in a variety of literature (Gilbert, 2018). For example, Gilbert (2018: 247) shows how phone numbers are an important capital for young women, in which 'Girls are not only admired for their material wealth but also the numbers that bring such wealth'. In this situation, 'young women's biggest concern was that losing a number meant potentially losing fortune'. The wider anthropological literature has shown the importance and meanings of giving, and the way in which relations are created through these acts (Gilbert, 2018).

and a distinction can be made between the strong and weak ties between people. The latter connections are 'broader and less-permanent' but still construct and mediate a sense of belonging (Pype, 2016a: 396). These connections are constructed and sustained in a variety of ways, by giving and returning favours, for example through the exchange of phone credit or through technology goods (Pype, 2016b). Overall, this *traffic d'influence* – 'the usage of social contacts with high-ranked individuals for personal benefit' (Pype, 2016c: 634) – is important. In the context of Kinshasa, Granovetter's (1973) 'strength of weak ties' thesis becomes particularly pertinent, both as an instrument of protection and advancement.

We build on these findings by analysing the ways economic and political incentives influence the practice of unlawful constructions, and show the profound personalisation of urban governance in Kinshasa.

3 Economic incentives beyond unlawful constructions

In 2012, President Joseph Kabila launched his five-year infrastructure programme, 'The Revolution of Modernity'. Within it, Kinshasa was given special attention, as was the destruction of unlawful constructions. In 2013, a year in which this subject was much covered, the Minister of Land Affairs informed all those who held real estate titles[13] in Kinshasa that:

> *taking into account the Strategic Orientation Scheme of the Kinshasa Urban Area and the City of Kinshasa's special development plan, the urban authority plans to demolish the so-called unlawful constructions, identified throughout the city of Kinshasa, the list of which is attached in the annex. In connection with this operation, a meeting of experts of the Presidency of the Republic, Ministries of Spatial planning, urban planning, housing, infrastructures and public works, Land Affairs, of the City of Kinshasa and its Technical Services, made the conclusions of its work, by the elaboration of a chronogram, on the imminent actions of demolition to be carried out...[14]*

Following this, the Kinshasa governor expected those involved to destroy their constructions with their own means. If the urban administration was required to intervene to carry out the destruction, the costs incurred would be attributable to those who failed to comply. Yet there are major difficulties in abolishing 'unlawful constructions' and in reality, the development and expansion of Kinshasa continues as before. In the next sections, we explain why this is so.

3.1 The difficulties in abolishing unlawful constructions

An official at Kinshasa City Hall who plays an important role in handling dossiers on unlawful construction, pointed out:

> *It is easy to sign the demolition orders, but it is difficult to execute them everywhere because the city's power stops where a stronger actor from the central power tells him to stop. Sometimes, the agents of the city even run the risk of losing their life in this city of Kinshasa because they must proceed with the destruction of anarchic*

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13 Administrators of a land area playing a key role in subdivisions.

14 Mbwinga Robert, Minister of Land Affairs, letter dated 12/09/2013 dealing with the publication of the list of unlawful constructions to be demolished.

constructions.[15]

Since 2003, when he began dealing with these cases, City Hall rarely managed to destroy the unlawful constructions of *grosses moulures* (big shots).[16] Indeed, as he said:

> *Some owners of certain sites where illegal buildings are located usually mobilise various well-armed police or army units that sometimes dare to open fire on, arrest, or torture officers of the demolition brigade from City Hall.[17]*

For this reason, some operations to demolish unlawful constructions in Kinshasa require the presence of the highest political level, sometimes including the Prime Minister, ministers, the city Governor, generals from the police or the army or the President's advisers. Such senior officials would sometimes need to be called upon to demobilise the uniformed men who serve the owners of unlawful buildings or subdivisions, among which are some public authorities.

A City Hall officer told us a story that illustrates what often happens on the ground. Having received the instructions of the urban authority, he said:

> *We operated on Avenue Poids-Lourds where it was observed that private companies and individuals had illegally occupied public space. We had started well by destroying the constructions of Indian, Lebanese and some Congolese companies. Some called for help from some authorities to stop the demolition, but the city Governor was firm and the demolition continued, until we arrived at a gas station under construction belonging to a high authority. He put pressure on the Provincial Planning Minister who ordered us not to touch it. A little further on, we had found a fence, and inside there were houses. This is where we reported strong resistance from the soldiers that people call Simba, a kind of militia of the General. As soon as we approached the site, these soldiers threatened to fire on us.[18]*

Since nothing further could be done, said one of the colleagues of this City Hall officer:

> *We got in touch with our Minister of Planning and the Governor was also brought on board. A few minutes later, he went down on his own, accompanied by another General. After discussions with these soldiers and some authorities of the country, a compromise was found to not touch these anarchic constructions, while waiting to find another place to accommodate the soldiers in question. We were really surprised at this decision because when we met in town, we were told that the governor had received a firm instruction from the Presidency of the Republic to destroy everything on Poids-Lourds.[19]*

Ultimately, although the City Hall officials were given clear instructions to demolish all constructions on these plots, it became clear that political interests took over, more powerful than the instructions to abolish the unlawful constructions.

