



저작자표시-비영리-변경금지 2.0 대한민국

이용자는 아래의 조건을 따르는 경우에 한하여 자유롭게

- 이 저작물을 복제, 배포, 전송, 전시, 공연 및 방송할 수 있습니다.

다음과 같은 조건을 따라야 합니다:



저작자표시. 귀하는 원저작자를 표시하여야 합니다.



비영리. 귀하는 이 저작물을 영리 목적으로 이용할 수 없습니다.



변경금지. 귀하는 이 저작물을 개작, 변형 또는 가공할 수 없습니다.

- 귀하는, 이 저작물의 재이용이나 배포의 경우, 이 저작물에 적용된 이용허락조건을 명확하게 나타내어야 합니다.
- 저작권자로부터 별도의 허가를 받으면 이러한 조건들은 적용되지 않습니다.

저작권법에 따른 이용자의 권리는 위의 내용에 의하여 영향을 받지 않습니다.

이것은 [이용허락규약\(Legal Code\)](#)을 이해하기 쉽게 요약한 것입니다.

[Disclaimer](#)

**Master's Thesis of Public Administration**

**Corruption in Court Proceedings:  
The need for Judicial Transparency in the Democratic  
Republic of Congo**

**사법 절차 내 부패에 관한 연구:  
DR 콩고의 사법 투명성을 중심으로**

**August 2021**

**Graduate School of Public Administration  
Seoul National University  
Global Public Administration Major**

**Rodrick Molonga Elekeleme**

**Corruption in Court Proceedings:  
The need for Judicial Transparency in the Democratic  
Republic of Congo**

**Academic Advisor Ko, Kilkon**

**Submitting a master's thesis of Public Administration**

**April 2021**

**Graduate School of Public Administration  
Seoul National University  
Global Public Administration Major**

**Rodrick Molonga Elekeleme**

**Confirming the master's thesis written by  
Rodrick Molonga Elekeleme**

**June 2021**

**Chair Koo, Mingyo**

**Vice Chair Lee, Sooyoung**

**Examiner Ko, Kilkon**

## **Abstract**

# **Corruption in Court Proceedings:**

## **The need for Judicial Transparency in the Democratic Republic of Congo**

**Rodrick Molonga Elekeleme**

**Global Public Administration Major**

**The Graduate School of Public Administration**

**Seoul National University**

The literature on judicial corruption contends that transparency is a key instrument in controlling corruption in judicial proceedings owing to its effectiveness in decreasing political interferences and increasing accountability of court personnel. By collecting data from the general public, previous empirical studies found that the Congolese judicial system was corrupt and opaque. With an exclusive focus on court users' perspective and experience, this study examines the level of transparency and its impact on corruption in judicial proceedings, and proposes transparency enhancement policies as a solution. This research captures both perception and experience of corruption to grasp the real extent of judicial corruption, and uses accessibility, relevance and reliability of judicial information to measure transparency.

This study gathered data from 184 surveyed court users. Findings of this research suggest that the Congolese judicial proceedings are less transparent and highly corrupt. Transparency is found to be negatively related with perception and experience of corruption, thus confirming findings of previous researches. This relationship is moderated by quality of court users, with litigants having a stronger relationship compared to

lawyers. The analysis has shown that corruption is mostly perpetrated through the overbilling or billing of illegal proceeding fees, and payment of incentives. Improving access to judicial information is deemed to be a sound basis for transparency enhancement policies aiming at reducing judicial corruption in DR Congo.

This study recommends a regulatory framework prescribing a mandatory publication and display of proceeding fees at the notice boards of each jurisdiction, in the short run, and the implementation of a bank payment system and e-justice, in the long run, as a set of solutions to curb corruption in the Congolese judicial proceedings.

**Keywords:** Judicial corruption, perception of corruption, experience of corruption, judicial transparency, accessibility.

**Student ID: 2019-26688**

# Table of Contents

<i>Abstract</i> .....	<i>i</i>
<i>Table of Contents</i> .....	<i>iii</i>
<i>List of Tables</i> .....	<i>v</i>
<i>List of Figures</i> .....	<i>vi</i>
1.1. Study Background.....	1
1.2. Statement of the Problem.....	4
1.3. Purpose of the Study and its Significance.....	6
1.4. Theoretical Framework: Principal Agent Theory .....	9
1.5. Research Question .....	10
1.6. Scope of the Study .....	11
<b>CHAPTER 2: LITERATURE REVIEW</b> .....	<b>12</b>
2.1. Judicial Transparency .....	12
2.1.1. Overview .....	12
2.1.2. Definition.....	12
2.1.3. Benefits of Judicial transparency.....	16
2.2. Judicial Corruption .....	19
2.2.1. Overview .....	19
2.2.2. Definition.....	20
2.2.3. Forms of Judicial Corruption.....	21
2.2.4. Causes of Judicial Corruption .....	22
2.2.5. Brief overview of the Congolese judicial system.....	23
<b>CHAPTER 3: RESEARCH DESIGN AND METHODOLOGY</b> .....	<b>26</b>
3.1. Hypothesis formulation.....	26
3.2. Research Design .....	30
3.3. Analytical Framework .....	31
3.4. Sampling Process .....	32
3.5. Data collection and analysis process.....	33
3.6. Criteria of measurement.....	33
3.7. Survey Instrument.....	36
<b>CHAPTER 4: PRESENTATION, ANALYSIS AND DISCUSSION OF RESULTS</b> .....	<b>37</b>
4.1. Demographic Characteristics of Respondents .....	37
4.2. Descriptive Analysis .....	40
4.2.1. Descriptive Statistics of Variables.....	40

4.2.2.	Descriptive Statistics for Independent Variables.....	42
4.2.3.	Descriptive Statistics for Dependent Variables .....	43
4.2.4.	Comparisons of Variables by Jurisdiction.....	46
4.2.5.	Reliability Test of the Survey Instrument.....	48
4.2.6.	Correlations Analysis .....	49
4.2.7.	Multiple Regression Analysis.....	50
4.3.	Hypothesis Test.....	58
4.4.	Summary of Open-ended Responses .....	63
4.5.	Discussion of Findings.....	65
<i>CHAPTER 5: CONCLUSION AND POLICY RECOMMENDATIONS...</i>		68
5.1.	Conclusion .....	68
5.2.	Policy Recommendations .....	70
5.3.	Limitations and Recommendations for Future Studies.....	71
<i>Bibliography.....</i>		72
<i>Appendix.....</i>		85
<i>Abstract in Korean.....</i>		95
<i>Acknowledgements.....</i>		97

## List of Tables

Table 1: Indicators of Judicial Transparency .....	35
Table 2: Indicators of Judicial Corruption .....	36
Table 3: Demographic characteristics of respondents.....	39
Table 4: Descriptive Statistics of Independent Variables .....	42
Table 5: Descriptive Statistics for Dependent Variables.....	43
Table 6: Experience of Corruption Questionnaire .....	45
Table 7: Result of the reliability test .....	49
Table 8: Pearson Correlation Coefficients .....	49
Table 9: Multiple Regression Analysis Model I .....	52
Table 10: Multiple Regression Analysis Model II .....	55
Table 11: Summary of hypothesis testing .....	61
Table 12: Summary of Open-ended Responses .....	64
Table 13: Demographic comparisons for transparency .....	89
Table 14: Demographic comparisons for accessibility .....	90
Table 15: Demographic comparisons for relevance.....	91
Table 16: Demographic comparisons for reliability.....	92
Table 17: Demographic comparisons for perception of corruption .....	93
Table 18: Demographic comparisons for experience of corruption.....	94

## List of Figures

Figure 1: Organizational chart of the Congolese judicial system.....	23
Figure 2: Analytical framework .....	31
Figure 3: Transparency by Jurisdiction.....	46
Figure 4: Perception of Corruption by Jurisdiction.....	47
Figure 5: Experience of Corruption by Jurisdiction.....	48
Figure 6: Marginal effect for perception of corruption .....	57
Figure 7: Marginal effect for experience of corruption.....	58
Figure 8: Summary Model I.....	59
Figure 9: Summary Model II.....	61

# **CHAPTER 1: INTRODUCTION**

## **1.1. Study Background**

Corruption is an age-old problem dating from the beginning of the civilization and has been varying through diverse forms namely bribery, embezzlement, extortion, nepotism and cronyism (Zulkefli Muhamad Hanapiyah S. D., 2018). In the developing world, the academia and the political sphere have propelled corruption to the forefront of their discussions as an explaining factor of the economic and democratic failure (Bukovansky M., 2006).

As noted by the World Bank (2019), the DRC is endowed with various natural resources able to prompt it on the top of the list of the richest countries in Africa and make of it a driver of the continent's growth. However, several decades of kleptocracy, endemic and rampant corruption, and conflicts have shattered the country and left its population in dire straits since its independence in 1960. The country is toping the list of African countries whose resources are being plundered (Anyanzwa, 2020). The majority of the active population remains unemployed and ekes out a wretched living solely relying on the informal sector of the economy (Gan Intergrity, 2016; Bak, 2019).

Under the dictatorship period of President Mobutu, corruption and patronage were established as socially accepted cornerstones of the Congolese political tradition. This paradigm remained so despite the change at the top level of the country with the military revolution led by Mzee Laurent Désiré Kabila (Matti, 2010).

In 2019, the Democratic Republic of Congo has scored 18 out of 100 in the Corruption Perceptions Index where 0 is deemed highly corrupt, placing it in the 168th place out of 180 countries (Transparency International, 2020). On the World Bank's Worldwide Governance Indicators (2017), the country has also recorded low scores on indicators of rule of law (4 out of

100) and control of corruption (6 out of 100). These indicators have remarkably remained stagnant since 2007.

On the Mo Ibrahim Index of African Governance (2017), the Democratic Republic of Congo ranked at 47th position out of 54 countries, scoring only 32 out of 100 when good governance was measured. The country particularly scored low in the category of “safety and rule of law” as well as in other metrics of anticorruption efforts and rules pertaining to increase transparency. This explains the overall poor performance of the country in the index.

Corruption in DRC became a semi-official state policy reflected in the so called doctrine of “débrouillez-vous” or “article 15” (fend for yourself or look after yourself) (Shepherd, 2019; Transparency International, 2019). Blake Ashforth and colleagues (2003), argued that corruption has become normalized in DRC especially by being somehow “institutionalized, rationalized and socialized”. Corruption became embedded within different structures and processes within the country and thereby routinized. It is justified and even valorized by the semi-official doctrine aforementioned and is spread among newcomers in the system who are induced to perceive corruption as permissible.

The country experiences a chain of bribe-taking stretching from the newly appointed bureaucrats at the bottom to the decision makers at the highest position of the state apparatus. Fair competition has been decimated by clientelism, rent-seeking, and patronage (Transparency International, 2019; Bak, 2019).

The losses endured by the DRC stemming from illicit outflows, average US\$ 225 million each year starting from 2003 to 2013 (Global Financial Integrity, 2015). Furthermore, Luzolo Bambi, the special advisor on good governance and the fight against corruption and money laundering of the former President Joseph Kabila, reported that the Democratic Republic of

Congo was losing up to 15 billion dollars per year because of corruption (Reuters, 2020).

All sectors of DRC's economy are tainted with rampant corruption which in turn undermines all prospects of economic growth, compromises the long-sought equilibrium for the fragile post-conflict era, and impedes all efforts to increase transparency of the government institutions (Chêne, 2010; Bak, 2019; Gan Intergrity, 2016).

The most vulnerable sectors prone to corruption are the extractive and security sector, local and provincial government, public services, land, tax and customs administration, public procurement and justice (Bak, 2019; Chêne, 2010; Gan Intergrity, 2016).

To fight against corruption, Transparency International (2007) underscores the crucial role the judiciary has to play. However, corruption is also found within the courtroom.

Corruption in court is a worldwide major problem. In 2009, almost half of the people surveyed worldwide by Transparency International considered the judiciary to be corrupt; and the frequency of payment of petty bribes during legal processes seemed to skyrocket (Schultz, 2009).

Judicial corruption presents many interrelated and compounded problems. Economically, judicial corruption chips away stability and predictability in the interpretation and enforcement of the law thus hampering economic development. Investors are presumably dissuaded and trade is inhibited when judicial processes are imbedded with corruption (Schultz, 2009; Buscaglia, 2000).

In the broader governance context, corruption in the judiciary has a negative impact on the efficiency of other public institutions. For instance, efforts deployed by an anti-corruption agency in investigated corrupt activities will be foiled or doomed to fail if the prosecutor's office is tainted by corruption. The recovery of assets may collapse if judicial personnel refrain from tracing, freezing, seizing or confiscating the disputed assets. Political

pressure exercise to prosecutors or the quest of personal gains may stymie law enforcement efforts (Schultz, 2009).

Obviously, all attempts to control corruption within a country will not be successful if corrupt acts are not prosecuted and condemned by the justice. However, the Congolese justice system remains vulnerable to corruption.

## **1.2. Statement of the Problem**

As presented in the background, the Congolese judicial system has for a long time been imbedded with many problems at the rank of which corruption. In 2019, Transparency International (2019) reported that 84 % of the Congolese population perceives judges and prosecutors to be corrupt. Similarly, previous surveys conducted mainly in the East part of the country, showed that only 20% of the population thinks that the court can guarantee fair and impartial treatment (PeacebuildingData, 2020).

Corruption in the judiciary while hindering the establishment of the rule of law, has also generated mistrust among Congolese people in the judiciary. Only a few citizens trust courts to rule fairly (Vlassenroot, 2006; Felices-Luna M., 2020; Jacobs, 2018). In general, Congolese citizens have a two-pronged perception of the judicial system. On the one hand, it is perceived as having poor quality and being complex. On the other hand, the judiciary is perceived as corrupt. This perception has deepened the existing gap between society and the judiciary. This gap can be explained in two ways. Firstly, the population is not cognizant of the judicial proceedings and, secondly, the judiciary does not strive to make knowledgeable its operations to the population. The famous Latin dictum that is prevalent in the Congolese judicial system, “*lura novit curia*” (the judge knows the law) reflected in “*da mihi factum dabo tibi ius*” (give me facts I will give you the law) epitomizes the reluctance of judicial personnel to make citizens familiar with judicial proceedings and render more open the judicial operations.

As a result of this gap and mistrust, many Congolese resort to various informal and/or customary justice institutions. Previous studies showed the large part of the Congolese citizens consider the customary justice to be the first conflict solving mechanism. Congolese people who live both in rural and urban areas tend to have more trust on customary institutions than statutory ones, even though in some cases they consider both to be the same (Bak, 2019; Vlassenroot, 2006; Stiftung B., 2020). However, it is noteworthy that when it comes to criminal law, customary institutions do not have the legal power to settle the dispute, only statutory ones do (Bak, 2019). Therefore, citizens may feel abandoned when they do not have an institution capable of protecting their rights unless they pay bribes.

Judicial corruption has created legal insecurity and uncertainty in the country, and made the population hopeless and choiceless. The mistrust of the statutory justice has gone so high as the population has been driven to argue that “in the court the one who pays more usually wins the case” (Vlassenroot, 2006; Felices-Luna M., 2020). In his empirical study about the experience of the Congolese citizens with the criminal justice, Jacobs (2018) concluded that money and connections conditioned the access to justice across the country, urging those who don’t have these means to resort to non-state justice or including popular justice such as the use of private vengeance.

While confronted with judicial corruption, a common strategy of the Congolese citizens is to refuse to outspoke or report the to the competent authorities. On the contrary, they either negotiate with the other party, bring the problem to customary leaders to find a solution, or handle it by their own through private or popular justice or popular justice (vengeance) (Felices-Luna M., 2011). But some just familiarize themselves with the system and try to seek for a social connection who might act as an intermediate or just pay bribe to court personnel (2011). As observed by Felices-Luna (2011), in some rare cases, only a handful of courageous people denounce corrupt acts on the media or through different NGOs.

The issue of judicial corruption reached its peak especially after the 2018 presidential and legislative elections, and the 2019 elections of governors and senators. These elections have been criticized for being rigged and full of irregularities and recorded grand political corruption. They have been considered as the perpetuation of a status quo of systemic corruption (Sasha L. and Sarah G., 2020). Unsuccessful candidates appealed the results to the constitutional court, the state council and the court of appeals, have received decisions that were criticized as being iniquitous and pronounced after non-transparent process (RFI, 2020). The Constitutional Court was obliged to recall and reexamine its own decisions under the procedure of the “rectification of material errors” trying to save the least prestige it could (AA, 2020).

The USA came out with sanctions against three senior officials of the country, including the President and Vice-President of the National Independent Electoral Commission (CENI) and the President of the Constitutional Court for alleged corruption and irregularities registered during the electoral process in the country (Reuteurs, 2020). This shows how serious judicial corruption is entrenched in the judiciary system and needs to be addressed.

### **1.3. Purpose of the Study and its Significance**

In his letter to Edmund Randolph, George Washington declared that "the due administration of justice is the firmest pillar of good government" (Washington, 1789). From this standpoint, it is arguable that a strong justice system is one of the pillars of good governance, a safeguard of the rule of law, and contributes to the consolidation of democracy (Felices-Luna M., 2011; Wallace, 1998; Álvaro Herrero, 2010). Corruption in the judiciary causes the corrosion of the rule of law and hampers the establishment of good governance (Transparency International, 2007).

Admittedly, building a strong judicial system seems to be a *sine qua non* condition in the establishment of the rule of law. However, corruption in

the judicial branch presents a major impediment to the attainment of this goal.

The Congolese government has taken many initiatives in terms of reforms to build a strong and efficient judicial system. Many of those reforms, such as those funded by the United Nations (2020), have been geared toward improving or renewing court infrastructure, strengthen management and planning schemes, and fostering judicial training systems. However, scant attention has been paid to building mechanisms that promote transparency in judicial proceedings, leaving the judiciary plagued by corruption. In other words, multiple reforms in the judicial branch failed to implement mechanisms that allow better access to judicial information in order to reduce margins of discretion of court personnel, make court personnel more accountable and reduce opportunities of bribe-taking in their interaction with court users.

We do not intend to reinvent wheels, we rather conform with the vast existing literature to build the structure of our study. Hence, this research hopes to provide the following small contributions to the existing literature and the judicial practice in the DRC.

