

From ambitions to actions: assessing new transitional justice institutions in DRC

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Abstract

The foundation of transitional justice in the history of the Democratic Republic of the Congo (DRC) dates back to the *Conférence Nationale Souveraine* (CNS) held from August 7, 1991 to December 1992. The CNS lasted for 17 months after successive suspensions by President Joseph-Désiré Mobutu. Throughout this conference, 23 committees alongside numerous other sub-commissions were set to document various areas of public affairs. Among the committees and submissions, two were dedicated to document large scale human rights abuses and ill-gotten goods: the commission of assignment and human rights violations and the commission of ill-gotten goods. The reports issued by these committees were overshadowed by political race to nominate the prime minister to conduct the political transition. To all human rights abuses that occurred before 1990, the DRC has undergone the deadliest conflict after World War II from 1998 to 2003 with over 6 millions of victims.¹ From 2006 to 2025, the conflicts broke out and still killing thousand and thousand with any transitional justice process in response. This paper portrays the state of play of institutions specially created to handle transitional justice issues across the DRC. Therefore, it reminds the standard of a credible process of transitional justice (1), then examines one by one each transitional justice institution created by the DRC government (G-DRC) (2). It also questions the political will of the G-DRC on transitional justice matters and deems it insufficient (3). The paper ends by a short conclusion with perspectives for a better future for transitional justice in the DRC.

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1 See IRC, *Crise au Congo: 5,4 millions des morts*, available at www.rescue.org/news/crise-du-cong-o-54-millions-de-morts-selon-une-tude-de-1-4332 accessed on 20 November 2025 at 11:45; sel also the UN Mapping report available at <https://www.ohchr.org/en/countries/africa/2010-drc-mapping-report> accessed in November 2025 a 3:11 pm.

Introduction

1. *The standard for a credible transitional justice process*

In the legal scholarship, transitional justice is defined as a response to large scale human rights abuses. It is meant to accompany the transition from barbaric regimes to democratic regimes and the building of the rule of law. Ruti Teitel describes it as a mechanism that « refers to the view of justice associated with periods of political change, as reflected in the phenomenology of primarily legal responses that deal with the wrongdoing of repressive predecessor regimes.»² In turn, the International Center for Transitional Justice (ICTJ) defines transitional justice as follows: «[T]he set of judicial and non-judicial measures that have been implemented by different countries in order to redress the legacies of massive human rights abuses. These measures include criminal prosecutions, truth commissions, reparations programs, and various kinds of institutional reforms.»³ To strike the right balance, the United Nations has provided its own understanding of transitional justice: « both judicial and non-judicial processes and mechanisms, including prosecution initiatives, truth-seeking, reparations programs, institutional reform or an appropriate combination thereof». In 2010, the UN General Secretary reminded the following: „Whatever combination is chosen must be in conformity with international legal standards and obligations.»⁴

Based on multiple transitional justice experiences across the world, we theorized the international experiences of transitional justice into a triptych of transitional justice models namely *holistic-selective-monolithic*.⁵ We call the holistic model of transitional justice, the combination of five pillars namely the right to truth, the prosecution of large scale human rights abuses, the clemency, the reparations and finally the guarantees of non-recurrence. Both together form the holistic approach of transitional justice. In turn, the selective model of transitional justice is a combination of at least two pillars while the monolithic model activates only one pillar to the detriment of the remaining others.

2. *Institutions of transitional justice in the DRC*

From the end of the CNS in December 1992 to date (November 2025), some transitional justice institutions were created to address the war legacy across the DRC. Let us examine one by one.

2 See Ruti Teitel, « Transitional Justice in a New Era », *Fordham International Law Journal*, Vol 26, n°4, 2003, p.893.

3 See *International Center for Transitional Justice*, «What Is Transitional Justice? » *ICTJ Website* : <http://ictj.org/about/transitional-justice> accessed in November 20, 2025 at 4:08 pm.

4 *United Nations*, Guidance Note of the Secretary-General. The UN Approach of Transitional Justice, March 2010, disponible au http://www.unrol.org/files/TJ_Guidance_Note_March_2010FINAL.pdf accessed in November 20, 2025 a 4:07 pm.