3.2 Conflicts between various state actors

State institutions and actors do not act in a unified manner, but according to their own interests. While this is not particularly new, and happens all over the world, it takes extreme forms in the governance of Kinshasa, as illustrated by the standoff described in Section 3.1. This is not an exceptional case but happens often. For example, in September 2018, the Minister of Urban Planning accused the tax collecting agency, DGRAD[20] of illegal issuing of building permits in the name of the Ministry and misappropriating public revenue. During our field research, the Minister gave the following speech: 'we discovered a building in full construction. It turns out that DGRAD has made a taxation *ex officio* in the name of [the Ministry of] Urban Planning and one wonders if it has the powers required to issue such a building permit. It is a building of four storeys, but they are already at the fifth storey, with a plan to reach the seventh storey. This is very serious!'[21] The Minister concluded by stating that

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15 Interview 24/03/2018.

16 Literally, 'big mouldings' – an expression used to signify dignitaries of the regime, major public authorities or the people close to them.

17 Interview 25/03/2018 with a collaborator of the Technical Counsellor of the Governor of Kinshasa.

18 Interview 27/03/2018.

19 Interview 27/03/2018 with an agent of the Kinshasa City Hall destruction brigade for unlawful constructions.

20 *Direction Generale Des Recettes Administratives* which deals with administrative taxes and other financial receipts for central government.

21 Speech heard in a 'support sonore' held by a counsellor of the Minister.

'it is an insult to the Government of the Republic and a report must be given to whomsoever has the right [i.e. the proper authorities]',[22] for possible sanctions.

What is the underlying reason for these inter-state-agency conflicts? The following conflict, and quote, is more explicit about this. On the 10th of April 2018, André Kimbuta, Governor of the city of Kinshasa responded to the Minister of Urban Planning (Joseph Kokonyangi), when he declared:

> *We came to destroy the anarchic buildings in Limete in the presence of the Minister of Land Affairs himself. He is not like this greedy man of Urban Planning [i.e. the Minister of Urban Planning].*[23]

Kinshasa's Governor therefore blamed the Minister of Urban Planning for 'greed', for issuing building permits in illegal areas for financial profit – the very same accusation that had been levied at the Governor by the Minister. This should not be seen as a technical or administrative issue but as a struggle for financial interests: both actors aim to profit from unlawful constructions. In the next sections, we explain this further, by unpacking the financial interests behind these conflicts, and which allow the *constructions anarchiques* to continue.

3.3 The financial stakes of unlawful constructions

In one of our interviews in 2017, an advisor to the Provincial Minister of Land and Urban Affairs argued how the existence of unlawful constructions in Kinshasa is 'all about money', i.e. the funds pocketed by individuals to allow these constructions, and avoid demolition. 'The invisibles' ('*Les Invisibles*') is an important term in this context: it is the term used by civil servants to refer to funds which are extracted from citizens through taxes, extortion or other means which are not registered. These funds, are pocketed by civil servants or their superiors and play a crucial role in the context of unlawful

constructions.

While the city of Kinshasa continues to expand, the official revenues recovered on behalf of the urban treasury (city finances) or the public treasury (state finances), remain meagre.[24] In theory, a variety of taxes should be collected at both these levels of government, such as the taxes on the authorisation to construct a building, convert a two-storey building, demolish buildings, developing private car parks in the public domain, the costs of establishing land contracts, transactional fines, and so on. A division chief noted that even when work is done properly at his level, 'it is hard to maximise public revenues because those below us sometimes stun us with the *katakata* (corruption), on top of what we are already in the habit of giving them'.[25] By way of example, 'in my own jurisdiction, we had one day scheduled $30,000 that had to go through the provincial tax authority ('*Direction générale des recettes de Kinshasa*', DGRK).[26] This amount had effectively been paid by the person, but curiously, the amount declared for the city treasure was 30,000 Congolese Francs or $18.75. The money had disappeared at the level of the DGRK where there is a large network of thieves'.[27] Many similar testimonies were given, where collected revenue disappeared within the provincial government and its agencies. An advisor for the Provincial Finance Minister argued how 'there exist parallel bank accounts which supply provincial and national authorities'.[28] Even if the user pays their taxes (to the local government), there are other arrangements within the public administration, through which this official revenue can disappear.

Related to this, local-level actors avoid paying taxes by negotiating directly with the highest authorities. In doing so, they are able to build unlawful constructions and protect their constructions from demolition. What cannot be attained at the city or provincial level, can be achieved at the central government level by means of money associated with family, friendship, ethnic, professional, partisan relationships, etc. The following quote from a division head in charge of implementing urban governance policies and demolishing illegal

22 Ibid.

23 Interview recorded 10/04/by us at the commercial square of Limete 7th street.

24 Referring to the city's revenue made by his ministry in 2016, this advisor showed us tax records revealing 971,525,384.49 Congolese Francs, equivalent to +/-$599,707 paid on behalf of the city to the Ministry, which is insignifcant compared with les invisible payments. Interview 25/07/2017.

25 Interview 10/10/2017 with a head of division of urbanism.

26 Following the current decentralisation process, this department deals with the collection of revenue from the city of Kinshasa.

27 Interview 10/10/2017 with a head of division of urbanism.

28 Interview 24/02/2018.

constructions, illustrates this:

> *There is a lot of pressure from the authorities. For example, at the avenue, several companies have advanced their fences and have encroached at least three meters on public roads. The Provincial Minister asked me to follow up on this situation. When I summoned those concerned for illegal occupation of public easement, these companies called the hierarchy. It was finally apparent that the Secretary General and the Minister at the national government level did receive money from all these companies. We also have cases, for example, where the city issues permits to build but the Minister or Deputy Minister of planning of the same central government can decide to suspend the work saying that it is an unlawful construction.*[29]

Actors occupying unlawful constructions can pay higher-level authorities directly, to protect themselves. Similar and much more widespread practices happen within the public administration – a practice commonly called *retrocession* or *rapportage*.