Firstly, in the corruption literature, Mauro (1995) highlights the importance of researching beyond the macroeconomic findings. Rose Ackerman cited by Buscaglia (2000), stress the need to isolate and closely analyze the structural features that form the basis for corrupt incentives. In addition, Cooter and Garoupa (2000) correctly state in their paper that “a necessary element when approaching deterrence and elimination of corruption is the institutional design. The structure of institutions and the decision process are important determinants of the level of corruption”. Not only there is less literature parsing specifically judicial corruption in DRC, few of which does so, provides merely general descriptions and analyses of the issue and does not suffice to develop court-specific anticorruption policy prescriptions. Moreover, there is a lack of a rigorous study of procedural, substantive and organizational factors that allow the perpetration of corruption with the

courtroom in DRC. To cope with this lacuna, this study develops an empirically-testable model explaining specific types of corrupt behavior within judicial proceedings can be explained and on the basis of which a transparency enhancement policies as a solution to curb this conundrum are proposed.

To heal a sick person, it is crucial to identify the causes of their sickness, or the therapeutic provided will be inefficient. Likewise, the literature suggests that to effectively control judicial corruption or develop public policy recommendation to deter corrupt activities, it is first and foremost important to identify and diagnose carefully its different causes, otherwise the remedies employed will be misdirected and fail (Pepys, 2007; Buscaglia, 2000). Also, Kolstad and Wiig (2009) state that “to gauge the role of increased access to information, and inform the design of transparency reform, it is imperative to understand the ways in which transparency can affect corruption, as well as the limitations to an approach that centers on this concept”. This being said, a deep analysis and assessment of judicial transparency is an important precondition for future anti-corruption policy formulations in the administration of justice. Therefore, this study analyzes the level of transparency in judicial proceedings and entails some policy implications in the sense that it is a starting point for many policy reforms and formulations aiming at improving transparency and reducing corruption in the judiciary.

Secondly, studies analyzing transparency and corruption in the judicial system from the general public perspective, outnumber those with a specific focus on the perspective of court users (litigants and lawyers). Hence, contrary to previous studies, this research examines transparency and corruption in the Congolese judicial proceedings exclusively from court users’ perspective and describes at which level transparency affects corruption.

It worth noting that in the judicial branch of government, two fundamental human rights make the legal framework for transparency, the right to

information (RTI) and the right to a fair and impartial trial. The RTI and the right to a fair trial are enshrined in the Congolese constitution (2006) and relevant judicial proceedings laws, and are granted to every citizen or specifically every litigant or their lawyer engaged in a judicial proceeding. From this viewpoint, this study examines the level of implementation of this legal framework and its impacts on deterring corrupt acts. In other words, this research tries to shed the light on how litigants are granted the opportunity to use their RTI and gain access to information relevant to their case, and how the lack of this information leads them to pay a bribe to fast track a case or gain any advantage in the proceedings, or have access to certain documents that they are entitled to have anyway.

Finally, unlike previous studies that measured corruption only based on its perception, this study measured both perception and experience of corruption in judicial proceedings to have a more comprehensive conclusion on the level of corruption in the courtroom. Therefore, this study has the merit to be the first to deeply analyze judicial corruption in the Congolese context and findings can be replicated in different countries having the same settings as DRC.

#### **1.4. Theoretical Framework: Principal Agent Theory**

The existing literature mainly analyzing political corruption uses the principal-agent theory to explain the causes of corruption. This theory assumes that the goals of the principal and the agent diverge, and there is information asymmetry to the advantage of the agent (Groenendijk, 1997). According to this theory, corruption happens because of information asymmetry that enables the agent to act at the expense of the principal. In the framework of this study, the agent is considered as court personnel and the principal as court users. In this regard, information asymmetry increases the secrecy of the judicial proceedings leaving more opportunities for court personnel to demand or accept bribes. In the same vein, the lack of transparency in the judiciary increases secrecy and creates an incentive for

court personnel to demand or accept bribes without being exposed to the public. Therefore, the implementation of transparency enhancement policies is believed to be crucial in the fight against corruption in the judicial branch.

## **1.5. Research Question**

The purpose of this research is to examine the level of transparency in the judicial proceedings and describe the extent to which it affects judicial corruption in the DRC. Therefore, this study tries to answer the following research questions:

Q1/ What is the level of transparency in the Congolese judicial proceedings?

The existing literature on the causes of judicial corruption has led us to ask this question given that the lack of transparency has been described as one of the most critical causes of corruption. Therefore, analyzing the level of transparency in the Congolese judicial proceedings will help us to adequately propose anti-corruption policies in the judicial system.

Q2/ To what extent does the level of transparency impact corruption in the Congolese judicial proceedings?

Once transparency is measured, probing its influence on judicial corruption will give us significant insights to unequivocally argue at which level we can expect to control corruption if transparency enhancement policies are implemented in the Congolese judicial proceedings.

Judicial corruption is disaggregated into perception and experience of corruption which are considered as our dependent variable, whose level is expected to be influenced by judicial transparency, which is our independent variable.

In the discussions on corruption, scholars have found differences in the perception and experience of corruption based on gender with a particularity that women are more likely to perceive corruption higher than men (Natalia Melgar, 2010). Furthermore, the literature review on judicial

corruption shows the existence of different interests and degree of accessibility to judicial information between litigants and lawyers (France, 2019). These differences may also affect the judgement of respondents in the measurement of the level of transparency and corruption in judicial proceedings. From this perspective, quality was used as our moderator variable while gender, age, education, jurisdiction, income, outcome of the proceedings and understanding of the judicial system were included as our control variables.

## **1.6. Scope of the Study**

This study examines judicial transparency and corruption in the context of the DRC. Considering the large size of the country and its population, primary data will be collected from court users based in the capital city Kinshasa. This area has been chosen for its representativeness of the whole Congolese population. Therefore, this research is delimited in Kinshasa in terms of space.

## **CHAPTER 2: LITERATURE REVIEW**

### **2.1. Judicial Transparency**

#### **2.1.1. Overview**

Transparency represents one of the basic principles defining the modern democracy. Transparency works as a mechanism ensuing from the governing, administering and managing pattern of the government that enables citizens to control and participate in public affairs (Álvaro Herrero, 2010; Johnson, 2018).

In practice, transparency includes the demand for access to information held by the State's agencies, the obligation of the latter to provide information and make it available to those who need it while allowing broad access, and also empower the citizens to require agencies to comply with their obligations (Álvaro Herrero, 2010).

The topic of transparency has received more attention in academic papers discussing the issue of corruption. Many studies conclude that more transparency reduces incentives for public officials to engage in corrupt acts (Keith Henderson, 2003; Nurhan Kocaoglu, 2006; Transparency International, 2007; Hoch, 2009). Likewise, the United Nations Convention Against Corruption (UNCAC), in its article 10, urges State members to implement transparency enhancement policies in order to combat corruption.

#### **2.1.2. Definition**

Before defining judicial transparency, it seems worth defining transparency first. Apparently, defining transparency may sound fairly simple, but it is not in reality. The meaning of transparency might vary across different groups, and its importance can be justified by different motives (Williams, 2014).

Florini cited by Andrew Williams (2014), provides a broad definition of transparency. According to her, transparency refers to the “release of

information by institutions that is relevant to evaluating those institutions”. This definition takes into account various types of institutions, they might be private or public.

Stephan (2015) defines transparency as “the availability of information about an organization or actor, allowing external actors to monitor the internal working or performance”. For Katrina Hoch (2009), in the public sector, transparency of any governmental organization implies that “the organization is transparent, one can see what is going on inside”. The author further notes that transparency “has come to mean not only that we can see what the government is doing, but also which people and organizations are involved, what their motivations and intentions are, and what processes are used to conduct government business. If a particular process or relationship is transparent, that means the participants and their motivations and intentions are visible” (Hoch, 2009).

The OECD (2002) defining budget transparency qualifies the concept as “the full disclosure of all relevant fiscal information in a timely and systematic manner”. Tara Vishwanath and Daniel Kaufmann (1999) define transparency as the “increased flow of timely and reliable economic, social and political information which is accessible to all relevant stakeholders”. The OECD cited by Williams (2014), emphasizes the removal of informational asymmetries.

In defining judicial transparency, Ellis (2008) looks at “the ability of the general public to monitor and examine what happens in the administration of justice”. Agustí (2008) emphasizes the openness of the judiciary to the public to allow public scrutiny of judicial proceedings. In the same vein of thought, Stephan et al. (2015) add that “judicial transparency is achieved by the openness of cases: everyone is allowed to attend court cases whenever they want. This is important insofar if the judiciary lacks transparency, court proceedings and trial outcomes will remain hidden and unpredictable, creating favorable conditions for court personnel to enjoy taking bribes” (Buscaglia, 2000; Michel, 2009).

Judicial transparency is mainly based on the right to information (RTI). The right to information held by government or public agency has been widely recognized around the world as a fundamental human right and described as one of salient elements that render government activities more transparent, foster accountability of public officials and decreases corruption. It also promotes more citizens' participation in the decision-making process (Nurhan Kocaoglu, 2006; 19, 2020; Álvaro Herrero, 2010).

In the judiciary, the RTI is exercised when the public is granted the right to access court files (France, 2019). Thus, in each democratic country, access to information is guaranteed and fully protected. In addition, Andrew Williams (2014) adds that “it is not the information itself that is important, but the fact that information is potentially discoverable”. On the same note he adds that “public officials may refrain from undertaking illegal and corrupt behavior if they know that there is a high probability of this information getting out”. In other words, more access to information will probably increase the cost of corruption and make public officials less prone to accept or demand bribes cognizant of the fact that the cost of discovery outweighs the benefits of corrupt acts (Williams, 2014). This is clearly stated by Cassandra and colleagues (2007) who found that greater access to information was leading to lower levels of corruption. Echoing Andrew Williams (2014), we opine that judicial transparency does not solely concern access to judicial information but more broadly it involves open proceedings and practices. The judiciary should organize mechanisms that allow greater accessibility to its jurisdictional information.

In the framework of this study, access to information is related to the administration and management of the judiciary, and to judicial proceedings. That is, judicial information is categorized into two groups: information related to the internal operation or the administrative aspect of the judiciary and information related to jurisdictional functions or procedural aspects of the judiciary (France, 2019; Álvaro Herrero, 2010). The latter type is the main concern of this study.

Information on judicial proceedings refers to a plethora of different types of documents such as cases files, case law, court rulings, statistics on cases filed, resolved or pending; the court agenda, among others (France, 2019).

Nonetheless, there are differences in interest and access to court information that range from parties or litigants, to lawyers and the general public (France, 2019). In the same vein, the obligation of transparency in the judiciary is limited. The right to access information in judicial proceedings should not be mistaken with the right to access information on the management of the judiciary (European Parliament, 2013). This is justified by the fact that some restrictions might be set for evident and legitimate reasons. France (2019) has listed certain restrictions to judicial information notably: “protecting national security, defense and international relations; public safety; the prevention, investigation and prosecution of criminal activities; disciplinary investigations; inspection, control and supervision by public authorities; privacy and other legitimate private interests; commercial and other economic interests; the economic, monetary and exchange rate policies of the state; the equality of parties in court proceedings and the effective administration of justice; environment;” etc.

Notwithstanding, it should be noted that the litigants’ right to access information on the judicial proceedings in which they are parties is an essential component of the right to due process (France, 2019). In light of this, many of the restrictions to court information are made against the general public or third parties, not directly linked to the trial, and do not apply for court users engaged in court proceedings who are entitled to enjoy their RTI and have access to information relevant to their case.

Judicial transparency and the right to a fair trial are mutually dependent on each other (France, 2019). According to Wim Voermans (2007), the “openness of proceedings in terms of public hearings, rulings and verdicts, constitutes an important part of the right to a fair trial”. This has been made clear by the European Network of Councils for the Judiciary (2020) which

states, “a transparent and accountable judiciary of integrity is one of the prerequisites for a proper functioning of the rule of law and the right to a fair, timely, and efficient trial by an independent and impartial court established by law”. The guarantee to a fair trial is one of the foundations of public trust in the judiciary (DiBiagio, 1998).

For the purpose of this study, judicial transparency refers to the openness of judicial proceedings in terms of publication and access to relevant and reliable information related to judicial proceedings, granted to court users, and the existence of laws and regulations constraining court personnel to do so.

Hence, transparency in judicial proceedings encompasses publication and access to jurisdictional information notably court agenda, proceedings timeframe, proceedings fees, case laws, sentences, rulings, etc.

### **2.1.3. Benefits of Judicial transparency**

Judicial transparency presents many advantages. Proponents of transparency in judicial systems state that transparency in court increases efficiency and effectiveness of the administration of justice, creates trust among citizens, renders accountable court personnel and urges judges to act fairly, consistently and impartially. Citizens feel more confident when they become aware of how the judiciary operates and what exactly court personnel do. Judicial transparency increases accountability because the court allows the public to know what it does and how it does it, enabling more scrutiny from the outside (France, 2019; Johnson, 2018; Hoch, 2009; Voermans, 2007; ENCJ, 2020). Some scholars simply consider transparency as an instrument of accountability in arguing that “accountability is conveyed as the image of trustworthiness and transparency of an organization to the public” (Jamaliah Said, 2018; Bovens, 2007).

Morris (2005), completed later by Michel (2009), argues that “a transparent judicial system guards against corruption by exposing to public scrutiny the

operations of the judiciary, and promoting independence, integrity, and accountability of judicial personnel”.

Judicial transparency strengthens the judicial independence on the grounds that if court proceedings and organizations are transparent, the institutional capacity and judiciary authority will increase *vis-à-vis* political players, reducing largely opportunities for external interference (Keith Henderson, 2003; Johnson, 2018; Velicogna, 2007; Ellis, 2008; Álvaro Herrero, 2010).

It is noteworthy that the complexity of judicial proceedings coupled with the lack of information is an incentive for court personnel to commit corrupt acts (Buscaglia, 2000). The access to the court information contributes to opening up the judiciary to citizens. The openness of operation of justice systems compounded with greater social interest, will generate an increased flow of information from the Judiciary to society, enabling the lifting of the veil of opacity that frequently covers court activities and eliminates the margins for discretion, improve oversight, and help to fight corruption and arbitrariness in the behavior of the court personnel (Álvaro Herrero, 2010; Michel, 2009). In addition, judicial transparency is not only helpful in the control of corruption per se, but also its perception (Pepys, 2007).

Judicial transparency empowers citizens by giving them an opportunity to learn about judicial proceedings. Thus, it influences largely citizen’s perception of the judiciary and helps the civil society and researchers to analyze its challenges and formulate reforms proposal (France, 2019; Álvaro Herrero, 2010). Transparency in the judiciary creates a virtuous circle through feedback between access to judicial information, monitoring and analysis by the civil society, and accountability by the judicial institutions (2010).

Robert Klitgaard (1998) presents his perspective on the causes of corruption in the so-called corruption formula:  $C=M+D-A$  (Corruption equals to Monopoly plus Discretion minus Accountability). Although this model has been controversial and contradicted over years, it still works under certain

circumstances and worth our attention. Starting from the saying “knowledge is power”, court personnel profit from their monopoly in terms of information, to discretionarily gain any private gain in the proceedings at the expense of court users who lack critical information to hold them accountable. As discussed above, this monopoly creates information asymmetry between court personnel and court users. Interestingly, judicial transparency breaks down the monopoly of court personnel in terms of judicial information by empowering court users with critical information which enables them to hold court users accountable when they fail to comply with their duties.

While Transparency International (2007) claims that judicial corruption undermines and erodes the rule of law, academic papers suggest judicial transparency as a counterbalance that promotes the rule of law (Article 19, 2020; Álvaro Herrero, 2010). We cannot guarantee the respect of laws if the judiciary system is broken. Citizens feel legally insecure when they cannot have their cases heard and settled according to the established laws.

Judicial transparency, in enabling access to judicial proceedings information, has been recognized, beyond its importance in the control of corruption, as essential to the promotion and attainment of sustainable development goals (Article 19, 2020).

Nevertheless, the relationship between transparency and corruption cannot be taken for granted. Although these two concepts are most of the time related, some scholars found that this relationship is not always causal. That is, more transparency does not always lead to less corruption. Wiig and Kolsatd (2009) opine that transparency itself is not enough to fight against corruption, unless there are some other complementary policies. In the same vein, some scholars argue that the availability of information does not suffice to fight against corruption as long as certain measures such as publicity and accountability are still weak (Bac, 2001; Naurin, 2010). Others found that access to information, through the adoption of freedom of information law has led to an increase in the perception of corruption

(Costa, 2013). Bac (2001) adds that more transparency “may also improve outsiders’ information about the identities of key decision-makers, thereby enhance incentives to establish connections for corruption. The connections effect may dominate the detection effect for local improvement in transparency and generate an increase in corruption”. Finally, Salvador Lopez (2020) concluded that more countries which are given good scores in terms of transparency, are also found to be corrupt.

Therefore, while analyzing transparency it worth including in the analysis of transparency not only the accessibility of information but also and more importantly the relevance, and reliability of the information.

## **2.2. Judicial Corruption**

### **2.2.1. Overview**

To effectively control corruption, it is crucial to have a well-functioning judiciary which turns out to be a conducive component for growth. However, the justice system is found to be embedded with corrupt practices (Gloppen, 2014). As noted by Gong (2004), “a structurally deficient judiciary means more opportunities for corruption and a venal judiciary leads to impunity for corrupt activities of all sorts”.

In developing countries, corruption in court has been portrayed has the major culprit for institutional inertia observed in various reforms implemented in the judiciary (Buscaglia, 2000). Judicial systems based on bribery spurs mistrust in governance as by easing the commission of corrupt acts throughout all government branches, commencing at the helm of power. An effective judicial system is a warranty for a fair legal proceeding. However, the experiences of citizens in using court services are at the odd of this ideal. A backlog of cases and opacity of the judiciary create favorable conditions bribery. Court personnel can be paid for various malfeasances such as slowing down or speeding up a trial, or dismissing a complaint (Transparency Internantional, 2007).

### 2.2.2. Definition

It should be made clear from the onset that it is hard to build a consensus on a precise definition of corruption. Nevertheless, the large part of the literature on corruption defines corruption as an act in which public officials use their power for personal gain in such a way that contravenes relevant laws and regulations (Jain, 2001; Joel S. Hellman, 2000; World Bank, 1997; Shah, 2020; Transparency International, 2007). Groenendijk (1997) briefly defines corruption as “any unauthorized transaction between agents and a third party”. This misbehavior can also be observed in the private sector (Klitgaard, 1998; World Bank, 1997).