5 See Adolphe Kilomba Sumaili, *La justice transitionnelle au miroir des réalités congolaises*, Enghien, 2019, p167.

2.1. The Truth and reconciliation commission

The TRC was the first transitional justice institution to address transitional justice issues such as truth-telling, prosecution, clemency, reparations and guarantees of non-recurrence. This institution was created by the law n° 04/018 of July 30, 2004. The provision 5 outlines the main tasks assigned to this commission: "The Truth and Reconciliation Commission's mission is to establish the truth and promote peace, justice, reparation, forgiveness, and reconciliation, with a view to consolidating national unity. In this capacity, it provides: – citizen support during the transition; – conflict prevention or management, should they arise, through mediation between divided communities; -creation of a space for dialogue among Congolese people: political, economic, social, and cultural actors, to consolidate peace and national unity through truth, forgiveness, justice, and reconciliation;- efforts to heal trauma and restore mutual trust among Congolese people." In other words, the Congolese TRC was in charge of telling the truth to Congolese people. Through truth-telling, the TRC was meant to promote peace, justice, reparation, forgiveness and reconciliation to strengthen the national unity. Its *ratione temporis* jurisdiction covered the period from June 30, 1960 to the end of the political transition (2006) according to the provision 6, paragraph 3 to supplement the work achieved by the two CNS's commissions above mentioned. This time frame was divided into two periods: the first period from June 30, 1960 to 1992 while the second period departs from 1993 to the end of the political transition (2006).

According to the provision 7 of the TRC's founding law, the following objectives were assigned: To fulfill its mission, the Truth and Reconciliation Commission pursues the following objectives: "a) to consolidate national unity and cohesion, as well as social justice; b) to establish the truth about the political and socio-economic events that have occurred in the Democratic Republic of Congo; c) to reconcile political and military actors with each other, with the people, and the people with themselves; d) to contribute to the emergence and consolidation of the rule of law in the Democratic Republic of Congo; e) to revive a new national and patriotic consciousness; f) to bring those who govern closer to those who are governed; g) to restore a climate of mutual trust between the different communities and encourage peaceful inter-ethnic coexistence; h) to secure recognition of the crimes committed against the Republic; i) to establish individual and collective responsibility for the wrongs and crimes committed and to obtain reparations; j) to work towards the eradication of tribalism, regionalism, intolerance, exclusion and hatred in all its forms."

The provision 8 of the TRC's law lists the main activities entrusted to the TRC: "a) drafting its rules of procedure; b) receiving complaints, denunciations, confessions from perpetrators, or any witness statements related to massive human rights violations, particularly those related to the rape of women and girls during wartime; c) investigating the nature, causes, and extent of political crimes and massive human rights violations committed by both Congolese and foreigners against the Congolese nation and/or population, both within and outside the national territory, from June 30, 1960, until the end of the transition; d) investigating political, socio-economic, and other events that have disrupted peace and

justice in the Democratic Republic of Congo; e) identifying perpetrators and determining individual and/or collective responsibility for these crimes and violations; f) identifying victims and determining the extent of the harm suffered (g) to seek any appropriate protection mechanism requested by individuals who have been questioned and who fear adverse consequences to their safety as a result of their statements; (h) subject to the amnesty law to be passed by the National Assembly, to propose to the competent authority the acceptance or rejection of any individual or collective request for amnesty for acts of war and political and opinion-based offenses; (i) to train its members in techniques for the peaceful resolution and transformation of conflicts; (j) to build upon the achievements of the Sovereign National Conference and the Inter-Congolese Dialogue; (k) to cooperate with other national, sub-regional, regional, and international initiatives pursuing the same objectives to consolidate peace; (l) to prepare a comprehensive report on the activities of the Truth and Reconciliation Commission, including the results achieved, the measures proposed, and the reforms necessary to prevent the recurrence of human rights violations and the commission of related crimes. »

Though the law has not used the expression "transitional justice", the examination of provisions 7 and 8 suggests that all participants at the Inter-Congolese dialogue held in Sun-city in South Africa chose the holistic model of transitional justice to end the Congolese war. All participants adopted the holistic model in terms of truth-telling; prosecution since the TRC was tasked to identify perpetrators and determine at which extent they were responsible; promote clemency through proposing an amnesty law; reparations for victims in determining the extent he harms suffered as well as suggesting necessary reforms to prevent the recurrence of large-scale human rights abuses. While the law was promulgated in July 2004, its facilitators were presented to the National Assembly on December 10, 2004, and sworn in by the Supreme Court of Justice on December 3, 2004.⁶ The TRC was composed of 21 members, 8 members of the *bureau* and 13 commissioners. The 21 members constituted the TRC's plenary assembly, the decision-making body. It was composed of two special commissions: the special commission for truth with 12 commissioners and the special commission for reconciliation with 11.⁷