3.4   Retrocession

The land and planning offices are structured in the following way: at the lowest level – the communal level – there is the cell leader (*chef de cellule*), followed by the division heads and chiefs of the office (district level). Above them there are the Provincial Ministers of Urban Planning or Land Affairs and the Governor of Kinshasa (at provincial level) and the General Secretary and National Ministers of Urban Planning or Land Affairs (at national level).[30]

Central to the functioning of this hierarchy is a system of informal upward profit sharing, commonly called *retrocession*, *invisible* or *rapportage*: all these names refer to the same phenomenon, existing throughout the Congolese public administration (Baaz and Olsson, 2011; Malukisa 2017). In this practice, lower-level administrative units of the land and planning offices

have to share their income with the higher levels in order to keep their post. For example, the division head has to share their income (for example, from building permits) with the upper hierarchy (namely the secretary with highest administrative authority and the relevant national or provincial ministers). These *invisibles*, not the formal revenue, are channelled upwards and never become public revenue, but are pocketed by individuals. There exists strong pressure on the lower-level administrative units to bring in this revenue. Indeed, 'a division leader who does not bring in *les invisibles* is simply sawing the branch on which he sits because he will lose his functions immediately'.[31]

According to statements by some heads of division, *les invisibles* heading to the ministry vary between $120,000 and $325,000 per year. These funds are largely collected through the underestimation of taxes or through revenue which is not transferred to the public treasury. Just as division heads are under pressure from their hierarchy, they repeat this pressure vis-à-vis their subordinates in the communes. One of our interviewees explained it as follows:

> *If I send you as a head to the commune, but you do not come back to say hello [i.e. give me the money], you are gone for good, eating alone with your bourgmestre. Then you will suffer because I have the power to assign another person to your place that will be indebted to me.*[32]

The invisibles are, therefore, located at all levels of the chain of command, from the local administration to the central administration. Put differently, the whole hierarchy is bound together through these financial interests: if local subordinates fail to collect revenue, they may endanger their local superiors who themselves need these funds in a personal capacity and to feed upwards to higher authorities. The administration calls this phenomenon *échelon aliaki* (every step has eaten); that is to say, all the key state actors have benefited from *les invisibles*, and are bound together in their quest for

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29 Interview 29/09/2017 with a division head.

30 In every commune and in every district of the city of Kinshasa, there is a deconcentrated administration of the Ministry of Urban Planning and Land Affairs. The officials assigned to it depend on a dual supervisory authority based on the division of powers between the central and provincial governments. For example, as we have already noted, the issuance of building permits for buildings of at least three stories is the responsibility of the first, while the second deals with buildings that are limited to two floors. At the provincial level, there is a hierarchical relationship between the cell leaders (commune office), the division heads (district office), the Provincial Minister of Urban Planning or Land Affairs and the governor of the district. city of Kinshasa. At the national level, the same heads of cells and divisions are under the authority of the Secretary General and Ministers of Urban Planning or Land Affairs.

31 Interview 21/08/2017 with a former counsellor to the National Minister of Land Affairs.

32 Interview 23/09/2017 with a head of division of urbanism.

revenue.[33]

Actors who do not feed their bosses are exposed to sanctions, such as being recalled to the office to deal with administrative tasks that do not yield money; exclusion from future control missions because their name does not appear in the mission order; transfer to a province or poor communes; suspension, etc. It therefore becomes crucial too that the hierarchy does not discover records of revenue 'lost' in this way as it would lead to punishment.[34]

These profit maximisation practices throughout the Congolese administration means urban planning norms have minimal traction. In the words of an analyst: 'Anyone can erect an anarchic construction from the moment he has the money to hand to state agents or public authorities'. All actors are under large pressure to feed money upwards to keep their jobs, and also use the state power to maximise individual profit. The hierarchy receiving these 'dividends' from its subordinates acting in violation of urban standards or city planning plans closes its eyes or pretends to ignore what is happening on the ground.

3.5   Protection from *invisibles* and *rapportage*

However, not everyone has to pay these *invisibles* to their direct hierarchical bosses: those with privileged relationships with high-level (national or provincial) governmental actors receive protection and are therefore free from paying *invisibles* vis-à-vis their direct hierarchical boss. Instead, they deal directly with their 'protector' at the higher level.

This however leads to conflictual relations along the hierarchy. For example, in the east of Kinshasa, there are tensions between the Provincial Minister and a Head of Division, who is protected by a public authority more influential than the Provincial Minister. As an advisor to the Minister explained:

This one [the division head] does not respect the instructions of the Minister. His wife is the niece of a general very close to the President of the

Republic who serves as an umbrella [i.e. protector]. Whenever our Minister wants to punish him, it is the governor who tells him to stop, and we understand that the urban authority does not want to upset the interests of people who are close to Joseph Kabila, at risk of endangering also his position.[35]

Similar dynamics can be seen in other places in Kinshasa, and on other levels. In the same way, a *cellule* Chief of Land Affairs or Urban planning (at the communal level) can escape the control of his Head of Division. For example, one Head of Division pointed out to us how in three *communes* within his jurisdiction, the *cellule* chiefs no longer obey his authority. All this is happening, he argues, 'with the complicity of the Provincial Minister of Urban Planning. When we want to hit, the order comes from above saying that we mustn't hit!'[36] The advantages for the protected actors are clear: by using these circumvention strategies, a *cellule* chief or division head has a great capacity for extracting resources at the local level without fear of sanctions by a higher authority. This however leads to a further fragmentation of the public administration, resulting in a failure to implement particular policies or in open conflicts.