In the Democratic Republic of Congo, corruption is defined by the Criminal Act (*Code Pénal* in french) in its articles 147 and 149 *ter* (2004), as “the fact for any civil servant or public officer, any person in charge of a public or parastatal service, any person representing the interests of the State or of a private, parastatal or mixed economy company as an administrator, manager, accounts commissioner or at any other position; any representative or officer of the persons listed above, any arbitrator or any expert in legal proceedings who will have accepted offers, promises, or who will have received gifts or presents to perform an act of his or her function, job or mission, even just but not subject to salary. Corruption is also crystalized when people listed above have solicited directly or through an intermediary, offers, promises, gifts or presents, to make an act of his or her function, employment or mission even just but not subject to salary”.

Judicial corruption refers to the use of public office power for private benefits by court personnel (judges, prosecutors, law clerks and bailiffs), by violating the relevant rules and procedures applicable in the provision of court services (Buscaglia, 2000). Simply put, judicial corruption is defined as the misuse and abuse of legal power by judicial personnel for personal or cliquish gains (Gong, 2004). To this definition, TI (2007) adds “any inappropriate influence on the impartiality of the judicial process by any

actor within or outside the court system”. This includes bribery and undue interference in the court ruling, and also the manipulation of court’s funds, nepotism in the recruitment of staff, and irregularities in the procurement of goods and services (Velicogna, 2007; France, 2019).

In this study, judicial corruption is referred to as the abuse of entrusted public power by court personnel, including judges, prosecutors, law clerks and bailiffs, for private gain. This includes soliciting, accepting or receiving non-due offers, promises, or presents to perform or provide judicial services.

### **2.2.3. Forms of Judicial Corruption**

Corruption takes many guises in and around the courtroom, which are classified into two types, namely administrative and operational corruption. These two types include various well-known corrupt practices (Buscaglia, 2000; Schultz, 2009).

Administrative corruption occurs when court personnel specifically law clerks and bailiffs contravene administrative procedures for their private benefits. This might include instances of bribe paying by court users to these administrative personnel to alter the treatment of lawsuits and other related files, or to fast track or delay a case by illegally modifying the order in which the case is to be heard by the judge, or even instances of fraud and embezzlement of public or private property orchestrated by court personnel in court custody. This type highlights irregularities related to the procedure and the administration (Buscaglia, 2000; Transparency International, 2007).

Operational corruption falls under the scheme of grand corruption which involves considerable political and/or economic interests. Under this type of judicial corruption, court decisions are based on political motives and judges’ rulings are oriented toward future personal economic gains and career development perspectives. Politicians kick in to influence court decisions or distort the processes of court personnel appointments. Some politicians abuse their power to influence the decisions of judges or distort

the appointment processes. Operational corruption comes with substantive irregularities in the courtroom which exerting a significant influence the decision making (Buscaglia, 2000; Transparency International, 2018). The misuse of allocated public funds in justice is also included in this typology (Transparency International, 2007).

The fact remains that, both typologies are intrinsically intertwined given that administrative corruption reinforces the operational corruption and vice versa (Buscaglia, 2000).

#### **2.2.4. Causes of Judicial Corruption**

There are many causes of judicial corruption. Echoing the existing literature, we argue that judicial corruption is caused by either political interferences, the lack of accountability, poor working conditions, or lack of transparency (Transparency International, 2007; Edgardo Buscaglia, 1999; 2000).

Buscaglia (2000) one of the leading scholars in the field of judicial corruption, found that implementing reforms that foster transparency and accountability in the judicial proceedings, will reduce the susceptibility of court personnel to seek extracontractual rent, through payments of non-due fees from court users. Many scholars also highlight the importance of judicial transparency in minimizing political interference (Keith Henderson, 2003; Johnson, 2018; Velicogna, 2007; Ellis, 2008).

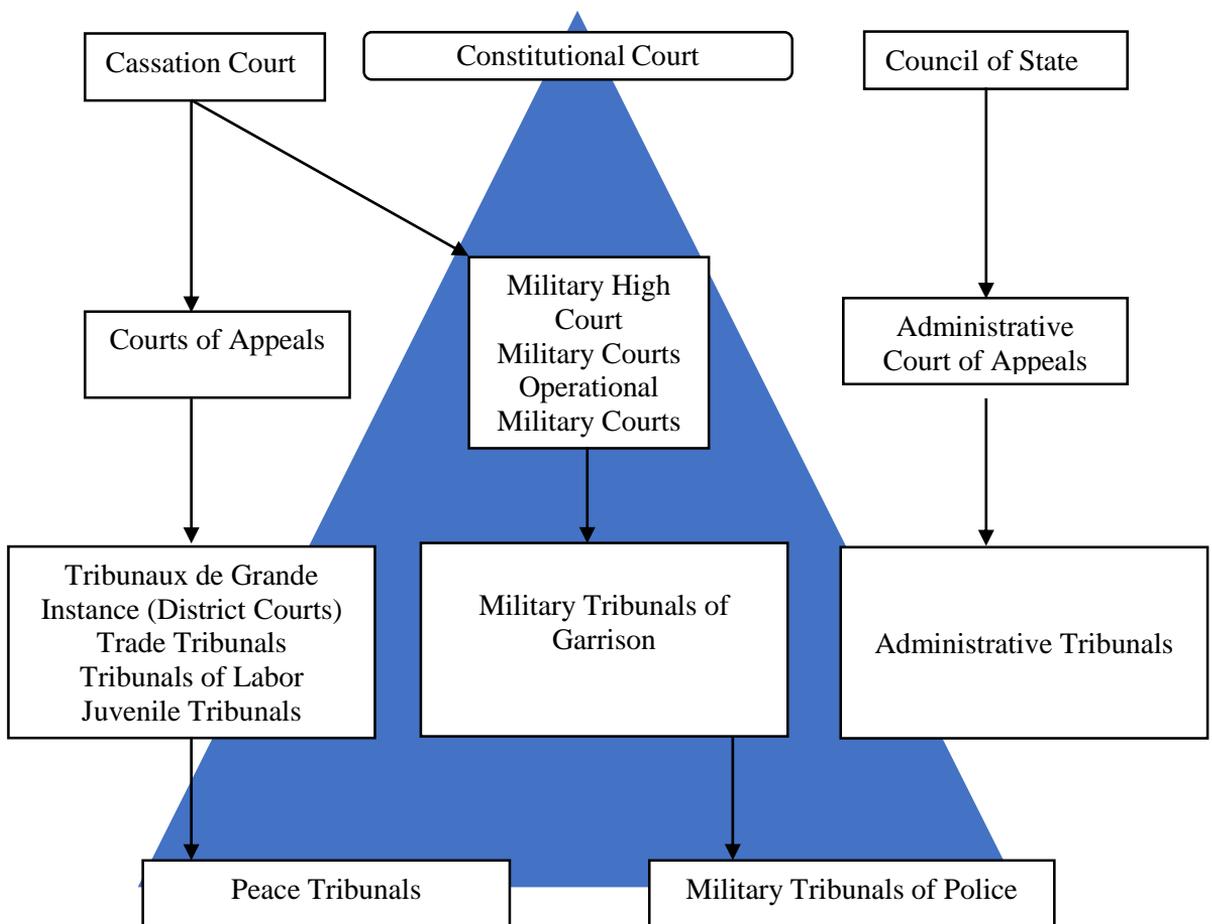
Transparency is presented as a means to control corruption under the assumption that if judicial proceedings are made visible, court users will be less likely to engage in corrupt acts because of the fear of getting caught and losing their position or their reputation (Hoch, 2009). From this background and echoing Transparency International (2018), we argue that judicial transparency occupies a prominent position in the discourse of the control of judicial corruption and worth our attention.

## 2.2.5. Brief overview of the Congolese judicial system

Article 149 of the Congolese constitution (2006) states that “the judiciary is independent from both the executive and the legislative. The judicial power is devolved to the Constitutional Court, the Court of Cassation, the Council of State, the Military High Court, the civil and military courts and tribunals as well as the public prosecutor's offices attached to these jurisdictions.

According to the preamble of the constitution (2006), “courts and tribunals are divided into three jurisdictions branches namely judiciary jurisdictions under the Court of Cassation, administrative jurisdictions under the Council of State and the Constitutional Court”.

**Figure 1: Organizational chart of the Congolese judicial system**



Judicial proceedings vary whether it is about the Constitutional Court, Court of Cassation, Council of State, military, commercial, juvenile, labor jurisdictions. Nonetheless, they all share some common traits which worth being underpinned.

In general, especially in civil procedures, judicial proceedings start with to file one's case in contacting the registry service, in which law clerks and bailiffs register the case and inform parties about the court agenda and all relevant proceedings, charges proceedings fees etc. The Congolese judicial proceedings laws (2020) state that proceedings fees are charged according to the legally fixed amount by law clerks and pay by hand to them. In some instances, fees are assessed and fixed discretionarily by law clerks and bailiffs. In this case, when court users do not agree, the president (judge) of the jurisdiction will settle and decide on the amount to be paid. Once the case is registered, the President of the jurisdiction will then assign cases to different judges and law clerks will inform parties regarding the schedule of the hearing using the proceedings act called "signification". The "signification" is a kind of a letter informing parties about the schedule of hearings. After all the hearings judges will deliberate and decide. In the criminal procedure, the difference is basically the case is mostly introduced by the prosecutors and sometimes by the litigants. Still, law clerks and bailiffs play mainly the same role in terms of inform parties and handling proceeding fees.

This practice has raised several concerns as many studies have found that proceedings fees are overcharged by court personnel who also charge non-legal fees in many instances (Kifwabala Tekilazaya, 2013).

In terms of access to court information, besides court-related information relevant to judicial proceedings which are held in court registries, laws and regulations, procedural acts, companies, political parties, associations' constitutive acts, and case laws are published and disseminated respectively in the official journal (*Journal Officiel* in french) and the Documentation and Study Service of the Justice Ministry (Kifwabala Tekilazaya, 2013).

The official journal publishes both manual and electronic documents. It has only 12 distributions points for all the 26 provinces of the country. In addition to scarcity of its distribution points, access to legal documents is payable (2013). As for online publication, the journal publishes legal documents through its website (<https://journalofficiel.cd>) but access is not always free and the platform is not updated on a regular basis.

Concerning the Documentation and Study Service of the Justice Ministry, it has the mandate of managing the information policy of the Ministry of Justice. In this respect, it collects, gathers, produces, diffuses and conserves judicial information using the website of the Ministry of Justice (Kifwabala Tekilazaya, 2013). This service has been successful in publishing case laws during the period of Zaïre (2013). Currently, not only does the Ministry of Justice not have any website, Kifwabala et al. (2013) note that it is no more effectively doing its job because of many financial and technical problems.

Due to these problems, other private platforms or different public agency websites publish legal texts. Still, the information provided by these platforms is not reliable and accurate.

# CHAPTER 3: RESEARCH DESIGN AND METHODOLOGY

## 3.1. Hypothesis formulation

Anchored on previous studies, we develop the following hypotheses to be tested:

Hypothesis 1 (H1): *Judicial transparency is negatively related to the perception of judicial corruption in the Democratic Republic of Congo.*

As noted by Natalia Melgar and colleagues (2010), the effect of a high level of perceived corruption could be more devastating than corruption itself by generating distrust and creating a culture of “gift-giving”. Conversely, judicial transparency has been proven to be not only efficient in controlling corruption per se, but also in reducing its perception (Pepys, 2007). The basic idea behind this hypothesis is, the more court users have access to reliable and relevant information, the less likely they will perceive court personnel as corrupt.

This hypothesis is relevant because, if accepted, it will help construct transparency enhancement policies that will help decrease the perception of judicial corruption and thereby increase trust among court users in the judicial system.

Hypothesis 2 (H2): *Judicial transparency is negatively related to the experience of judicial corruption in the Democratic Republic of Congo*

Judicial transparency has been portrayed as a prerequisite in the fight against corruption in the judiciary. When court proceedings are made open, in terms of the release of relevant, reliable court-related information, secrecy in the courtroom will decrease, information asymmetry will be fixed, and court personnel will less likely be put in a conducive condition to accept or demand bribes as well as court users will be less exposed to court practices.

Therefore, it is expected that more transparency in judicial proceedings will result in a decrease of experienced judicial corruption. The relevance of this research hypothesis is that, if accepted, we will have significant empirical arguments supporting future anti-corruption policies proposed in terms of transparency enhancement mechanisms in the Congolese judicial system.

Hypothesis 3 (H3): *The strength of the relationship between transparency and the perception of corruption is moderated by quality.*

France (2019) underlines the existing differences in interest and access to judicial information between litigants and lawyers. Lawyers have more access to court information than litigants. Hence, their perception of transparency and perception of judicial corruption would differ from those of litigants. Litigants are expected to perceive a lower level of transparency and a higher level of corruption in the Congolese judicial proceedings.

This hypothesis will help us to identify the impact of quality in measuring the relationship between judicial transparency and the perception of corruption and calibrate our transparency enhancement policies based on quality.

Hypothesis 4 (H4): *The strength of the relationship between transparency and experience of corruption is moderated by quality.*

As abovementioned, lawyers have more access to court information and also more and closer interactions with court personnel compared to litigants. This may have an impact on their exposure to corrupt practices in judicial proceedings. We expect litigants to be more exposed to corruption than lawyers during the judicial proceedings.

The relevance of this hypothesis lies in its implications on our proposed anti-corruption policies based on the differences between lawyers and litigants

Hypothesis 5 (H5): *Accessibility to court-related information is negatively related to the perception of judicial corruption.*

More access to judicial information increases trust among court users and bring them closer to the judicial system. This improves citizen's positive perception of the judiciary and is helpful in decreasing the perception of corruption. As noted above, the perception of corruption can have a more devastating effect than corruption itself by creating distrust and setting up a culture of corrupt practices (Natalia Melgar, 2010). Therefore, this hypothesis is quite relevant insofar as, if confirmed, the policy proposed in terms of enhancing access to judicial information will accurately hit the target and help decrease the perception of corruption in judicial proceedings.

*Hypothesis 6 (H6): Accessibility to court-related information is negatively related to the experience of judicial corruption.*

As noted in the literature review, access to information is crucial in the fight against corruption, it breaks information asymmetry, allowing the principal to be on the same page with the agent, eliminating any room of secrecy and reducing the incentive of court personnel to accept or receiving bribes, knowing that there is a high probability for information to be out at the disposal of court users. In this regard, we expect that greater accessibility to judicial information will lead to a decrease in the experience of corruption in the Congolese judicial proceedings.

This hypothesis is relevant because, if accepted, we will have scientific and empirical evidence on the basis of which future policies promoting greater accessibility to court-related information in order to decrease the experience of corruption will be proposed.

*Hypothesis 7 (H7): Relevance of court-related information is negatively related to the perception of judicial corruption.*

This hypothesis is constructed based on the assumption that when the information provided by court personnel meets the need of court users, the latter is less likely to perceive court personnel as corrupt. The literature identifies relevance as one of the pillars of transparency. Thus, it contributes to reinforce transparency and fight against corruption.

If confirmed, this hypothesis will help us in designing transparency enhancement policies, to emphasize the content of the information provided to court users which should be relevant for the continuation of their case to ultimately decrease the level of perceived corruption.

Hypothesis 8 (H8): *Relevance of court-related information is negatively related to the experience of judicial corruption.*

The content of the information provided to court users is an important factor on which court users decide to pay a bribe or not as the outcome of their case is contingent upon it. Court users will be likely to pay court personnel when they are not provided with complete and updated information on their case.

This hypothesis, if accepted, will highlight the relevance of the information provided while proposing transparency enhancement policies.

Hypothesis 9 (H9): *Reliability of court-related information is negatively related to the perception of judicial corruption.*

Reliability is one of the attributes of transparency. Information should be consistent, fair, disseminated in clear and simple terms (Kaufmann, 1999). The assumption under this hypothesis is if court users are provided with accurate and consistent information, delivered in simple and clear terms by a specific office, and in a reasonable timeframe their perception of corruption will be low.

If accepted, this hypothesis will enable us to propose specific policies that enhance the reliability of judicial information, thereby increasing transparency to reduce the perception of corruption.

Hypothesis 10 (H10): *Reliability of court-related information is negatively related to the experience of judicial corruption.*

As mentioned above, reliability contributes to improving transparency. We assume that if court users are provided with accurate and consistent

information, delivered in simple and clear terms by a specific office, and in a reasonable timeframe there would be less experience of corruption.

If accepted, this hypothesis will enable us to propose specific policies that enhance the reliability of judicial information, thereby increasing transparency to reduce the experience of corruption.

### **3.2. Research Design**

As noted by Jacobs (2018), to clearly comprehend how justice works in a brittle setting such as the DRC context, it is important to get down to the ground at the local level and analyze concrete cases describing how citizens perceive the government bodies through personalized connections.

The literature on corruption has shown the limitations that corruption studies face due to its secretive nature. That is, it is difficult to directly measure corrupt practices using objective indicators. Corruption studies pose an idiosyncratic problem, that is, the covert nature of corruption allows only a small fraction of it to be exposed. Cases that are unveiled nearly share the same characteristics that led to their discovery. Therefore, a sole reliance on discovered cases of corruption as a basis for analysis is a limited approach that can lead to a distorted conclusion on the actual amount and forms of corruption. These limitations have led scholars to utilize survey data parsing the perceptions of the public as a proxy for the amount of corruption that exists (Pahis, 2009). Natalia (2010) noted that “even when the actual level of corruption may differ from its perception, the former still influences the latter”. In the same vein, Kilkon Ko and Samajdar (2010) have demonstrated that the perception of corruption was not very far from reality.