Each special commission was subdivided into three sub-commissions called sections. The special commission for truth had the following sections: section on political crimes and massive human right violations; section on social, economic, environmental crimes and ill-gotten gains and the section on violence against women and children. On the other hand, the special commission on reconciliation was composed by the section on pacification and Inter-Ethnic coexistence; the section on reparation, rehabilitation, forgiveness, and amnesty as well as the section on conflict prevention, mediation, and education for

6 See the final report of the Congolese Truth and Reconciliation Commission, p3 at <https://atjhub.csvr.org.za/wp-content/uploads/2022/03/DRC-Final-Report-French.pdf> accessed November 27, 2025 at 11:37.

7 TRC's final report, p9 available at <https://atjhub.csvr.org.za/wp-content/uploads/2022/03/DRC-Final-Report-French.pdf> accessed November 27, 2025 at 11:37.

a culture of peace.⁸ Due to the lack of political will, financial constraints alongside an inexperienced work force, the TRC was denied enough time to fulfill its mandate. Three steps were planned for the implementation of its agenda: the preparatory step followed by the operational one and a final step. From July 2004 to February 2007, the TRC remained at its preparatory step.⁹ In other words, the political transition ended while the TRC has not kicked off its operational step. Moreover, instead of being maintained in the new institutional architecture set by the new constitution as an institution to support the democratic process, the TRC was suppressed and its office closed after submitting its final report to the Parliament. This is to say that the TRC did not operate and its mandate remains unfulfilled to date.

2.2. The National Fund for Reparations for Victims of Conflict related to sexual violence and victims of Crimes against peace and security (FONAREV)

The National Fund for Reparations for Victims of Conflict related to sexual violence and victims of Crimes against peace and security (FONAREV)¹⁰ was created in December 2022 by the provision 21 of the law n° 22/065 of December 26, 2022,¹¹ establishing the fundamental principles related to the protection and reparation of victims of conflict-related to sexual violence and victims of crimes against peace and security of humanity. The article 23 provides: "A Fund is established to support access to justice, reparation, empowerment and community recovery for victims and their beneficiaries." Its mission is outlined at the provision 22 as follows: „The Fund's missions are: – to identify victims; – to help victims access justice, including the right to compensation and the recovery of damages awarded to them, and to benefit from free support and appropriate legal assistance provided by lawyers; – to award reparations to victims."

In other words, FONAREV is a technical body to assist victims. Then how does one be recognized as a victim to access FONAREV's assistance? The status of victim is awarded by a judgment of the *Tribunal de Grande Instance* as provided by article 4 of the law: "The status of a victim, as defined in Article 2(y) of this Law, is established by a first-instance decision rendered by the Regional Court of the place where the offense occurred (paragraph1). This decision is subject to appeal within 15 days of its notification by the appellant and within 30 days by the Public Prosecutor acting in the interest of the

8 TRC's final report, p11 available at <https://atjhub.csvr.org.za/wp-content/uploads/2022/03/DRC-Fin al-Report-French.pdf> accessed November 27, 2025 at 11:37.

9 TRC's final report, p4 available at <https://atjhub.csvr.org.za/wp-content/uploads/2022/03/DRC-Fin al-Report-French.pdf> accessed November 27, 2025 at 11:37.

10 See further on FONAREV at <https://www.fonarev.cd/> accessed 7 June 2025 at 11:40.

11 See law n° 22/065 of December 26, 2022, establishing the fundamental principles related to the protection and reparation of victims of conflict-related to sexual violence and victims of crimes against peace and security of humanity, Kinshasa, *Journal Officiel, Numéro spécial*, 21 January 2023, pp1–27.

law(paragraph 2)." In fact, without the recognition by the *Tribunal de Grande Instance*, nobody can claim any assistance at FONAREV. This provision shed light on how tough the path is awaiting all people directly affected by armed conflicts across the DRC. Almost all people living in areas affected by conflicts live under the threshold of poverty. Living in a country where the quality of road infrastructures is among the lowest in the world, victims will have difficulty reaching areas accommodating tribunals and courts to get victim status to access FONAREV's assistance. The DRC ranks 136th out of 141 countries studied according to the Global economy report issued in 2019.¹² The provision 4 of the law creating FONAREV appears therefore as the first legal obstacle for victims on their ways to justice.