3.6   Involvement of higher-level actors

High-level government actors also involve themselves through the direct and illegal occupation of plots of land. In February of 2018, during our fieldwork, we were in the office of a Division Head in Kinshasa. A senior figure of the Presidency entered, accompanied by two armed soldiers of the Republican Guard. He wished to obtain a concession of several hectares in the area but this was not possible as this concession was already taken. With great courtesy, the Division Head pointed out that this would be an illegal occupation and required authorisation by the National Minister of Land Affairs. This led to a heated discussion in the office: the senior figure argued how he had already talked with the minister, and how he would not leave the office without a positive outcome. After this encounter, the emissary immediately reported this to his boss within the presidency, which led to a telephone call to the Minister, who eventually ordered the subdivision to authorise the

33   Radio Okapi (2007). Démolition des maisons : le secrétaire général of urbanism et Habitat suspendu, published one 06/07/2007 and consulted on 20/11/2018 (www.radiookapi.net/sans-categorie/2007/07/06/demolition-des-maisons-le-secretaire-general-de-lurbanisme-et-habitat-suspendu)

34   Radio Okapi (2007). Démolition des maisons : le secrétaire général of urbanism et Habitat suspendu, published on 06/07/2007 and consulted on 20/11/2018. (www.radiookapi.net/sans-categorie/2007/07/06/demolition-des-maisons-le-secretaire-general-de-lurbanisme-et-habitat-suspendu).

35   Interview 02/10/2017.

36   Interview 03/10/2017.

official's permit.

Many similar cases exist, with high-level actors intervening in instances such as the issuing of building permits with civil authorities, army officers, police, and so on. Conversely, officers of the Land Affairs and Urban Planning offices have even been arrested for trying to do their job. They are blocked by high-level actors: influential and external state actors in the ministries of land affairs and urban planning therefore pose a threat to public servants working in these services, as they are able to block the work of civil servants. However, these high-level actors also represent an opportunity: they allow civil servants to increase their bargaining power. Indeed, division chiefs, heads of office and *cellule* heads of land affairs and urban planning sometimes gain enormous power for the services rendered to public authorities of the highest level. In the words of a Head of Division:

> *When you manage the land files of the Head of State, the Prime Minister, the Ministers, the President of the National Assembly or the Senate, the Governor, the Generals, the Attorney General of the Republic, the High Court Judges; you are entering the big leagues because they often seek a lot of favours from the administration. We must then seek to build a lasting relationship with their emissaries by sometimes giving them land next to their leaders and they will make good reports about us. In this situation the accusations of an unlawful subdivision fall into the water because the authorities receive often good 'good services' from which they benefited from the head of division that is accused.[37]*

By managing the affairs of high-level actors, these civil servants are given more leeway in their affairs, particularly in profiting financially from unlawful constructions. Both state and non-state actors are able to profit from these unlawful constructions, and acting against urban planning codes – state actors are able to profit financially, while non-state actors are able to build where they like.

Civil servants therefore tend to involve high-level actors in order to succeed in their unlawful urbanisation projects. This involves not only financial mechanisms, but also by reserving and distributing land to influential public authorities, which explains why security officials own a disproportionate amount of land, particularly in communes at the periphery of the city.

We started Section 3 by showing how, in theory, the Congolese state aims to abolish unlawful constructions. Yet these efforts at urban planning have failed to yield results: these policies are 'piled up' on top of existing policies and power configurations encouraging the continuation of unlawful constructions. In this way, urban governance is a multi-actor and multi-policy affair – the way in which the city is governed, planned and regulated is not the monopoly of the state regulatory framework, but enacted, contested and protested through a variety of other actors. We have shown how the ways in which the state, and its urban planning policies function, are both personalised and monetised. Actors at various levels in the hierarchy are co-dependent on pressuring each other into delivering the necessary invisibles. This also creates a situation in which unlawful constructions continue to flourish as they provide an excellent way for financial profit.

The way in which policies are implemented – whether they intend to destroy illegal constructions or do the opposite (build illegal constructions) – depends on who yields most influence in these hierarchal configurations. This makes it difficult to enforce urban planning policies or tackle the negative effects of illegal constructions. A good example of these processes – in which hierarchical connections, rather than policies are important – are anti-erosion policies. The kind of spontaneous urbanisation as described in this paper makes erosion a particularly urgent problem and yet, when anti-erosion policies are put in place, they quickly run into problems. In areas where erosion represent a particularly serious threat to infrastructure such as main roads, donors occasionally provide support to the Congolese government to tackle the erosion, in making the site viable and ensuring no one continues to live on these sites. However, as soon as works start, state actors are pressured to illegally obtain plots on the same site. As stated by a former Director General (DG) of the Roads and Drainage Office, efforts to develop erosive sites are sometimes compromised in this way by Congolese ministers and their paid officials. In his example, a large erosive site had ravaged houses and was left to deteriorate cutting off large roads. With the financial support of the World Bank, the DG told us:

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37   Interview 04/05/2018 with a head of division at Land Affairs.