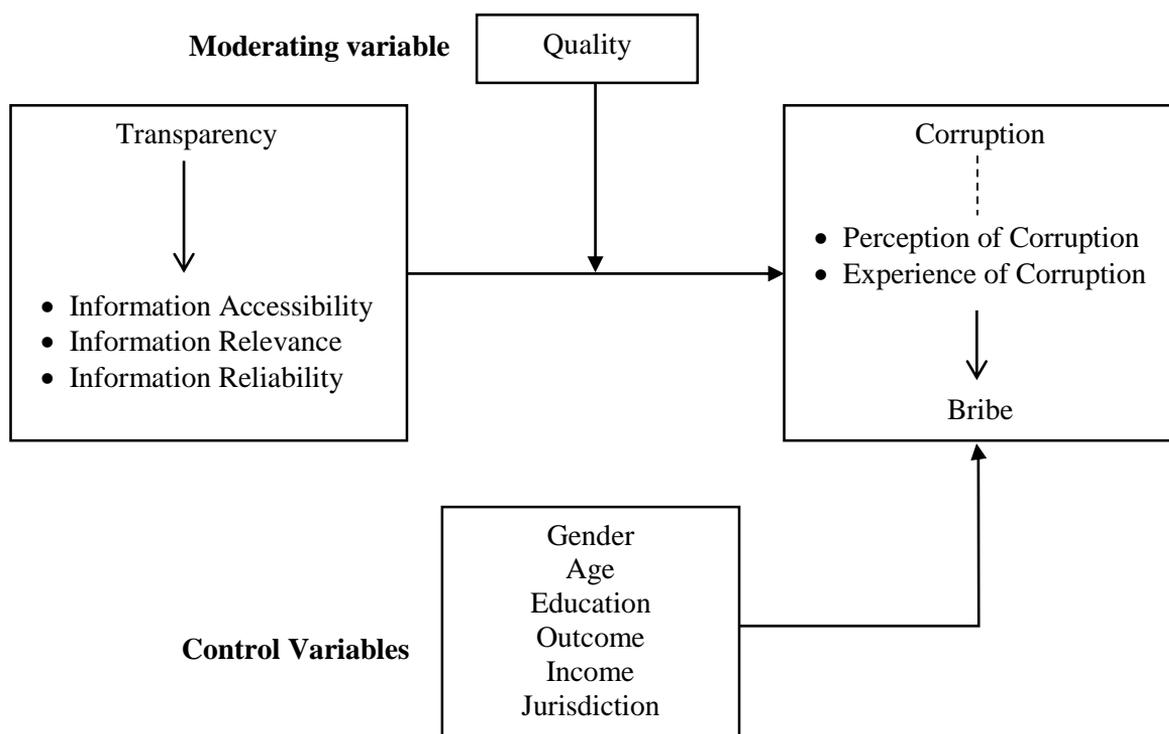
Owing to these limitations, we developed a model that captured both the level of perception and experience of corruption. Therefore, this study used the survey research design to measure the perception and experience of judicial corruption, and the perceived level of transparency in the Congolese judicial proceedings.

To have comprehensive and more reliable conclusions, this study used triangulation of both quantitative and qualitative approaches to explain the statistical findings based on existing theories and responses of respondents to open-ended questions.

### 3.3. Analytical Framework

The following figure describes our analytical framework that shapes this study with the aim of answering how judicial transparency impacts corruption in the judicial proceedings and how does the quality of court users influence this relationship. Transparency encompasses accessibility, relevance and reliability of judicial proceedings information. Corruption is divided into two dimensions, the perception and experience of corruption which are both captured through the frequency of bribes.

**Figure 2: Analytical framework**



Source: Author

Based on the above analytical framework, the following regression equations capture our research model.

Model I:

$$PC = \beta_0 + \beta_1 * T + \beta_2 * Ag + \beta_3 * Ed + \beta_4 * O + \beta_5 * I + \beta_6 * J + \beta_7 * G + \beta_8 * Q + \beta_9 * (T * Q) + E$$

$$EC = \beta_0 + \beta_1 * T + \beta_2 * Ag + \beta_3 * Ed + \beta_4 * O + \beta_5 * I + \beta_6 * J + \beta_7 * G + \beta_8 * Q + \beta_9 * (T * Q) + E$$

Model II:

$$PC = \beta_0 + \beta_1 * Ac + \beta_2 * Rv + \beta_3 * Rt + \beta_4 * O + \beta_5 * J + \beta_6 * Ag + \beta_7 * Ed + \beta_8 * I + \beta_9 * G + \beta_{10} * Q + E$$

$$EC = \beta_0 + \beta_1 * Ac + \beta_2 * Rv + \beta_3 * Rt + \beta_4 * O + \beta_5 * J + \beta_6 * Ag + \beta_7 * Ed + \beta_8 * I + \beta_9 * G + \beta_{10} * Q + E$$

PC = Perception of corruption, EC = Experience of corruption, T= Transparency, Ac = Accessibility, Rv = Relevance, Rt = Reliability, Ag = Age, Ed = Education, O = Outcome, I = Income, J = Jurisdiction, G = Gender, Q = Quality, E = Error.

### **3.4. Sampling Process**

In this study, the analysis covers court users. Hence, lawyers and litigants constitute the unit of observation. Litigants and lawyers with a record of supplying and demanding court services were considered as the population for the survey.

The lack of a list of all court users prevented us from using probability sampling techniques. Therefore, we used the nonprobability sampling method. Babbie (2013) suggests that nonprobability sampling can be used “when the researcher is not able to get a complete list of the population or when the situation under which the research is conducted does not allow the use of probability sampling”. Moreover, given the specificity of the topic under study, and prior experience required to be selected in the sample,

this study used the purposive or judgmental sampling method. Purposive or judgmental sampling is a type of nonprobability sampling in which the units to be observed are selected on the basis of the researcher's judgment about which ones will be the most useful or representative (Babbie, 2013).

Also, to compare findings and increase the validity of this study, the survey was conducted towards different lawyers and litigants that have brought cases to nine different courts and tribunals of DRC, based in the capital city, Kinshasa.

### **3.5. Data collection and analysis process**

Both primary and secondary data were used in this research.

Primary data was collected through responses close and open-ended survey questionnaires using google form. According to Babbie (2013), "closed-ended questions are survey questions in which the respondent is asked to select an answer from among a list provided by the researcher. Open-ended questions on the contrary are questions for which the respondent is asked to provide his or her own answers". Survey questions were translated into French which the official and education language in the DRC.

Collected data was recorded first in an Excel file and analyzed using statistical software SAS University Edition and SPSS. The correlation between our dependent, independent, moderating and control variables was then tested to see whether findings supported our hypotheses.

Secondary data was collected through existing literature (textbooks, articles, published theses, conference proceedings, published reports, etc.) relevant for our study.

### **3.6. Criteria of measurement**

In order to measure the level of transparency and the perception of corruption in judicial proceedings, the survey questioned the degree to which court users perceived judicial proceedings to be transparent, and court personnel to perceive bribes. As for the experience of corruption, the

survey questioned court users about the frequency of bribe-paying and demanding in their interaction with court personnel.

France (2009) proposes two indicators to measure the level of transparency in the judiciary, notably the existence of RTI legislation and whether it is explicitly and effectively applied to the judiciary. Other studies have expressed these measurement factors differently, notably in terms of the publicity of court-related information and its accessibility to the public (Álvaro Herrero, 2010). Kauffman (1999) presents five indicators to measure transparency, access to information, comprehensiveness, relevance, quality and reliability of information. Andrew Williams (2014) builds his own transparency measurement model which is made of information transparency and accountability (constraints). Based on this abundant literature, we measured judicial transparency in terms of accessibility, relevance, and reliability of court-related information.

Judicial corruption was measured through the perception and experience of bribe-taking by court personnel in their interaction with court users during judicial proceedings. In her user's guide to measuring corruption and anticorruption, Stephanie Trapnell (2015) defines perception data as those which gather opinions of ordinary citizens or different stakeholders on a particular topic. They are useful to capture information on subjects which are not easy to conceptualize for collecting objective data. Experiential data on the contrary, consist of citizens' experience or knowledge in terms of the frequency of bribes. It is helpful in "measuring the extent and nature of petty corruption in particular sectors"(2015).

These indicators are presented in the following tables.

**Table 1: Indicators of Judicial Transparency**

	<b>Indicators</b>	<b>Conceptualization</b>
1	Information Accessibility	This attribute looks at how available is judicial information to court-users. It also concerns the existence of laws and regulations that oblige court personnel to disseminate information equitably. And finally, the existence of any information platforms, such as, public information boards, websites, etc. that allow court users to access judicial proceedings related information easily.
2	Information Relevance	It looks at the importance of disseminated information to fill the needs of court users engaged in judicial proceedings.
3	Information Reliability	It is about the credibility and correctness of the information. In other words, reliability is about the consistency or substance and accuracy of information. It also looks at whether information is clear, comprehensive and provided in simple terms. It also includes the timeliness in the process of retrieving information.

Source: Author

**Table 2: Indicators of Judicial Corruption**

	<b>Indicators</b>	<b>Conceptualization</b>
1	Bribes	Perception of corruption It refers to how do court users perceive court personnel to be taking bribes. This includes soliciting, accepting or receiving non-due offers, promises, or presents to perform or provide judicial services.
		Experience of corruption It concerns the frequency of bribe paying by court users to court personnel in terms of financial or any material offers, promises, or presents to perform or provide judicial services.

Source: Author

### **3.7. Survey Instrument**

The perception of court users on transparency and their perception and experience of corruption in the Congolese judicial proceedings were observed through survey questionnaires developed based on the measurement criteria.

## **CHAPTER 4: PRESENTATION, ANALYSIS AND DISCUSSION OF RESULTS**

This chapter presents and discusses the results of our study then tests the research hypotheses to answer our research questions. Based on quantitative and qualitative data collected through our survey questionnaires, statistical analysis was done using SAS University edition, SPSS and Excel. We started by testing the reliability of our dataset using Cronbach Alpha prior to running a Pearson correlation to test the association between our dependent and independent variables. We then ran the regression to measure the magnitude of the relationship and the moderating effect. We concluded by discussing our findings.

### **4.1. Demographic Characteristics of Respondents**

The demographic characteristics of respondents provide general information on respondents who freely participated in our survey. This information presented in table 3, comprises gender, quality, age, education, income, jurisdiction, and outcome of the proceeding.

From 200 questionnaires distributed both online and offline to court users, 184 were answered, providing a 92% response rate which is highly satisfactory. Therefore, the final sample of our study was 184.

As we can see in table 3, the majority of respondents were males and lawyers. This can be explained by the literacy rate distribution of the country. UNESCO estimates the literacy rate of the country's population of 15 years old and above at 77.04%, with men having a literacy rate of 88.5% and women 66.5% (UNESCO, 2020). The literacy rate matters insofar as the survey questionnaires were distributed to lawyers and litigants. Not only do lawyers need to have at least a bachelor's degree to be enrolled in the bar association, also the number of male lawyers outstrips that of female lawyers.

Concerning age, a total of 93 respondents, covering 50.54% of the population aged between 26-35 years old. Owing to the educational attainment and quality of respondents, this number is representative of the population as the average age to be accepted at the bar association is around 25 and 26 years old.

Concerning education attainment, the majority of respondents or 104 respondents (54.52%) earned a bachelor's degree showing large differences among respondents. This uneven distribution of education, led us to disaggregate education group by quality to grasp the reason behind this. In this regard, we can explain the disproportionate distribution of education group by the fact that according to Article 7 of the bar association and related bodies organizing law, having at least a bachelor degree is one of the first requirements to become a lawyer in the DRC (Leganet.cd, 2020). Therefore, given that more than half of respondents were lawyers, there was a high likelihood of having more responses from people having a bachelor's degree. Notwithstanding, the distribution of education among litigants remains relatively even. This makes the sample more representative of our population.

For income distribution, most respondents, or 37.50%, had a yearly income of less than 1,000 USD. In a country where the minimum wage is tantamount to nearly 3 USD a day or roughly 936 USD a year (WageIndicator, 2020; Info, 2020), this income distribution is quite representative of the population.

In regards to the jurisdiction, more respondents had their cases heard at the lower jurisdictions namely the Tribunal de Grande Instance (District Court) of Kinshasa/Gombe with 33 respondents or 17.93% and the Tribunal de Grande Instance (District Court) of Kinshasa/Matete with 29 (15.76%). This distribution of jurisdiction reflects the pyramidal structure of the Congolese judicial system which goes hand in hand with the distribution of cases. In other words, lower jurisdictions or those which are on the bottom

of the pyramid, are granted a wide range of material and personal competencies compared to those which are on the top.

As for outcome there was an even distribution among respondents.

These demographic characteristics of respondents demonstrate how representative of the population is our sample.

**Table 3: Demographic characteristics of respondents**

Variable	Category	Frequency	Percent	
Gender	Male	110	59.78	
	Female	74	40.22	
Quality	Lawyer	100	54.35	
	Litigant	84	45.65	
Quality by Gender	Male Lawyer	66	35.87	
	Female Lawyer	34	18.48	
	Male Litigant	44	23.91	
	Female Litigant	40	21.74	
Age	18-25 years	8	4.35	
	26-35 years	93	50.54	
	36-45 years	35	19.02	
	46-55 years	31	16.85	
	56-65 years	15	8.15	
	66 or above	2	1.09	
Education	High School	15	8.15	
	Undergraduate	26	14.13	
	Bachelor	104	56.52	
	Master	28	15.22	
	PhD	11	5.98	
Education by Quality	Lawyer	High School	0	0.00
		Undergraduate	0	0.00
		Bachelor	75	40.76
		Master	20	10.87
		PhD	5	2.72
	Litigant	High School	15	8.15
		Undergraduate	26	14.13
		Bachelor	29	15.76
		Master	8	4.35
		PhD	6	3.26
Income	<1,000USD	69	37.50	
	1,000 - 5,000USD	61	33.15	
	6,000 - 10,000USD	31	16.85	
	11,000 – 50,000USD	13	7.07	
	51,000 or above	10	5.43	

Jurisdiction	Cassation Court	13	7.07
	Constitutional Court	13	7.07
	CA Kinshasa/Gombe	19	10.33
	CA Kinshasa/Matete	17	9.24
	PT Kinshasa/Kalamu	20	10.87
	PT Kinshasa/N'djili	23	12.52
	PT Kinshasa/Gombe	17	9.24
	TGI (DC) Kinshasa/Gombe	33	17.93
	TGI (DC) Kinshasa/Matete	29	15.76
Outcome	Ongoing	60	32.61
	Successful	62	33.70
	Unsuccessful	62	33.70

Source: Author.

## 4.2. Descriptive Analysis

This part presents the descriptive statistics of our study, stemming from the descriptive statistics of our dependent, independent, control and moderator variables to their comparison based on our demographic information, before presenting and parsing our Pearson correlation and regression results.

### 4.2.1. Descriptive Statistics of Variables

A set of 28 survey questions was designed under the 5-point Likert Scale to ask about the perception and experience of corruption as well as the perception of transparency to court users.

As for the perception of transparency, questions ranged from (1) Strongly Disagree, 2 (Disagree), 3 (Uncertain), 4 (Agree), (5) Strongly Disagree. “Strongly Disagree” expressed absence of transparency, “Disagree” expressed low level of transparency, “Uncertain” expressed uncertainty concerning the level of transparency, “Agree” expressed good level of transparency, and “Strongly Agree” expressed high level of transparency in the Congolese judicial proceedings.

Concerning the perception of corruption, two types of 5-point Likert Scale questions have been used. First, to measure the overall level of perceived corruption in judicial proceedings, respondents were asked to answer the question “How do you perceive corruption in the Congolese judicial

proceedings?” with either (1) Very low, (2) Low, (3) Uncertain, (4) High, or (5) Very High. “Very low” expressed an insignificant level of judicial corruption, “Low” expressed less level of judicial corruption, “uncertain” expressed the condition whether court users were not sure whether court personnel were corrupt or not, “High” expressed the condition where court users perceived court personnel as corrupt, and “Very High” expressed the condition where court users perceived judicial proceedings as plagued by an omnipresent corruption.

Second, given the multidimensional form of corruption, we asked various questions to seize its real extent in judicial proceedings. To measure the perceived frequency of judicial corruption, the multiple questions were designed to capture how often court users perceived court personnel to accept or demand bribes with (1) Never, (2) Sometimes (3) Uncertain, (4) Very Often, (5) Always. “Never” expressed the condition where court users estimate that court personnel do not demand or nor accept bribes, “Sometimes” expressed the condition where court users estimate that court users seldom accept of demand bribes, “Uncertain” expressed the uncertainty of court users in terms of the frequency of bribe demanding or taking, “Very Often” expressed the condition where court users perceive court personnel to demand or accept bribes most of the time, and “Always” expressed the condition where court users perceive court personnel to accept or demand bribes on every occasion.

To assess the level of experience of corruption, respondents have been asked to provide their hands-on experience of judicial corruption in their interactions with court personnel with either (1) Never, (2) Sometimes, (3) Uncertain, (4) Very Often, (5) Always. “Never” expressed the situation where court users have never incentivized court personnel to perform any judicial proceeding, “Sometimes” expressed the situation where court users have rarely incentivized court personnel, either from their own initiative or asked to by the later, to perform any judicial proceeding; “Uncertain” expressed the situation where court users were not sure whether the

incentive paid to court personnel constituted a bribe or not, “Very Often” expressed the situation where court users have usually incentivized court personnel, either from their own initiative or asked to by the later, to perform any judicial proceeding; and “Always”, expressed the situation where court users have consistently incentivized court personnel, either from their own initiative or asked to by the later, to perform any judicial proceeding.

#### **4.2.2. Descriptive Statistics for Independent Variables**

We asked fifteen questions to measure the level of transparency based on the three indicators we developed. The overall score of judicial transparency has been computed by aggregating the means of accessibility, relevance and reliability.

**Table 4: Descriptive Statistics of Independent Variables**

<b>Variable (Observations= 184)</b>	<b>Mean</b>	<b>STD</b>	<b>LCLM (95%)</b>	<b>UCLM (95%)</b>
<b>Transparency</b>	2.12	0.91	1.99	2.25
<b>Accessibility</b>	2.28	0.87	2.15	2.40
<b>Relevance</b>	2.01	1.07	1.86	2.17
<b>Reliability</b>	2.03	1.00	1.89	2.17

Source: Author

The output presented on table 4 shows an indubitable low level of transparency in judicial proceedings. This low score of judicial transparency expresses how court users perceive the Congolese judicial proceedings to be less transparent in terms of accessibility, relevance and reliability of court-related information. This means, judicial information is less accessible, less relevant and less reliable.

As expressed by respondents, the low level of accessibility is due to the fact that courts and tribunals do not have platforms that allow easy access to judicial information. Litigants and lawyers both expressed the hardship they

face when they want to use their legitimate right to information to access critical information concerning their cases. Also and most importantly, this low level is explained by the lack of publication of judicial proceeding fees.

Relevance had the lowest level owing to the fact that court personnel do not provide complete and updated information that fails to meet the needs of court users for a good continuation of their cases. The lack of important details in information provided renders court may mislead court users and impede their chances to have a better outcome in the proceeding.

Concerning reliability, the large majority of court users perceived information provided by court personnel to be less reliable because it is not delivered in a better timeframe and it is not consistent. This perception may be considered more subjective at the first look, as the notion of timeframe depends on the expectation of each court user. Nonetheless, a reasonable lapse of time between the request and retrieval of information makes the latter more reliable and takes off any suspicion of manipulation. As for inconsistency of information, this low level of reliability lies in the fickle charge of proceeding fees contingent upon one court personnel or another.