The financing of FONAREV is organized by the provision 25 of the aforementioned law: "The Fund's resources come from: – budgetary subsidies; – contributions from policyholders, which are added to the amount of property insurance premiums and are based on all premiums paid by policyholders to insurance companies. This contribution is collected monthly by the Fund. A Ministerial Order issued by the Minister responsible for insurance sets the rate of this contribution; – default interest due to late payment of damages and interest awarded to victims, in the event of assignment of claims; – late payment interest due to delayed payment of damages and interest awarded to victims, in the event of assignment of claims; – 11 % of the mining royalties paid by holders of mining concessions, allocated as follows: 6 % to the State, 2 % to the provincial administration, 1 % to the decentralized territorial entity, and 2 % to the Mining Fund for Future Generations, in accordance with the provisions of Article 242 of Law No. 007/2002 of July 11, 2002, concerning the Mining Code, as amended and supplemented by Law No. 18/001 of March 9, 2018; – 2 % of the portion of profits from the sale by private economic operators of carbon certificates related to the process of reducing emissions from deforestation and forest degradation, reserved for the Congolese State, without prejudice to the existing allocation formula; – Proceeds from Fund investments; – Reimbursements and realization of securities and real estate; – Contributions from donors, international and philanthropic organizations; – Funds raised exceptionally through national and international solidarity; – Donations and bequests; – Any other resources allocated to the Fund."

Additionally, to victims' concerns of getting such a status, the financial management of FONAREV remains questionable. Like other state-owned bodies, FONAREV is criticized for the lack of transparency and financial orthodoxy. People are less informed on how the financial resources it allocated are being managed and how its personnel was recruited. Since its founding law acknowledges the power of awarding the victim status, to a tribunal one wonders to whom FONAREV provides its services since there is no judgment issued by any tribunal across the DRC? Therefore, on which base does FONAREV award financial assistance? The process to benefit FONAREV's services has to start with a judgement

12 See https://www.theglobaleconomy.com/rankings/roads_quality/ accessed in November 29, 2025 at 10:19.

issued by a *Tribunal de Grande Instance*. Otherwise, it becomes illegal and this is the case for FONAREV to date. It unlawfully grants victim status to whoever seeks it instead of referring all demands to tribunals. Nowadays for instance, far away from its mandate, FONAREV has started providing assistance even to Congolese refugees and IDPs.¹³ Its political personnel is recruited based on political affiliation to the presidential political party. Championed by the first lady Denise NYAKERU TSHISEKEDI, FONAREV is more an extension of the staff of the presidential office than a neutral civil service. Like the stillborn truth and reconciliation commission (TRC) in 2023, FONAREV is managed by political activists instead of experts on transitional justice matters. The way it operates demonstrates amateurism and no outcome has been achieved. The managing personnel lacks expertise to deliver transitional justice services to victims such as truth, prosecutions, clemency and reparations (collective and individual) as well as guarantees of non-recurrence. FONAREV operates as a stand-alone body while it should have been an element of a holistic strategy of transitional justice to dope its impact. Its siloed interventions will be dissolved into the ocean of victim's needs in terms of truth, prosecutions, guarantees of non-recurrence and clemency. FONAREV should then be reformed to strengthen its impact.

2.3. The Inter-institutional commission for assistance to victims and support for reforms (CIAVAR)

The law creating FONAREV has also created the inter-institutional commission for assistance to victims and support for reforms at its provisions 45 and 63. The presidential order n°23/056-B of May 12, 2023 organizes this organ.¹⁴ Its preamble explains the rationale behind its creation as follows: "Considering the need to coordinate and control, at the highest level of the State, the monitoring of the implementation of programs and reforms on issues of transitional justice in its pillar of reparations and for victims of conflict-related sexual violence and victims of crimes against peace and the security of humanity." Like FONAREV, CIAVAR is also an extension of the staff of the presidential office where people are recruited based rather on their political activism than technical expertise on transitional justice issues. CIAVAR's personnel is part of the staff of presidential office as enshrined in article 25 of the presidential order.