We had a budget of $15 million to $20 million to develop the site. People were properly expropriated and compensated in the public interest. Those who gave out the money wanted, at all costs, no new homes on this erosive site, where construction work on pipes and access roads to the hill were being carried out. But to our surprise, it was the Minister of Public Works, the primary responsible person for the smooth running of the works, who took a plot there, where he was building a house of four or five levels. We made this sad statement with the representatives of the World Bank. At the end of a meeting where we decided to demolish this building, I received a call from the Minister himself who said to me: 'Mr ADG, it's the Minister, you are expected without delay in my office, otherwise you are punished!' I went to see him and he told me that there would be no question of demolishing the building that belongs to him, and that I had to find the solution. Meanwhile, representatives of the World Bank threatened to suspend funding if the building was not demolished. Fortunately, there has been a rapprochement on both sides. We had to do additional work so that this building did not create a new erosion site.[38]

Road erosion during floods, Kinshasa. Jolino Malukisa, 2019.

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38   Interview 17/01/2018.

4 The political stakes of unlawful constructions

Many unlawful constructions are tolerated because they bring with them political gains. By acting as the protector of these sites, politicians are able to collect votes from those who wish the sites to remain. This happens at both a local and national level and increased engagement in the politics and planning of cities, can be largely attributed to these political advantages. For example, capital cities are mostly opposition strongholds; by interfering, national-level actors can sabotage the opposition and build political capital by building up clientelist networks (i.e. the exchange of goods, services or protection in return for political support). Politicians can sustain and protect informal activities, such as informal market traders (Malukisa and Titeca, 2018; Titeca, 2006 and 2014), but also unlawful constructions. In this context, both high-level actors (political elites) as well as lower-level actors (local population in informal spaces) are looking to link up with each other; the latter for protection, and the former for votes. Actors within informal spaces (and within the informal economy in general) are seen as 'vote banks', which are useful to mobilise in times of elections (Goodfellow and Titeca, 2012; Lecoutere and Titeca, 2007). In order to explain these dynamics, we look at two case-studies in which politicians act as 'protectors', allowing for unlawful constructions to continue.

4.1 Indu market and its political protection

Indu market is located in the municipality of Masina, near Ndjili international airport. For several years, various people have claimed to own the land where the market is based, and claim the market to be an unlawful construction. Market vendors on the other hand claim that the land is state-owned, and that the alleged owners, by wanting to destroy the market, are the ones seeking to carry out unlawful constructions on public domain. Since the late 2000s, court judgements have been issued by individuals wanting to evict the vendors to install their own plots in the market. While court judgments consider the market an unlawful construction, the vendors, supported by the governor (André Kimbuta, for whom the vendors are a key constituency), believe the 'so-called owners have corrupted the judiciary'.[39] In 2010, the first destruction of the market of the market took place, which led to angry protests and required the intervention of Governor Kimbuta – but not before the market was already destroyed.

In the run-up to the 2011 elections, as part of Kinshasa

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39   Interview 13/06/2018 with the market administrator.

Governor Kimbuta's campaign, he promised to rehabilitate the market, which was done with funding from the provincial government. The market was reconstructed and vendors began trading again. Yet, in response to this, the presumed owners of the site again took the issue to court, who ruled in their favour. Yet again, vendors, the Governor of Kinshasa and his ministers accused the judges of corruption and refused to implement the ruling. While the plot owners sought support from central government to execute the judgement, they failed to achieve this because of strong opposition from the Governor.[40]

In September 2017, the plot owners brandished a judgment from the High Court of Ndjili (a higher body than the court mentioned earlier) and from it obtained the support of a minister and other authorities at central level. With this heavyweight support at a higher political level, the police began the destruction of Indu market. This again led to protests. Crucially, the President passed by at this moment on the nearby Lumumba Boulevard – 'it was a chance for us', says the market administrator, 'we sang songs in honour of the head of state, and asked him to find the solution so that we would no longer be threatened'.[41]

This led to an intervention by Kinshasa's Governor, who met with the people. In the words of a trade unionist: 'Governor André Kimbuta told us that he came on instruction from the head of state. This judgment is worthless; it will never be executed to the detriment of *Kinois*. He confirmed that this is a dispossession and ordered the population to ransack the sheet metal fences that were erected for the start of the demolition work'.[42] The vendors' resettlement was, again, assured. As a result of these interventions, and to show their gratitude to the Governor of Kinshasa, the sellers have changed the name of the Indu market to 'Kimbuta market'.

In sum, this example shows first, the ways in which it remains unclear what constitutes a 'legal' or 'illegal' construction. The fragmentation of public authority makes it difficult to determine what constitutes legality and illegality, and for example determine who are the legitimate owners of the site. Second, it shows the ways in which politicians act as 'protectors' of these sites, and in

doing so, aim to gather political support.

4.2   Things look rough at Mukonzo too

The fate of Mukonzo, a large agricultural site in the city of Kinshasa, has also been a site of contestation. During the regime of President Mobutu, this site was known as *mabele ya Ngwele*, and was famous for the production of rice. For decades, many market gardening *mamans* operated there. Then in 1997, the retired land ministry official, Mr Mukonzo, declared himself the owner of the site with documents he had only held since 1991. The site became known as 'Mukonzo' and the former official immediately began attempts to clear the area of the gardening *mamans*.