### **4.2.3. Descriptive Statistics for Dependent Variables**

To measure the level of judicial corruption, we asked respectively five questions for the perception of corruption to know how often court users perceived court personnel to accept or demand bribes to perform procedural acts. Seven questions were asked for the experience of corruption to grasp the extent of corruption in courtrooms.

**Table 5: Descriptive Statistics for Dependent Variables**

<b>Variable (Observations= 184)</b>	<b>Mean</b>	<b>STD</b>	<b>LCLM (95%)</b>	<b>UCLM (95%)</b>
<b>Perception of Corruption</b>	4.42	0.66	4.33	4.52
<b>Experience of Corruption</b>	3.64	0.90	3.51	3.77

Source: Author.

The highest score recorded for perception of corruption is mainly explained by the high perception of illegal proceeding fees charged by court users and the frequent request for payment of incentives by court personnel prior to performing any procedural act. Court users also expressed that in many instances court personnel intentionally delay the proceedings with the aim of getting financial incentives to fast track the process.

Although the experience of corruption scored low compared to the perception, its level was still quite alarming. The level of experience of corruption is largely influenced by the furtive nature of corruption. The result obtained from the survey shows solely the tip of the iceberg indicative of the depth of this cancer in judicial proceedings. As discussed in the literature review, and being cognizant of the reluctance of the majority of respondents to unveil their wrongdoings, seven different questions were asked to nearly capture the real extent of corruption in the courtroom. Responses to these questions helped unfold the real extent of corruption in the Congolese judicial proceedings which is quite alarming.

Though it came without surprise that only 10 respondents out of 184, representing 5.43 percent of the sample, acknowledged having always incentivized judges to win their case, we have found that practices that fall into the legal definition of corruption were widely perpetrated in the court. These practices include notably overcharging judicial fees, soliciting or accepting incentives to perform judicial acts, and so forth. Nearly 85 percent of respondents have been charged more than the legally stipulated justice fees, and more than 65 percent admitted to incentivize court personnel to get any procedural act performed. Altogether, this result conveys earnestness of the issue of judicial corruption which has become almost institutionalized.

**Table 6: Experience of Corruption Questionnaire**

No	Question items	Mean	STD	Percent				
				N	ST	U	VO	A
26	Court personnel solicited an incentive to perform a procedural act related to my case.	4.23	1.01	1.63	8.15	7.61	30.43	52.17
27	I have incentivized court personnel to perform a procedural act related to my case.	3.90	1.24	5.98	10.87	14.13	25.54	43.48
28	I have incentivized court personnel to fast track my case.	3.98	1.16	4.89	9.24	10.33	33.70	41.85
29	Court personnel charged me more than the amount of money legally provided a procedural act.	4.25	1.09	5.43	3.26	7.07	29.35	54.89
30	I have given some presents to court personnel after a successful completion of my case.	3.06	1.37	17.93	18.48	21.74	23.37	18.48
31	I had to incentivize court personnel to have access to information related to my case.	3.89	1.19	4.35	11.41	16.85	16.09	41.30
32	I have incentivized judges to win the case.	2.17	1.23	40.76	23.37	19.02	11.41	5.43

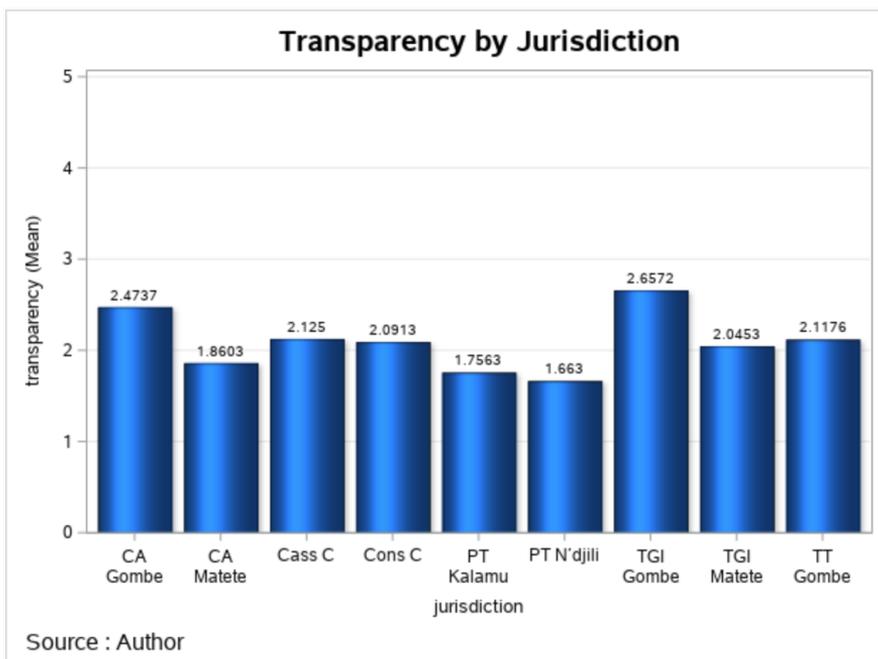
Source: author

#### 4.2.4. Comparisons of Variables by Jurisdiction

In terms of transparency, the Peace Tribunal of Kinshasa N’Djili was the jurisdiction that recorded the lowest level of transparency. Interestingly, respondents have delineated this opacity as being the result of less access to information due to the use of archaic means to provide information which turns out to be not punctual and inefficient. Conversely, the Tribunal de Grande Instance (District Court) of Kinshasa Gombe showed the highest level of transparency among all the remaining jurisdictions. Court users had more access to relevant and reliable information at the District Court of Kinshasa/Gombe than any other jurisdiction. However, the jurisdiction remains under the threshold of opacity.

In spite of some slight variations in the means, this graph below shows how less transparent are judicial proceedings in all nine jurisdictions selected for our study.

**Figure 3: Transparency by Jurisdiction**

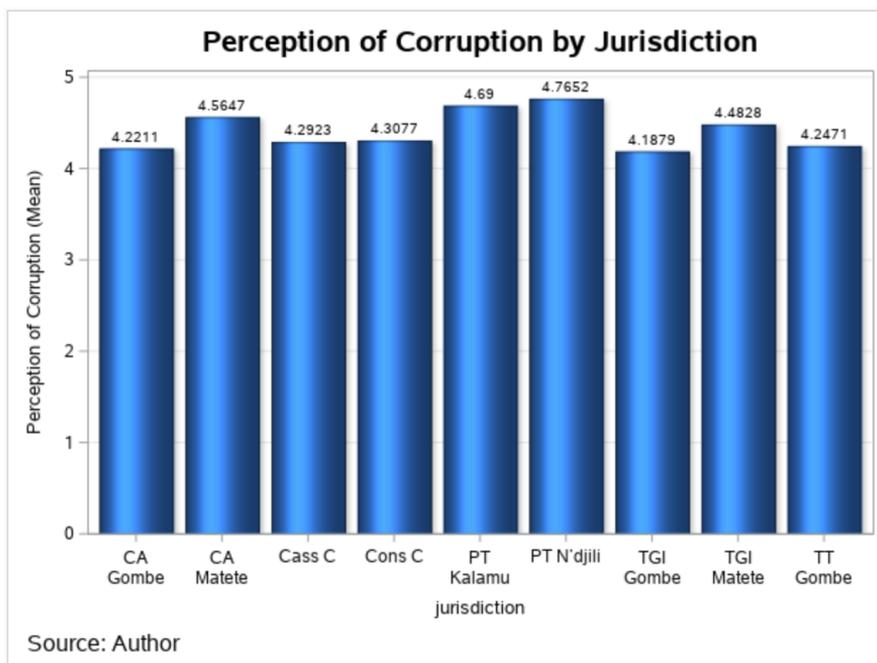


Regarding perception of corruption, the Peace Tribunal of Kinshasa N’Djili was the jurisdiction in which more corrupt practices have been perceived

by litigants and lawyers. This highest level of corruption has been influenced by the recurrent requests for incentives and acceptance of offers by court personnel to do their job, coupled with the delay they of the proceedings and the requests of unlawful proceedings fees.

For all jurisdictions, the perception of corruption is above 4 underpinning the highest level of perceived corruption across the country’s judiciary branch.

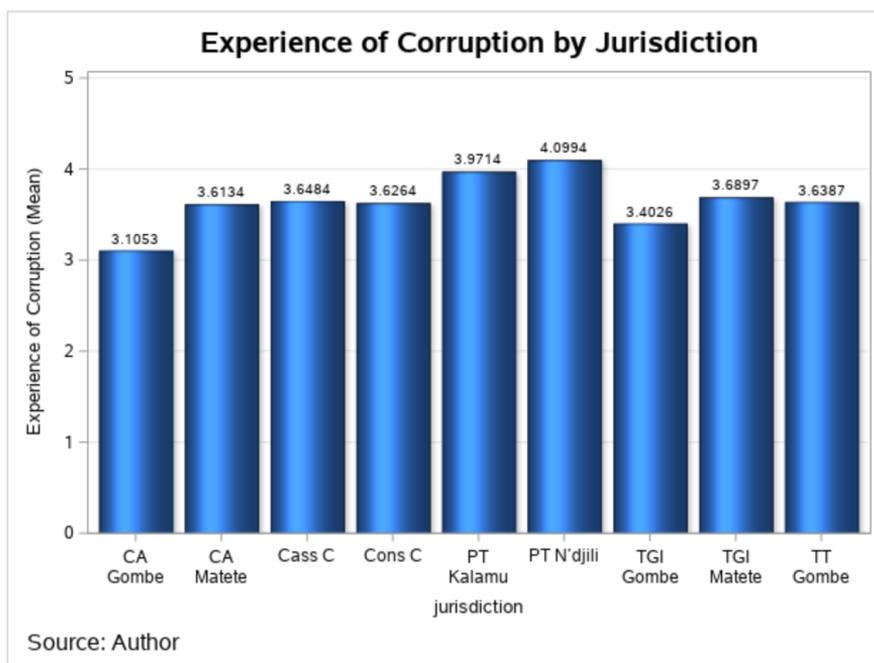
**Figure 4: Perception of Corruption by Jurisdiction**



As for the experience of corruption, the mean of all jurisdictions oscillated around 3, still the Peace Tribunal of Kinshasa N’Djili had the highest score mainly due to the overbilling of proceeding fees. The Court of Appeals of Kinshasa Gombe and the District Court of Kinshasa Gombe had the lowest level of experience of corruption.

This pattern largely presents the flipped side of transparency distribution among jurisdictions. Those which had the highest level of transparency present the lowest level of corruption.

**Figure 5: Experience of Corruption by Jurisdiction**



#### **4.2.5. Reliability Test of the Survey Instrument**

To draw reliable conclusions, it is quite important to ensure that crafted instruments used to obtain results are reliable. Cronbach's alpha is the commonly used method to measure the reliability or the consistency of the scale (UCLA, 2020). Chronbach's coefficient of .70 or higher is acceptable in social science (2020). Using SPSS, we computed the reliability test for 28 survey questionnaires related to the dependent and independent variables, which resulted in Cronbach's alpha of respectively .779 for accessibility, .917 for reliability, .856 for reliability, .824 for the perception of corruption and .877 for the experience of corruption. This is highly acceptable and suggests that our survey instrument is reliable, thereby ensuring further statistical analysis.

**Table 7: Result of the reliability test**

Variable	Cronbach's Alpha	N of Items
Accessibility	.779	6
Relevance	.917	5
Reliability	.856	5
Perception of Corruption	.824	5
Experience of corruption	.877	7

Source: Author

#### 4.2.6. Correlations Analysis

Before running the regression analysis, we ran the Pearson correlation between our dependent and independent variables to test the association among them. The computed correlations results showed that all independent variables were negatively correlated to the dependent variables. Although the correlations were moderate for some variables, they were all statistically significant. Transparency was found to have a negative correlation with perception and experience of corruption in the Congolese judicial proceedings. The strongest correlation was found between transparency and perception of corruption, while the experience of corruption and relevance had the weakest correlation.

**Table 8: Pearson Correlation Coefficients**

	1	2	3	4	5	6
Transparency	1					
Perception of Corruption	-0.54221*	1				
Experience of corruption	-0.48393*	0.65714*	1			
Accessibility	0.90786*	-0.54012*	-0.51697*	1		
Relevance	0.94273*	-0.46713*	-0.40552*	0.75475*	1	
Reliability	0.95925*	-0.51411*	-0.43483*	0.79096*	0.88433*	1

\*p<0.01

Source: Author

### **4.2.7. Multiple Regression Analysis**

The results of the performed multiple regression analysis for perception of corruption and experience of corruption are presented in the following tables. Two full regression models have been run to test our hypotheses. In the first model, we included the dependent variables (perception and experience of corruption) and the independent variable (transparency) simultaneously with the control and moderator variables, namely age, education, outcome, income, jurisdiction, gender and quality. In the second model we ran our dependent variables with the indicators of transparency (accessibility, relevance and reliability) to check which factor accounts in establishing the causal relationship between transparency with perception and experience of corruption.

Given that our control and moderator variables were quintessentially categorical variables, we converted them into dummy variables to run the regression. We used a general linear model to compute the regression and compare how different variables are affected.

In all two models, the F value was significant under 0.01 significance level, and the model fit was deemed satisfactory. In model I, the value of the R-squared was 0.42 for perception of corruption and 0.38 for experience of corruption. In model II, the R-squared values were respectively 0.39 and 0.37. This indicates that explanatory power was high in all models.

The results obtained from model I showed a negative relationship between transparency and perception of corruption under 0.01 significance level. There was also a statistically significant inverse relationship between transparency and experience of corruption under 0.01 significance level. Regardless of the insertion of many control variables, transparency was strongly related to both perception and experience of corruption which leads us to conclude that the relationships are causal between these variables. That is, perception of corruption decreases by 0.795 as

transparency increases by one unit. Experience of corruption decreases by 0.926 as transparency increases by one unit.

The control variable outcome was found to be significant in the perception and experience of corruption. This output explains that court users with successful cases perceived less corruption compared to those who had unsuccessful cases. Those who had ongoing cases perceived less corruption compared to those with successful and unsuccessful cases. Concerning experience of corruption, court users who had successful cases experienced less corruption than those who had unsuccessful and ongoing cases.

As showed in figures 4 and 5 The Trade Tribunal of Kinshasa/Gombe and the Court of Appeals of Kinshasa/Gombe were found significant under 95 percent of confidence level, showing less perceived corruption in the first and less experience of corruption in the second in comparison with the District Court of Kinshasa/Matete, but jurisdiction as a whole was not found significant.

The interaction term which we discussed further in this study, was significant for perception and experience of corruption attesting that quality moderates the relationship between transparency and these two dependent variables.

**Table 9: Multiple Regression Analysis Model I**

	Perception of corruption			Experience of corruption		
	Estimate	Std Error	Pr> t	Estimate	Std Error	Pr> t
Transparency	-0.795*	0.147	<.0001	-0.926*	0.211	<.0001
Outcome Ongoing	-0.267**	0.110	0.0164	-0.346**	0.158	0.0297
Outcome Successful	-0.196***	0.104	0.0628	-0.364**	0.149	0.0159
Outcome Unsuccessful	0.00	.	.	0.00	.	.
Jurisdiction Cassation Court	-0.126	0.196	0.5210	-0.083	0.280	0.7670
Jurisdiction Constitutional Court	-0.306	0.202	0.1316	-0.273	0.289	0.3469
Jurisdiction CA Kinshasa/Gombe	-0.185	0.175	0.2923	-0.557**	0.251	0.0279
Jurisdiction CA Kinshasa/Matete	-0.081	0.183	0.6582	-0.267	0.262	0.3102
Jurisdiction PT Kinshasa/Kalamu	-0.083	0.166	0.6159	-0.081	0.237	0.7329
Jurisdiction PT Kinshasa/N'djili	0.049	0.165	0.7672	-0.013	0.236	0.9553
Jurisdiction TT Kinshasa/Gombe	-0.403**	0.182	0.0282	-0.282	0.260	0.2811
Jurisdiction TGI (DC) Kinshasa/Gombe	-0.164	0.145	0.2606	-0.130	0.208	0.5336
Jurisdiction TGI (DC) Kinshasa/Matete	0.00	.	.	0.00	.	.
Age 18-25 years	0.190	0.478	0.6917	-0.115	0.684	0.8662
Age 26-35 years	-0.061	0.436	0.8886	-0.498	0.624	0.4259
Age 36-45 years	0.091	0.430	0.8333	-0.446	0.615	0.4696
Age 46-55 years	0.030	0.424	0.9440	-0.338	0.607	0.5783
Age 56-65 years	0.084	0.442	0.8501	-0.494	0.634	0.4368
Age 66 years or above	0.00	.	.	0.00	.	.
Education High School	-0.160	0.212	0.4528	0.202	0.304	0.5070
Education Bachelor	0.023	0.169	0.8904	-0.054	0.242	0.8230
Education Master	-0.044	0.192	0.8176	-0.071	0.275	0.7952
Education PhD	-0.143	0.317	0.6513	0.228	0.454	0.6165
Education Undergraduate	0.00	.	.	0.00	.	.
Income 1,000 - 5,000\$	0.018	0.105	0.8635	0.122	0.150	0.4176
Income 6,000 - 10,000\$	0.037	0.141	0.7949	0.238	0.202	0.2387
Income 11,000 - 50,000\$	0.009	0.202	0.9660	-0.181	0.290	0.5320

**Table 9 (continued)**

	Perception of corruption			Experience of corruption		
	Estimate	Std Error	Pr> t	Estimate	Std Error	Pr> t
Income 6,000 - 10,000\$	0.037	0.141	0.7949	0.238	0.202	0.2387
Income 11,000 - 50,000\$	0.009	0.202	0.9660	-0.181	0.290	0.5320
Income 51,000\$ or above	0.256	0.289	0.3774	0.282	0.414	0.4974
Income Less than 1,000\$	0.00	.	.	0.00	.	.
Gender Female	-0.058	0.102	0.5708	-0.053	0.146	0.7170
Gender Male	0.00	.	.	0.00	.	.
Quality Lawyer	-1.037*	0.352	0.0037	-1.158**	0.504	0.0230
Quality Litigant	0.00	.	.	0.00	.	.
Transparency*quality Lawyer	0.586*	0.166	0.0005	0.703*	0.238	0.0036
Transparency*quality Litigant	0.00	.	.	0.00	.	.
R2	0.42			0.38		
F Value	F(27, 156)= 4.27			F(27, 156)= 3.51		
Pr > F	<.0001			<.0001		

\*\*\* p<0.1, \*\*p<0.05, \*p<0.01

Source: Author

The output of model II indicates a statistically significant negative relationship between accessibility and perception of corruption under 95 confidence level as well as accessibility and experience of corruption under 99 confidence level. Relevance and reliability were not found significant for the perception or experience of corruption. Only the control variable outcome was found significant in the second model for both perception and experience of corruption.