According to article 1 of the presidential order n° 23/184 of September 7, 2023, CIAVAR is animated by 27 people. All of them have been recruited without any public

13 See *ACP, Agression rwandaise : les réfugiés congolais au Burundi bénéficient de l'assistance du gouvernement*, available at <https://acp.cd/affaire-judiciaire-et-droits-humains/agression-rwandaise-les-refugies-congolais-au-burundi-beneficient-de-lassistance-du-gouvernement/> accessed in December 21, 2025 at 20:51.

14 See Presidential order n°23/056-B of May 12, 2023 Order No. 23/056-B of 12 May 2023 concerning the organization and operation of the inter-institutional commission for assistance to victims and support for reforms, Kinshasa, *Journal Officiel*, First part, Numéro spécial, December 27, 2023, pp12–13.

job offers. They are political activists without technical qualification on transitional justice issues as it was with the truth and reconciliation commission set in 2003. The same mistakes are repeated to end up with no result on victims' needs. Thus, since their creation, FONAREV and its counterpart CIAVAR have proven useless *vis-à-vis* victims' needs. They have become more job providers for political activists than transitional justice issues-solver. In 2003, transitional justice institutions were considered as institutions to support the democratic process. To date, they are centered around the office of the President of the Republic with limited impact on victims. They operate without any national policy and strategy on transitional justice as whole. All of this shows how this critical issue has been downgraded while it represents an opportunity for reforms and stability for the Democratic Republic of the Congo.¹⁵

The article 3 of the presidential order aforementioned lists the mission of CIAVAR: "- To conduct research and analysis to support measures surrounding the transitional justice process, particularly by formulating recommendations for reforms to the national institutional and legal framework likely to guarantee the non-recurrence of crimes against peace and the security of humanity; – To monitor the implementation of programs on victim assistance issues covered by the Law; – To issue opinions and propose reforms on victim assistance and reparations, including decisions of the National Fund for Reparations for Victims of Conflict-Related Sexual Violence and other crimes against peace and the security of humanity; – To serve as the liaison between public authorities and victims, victim support associations, civil society, and communities affected by conflict, with a view to reconciliation and national cohesion; – Collaborate with national and international institutions with similar missions to exchange information and experience;- Ensure the effectiveness and improvement of the Fund's victim support mechanisms;- Collaborate with the Fund in organizing tributes and commemorations for victims; – Collaborate with the Fund in developing and implementing reparation programs; Ensure the Fund adheres to the fundamental principles relating to victim reparation and formulate recommendations for the Fund to improve victim support."

In the words, CIAVAR is a technical body to support FONAREV's activities. It is as task force to play the role of a transitional justice think tank inside the office of the president of the Republic. The mission as heralded above will surely not be delivered due to the lack of expertise. CIAVAR and FONAREV have been created as though the DRC was at its first experience of transitional justice. Why, starting from scratch instead of capitalizing past transitional justice experiences, were they unsuccessful? The *Conférence Nationale Souveraine's* experience and the one from the truth and reconciliation commission in 2003 would surely enlighten the way forward. Therefore, it becomes necessary to reform CIAVAR to make it a piece of a transitional justice puzzle to increase its impact.

15 See *Adolphe Kilomba Sumaili*, Initiating transitional justice in the Democratic republic of the Congo: opportunities for stability and reform, December 5, 2025, available at <https://www.csvr.org.za/initiating-transitional-justice-in-the-democratic-republic-of-the-congo-opportunities-for-stability-and-reform/> accessed in December 21, 2025 at 10:43 pm.