By 2007, Mukonzo, whose intentions were to sell plots on the site, had exerted enormous pressure on the market gardening *mamans*. However, the *mamans* enjoyed strong support from three influential members of parliament: Gerard Mulumba, Léon Mulumba and Toussaint Alonga, whose primary concerns were with the interests of their constituents. They helped the *mamans* to fight the eviction. Faced with this resistance, armed with his title deeds, Mukonzo turned to high-level actors in the Presidency, the Ministry of the Interior and the General Commissariat (combining police, army and justice). A number of individuals within these bodies agreed to support him in return for plots on the site.

The conflict between the two sides dragged on for many years, with regular flare-ups – for example, in 2013, *Le Phare* reported that the MP Léon Mulumba had been imprisoned, standing accused of 'several offenses including deliberate assault and battery, inciting market gardeners to revolt'.[43] In 2014, the market gardening *mamans* were the subject of a large-scale forced eviction by police and soldiers who had settled on the site.

The above-mentioned deputies (Gerard Mulumba and his colleagues protecting the *mamans*), as well as Kinshasa's Governor also sought support from the highest levels, which led to a televised statement from the Land Minister, who stated: 'I can say, right in the eyes of all our population, that the demolition brigade will soon pass to

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40   In 2013, the Indu market was destroyed by a fire, which according to local actors 'was certainly perpetrated by a group of people who want to dislodge the sellers to erect buildings on the market site' (Interview with trade union actor, 26/07/17). This was not the first attempt but had occurred after several nightly attempts to destroy the market. The market was subsequently reconstructed.

41   Interview 13/06/2018.

42   Interview 17/10/2017 with trade union actor.

43   *Le Phare* (2013). *Congo-Kinshasa : Assemblée nationale – La série noire continue..., Le député Mulumba traqué*, published on 22/08/2013 and consulted on 20/11/2018 (http://new.lephareonline.net/assemblee-nationale-la-serie-noire-continue-le-depute-mulumba-traque)

annihilate everything that is like anarchic construction on the Kingabwa market gardening site … Mukonzo is a forger, he cannot sell plots, his destiny lies in prison'.[44] Moreover, a range of high-ranking officials – the Prime Minister Matata; the Minister of Land Affairs, Robert Mbwinga and the Governor, André Kimbuta – visited the site, which helped the *mamans* who were eventually rehoused back at the site.

Between 2015 and 2018, Mukonzo continued to seek support from public authorities. As a local analyst argued, 'the formation of new governments and changes at the head of the police or army gives Mukonzo opportunities to seduce some authorities by always promising plots on the site'.[45] Institutions and the actors within them change, allowing outsiders opportunities to seek new coalitions.

The new Minister of Urban Planning, Mr Kokonyangi, became Mr Mukonzo's ally, leading to a radical new strategy. On 19 March 2018, Mr Kokonyangi announced how, on the instruction of the President, 'we decided to make a subdivision for the honourable national deputies without distinction of parties'.[46] The plots would be given to the MPs as reward 'for the good services rendered to the Congolese nation'. In response, the Governor stated, 'I learned that the Minister of Urban Planning had come to this site to say that we are going to build houses for the deputies, for the members of the government. That is false, I tell you it's wrong … you touch the market gardening *mamans*, you have a problem with Kabila [the President]'.[47] Moreover, he asked the provincial police commissioner (who had accompanied him to the site) to proceed with Mr Mukonzo's arrest within 72 hours. In the press and in public opinion, people spoke of open warfare between the Governor of the city and the Minister of Urban Planning of the central government.[48] While the arrest of Mukonzo did not materialise, the *mamans* were allowed to stay on the site.

These two detailed case studies show the ways in which political incentives interfere with, and protect, unlawful constructions in Kinshasa. Both examples show the ways in which political connections influence the destruction and continuation of illegal constructions. In the first case, repeated court judgments should have destroyed the market, but it continues to exist. In both examples, the political leverage of the owners proved to be better than any legitimate claim held by the owners. Given their political importance as 'vote banks', the occupants (market vendors) were able to link up with higher-level political actors, proving time and time again that political capital is more important than urban planning policies. Also here, this shows the ways in which policies are 'piled up' on top of each other: court case after claimed ownership, after court case – in which various actors compete for influence. This leads to a number of negative impacts including fragmentation and inequality.

First, personal connections, rather than formal planning rules, guide urban governance, and involves a large plurality of actors operating at different scales. Yet, the nature of these connections are different, creating inequalities within the city: not all citizens or sites are able to mobilise similar connections and protective measures. This means that some sites and/or groups are sanctioned, while others do not suffer the same fate – city demolition orders only have an impact on sites where the population is unable to mobilise support from state actors considered to be strong.

Secondly, both cases further highlight the fragmentary and contradictory nature of urban governance, and the way in which regulations are implemented and enacted. The way in which a particular regulation is enacted depends on the power configurations at play – who is able to mobilise which actors? This also means that there often are strong contradictions between public authorities about whether a construction is unlawful or not. In the Indu market case study, the judiciary considered the market unlawful, whereas the governor – and his connections – did not. In other words: whether a construction is unlawful or not depends on the political leverage in play, the actors occupying the space and their 'protectors'.

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44 Archives Emission ya Babobola de Molière TV consulted on 10/07/2018.