Education was found significant in perception of corruption only for master, showing that compared to respondents with an undergraduate degree, those who obtained a master's degree perceived less corruption in judicial proceedings. However, education as a whole was not found significant.

As in model I, the Court of Appeals of Kinshasa/Gombe was also found significant for experience of corruption. This implies that compared to the District Court of Kinshasa/Matete, the Court of Appeals of Kinshasa/Gombe registers less corruption during judicial proceedings. This result reflects the distribution of experience of corruption among jurisdictions described in figure 5. Nevertheless, the jurisdiction as a whole was not found significant.

This finding indicates that only accessibility accounts more in explaining the relationship between transparency with perception and experience of corruption.

**Table 10: Multiple Regression Analysis Model II**

	Perception of corruption			Experience of corruption		
	Estimate	Std Error	Pr> t	Estimate	Std Error	Pr> t
Accessibility	-0.217**	0.093	0.0218	-0.472*	0.130	0.0004
Relevance	0.004	0.096	0.9680	0.047	0.133	0.7263
Reliability	-0.141	0.103	0.1729	-0.023	0.143	0.8720
Outcome Ongoing	-0.241**	0.115	0.0387	-0.272***	0.161	0.0919
Outcome Successful	-0.180***	0.108	0.0995	-0.345**	0.151	0.0236
Outcome Unsuccessful	0.00	.	.	0.00	.	.
Jurisdiction Cassation Court	-0.065	0.204	0.7511	0.054	0.284	0.8496
Jurisdiction Constitutional Court	-0.168	0.211	0.4269	-0.026	0.294	0.9295
Jurisdiction CA Kinshasa/Gombe	-0.125	0.182	0.4913	-0.481***	0.253	0.0594
Jurisdiction CA Kinshasa/Matete	-0.041	0.190	0.8273	-0.246	0.264	0.3537
Jurisdiction PT Kinshasa/Kalamu	0.020	0.169	0.9058	0.035	0.235	0.8818
Jurisdiction PT Kinshasa/N'djili	0.078	0.174	0.6568	0.106	0.243	0.6625
Jurisdiction TT Kinshasa/Gombe	-0.250	0.185	0.1784	-0.068	0.258	0.7910
Jurisdiction TGI (DC) Kinshasa/Gombe	-0.094	0.150	0.5324	-0.039	0.208	0.8523
Jurisdiction TGI (DC) Kinshasa/Matete	0.00	.	.	0.00	.	.
Age 18-25 years	0.173	0.498	0.7284	-0.181	0.693	0.7939
Age 26-35 years	-0.140	0.451	0.7575	-0.600	0.628	0.3410
Age 36-45 years	0.070	0.446	0.8749	-0.429	0.621	0.4908
Age 46-55 years	0.013	0.441	0.9759	-0.365	0.614	0.5524
Age 56-65 years	0.071	0.459	0.8767	-0.489	0.639	0.4455
Age 66 years or above	0.00	.	.	0.00	.	.
Education High School	-0.006	0.216	0.9784	0.371	0.300	0.2180
Education Bachelor	-0.144	0.168	0.3930	-0.183	0.233	0.4351
Education Master	-0.215	0.191	0.2630	-0.233	0.266	0.3836
Education PhD	-0.345	0.325	0.2903	0.088	0.452	0.8461
Education Undergraduate	0.00	.	.	0.00	.	.
Income 1,000 - 5,000\$	0.070	0.110	0.5248	0.197	0.152	0.1990

**Table 10 (continued)**

	Perception of corruption			Experience of corruption		
	Estimate	Std Error	Pr> t	Estimate	Std Error	Pr> t
Income 6,000 - 10,000\$	0.076	0.146	0.6035	0.259	0.20302450	0.2040
Income 11,000 - 50,000\$	0.091	0.208	0.6618	-0.078	0.290	0.7887
Income 51,000\$ or above	0.102	0.301	0.7362	0.041	0.419	0.9226
Income Less than 1,000\$	0.00	.	.	0.00	.	.
Gender Female	-0.103	0.107	0.3345	-0.066	0.149	0.6566
Gender Male	0.00	.	.	0.00	.	.
Quality Lawyer	0.130	0.124	0.2959	0.262	0.173	0.1312
Quality Litigant	0.00	.	.	0.00	.	.
R2	0.39			0.37		
F Value	F(28, 155)= 3.49			F(28, 155)= 3.29		
Pr > F	<.0001			<.0001		

\*\*\* p<0.1, \*\*p<0.05, \*p<0.01

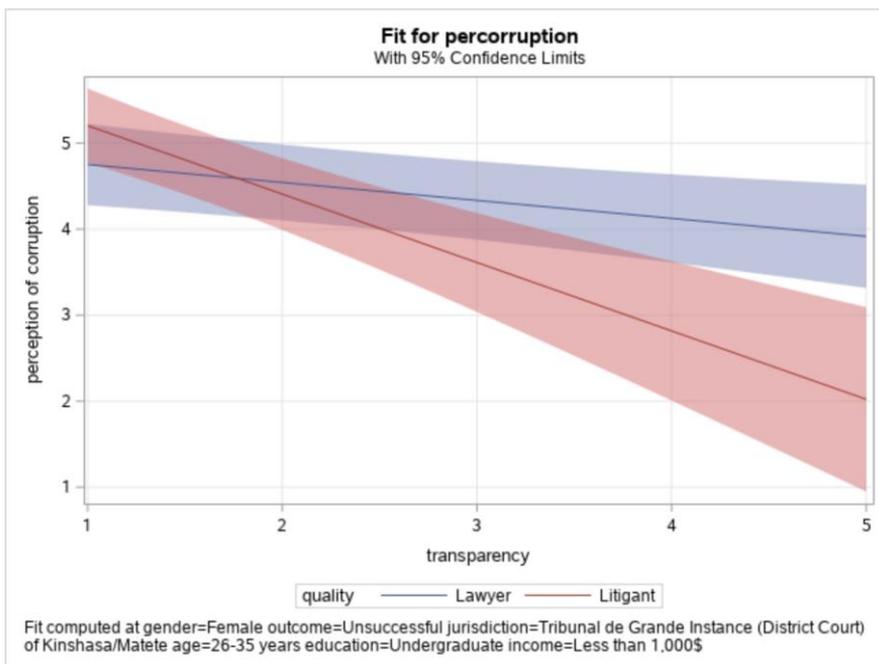
Source: Author

#### 4.2.8. Moderating Variable

The interaction term was computed to determine how does quality moderate the relationship between transparency and both perception and experience of corruption.

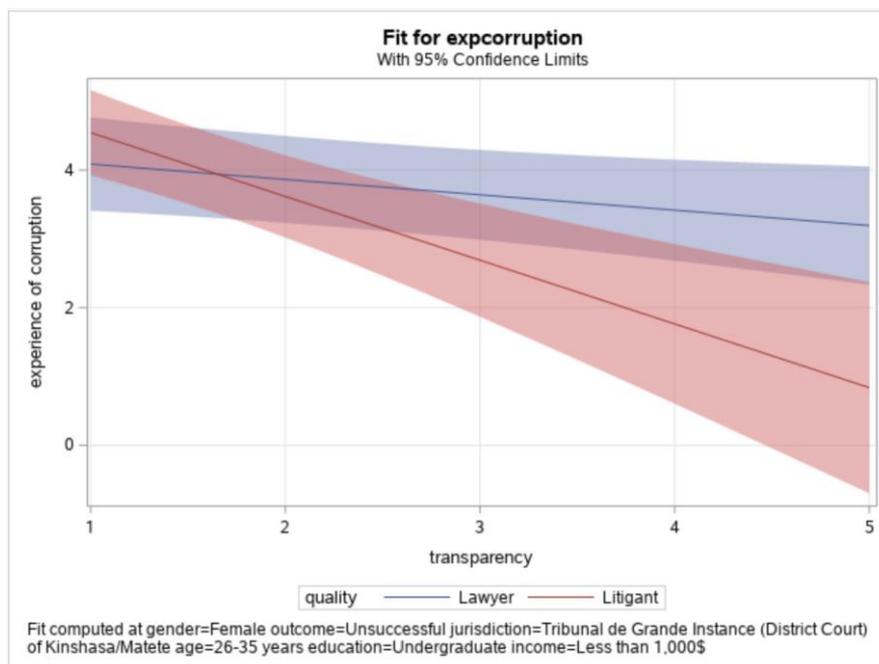
As we can see in the graph below, the strength of the relationship between transparency and perception of corruption changes depending on quality. The relationship is weaker for lawyers and stronger for litigants. This implies that lawyers perceive judicial proceedings to be more transparent and less corrupt compared to litigants. Even so, both lawyers and litigants perceive judicial proceedings less transparent and more corrupt.

**Figure 6: Marginal effect for perception of corruption**



Concerning experience of corruption, as we can see on figure 7, the result remains the same with perception of corruption with litigants showing a stronger relationship between transparency and experience of corruption. However, the strength of the relationship between the predictor and the dependent variable is weakened.

**Figure 7: Marginal effect for experience of corruption**



### 4.3. Hypothesis Test

The two regression models we computed helped us test our hypotheses. The first regression model allowed us to test the first three hypotheses (H1, H2, H3 and H4).

The output of the regression analysis of model I showed a significant negative relationship between transparency and both perception and experience of corruption. This result provides enough statistical evidence to confirm the first four hypotheses (H1, H2, H3 and H4).

Therefore, under 99 percent of confidence level, we confirm that “*judicial transparency is negatively related to the perception judicial corruption in the Democratic Republic of Congo*”.

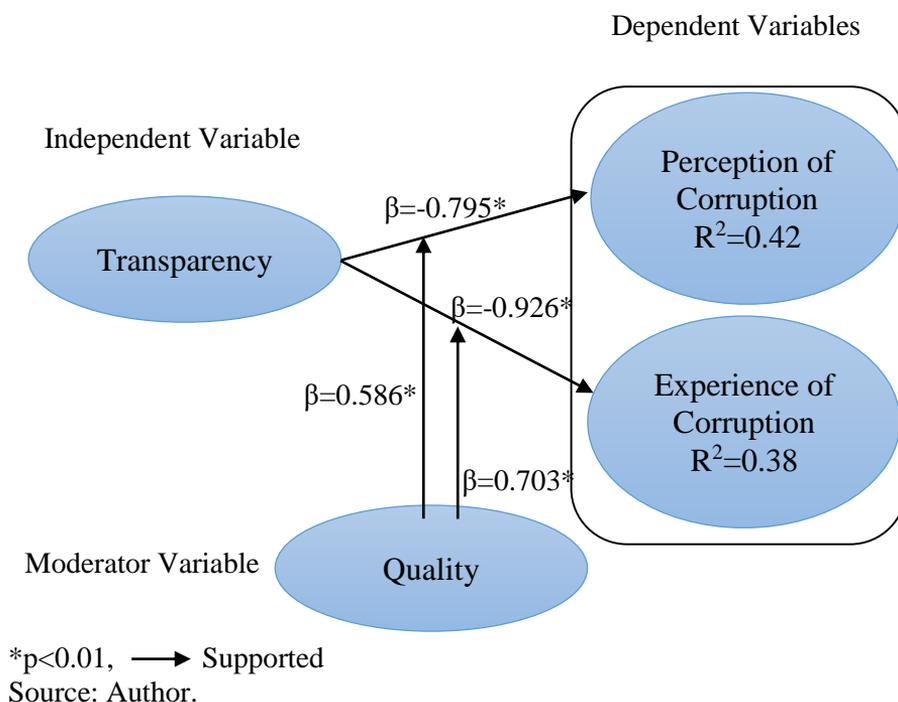
This result reflects the conclusion of many scholars such as Pepys (2007) who opines that judicial transparency was efficient in controlling the perception of corruption.

The output also allows us to assert under 99 percent of confidence level that “judicial transparency is negatively related to the experience of judicial corruption in the Democratic Republic of Congo”.

The results obtained for both perception and experience of corruption, corroborate what many studies found. Previous studies concluded that more transparency leads to the reduction of corruption (Keith Henderson, 2003; Nurhan Kocaoglu, 2006; Transparency International, 2007; Hoch, 2009). Similarly, Morris (2005) and Michel (2009), stated that judicial transparency guards against corruption in the courtroom.

The interaction term which showed a significant p-value leads us to argue that “the strength of the relationship between transparency and the perception of corruption is moderated by quality”. Also, based on the same result presented in table 9 and sums up in figure 8, we state that “the strength of the relationship between transparency and the experience of corruption is moderated by quality”.

**Figure 8: Summary Model I**



The second regression model has been run to test the six remaining hypotheses (H5, H6, H7, H8, H9, H10) to see which factor accounts in measuring the relationship between transparency with perception and experience of corruption. The output from the regression showed that only accessibility had a significant negative relationship with perception and experience of corruption. Relevance and reliability were not significantly related to perception and experience of corruption. Therefore, only two hypotheses were supported out of six which were tested on this model.

We thus state that “*Accessibility to court-related information is negatively related to the perception of judicial corruption*”.

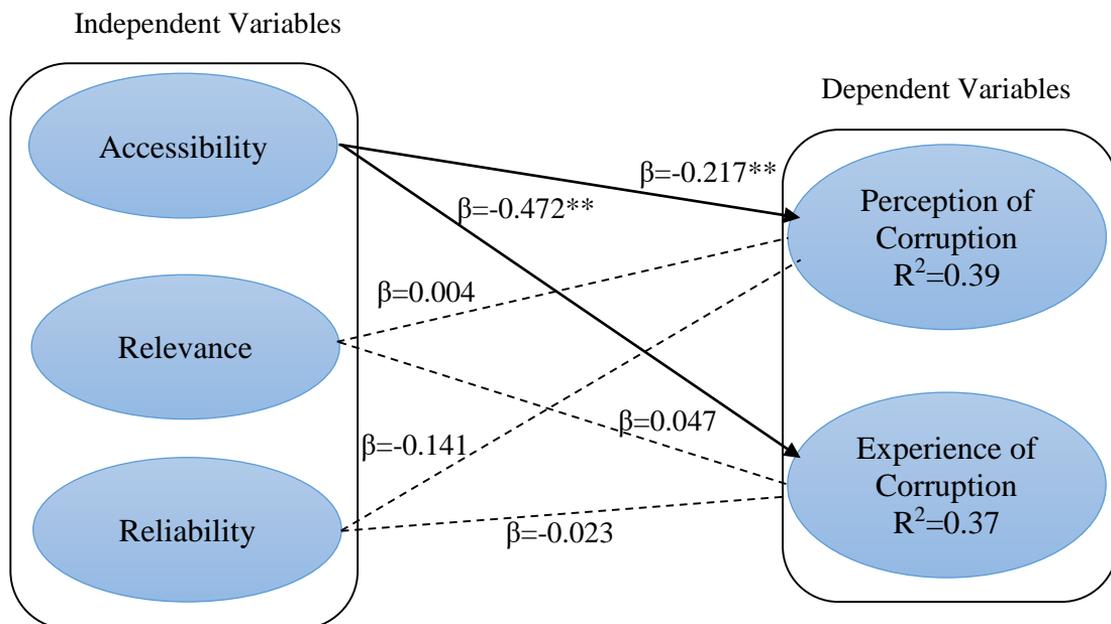
On the one hand, this outcome ascertains the argument of Pepys who declared that more transparency through access to information yield positive results in terms of reducing the perception of corruption. On the other hand, this outcome contrasts with the study of Costa (2013) whose findings have shown a positive relationship between access to information through the adoption of freedom of information laws with the perception of corruption.

Likewise, by supporting hypothesis 6 (H6) we opine that “*accessibility to court-related information is negatively related to the experience of judicial corruption*”.

This finding corroborates what the UNCAC (2020) clearly posited: “access to information is an essential tool in the fight against corruption”. This also confirms what Cassandra and colleagues (2007) found that greater access to information leads to lower levels of corruption.

Finally, concerning relevance and reliability, we failed to find enough statistical evidence to support hypothesis 7 to hypothesis 10. Contrary to what Kauffman (1999), we could not consider relevance and reliability as attributes of transparency that account for decreasing the perception and experience of corruption in the Congolese judicial proceedings.

**Figure 9: Summary Model II**



\*\* $p < 0.05$ , \* $p < 0.01$ ,  $\longrightarrow$  Supported ----- Not supported

Source: Author.

**Table 11: Summary of hypothesis testing**

N°	Hypotheses	Remarks
1	Judicial transparency is negatively related to the perception of judicial corruption in the Democratic Republic of Congo.	Supported
2	Judicial transparency is negatively related to the experience of judicial corruption in the Democratic Republic of Congo.	Supported

3	The strength of the relationship between transparency and the perception of corruption is moderated by quality	Supported
4	The strength of the relationship between transparency and the experience of corruption is moderated by quality	Supported
5	Accessibility to court-related information is negatively related to the perception of judicial corruption.	Supported
6	Accessibility to court-related information is negatively related to the experience of judicial corruption	Supported
7	Relevance of court-related information is negatively related to the perception of judicial corruption.	Not supported
8	Relevance of court-related information is negatively related to the experience of judicial corruption.	Not supported
9	Reliability of court-related information is negatively related to the perception of judicial corruption.	Not supported
10	Reliability of court-related information is negatively related to the experience of judicial corruption.	Not supported

Source: Author

#### **4.4. Summary of Open-ended Responses**

Respondents have been asked to list the causes of judicial corruption, factors that explain the lack of judicial transparency and propose some solutions to increase transparency in order to control corruption in judicial proceedings. The following table sums up the different opinions of court users.