2.4. The Special Fund for Reparation and Compensation for Victims of Ugandan Armed Activities in the DRC (FRIVAO).

FRIVAO was initiated by decree No. 19/20 of December 13, 2019, establishing, organizing and operating the Special Fund for the Distribution of Compensation to Victims of Illegal Activities of Uganda in the Democratic Republic of Congo or to their beneficiaries, abbreviated as « FRIVAO ». FRIVAO started operating four years later with the appointment of its steering committee by the Presidential order in May 2023.¹⁶ This institution has been created to supervise the distribution of funds to be paid by Uganda following its condemnation by the International Court of Justice (ICJ) in December 19, 2005 of its unlawful activities in the territory of the DRC.¹⁷ After negotiations failed between the parties to determine the amount of reparations, the court delivered a judgment on the question in February 9, 2022 awarding 225,000, 000 \$US for damage to persons; 40,000,000 \$US for damage to property and \$60,000,000\$ US for damage related to natural resources. The ICJ stated the payment should be paid in five annual installments of US\$65,000,000 starting on 1 September 2022. In case of delay, post-judgment interest of 6 per cent would accrue on any overdue amount. To ensure the fair distribution of the amount, the G-DRC created FRIVAO and headquartered it in Kisangani. This city witnessed *the six-days war* between Ugandan and Rwandan armies, fighting to control diamonds trading posts from 5 to 10 June 2000 through the two armies remained true to their official objective to topple President Mzee Laurent Désiré Kabila.¹⁸

The mission of FRIVAO is outlined at the provision n°4 of its founding decree as follows: „Without prejudice to the provisions of the forthcoming judgment of the International Court of Justice, the Fund's mission is to distribute individual and collective compensation to victims and to public and private entities affected by Uganda's unlawful activities, in accordance with applicable international law and national laws compatible therewith(Paragraph1). It manages, with complete independence, fairness, and transparency, all funds allocated to the Democratic Republic of Congo as reparations for damages caused by Uganda's unlawful activities on Congolese territory (Paragraph 2). To this end, it performs, in particular, the following tasks: • Collecting all funds allocated for victim

16 See *RDC* : Félix Tshisekedi nomme les animateurs du Fonds Spécial de Réparation de l'Indemnisation aux Victimes des activités illicites de l'Ouganda en RDC (FRIVAO), May 4, 2023, available at <https://actualite.cd/2023/05/04/rdc-felix-tshisekedi-nomme-les-animateurs-du-fonds-special-de-r-eparation-de> accessed in December 27, 2025 at 09:10.

17 See *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)* available at <https://www.icj-cij.org/case/116> accessed in December 24, 2025 at 5:13 pm.

18 See *Hranjski, Hrvoje* (12 June 2000), *Rwanda Routs Uganda in Congo Battle*, available at <https://www.washingtonpost.com/archive/politics/2000/06/12/rwanda-routs-uganda-in-congo-battle/daf087b3-414d-40f9-a83f-8898f2448504/> accessed in December 26, 2025 at 11:03. See also Lara Santoro, *Behind the Congo war: diamonds Yesterday, Rwanda and Uganda faced off over control of an airport – and the loot*, August 16, 1999 available at <https://www.esmonitor.com/1999/0816/p1s4.html> accessed in December 26, 2025 at 11:28.

compensation; • Organizing the registration of all victims eligible to receive reparations for damages suffered as a result of Uganda's armed activities; • Collect all necessary data and information to ensure effective redress for all harm suffered and to enable all victims to exercise their respective rights; • Ensure optimal communication to victims regarding all procedures and steps to follow to obtain effective redress; • Identify and publish the locations where victims can collect their funds; • Distribute the funds to the various victims or their beneficiaries; • Ensure the regularity, efficiency, and transparency of the redress process."

The first installment was remitted on September 1, 2022 by the Republic of Uganda. The second one was made in 2023 and the third in 2024, crediting FRIVAO's account with 130,000, 000 \$ US instead of 195,000 \$ US.¹⁹ To date, FRIVAO has identified 14,814 victims of which 4,131 were declared eligible to compensation according to criteria set by the ICJ's judgment.²⁰ The others are still being examined by FRIVAO. Victims have received from 200\$ US to 2,000\$ US to compensate for the wrong suffered. In fact, FRIVAO is meant to ensure a fair distribution of the money paid by the Republic of Uganda to victims. This task should be performed, the text says, with complete independence, fairness, and transparency. Nevertheless, since Uganda remitted the first installment on September 1, 2022 with 65,000,000\$ US, the respect of the aforementioned moral values as enshrined in the founding law became a struggle. FRIVAO was neither independent, fair nor transparent. Its initial steering committee was reshuffled by the former minister of Justice Constant MUTAMBA, alleging the funds misappropriation based on the report of the *Inspection Générale des Finances* (IGF). He then appointed his personal secretary to lead the fund. Some months later, the Minister Constant MUTAMBA was himself found guilty of FRIVAO's funds misappropriation by the *Cour de cassation* and sentenced for 3 years of forced works and 5 years of ineligibility.²¹ The minister unlawfully ordered the remittance of 19,000,000 \$ US of FRIVAO's funds to build a prison in Kisangani.²² According to the *Cour de cassation*, Constant MUTAMBA breached the Congolese public procurement law and embezzled 19,000,000\$ US to build a fictional prison in Kisangani.