45 Interview 21/07/2018.

46 Speech heard 20/03/2018 on radio Top Congo.

47 Discussions as seen 20/03/2018 on Molière TV.

48 Moreover, the President of the National Assembly did not recognise this initiative, stating that the assembly 'has never received any offer of plot allocation for the benefit of the Honourable National Deputies; no request for collective subscription to an offer of plots for the National Members of Parliament has been submitted to the Bureau of the National Assembly or the Conference of Presidents, even less to the Plenary Assembly for approval'. Digital Congo (2018). *Kokonyangi désillusionné : Minaku dit ne pas reconnaître une quelconque offre d'attribution des parcelles aux députés nationaux*, published on 23/03/2018 and consulted on 27/03/2018 (www.digitalcongo.net/article/5ab4dd5e279c9400041a6d5e).

5 Unlawful constructions through 'big men'

'Big men' convert economic resources into political control, and exercise power and authority over a group of people through patron-client relations (Medard, 1992). 'Big men' play an important role in the expansion of the city of Kinshasa and the way in which unlawful constructions continue to exist.

Since the 1960s, the spontaneous and spectacular extension of Kinshasa from east to west has mainly affected poor populations. However, during these last two decades, 'we observe that the extended neighbourhoods are also inhabited by wealthy people' (Ayimpam, 2014: 78). Increasingly, politicians and civil servants who were previously living in more central areas of Kinshasa have started establishing themselves in lawful or unlawful spaces in poorer areas, living side by side with the poor, in highly contrasting residences.

As we indicated above, personal connections, and their influence on political leverage they generate, are highly unequal: they to a large extent determine whether an unlawful construction is protected or not, whether a judicial decision is respected or not, and so on. They also have an impact on public services in Kinshasa. While everyone wants to benefit from public services, the means of the state and the city are extremely limited. Supply is far below the demand and there is competition for access to these public goods and services, such as electricity and water supply. The better the personal connections, the better the access to these goods. In the context, the influence of 'big men' is important. The major commodity of these 'big men' are the high-level connections they yield, and the way in which they use these vis-à-vis the wider community. Their connections and networks are systems of both 'politics and resource provision' (Simon, 2004b: 42). Utas (2012: 6) calls them 'alternative governors of peopled infrastructures'. The legitimacy of a 'big man' is largely based on 'his informal abilities to assist people privately' (Utas, 2012: 6), while 'building renown and power is based on amassing wealth and redistributing it with "astutely calculated generosity"' (Utas, 2012: 6, relying on Godelier, 1986).

This section offers a case study to show the way in which big men are able to use their connections for public services and urban governance.

5.1 The development of Buma quartier

In 2006, Antoine Gizenga, President of the Unified Lumumbist Party (PALU) was appointed the First Minister of the Democratic Republic of Congo. After 600 days in

office, he submitted his resignation on 25 September 2008 to the President. Well over 80 years old, he recognised that 'if the spirit can still be healthy and alert, the physical body has its limits which must be taken into account'.[49]

Gizenga wanted to retire on a mountain, allowing him to have a panoramic view. In 2012 he settled in Buma, on the eastern outskirts of Kinshasa, which is also inhabited by a very poor population. The local population had hoped that Buma would benefit from Gizenga's relocation and that it would lead to better provision of public goods and services. The area began attracting many people and led to a proliferation of unlawful constructions, and even some members of PALU and Gizenga's family were buying plots. According to a policeman, prior to Gizenga's arrival at Buma, 'the prices of the 20/20 meter plots ranged between $300 and $400. But as soon as the patriarch (Gizenga) decided to live there, the prices had reached $1,000 to $2,000, and that was only increasing'.[50] As a result of Gizenga's influence, a water supply was installed to allow the surrounding population to draw water instead of going to the well, which was very well received locally.

Gizenga built a large villa in Buma but many people were concerned about the poor state of the roads leading to his residence, which had seen greater usage from public authorities' visits. After visiting Gizenga on 16 October 2012, Joseph Kabila realised the magnitude of Buma's urban planning needs, starting with the main road in the area (Nzoku road). Two days later, he sent a large high-level delegation[51] to do what was necessary to build a modern city in Buma. For the first time in the history of Buma, there was popular jubilation: 'the inhabitants were seduced by the discourse of the revolution of modernity'. The Minister of Land Use Planning and Urban Planning declared publicly that projects would commence in the area,[52] and the first works began on the Nzoku road, on the 10 km stretch up to Gizenga's residence.

Yet the situation can change as quickly as they began. In 2015, the former Prime Minister divorced, abandoning

his ex-wife in Buma. He moved to a villa in the wealthy Mont-Fleury neighbourhood in Ngaliema commune. Immediately, the works stopped on the Nzoku road:

> *Out of a dozen km expected, we had that 4 km from the Lumumba Boulevard. From the residence of the patriarch, the engineers had begun to asphalt the 720 m of the road, but they gave up everything.*

All works – ongoing and planned – were abandoned. Moreover, because of the unlawful constructions, with many people having chosen to begin illegal constructions expecting better future facilities, Buma now has a serious erosions problem. Motorcycles on sandy ground became the only means of transport for the local population. Within Buma, many lost hope for the road improvements as well as better access to water and electricity. It also led to a significant drop in the price of the plots.