**Table 12: Summary of Open-ended Responses**

Causes of Judicial Corruption	Judicial Transparency Hinderance Factors	Solutions Proposals
<ul style="list-style-type: none"> <li>• In-person payment of proceeding fees in the hands of court personnel without voucher or receipts. No bank payment system;</li> <li>• Arbitrary and illegal charging of proceeding fees, and institution of illegal fees (dactylography or typing fees);</li> <li>• Low budget, unsatisfactory wages for court personnel and bad working conditions;</li> <li>• Ethical problems, clientelism and political interferences and impunity;</li> <li>• Lack of information and ignorance of relevant laws;</li> <li>• Opacity of the proceedings and the management fees.</li> </ul>	<ul style="list-style-type: none"> <li>• Information asymmetry;</li> <li>• Absence of comprehensive laws and non-compliance with existing laws;</li> <li>• Nonpublication of proceeding fees;</li> <li>• Lack of information channels or structures, arduous access to information, presence of intermediates;</li> <li>• Obsolescence of the system, inadaptability with digital revolution, absence of IT platforms.</li> <li>• Administrative red tape, ponderosity of the system, violation of the legal proceeding timeframes.</li> <li>• Lack of good supervision.</li> </ul>	<ul style="list-style-type: none"> <li>• Popularize the existing legal framework and legislate comprehensive laws for proceeding timeframes.</li> <li>• Improve access to information and make the process simpler and clearer;</li> <li>• Implement digital platforms to reduce in person transactions and broader access to information, and set up bank payment system;</li> <li>• Improve working conditions, budget increase, provide satisfactory wages;</li> <li>• Promote ethical behaviors, reduce political interference and sanction corrupt practices</li> </ul>

## **4.5. Discussion of Findings**

The findings of this study helped us measure the level of judicial transparency and how it influences corruption in the Congolese judicial proceedings. Not only it helped us respond to our research questions but also allowed us to understand which factors account more in measuring transparency and explaining the relationship between judicial transparency and judicial corruption.

From the regression analysis, four hypotheses out of ten were rejected. The six hypotheses maintained show the importance of transparency in terms of accessibility to judicial information to control corruption at court.

It worth reminding that judicial corruption was measured from two different dimensions: perception and experience of corruption. We found that perception and experience of corruption decrease as transparency increases. This result suggests that the more judicial proceedings become transparent the less likely more corrupt activities will be committed. The comparison between corruption and transparency among jurisdictions presented in figures 4,5 and 6 shares this same conclusion. Jurisdictions that have a higher level of transparency tend to have less level of corruption in terms of perception and experience.

Narrowed down, the results have proven that perception and experience of corruption decrease as accessibility increases. *Videlicet*, more access granted to court users on judicial information highly contributes to lift the opacity that overwhelms judicial processes thereby enhancing transparency and ultimately reducing corruption. Allowing court users to freely gain access to whatever information they need improves their perception on how court personnel behave, creates a climate of trust as they know nothing is kept concealed.

Relevance and reliability of judicial information were not found to be statistically significant. Accessibility to judicial information remained the

only factor that accounts in explaining its causal relationship with corruption.

The interaction terms showed that litigants perceived more corruption and less transparency in comparison with lawyers. This result further highlights the importance of access to information. Admittedly, lawyers have more access to judicial information given that they practice law, they are in close contact with court personnel. Conversely, litigants who seem to be outsiders, barely go to courts and happen to go when they only have a lawsuit. While the literature suggests that access to information empowers citizens (Baroi, 2020), litigants are less empowered without access to conducive information and this leads them to pay bribes or perceive court personnel as corrupt.

Findings of this study have demonstrated the importance of accessibility to judicial information in the prospect of mitigating judicial corruption and confirmed what we discussed in the literature review. As respondents have unambiguously expressed it, the lack of access to information creates information asymmetry problems and allows court personnel to arbitrarily charge procedural fees depending on their personal motives. In practice, this has exposed court users to the payment of overcharged and illegal fees, practices which fall in the definition of judicial corruption. The majority of respondents attested to have been charged more than legally prescribed fees.

Low level of accessibility is explained by the lack of information platforms and communication structures that allow court users to freely get information that they need to track the progress of their cases and be aware of each step to take and related fees to pay. Yet the government had legislated the 2017 interministerial decree that fixes taxes and judicial proceedings fees, the majority of court users especially litigants, remains ignorant of this regulatory act due to its non-publication. Respondents stated that few jurisdictions had at least a tariff table or a notice board on which proceedings fees were published. Court personnel enjoy the freedom of charging procedural fees which naturally leads to the perpetration of

corrupt acts. This lack of accessibility has led court users to perceive judicial proceedings as opaque, mystified and complex thereby stirring up mistrust and increasing the perception and experience of corruption. This issue is aggravated by the use of formal traditional mechanisms to communicate and access judicial information as well as operate financial payment for each proceeding. As noted by Contini (2004), “the formal communication between the court and parties which is generally paper-based and rooted on a complex set of formal rules, work practices and local adaptation, is strategically used by the parties in an attempt to gain some advantage in the trial”. The fact that the Congolese judicial system still does not use ICT technology to improve the accessibility to judicial information and allow online payment, explains partially why there are still better conditions for bribe paying and taking during in courtrooms. ICT in justice has been praised for bringing more transparency, making the procedure speedier and keep corruption out of the court (Velicogna, 2007; Agustí Cerrillo Martínez, 2008). Best experiences like those of South Korea with e-court (Julien Vilquin, 2020) crystalized this assumption. Therefore, the use of ICT seems to be crucial in the fight against judicial corruption in the country.

# CHAPTER 5: CONCLUSION AND POLICY RECOMMENDATIONS

## 5.1. Conclusion

Our study zeroed in on measuring the level of judicial transparency and examining the extent to which it affects corruption in the Congolese judicial proceedings with a specific focus on court users' perspective and experience, to finally propose transparency enhancement policies to control this cancer of corruption.

With this purpose, our study answered the following research questions: 1. What is the level of transparency in the Congolese judicial proceedings? 2. To what extent does the level of transparency impact on corruption in the Congolese judicial proceedings?

We used principal-agent theory to explain how corruption is perpetrated when there are information asymmetry and divergency of goals between court users and court personnel.

Judicial transparency and judicial corruption were respectively our independent and dependent variables. Judicial corruption was measured through two dimensions, perception of corruption and experience of corruption, to see how they are differently affected by transparency. To avoid having a spurious relationship, outcome, jurisdiction, age, gender, education and income were included as control variables. Quality was used as a moderator variable.

Based on the existing literature, ten hypotheses have been developed. Hence, we collected 184 responses from court users who have used judicial services from nine different courts and tribunals in the capital city of DRC, Kinshasa, to test our hypotheses. A triangulation of both quantitative and qualitative methods has been used to explain statistical findings and formulate policy recommendations.

The main findings of this study showed that the Congolese judicial proceedings were less transparent and highly corrupt. Low level of transparency ensued from the lower level of accessibility, relevance and reliability of judicial information. Both perception and experience of corruption in the Congolese judicial proceedings showed an alarming high level. Although the perception was higher than the experience of corruption. The regression analysis supported that judicial transparency was negatively related to perception and experience of judicial corruption in the Democratic Republic of Congo. We found that only accessibility of judicial information significantly accounted for explaining the relationship between corruption and transparency in the Congolese judicial proceedings. That is, improving accessibility to judicial information is a sound basis for policies aiming at increasing transparency and reducing corruption in the Congolese judicial proceedings.

Among the control variables, we found that outcome was significantly affecting the relationship between transparency as well as accessibility with the perception and experience of corruption. This means that court users with unsuccessful cases perceived higher level of corruption and experienced more corruption compared to those with ongoing or successful cases.

The moderator variable quality was significant and revealed that, compared to litigants, the relationship between transparency and perception and experience of corruption was weaker and this is justified by the differences in terms of degree of accessibility to judicial information with lawyers having more access than litigants.

This study has shown that corruption was caused by the lack of transparency in judicial proceedings which is explained by a low level of accessibility to judicial information in the DRC. Hence, transparency enhancement policies in terms of improving access to judicial information are conducive policies to control judicial corruption in the country. We

suggest that improving accessibility to information will not only decrease corruption in judicial proceedings but also its perception.

## **5.2. Policy Recommendations**

Based on the empirical evidence gathered from this study, there is a need for short and long-term policies to enhance transparency in terms of improving access to judicial information relevant to court users, such as proceeding fees, and limit in person financial transactions in the courtroom, to control corruption in the Congolese judicial proceedings.

In the short run, this research proposes a regulatory framework to curb judicial corruption. The policy consists of taking clear legislations that render mandatory the publication and display of laws and regulations that prescribe taxes and proceeding fees at the notice board of each jurisdiction. This will be helpful in informing court users on proceeding fees and reduce the instances of payments of illegal fees, and ultimately reduce corruption in judicial proceedings.

In the long run, this study recommends the establishment of a bank payment system for proceeding fees with bank counters being scattered in each jurisdiction to limit in person financial transactions between court personnel and users.

Finally, the judiciary should incorporate new technologies in the proceedings by implementing the e-justice system to digitalize the retrieval of judicial information, the management of cases, and the performing of pretrial and trial procedures. This policy which aims to replace paper-based communication systems, will be more conducive and effective in increasing access to judicial information and reduce opportunities for court personnel to demand and receive bribes from court users.

### **5.3. Limitations and Recommendations for Future Studies**

Due to the intrinsic stealthy character of corruption, we cannot be totally confident that court users responded without any bias or in an honest way to the survey questionnaires. Having people to confess their wrongdoings is not always an easy task and represents the first limitation of this study.

As expressed by court users and also in our literature review, other factors explain the perpetration of corrupt practices in judicial proceedings especially insufficient budget and poor working conditions. We rather parsed the issue of judicial corruption by emphasizing the lack of transparency as the cause. Also, this study analyzed transparency focusing on jurisdictional information or information related to the procedural aspect and did not include internal operations or administrative aspects of the judiciary wherein various types of corruption may also occur. These unexplored aspects necessitate further research.

Finally, the justice administration also comprises the office of the prosecutor. This study focused only on court and tribunals. Future studies can be lengthened to prosecutors to deeply capture the level of corruption and transparency within the whole justice apparatus.

## Bibliography

- AA. (2019). RDC : la Cour constitutionnelle réhabilite la majorité des députés invalidés. Retrieved from <https://www.aa.com.tr/fr/afrique/rdc-la-cour-constitutionnelle-rehabilite-la-majorite-des-deputes-invalides-/1523382>, on 11.03.2020.
- Agustí Cerrillo Martínez, P. F. (2008). *E-Justice: Information and Communication Technologies in the Court System*. New York: Information Science Reference; 1st ed.
- Álvaro Herrero, G. L. (2010). Access to Information and Transparency in the Judiciary. *The World Bank*. Available online at: <http://documents1.worldbank.org/curated/en/563721467991021917/pdf/80757-Herrero-Lopez-Transparency-in-the-Judiciary-Box-377336B-PUBLIC.pdf>
- Anyanzwa, J. (2017). Resource-rich DRC losing \$1.3b every year in unpaid taxes. Retrieved from <https://www.theeastafrican.co.ke/business/DRC-losing-billion-every-year-in-unpaid-taxes/2560-4085218-vf1gyz/index.html>, on 10.03.2020.
- Article 19. (2017). Open Development Access to Information and the Sustainable Development Goals. Retrieved from <https://www.article19.org/data/files/medialibrary/38832/Open-Development--Access-to-Information-and-the-SDGs-2017.pdf>, on 04.22.2020
- Article 19. (2020). Fighting corruption through access to information. Retrieved from [https://www.article19.org/wp-content/uploads/2017/12/UNCAC\\_Information\\_Leaflet\\_ENG.pdf](https://www.article19.org/wp-content/uploads/2017/12/UNCAC_Information_Leaflet_ENG.pdf), on 10.24.2020.
- Babbie, E. (2013). *The Practice of Social Research*. Wadsworth: Cengage Learning.

- Bac, M. (2001). Corruption, connections and transparency: Does a better screen imply a better scene?, *Public Choice*, 107, 87-96., 87-96.
- Bac, M. (2019). Democratic Republic of the Congo: Overview of corruption and anti-corruption. *Transparency International*. Available online at <https://knowledgehub.transparency.org/assets/uploads/helpdesk/Country-Profile-Democratic-Republic-of-the-Congo-2019.pdf>
- Blake E. Ashforth, V. A. (2003). The normalization of corruption in organizations. *Elsevier*, Vol 25, 1-52.
- Bovens, M. (2007). Analysing and Assessing Accountability: A Conceptual Framework. *European Law Journal*, 13 (4), 447-468.
- Stiftung B. (2018). BTI 2018 - Country Report Congo DR. Retrieved from [https://www.bti-project.org/content/en/downloads/reports/country\\_report\\_2018\\_COD.pdf](https://www.bti-project.org/content/en/downloads/reports/country_report_2018_COD.pdf), on 11.03.2020.
- Bukovansky, M. (2006). The hollowness of anti-corruption discourse. *Review of International Political Economy*, 13(2), 181–209.
- Buscaglia, E. (2000). An analysis of judicial corruption and its causes: An objective governing-based approach. *Elsevier*, 21(2), 233-249.
- Cassandra E. DiRienzo, J. D. (2007). Corruption and the role of information. *Journal of International Business Studies*, 38(2), 320-332.
- Catherine Mann. (2011). Corruption in justice and security. *Transparency International*. Available online at: <https://www.u4.no/publications/corruption-in-justice-and-security.pdf>
- Chêne, M. (2013). Overview of corruption and anti-corruption in the Democratic Republic of Congo (DRC). *Transparency International*. Available online at: [https://www.transparency.org/files/content/corruptionqas/Country\\_Profile\\_DRC\\_2014.pdf](https://www.transparency.org/files/content/corruptionqas/Country_Profile_DRC_2014.pdf)

- Cooter, R. G. (2000). a virtuous circle of distrust: a mechanism to deter bribes. *Berkeley Program in Law and Economics*. Available online at: <https://escholarship.org/uc/item/83c0k3wc>
- Costa, S. (2013). Do Freedom of Information Laws Decrease Corruption? *The Journal of Law, Economics, and Organization*, Volume 29, 1317–1343.
- DiBiagio, T. M. (1998). Judicial corruption, the right to fair trial, and the application of plain error review: Requiring clear and convincing evidence of actual prejudice or should we settle for justice in the dark. *American Journal of Criminal Law*, 25(3), 595-630.
- Edgardo Buscaglia, M. D. (1999). An Analysis of the Causes of Corruption in the Judiciary. *Law and Policy in International Business*, Volume 30, 95-116.
- Ellis, T. S. III. (2008). Sealing, Judicial Transparency and Judicial Independence. *Villanova University Charles Widger School of Law Digital Repository*, 53(5), 1-12.
- ENCJ. (2018). Public Confidence and the Image of Justice. Retrieved from [https://pgwrk-websitemedia.s3.eu-west-1.amazonaws.com/production/pwk-web-encj2017-p/Reports/ENCJ\\_Report\\_Public\\_Confidence\\_2017\\_2018%20adopted\\_%20GA\\_1\\_June\\_2018.pdf](https://pgwrk-websitemedia.s3.eu-west-1.amazonaws.com/production/pwk-web-encj2017-p/Reports/ENCJ_Report_Public_Confidence_2017_2018%20adopted_%20GA_1_June_2018.pdf), on 04.22.2020.
- European Parliament. (2013). National practices with regard to the accessibility of court documents. Retrieved from [https://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/474406/IPOL-JURI\\_ET\(2013\)474406\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/474406/IPOL-JURI_ET(2013)474406_EN.pdf), on 04.22.2020.
- Felices-Luna, M. (2011). Justice in the Democratic Republic of Congo: Practicing Corruption, Practicing Resistance? *Springer*, Volume 20, 197-209.
- Felices-Luna, M. (2010). La Justice en République Démocratique du Congo : transformation ou continuité ? Retrieved from <https://journals.openedition.org/champpenal/7827>, on 03.12.2020.

- France, G. (2019). Transparency of court proceedings. *Transparency International*. Available online at: [https://knowledgehub.transparency.org/assets/uploads/helpdesk/Transparency-of-court-proceedings\\_2019\\_PR.pdf](https://knowledgehub.transparency.org/assets/uploads/helpdesk/Transparency-of-court-proceedings_2019_PR.pdf)
- Francesco Contini, A. C. (2004). Information System and Information Infrastructure Deployment: The Challenge of the Italian e-justice Approach. *ECIS 2004 Proceedings*. 40.
- García-Murillo, M. (2010). The effect of internet access on government corruption. *Electronic Government*, 7(1), 22-40.
- Gan Integrity. (2016). DR Congo Corruption Report. Retrieved from <https://www.ganintegrity.com/portal/country-profiles/democratic-republic-of-the-congo/>, on 03.02.2020.
- Global Integrity. (2011). Global Integrity Report: 2011 executive summary. Washington, DC: Global Integrity. Available online at: <https://www.right2info.org/resources/publications/publications/global-integrity-report-2011>
- Global Financial Integrity. (2015). Illicit Financial Flows from Developing Countries: 2004-2013. Retrieved from <https://www.zimbabweanprogressive.com/wp-content/uploads/2017/01/GFI-Illicit-Financial-Flows-from-Developing-Countries-2004-2013-Report.pdf> on 02.24.2020.
- Global Witness. (2017). Regime Cash Machine: How the Democratic Republic of Congo's Booming Mining Exports Are Failing to Benefit Its People. Retrieved from <https://www.globalwitness.org/en/campaigns/democratic-republic-congo/regime-cash-machine/>, on 07.15.2020.
- Gloppen, S. (2014). *Courts, corruption and judicial independence*. in Tina Søreide, Aled Williams: *Corruption, Grabbing and Development: Real World Challenges*. Cheltenham and Northampton (MA): Edward Elgar Publishing.

- Gong, T. (2004). Dependent Judiciary and Unaccountable Judges: Judicial Corruption in Contemporary China. *The China Review*, 4(2), 33-54.
- Groenendijk, N. (1997). A principal-agent model of corruption. *Crime, Law & Social Change*, Volume 27, 207–229.
- Hoch, K. (2009). Judicial transparency: communication, democracy and the United States federal judiciary. California, San Diego: UC San Diego Electronic Theses and Dissertations. Available online at: [https://escholarship.org/content/qt44g491tk/qt44g491tk\\_noSplash\\_083ce72f521a9ce8b44d2d5872a2789d.pdf](https://escholarship.org/content/qt44g491tk/qt44g491tk_noSplash_083ce72f521a9ce8b44d2d5872a2789d.pdf)
- Ibrahim, M. (2017). Index of African Governance (IIAG). Available online at: <http://iiag.online/>
- Info, D. C. 22 mai 2018. – DÉCRET n° 18/017 portant fixation du salaire minimum interprofessionnel garanti, des allocations familiales minima et de la contre-valeur du logement (J.O.RDC., 1er juin 2018, n° 11, col. 47). Retrieved from <https://www.droitcongolais.info/files/salaire-minimum.pdf>, (on 10.15.2020).
- Institute, N. R. (2015). Dem. Rep. of Congo EITI Report 2015. Retrieved from Natural Resource Governance Institute: <https://www.resourcedata.org/dataset/dem-rep-of-congo-eitireport-2015-fr/resource/53ebf998-0667-4610-83c7-a96594a5dcc9>, on 03.14.2020.
- Jacobs, C. (2018). Seeking justice, experiencing the state: criminal justice and real legal uncertainty in the Democratic Republic of Congo. *The Journal of Legal Pluralism and Unofficial Law*, 50(3), 280-293.
- Jain, A. K. (2001). corruption: a review. *Journal of economic surveys*, Volume 15, No. 1, 71-121.
- Jamaliah Said, M. M. (2018). Assessment of Accountability Practices in the Public Sector of Malaysia. *Asia-Pacific Management Accounting Journal*, 13 (1), 167-184.