The autonomy of FRIVAO remains theoretical to date. While its decree does not foresee any role for the President of the Republic, he was the one to appoint its steering committee, which is illegal. The appointees were thereafter removed by the order of the

19 See *Caleb Kazadi*, DRC: victims' fund overhauled amid embezzlement suspicions, Octobre 24, 2025, available at <https://www.justiceinfo.net/en/137058-drc-victims-fund-overhauled-amid-embezzlement-suspicions.html> accessed in December 27, 2025 at 09:19.

20 See *Caleb Kazadi*, DRC: victims' fund overhauled amid embezzlement suspicions, Octobre 24, 2025, available at <https://www.justiceinfo.net/en/137058-drc-victims-fund-overhauled-amid-embezzlement-suspicions.html> accessed in December 27, 2025 at 09:19.

21 See the footage of the trial available at <https://www.youtube.com/watch?v=SxXteM6ARI4> accessed in December 27, 2025 at 10/02.

22 See *Caleb Kazadi*, DRC: The Justice Minister caught by the law, September 5, 2025, available at <https://www.justiceinfo.net/en/149425-drc-justice-minister-caught-by-law.html> accessed in December 27, 2025 at 10:08.

Minister of justice, aggravating the unlawfulness of the situation. Yet, FRIVAO's founding decree considers administration council as the highest organ of this technical body. The lack of transparency is another debilitating shortcoming of FRIVAO. While it is meant to manage all funds to compensate victims, facts show that the Minister of Justice of the central government is the person habilitated to activate FRIVAO's bank account. This was confirmed by the testimony of Rose MUTOMBO, the former minister of justice during Constant MUTAMBA's trial. Constant MUTAMBA's trial demonstrates the low level of transparency that characterizes the management of FRIVAO. This technical body does not avail information on how it operates to select victims. Also, it does not provide criteria that specify the selection of victims and how amounts of money awarded are calculated. The recruitment process of the FRIVAO's personnel remains also opaque.

3. Questioning the G-DRC's political will for transitional justice?

Based on facts, one notices the political will of the G-DRC to create and sustain a transitional justice momentum across the country. This political will is evidenced by the creation of the TRC (2003–2006) and recently FONAREV, CIAVAR and FRIVAO. Those institutions demonstrate the beginning of a long process to address transitional issues across the DRC. Through them, public funds are awarded to victims despite the disrespect of public procurements law and the low level of transparency. Nevertheless, the creation of transitional justice institutions seems insufficient vis-à-vis the demand across the Congolese territory. Victims are countless due to the violence of numerous armed groups and the most recent AFC/M23's rebellion that ambitions to topple the Félix TSHISEKEDI's regime. Moreover, the G-DRC should avoid any ambiguity while engaging in transitional justice matters. In December 15, 2025, the French *Cour d'assises* sentenced the former warlord Roger LUMBALA for 30 years for wartime atrocities considered as war crimes and crimes against humanity in the early 2000s in Bafwasende/Province Orientale-DRC.²³ The silence of the G-DRC was more revealing: its political will for transitional justice is not sharp enough.²⁴ Throughout his trial, Roger LUMBALA heavily charged Jean-Pierre BEMBA

23 See *Hemery Makumero*, French court sentences ex-DR Congo rebel and politician to 30 years in jail, Décembre 16, 2025, available at <https://www.bbc.com/news/articles/c4ge7412evlo> accessed in December 27, 2025 at 11:28; See also *Pierre Lepidi*, L'ancien chef de guerre congolais Roger Lumbala condamné à trente ans de réclusion criminelle à Paris pour complicité de crimes contre l'humanité, December 15, 2025, available at https://www.lemonde.fr/afrique/article/2025/12/15/l-ancien-chef-de-guerre-congolais-roger-lumbala-condamne-a-trente-ans-de-reclusion-criminelle-a-paris-pour-complicite-de-crimes-contre-l-humanite_6657740_3212.html accessed in December 27, 2025 at 11:27.