It was expected that Gizenga's ex-wife still retained some influence, which would allow for some of the projects to finish. Yet in reality, her relations has deteriorated with Gizenga's biological family[53] and the presidential family. With regard to the latter:

> *As if it were a conspiracy, there was an unexpected upheaval, even Olive Kabila, the head of state's wife, no longer picks up the phone. On the Nzoku road, there is no longer even the machinery of the Office of Roads that was doing de-sanding to allow one to reach the residence by vehicle without much trouble. Erosions are progressing, and they are not doing anything.[54]*

This example shows the way in which the development of this area – particularly the ways in which public services are provided – is largely fuelled by the presence of a 'big man', who through achieving development for personal reasons will also benefit the wider area. This development happens in a strongly personalised manner with 'big men' at the heart of such connections.

49 Radio Okapi (2008). RDC : Antoine Gizenga démissionne, published on 25/09/2008 and consulted on 06/07/2018 (www.radiookapi.net/sans-categorie/2008/09/25/rdc-antoine-gizenga-demissionne)

50 Interview 14/06/2018.

51 In this delegation were the governor of the city of Kinshasa, the Minister of Land Use Planning, Urban Planning, Housing, Infrastructure, Public Works and Reconstruction, the Minister of Land Affairs, officials of SNEL, REGIDESO, OVD, and officials from the ministries of Environment and Public Works.

52 *Déclaration diffusée par Digital Congo au journal télévisé du* 19/10/2012.

53 Gizenga's family, with whom she had no children, blamed her for having too much influence over the patriarch and for propelling members of her network into ministerial positions in the Matata government at the time reserved for PALU. After the divorce, Gizenga's family began to exert great influence on the PALU ministers, who turned their backs on the ex-wife.

54 Interview 14/06/2018 with a local analyst.

However, this case study also shows that 'big man governance' is unstable (Utas, 2012): once the big man left, these developments came to a standstill. There are many areas in which we encountered cases of unstable 'big man' led developments. In another area, a minister had initiated roadworks in similar circumstances but once he lost his position, these works came to a standstill. A director of the road constructing agency lamented that, 'the political projects are coming to an end: when you are in power, you put pressure on us, we execute, but you should always know that if you are no longer in power, the building site stops automatically'.[55]

'Big men' – as nodes in these personal connections – further contribute to the 'feeble regulatory ability' (Bierschenk and de Sardan, 2003: 156, 159) of local (urban) governance dynamics. They further illustrate the way in which power – and particularly the power of personal connections – determine the way in which governance and public services occur.

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55 Interview 13/06/2018.

6 Conclusion

Unlawful constructions continue to exist and expand in Kinshasa. Urban governance and urban planning in DRC's capital is largely outside of formal urban plans. A multitude of actors are participating in the way in which the city is governed – and the state and its regulatory framework definitely are not the most powerful of these actors. State regulations and particularly those trying to govern the unlawful constructions are only one of the layers which are 'piled up' on top of existing power-configurations, and often have little impact. Instead, personalised relations remains pivotal to the way the city is governed. In this way, Kinshasa can be considered as an 'urban social machine' (De Boeck and Baloji, 2016: 62). Instead of formal policies and regulatory frameworks, personal connections govern the city and this can be seen in various ways.

First, inside the public administration, the urban planning departments are tied together through a network of personal relations, which primarily centre around financial interests: low-level civil servants need to deliver *invisibles* to protect and keep their job. High-level policy actors (such as security officials) protect street-level officials, but also extract resources from them. As such, the public administration is a jumble of cross-cutting networks in which it is often not clear who controls particular territories. This 'hybrid' nature of urban governance should not be underestimated. As Buscher has shown in the eastern DRC, these processes of urban governance are 'lacking any integrated global vision and are characterised by contest, inequalities, contrasts and exclusion' (Buscher, 2012: 497) – they are fluid, unstable, flexible and therefore unpredictable (Ibid.). This is also reflected in Kinshasa, where there is an unequal application of rules and regulations, depending on the particular power configurations at play.

Second, personal relations play a key role outside of the public administration. All actors try to have a wide as possible network – *le réseau*. This is particularly is important for the protection of illegal constructions where we have highlighted examples of constructions which are *de jure* illegal, but *de facto* protected by high-level actors. The reasons can be both financial (the high-level actor has a stake in these buildings) and political (protecting unlawful construction can be extremely politically/electorally advantageous). *Le reseau* or personal connections of various actors are highly unequal, with some actors better placed than others. This inequality is particularly stark with the provision of public services, but also in the ways in which some groups are able to secure political support, and others not.

Similar to how urbanisation and expansion of Kinhsasa takes places in a 'spontaneous' manner, the way in which the state acts upon these situations can also be seen as 'spontaneous'. These actors exist in a fluid and unstable context, particularly given i) the dependency of low-level actors on high-level actors and ii) the unpredictable nature of high-level political coalitions. With each change of government or public authorities at key positions in Land Affairs, Urban Planning or Land Use Planning, yesterday's losers can gain the necessary support through financial or real estate *invisibles*, until new challenges arise.

The public administration therefore is fragmented in various ways. This certainly is the case internally, as various high-level actors can be linked up with different actors on the ground, leading to opposing positions. This also is the temporally: as different actors take over a particular position or institution, they might take a radically different position – as was for example shown in the contestation of the above markets. Overall, this means that what counts as 'unlawful' or not primarily depends on the linkages and power-position at stake, rather than the adherence to the formal regulatory framework.

While state policies are regularly flouted, the state and its policies remain necessary – actors remain dependent on the state, and continue to rely on it, in order to pursue and protect personal interest, and in some instances, these interests are unlawful constructions.

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