24 See *Adolphe Kilomba Sumaili*, Initiating Transitional Justice in the Democratic Republic of the Congo: opportunities for stability and reform, December 2025, available at <https://www.csvr.org.za/initiating-transitional-justice-in-the-democratic-republic-of-the-congo-opportunities-for-stability-and-reform/> accessed in December 2025 at 11:40; See also *Adolphe Kilomba Sumaili*, Droit à la vérité dans la région des grands lacs: base légale, état des lieux de l'offre et de la demande, in *Librairie Africaine d'Etudes Juridiques*, August 2022, available at <https://www.nomos-elibrary.de/>

GOMBO, the current minister of transportation. Normally, this should have led to the resignation of this former warlord from the Government. The Government should have also fully cooperated with the French tribunal to clarify the role of Jean-Pierre GOMBO as well documented by the UN Mapping Report.²⁵ Neither of this expected reaction was made the G-DRC. Instead, the G-DRC decided to ignore the trial for political reasons. All interrogations by the civil society ran up against the wall of silence. This attitude reveals how far the G-DRC is ready to go in transitional justice issues. This is to say that actions remain insufficient vis-à-vis the claimed ambition by the G-DRC on transitional justice matters.

4. Conclusion

This paper outlines the state of play of transitional justice institutions in the Democratic Republic of Congo as a sign of the G-DRC political will. Since the two CNS commissions that documented large scale human rights abuses and ill-gotten gains of Mobutu's regime, the DRC set a Truth and Reconciliation commission (TRC) from 2003 to 2006 to support the democratic process towards free and fair elections held in 2006. From 2006 to 2018, amnesty was the sole transitional justice mechanism activated by the G-DRC to settle armed conflicts across the Congolese national territory. That said, in 2019, FRIVAO was created to manage fairly the funds paid as reparations by the Republic of Uganda following its condemnation by the ICJ in 2005. It is only after 4 years that FRIVAO started operating to serve victims. FONAREV and CIAVAR came to life in 2002 to address victims' needs. Like FRIVAO, FONAREV and FRIVAO suffer the same debilitating shortcomings in terms of respecting their founding laws and transparency. Instead of being real transitional justice institutions, instead, they are populated by political activists without any expertise on transitional justice convoluted issues. They are the extension of presidential office's staff. Whereas the founding texts of FONAREV and CIAVAR reserve for the *Tribunal de Grande Instance* the power of recognizing or denying the status of victim to applicant, facts show that FONAREV and CIAVAR are operating contrary-wise. They call people victims without any judgement, which is illegal. Moreover, the G-DRC should avoid starting from scratch when dealing with transitional justice matters. I should capitalize the CNS and TRC's experience.

Although the creation of the FRIVAO, FONAREV and CIAVAR demonstrates a clear sign of the G-DRC's political will to engage in transitional justice matters, there is still shortage of evidence to confirm such a determination. The most recent development is the Roger Lumbala's trial at the French Cour d' assises where the G-DRC decided to ignore the trial while one of its influential members, Jean-Pierre BEMBA GOMBO was

10.5771/2363-6262-2022-3-224/droit-a-la-verite-dans-la-region-des-grands accessed in December 27, 2025 at 11:37.

25 See N Mapping report a <https://www.ohchr.org/en/countries/africa/2010-drc-mapping-report> accessed in December 27, 2025 at 11:12.

repeatedly charged with allegations of war crimes and crimes against humanity. Arguably, the ambition to address transitional needs is openly claimed but actions remain insufficient. To increase credibility for its actions in the field of transitional justice, the G-DRC should *inter alia* draft a national public policy on transitional justice alongside its national strategy elaborated around the holistic approach of transitional justice; create a truth and reconciliation commission as standalone institution as it was in 2003; make FONAREV, FRIVAO and CIAVAR as its components; recruit transitional justice experts instead of political activists to make transitional justice institutions really delivering; promote transparency and accountability within transitional justice institutions; always associate civil society actors while deciding on transitional justice issues; avoid appointing people charged by alleged war crimes and crimes against humanity, etc.