- João Carlos Hipólito Bernardes do Nascimento, M. A. (2020, 10 24). Government corruption and Internet access diffusion: global evidence. Retrieved from [https://www.scielo.br/scielo.php?pid=S0034-76122019000601011&script=sci\\_arttext&tlng=en](https://www.scielo.br/scielo.php?pid=S0034-76122019000601011&script=sci_arttext&tlng=en)
- Joel S. Hellman, G. J. (2000). Measuring Governance, Corruption, and State Capture: How Firms and Bureaucrats Shape the Business Environment in Transition Economies. Policy Research Working Paper 2312. EBRD and the World Bank, 1-54.
- Johnson, C. (2018). enhancing judicial transparency and promoting public trust. International Scientific Conference “The development of the Court Administration: directions and model”. Retrieved from <https://www.idlo.int/fr/news/speeches-and-advocacy/enhancing-judicial-transparency-and-promoting-public-trust>
- Journal officiel de la RDC. (2006). CONSTITUTION DE LA REPUBLIQUE DEMOCRATIQUE DU CONGO Modifiée par la Loi n° 11/002 du 20 janvier 2011 portant révision de certains articles de la Constitution de la République Démocratique du Congo du 18 février 2006. Available online at: <https://www.leganet.cd/Legislation/JO/2011/JOS.05.02.2011.pdf>
- Journal Officiel. (2004). Code Pénal Congolais. Retrieved from Leganet: <http://www.leganet.cd/Legislation/JO/2004/JO.30.11.2004.pdf>, on 11.30.2004.
- Julien Vilquin, E. B. (2014). Improving court efficiency: the Republic of Korea’s e-court experience. Retrieved from <https://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB14-Chapters/DB14-Improving-court-efficiency.pdf>, on 03.15.2020.
- Juriafrique. (2018). RDC : arrêté interministériel fixant les taux des taxes du ministère de la justice. Retrieved from Juriafrique: <https://juriafrique.com/blog/2018/02/04/rd-congo-arrete-interministeriel-portant-fixation-des-taux-des-droits-taxes-et->

[redevances-a-percevoir-a-linitiative-du-ministere-de-la-justice/](#),

(on 10.24.2020.

Kaufmann, T. v. (1999). Towards transparency in finance and governance

1. The word Bank working paper.

Keith Henderson, V. A.-D. (2003). Judicial Transparency Checklist Key

Tranparency Issues and Indicators to Promote Judicial Independence and Accountability Reforms. Available online at:

<https://biblioteca.cejamericas.org/bitstream/handle/2015/5204/jud-transparency-checklist.pdf?sequence=1&isAllowed=y>

Kifwabala Tekilazaya, D. F. (2013). République démocratique du Congo

Le secteur de la justice et l'Etat de droit. *Open Society Foundations*,

ISBN 978-1-920677-17-6. Available online at:

<https://issat.dcaf.ch/download/48033/758731/RDC%20Justice%20et%20Etat%20de%20droit.pdf>

Klijn, S. G. (2015). The effects of judicial transparency on public trust:

evidence from a field experiment. *Public Administration*, 93(4), 1-33.

Klitgaard, R. (1998). International Cooperation Against corruption.

Retrieved from Finance & Development:

<http://www.imf.org/external/pubs/ft/fandd/1998/03/pdf/klitgaar.pdf>, on 03.14.2020.

Kolstad, A. W. (2009). Is Transparency the Key to Reducing Corruption in

Resource-Rich Countries? *World Development*, 37(3), 521-532.

Leganet.cd (2020). DÉCRET du 6 août 1959 portant le Code de procédure

pénale. Retrieved from

<http://www.leganet.cd/Legislation/Droit%20Judiciaire/D.06.08.1959.ccp.htm#CVIII>, on 05.17.2020.

Leganet.cd. (2020). ORDONNANCE-LOI 79-028 du 28 septembre 1979

portant organisation du barreau, du corps des défenseurs judiciaires et du corps des mandataires de l'État. Retrieved from

<https://www.leganet.cd/Legislation/Droit%20Judiciaire/OL79..28.28.09.79.htm#TICII>, on 10,14,2020.

- Leganet.cd. (2020) 7 mars 1960. - DÉCRET - Code de procédure civile.  
Retrieved from [http://www.leganet.cd/Legislation/Droit%20Judiciaire/Decret.7.03.1960.htm#TITRE\\_IV](http://www.leganet.cd/Legislation/Droit%20Judiciaire/Decret.7.03.1960.htm#TITRE_IV), on 05.17.2020.
- Leganet.cd. (2020). Loi organique n° 13/011-B du 11 avril 2013 portant organisation, fonctionnement et compétences des juridictions de l'ordre judiciaire. Retrieved from <https://leganet.cd/Legislation/Droit%20Judiciaire/LOI.13.011.11.04.2013.htm#TI>, on 05.17.2020.
- Leila Zerrougui. (2020, 03 12). Strengthening the Rule of Law and Protection of Civilians in the Democratic Republic of the Congo. Retrieved from United Nations: <https://www.un.org/en/chronicle/article/strengthening-rule-law-and-protection-civilians-democratic-republic-congo>, on 03.3.2020.
- Lopez, B. S. (2017). Does Transparency Promote Less Corruption? Evidence From Around The World. Retrieved from <https://www.westga.edu/~bquest/2017/transparency2017.pdf>, on 05.17.2020.
- Matti, S. A. (2010). The Democratic Republic of the Congo? Corruption, Patronage, and Competitive Authoritarianism in the DRC. *Indiana University Press*, 56(4), 42-61.
- Mauro, P. (1995). Corruption and growth. *Quarterly Journal of Economics*, Volume 110, 681–711.
- Michel, J. (2009). reducing corruption in judiciary. Retrieved from USAID: [https://pdf.usaid.gov/pdf\\_docs/Pnadq106.pdf](https://pdf.usaid.gov/pdf_docs/Pnadq106.pdf), on 03.11.2020.
- Morris, S. (2005). Where is technology taking the courts and tribunals? *Journal of Judicial Administration*, Volume 15, 17-27.
- Mungongo, P. E. (2016). Misguided and Misdiagnosed: The Failure of Decentralization Reforms in the DR Congo. *African Studies Review*, 59(1), 5-32.
- Natalia Melgar, M. R. (2010). The perception of corruption. *International Journal of Public Opinion Research*, Volume 22, 120-131.

- Naurin, C. L. (2010). Transparency Is Not Enough: Making Transparency Effective in Reducing Corruption. *International Political Science Review*, 31(3), 301-322.
- Nurhan Kocaoglu, A. F. (2006). Using the Right to Information as an Anti-Corruption Tool. Retrieved from Transparency International: [http://oas.org/dil/access\\_to\\_information\\_human\\_Policy\\_Recommendations\\_Transparency\\_International\\_Right\\_to\\_Information\\_as\\_an\\_Anti-Corruption\\_Tool.pdf](http://oas.org/dil/access_to_information_human_Policy_Recommendations_Transparency_International_Right_to_Information_as_an_Anti-Corruption_Tool.pdf), on 03.12.2020.
- OECD. (2020, 05 17). Best Practices for Budget Transparency. Retrieved from <https://www.oecd.org/governance/budgeting/Best%20Practices%20Budget%20Transparency%20-%20complete%20with%20cover%20page.pdf>, on 09.08.2020.
- Pahis, S. (2009). Corruption in Our Courts: What It Looks Like and Where It Is Hidden. *The yale law journal*, 1900-1943. Available online at : <https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=5179&context=yli>
- PeacebuildingData. (2020). Peacebuilding and Reconstruction Polls in Eastern DRC. Retrieved from [http://www.peacebuildingdata.org/interactivemaps/drc-polls#/?series=Latest&indicator=13\\_4\\_3](http://www.peacebuildingdata.org/interactivemaps/drc-polls#/?series=Latest&indicator=13_4_3), on 10.03.2020.
- Pepys, M. N. (2007). Corruption within the judiciary: causes and remedies. *Cambridge University Press*. Available online at: [https://assets.cambridge.org/97805217/00702/excerpt/978052170702\\_excerpt.pdf](https://assets.cambridge.org/97805217/00702/excerpt/978052170702_excerpt.pdf)
- Reuters. (2015). Congo loses up to \$15 billion per year to fraud: official. Retrieved from Reuters: <https://www.reuters.com/article/us-congodemocratic-corruption-idUSKBN0TS1S620151209>, on 10.26.2020.
- Reuters. U.S. (2019). sanctions Congo election officials, says they obstructed vote. Retrieved from <https://www.reuters.com/article/us-congo-election-usa->

- [sanctions/u-s-sanctions-congo-election-officials-says-they-obstructed-vote-idUSKCN1R222M](#), (on 03.11.2020).
- RFI. (2019). RDC: les cours de justice débordées par les contentieux liés aux législatives. Retrieved from <http://www.rfi.fr/fr/afrique/20190218-rdc-contentieux-legislatives-cour-constitution-election>, on 03.11.2020.
- Rodrigo Sandoval-Almazan, J. R.-G. (2018). Understanding e-Justice and Open Justice Through the Assessment of Judicial Websites: Toward a Conceptual Framework. *Social Science Computer Review*, 38(3), 334-353.
- Samajdar & Kilkon K. (2010). Evaluation of International Corruption Indexes: Should We Believe Them or Not? *The Social Science Journal*, 47(3), 508-540.
- Sasha L. & Sarah G. (2019). Leveraging Reform: Fighting Corruption in Post-Election DR Congo. Retrieved from [https://enoughproject.org/wp-content/uploads/LeveragingReform\\_Enough\\_May2019.pdf](https://enoughproject.org/wp-content/uploads/LeveragingReform_Enough_May2019.pdf), on 03.12.2020.
- Schultz, J. (2009). The UNCAC and judicial corruption: Requirements and avenues for reform. Retrieved from Anti-Corruption Resource Centre: <https://www.u4.no/publications/the-uncac-and-judicial-corruption-requirements-and-avenues-for-reform.pdf>, on 07.23.2020.
- Service, I. P. (2017). “Everything that moves will be taxed”: the political economy of roadblocks in North and South Kivu. Retrieved from reliefweb: <https://reliefweb.int/report/democratic-republic-congo/everything-moves-will-be-taxed-political-economy-roadblocks-north>, on 03.12.2020.
- Shah, J. H. (2000). Anti-Corruption Policies and Programs: A Framework for Evaluation. Retrieved from [https://openknowledge.worldbank.org/bitstream/handle/10986/19753/multi\\_page.pdf?sequence=1&isAllowed=y](https://openknowledge.worldbank.org/bitstream/handle/10986/19753/multi_page.pdf?sequence=1&isAllowed=y), on 05.17.2020.

- Shepherd, B. (2019). Congo's new president. Retrieved from The World Today (Chatham House): <https://www.chathamhouse.org/publications/twt/congo-s-new-president>, on 03.23.2020.
- Thomas Barnebeck Andersen, J. B.-J. (2011). Does the Internet Reduce Corruption? Evidence from U.S. States and across Countries. *The World Bank Economic Review*, Volume 25, 387-417.
- Transparency International. (2007). Global corruption report 2007: corruption in judicial systems. *Transparency International*. Available online at: [https://images.transparencycdn.org/images/2007\\_GCR\\_EN.pdf](https://images.transparencycdn.org/images/2007_GCR_EN.pdf)
- Transparency International. (2018). judiciary. Retrieved from Transparency International: <https://www.transparency.org/topic/detail/judiciaryhttps://www.transparency.org/topic/detail/judiciary>, on 03.23.2020.
- Transparency International. (2019). Why do DRC citizens report such high levels of corruption?. Retrieved from <https://voices.transparency.org/why-do-drc-citizens-report-such-high-levels-of-corruption-554fae0d2213>, on 07.11.2020.
- Transparency International. (2019). Country data. Retrieved from <https://www.transparency.org/en/countries/democratic-republic-of-the-congo>, on 10.26.2020.
- Trapnell S. (2015). User's guide to measuring corruption and anti-corruption. Global Integrity and UNDP. Retrieved from [https://www.researchgate.net/publication/341025154\\_User's\\_Guide\\_to\\_Measuring\\_Corruption\\_and\\_Anticorruption](https://www.researchgate.net/publication/341025154_User's_Guide_to_Measuring_Corruption_and_Anticorruption), on 07.20.2020.
- UCLA, S. C. (2020). What does Chronbach's Alpha mean? Retrieved from <https://stats.idre.ucla.edu/spss/faq/what-does-cronbachs-alpha-mean/>, on 10.17.2020.
- UNESCO. (2020). The Congo Literacy Project (The Democratic Republic of Congo). Retrieved from UNESCO Institute for Lifelong Learning: <https://uil.unesco.org/case-study/effective-practices->

- [database-litbase-0/congo-literacy-project-democratic-republic-congo](#), on 10.13.2020.
- Velicogna, M. (2007). Justice Systems and ICT What can be learned from Europe? *Utrecht Law Review*, 3(1), 129-147.
- Verweijen, J. (2018). Soldiers Without an Army? Patronage Networks and Cohesion in the Armed Forces of the DR Congo. *Armed Forces & Society*, 44(4), 626-646.
- Vinck, P. P. (2016). Peacebuilding and Reconstruction Poll: Eastern Democratic Republic of the Congo. Retrieved from Reliefweb: <https://reliefweb.int/report/democratic-republic-congo/peacebuilding-and-reconstruction-polls-eastern-democratic-republic>, on 03.01.2020.
- Vlassenroot, K. (2006). *Households land use strategies in a protracted crisis context: land tenure, conflict and food security in eastern DRC*. FAO. Available online at: [https://www.researchgate.net/publication/260158621\\_Households\\_Land\\_Use\\_Strategies\\_in\\_a\\_Protracted\\_Crisis\\_Context\\_Land\\_Tenure\\_Conflict\\_and\\_Food\\_Security\\_in\\_Eastern\\_DRC](https://www.researchgate.net/publication/260158621_Households_Land_Use_Strategies_in_a_Protracted_Crisis_Context_Land_Tenure_Conflict_and_Food_Security_in_Eastern_DRC)
- Voermans, W. (2007). Judicial transparency furthering public accountability for new judiciaries. *Utrecht Law Review*, 3(1), 148-159.
- WageIndicator. (2020). Minimum Wage - Congo. Retrieved from <https://wageindicator.org/salary/minimum-wage/congo>, on 10.15.2020.
- Wallace, C. J. (1998). Resolving judicial corruption while preserving judicial independence: Comparative perspectives. *California Western International Law Journal*, 28(2), 341-352.
- Washington, G. (1789). From George Washington to Edmund Randolph, 28 September 1789. Retrieved from Founders Online: <https://founders.archives.gov/documents/Washington/05-04-02-0073>, on 11.18.2020.

- Williams, A. (2014). A global index of information transparency and accountability. *Journal of Comparative Economics*, 43(3), 804-824.
- World Bank. (2020). The World Bank in DRC. Retrieved from <https://www.worldbank.org/en/country/drc/overview>, on 04.20.2020.
- World Bank. (2017). Worldwide Governance Indicators. Retrieved from <http://info.worldbank.org/governance/wgi/#reports>, on 07.15.2020.
- World Bank. (1997, 09). Helping Countries Combat Corruption: The Role of the World Bank. Retrieved from Poverty Reduction and Economic Management-World Bank,; <http://www1.worldbank.org/publicsector/anticorrupt/corruptn/corruptn.pdf>, on 07.15.2020.
- Zulkefli Muhamad Hanapiyah, S. D. (2018). Leadership and Corruption: Employee Compensation as Mediator and Employee Age as Moderator. *Global Business and Management Research: An International Journal*, 10(3), 848-858.

# Appendix

## Survey Questionnaire

The survey instrument is presented as follows:

Dear Respondent,

Thank you for your willingness to participate in this survey. I'm Rodrick Elekeleme Molonga, a Master's Degree Student at Seoul National University, Graduate School of Public Administration, South Korea. The present survey is conducted in the framework of the research I'm doing for my thesis entitled, "Corruption in Court Proceedings: The Need of Judicial Transparency in the Democratic Republic of Congo". This is for the partial fulfillment of the academic requirement in aim to earn a Master's Degree in Public Administration.

This survey is anonymous and collected information will remain confidential and will be exclusively used for the purpose of the current study.

You are kindly asked to choose one jurisdiction attended and read keenly each question or statement, and respond at the best of your ability by selecting appropriate assertions which express your responses to the survey questionnaire. Your answers are specifically related to the jurisdiction selected. There are no accurate or inaccurate responses. This will take 15 minutes of your time.

For your best understanding, corruption at court proceedings is related to the abuse of entrusted public power by court personnel, including judges, prosecutors, law clerks and bailiffs, for private gain. This includes soliciting, accepting or receiving non-due offers, promises, or presents to perform or provide judicial services. Judicial transparency refers to the openness of judicial proceedings in terms of publication and access to relevant and reliable information related to judicial proceedings, granted to court users, and the existence of laws and regulations constraining court personnel to

do so. Transparency in judicial proceedings encompasses publication and access to jurisdictional information notably court agenda, proceedings timeline, proceedings fees, case laws, sentences, rulings, etc.

Responses to this survey are voluntary.

Thank you for your cooperation.

### **I. Jurisdiction**

1. Please select one specific jurisdiction in which your case has been ruled and for which your answers will be collected for the purpose of this survey: (1) Constitutional court (2) Cassation Court (3) Court of Appeals of Kinshasa/Matete (4) Court of Appeals of Kinshasa/Gombe (5) Trade Tribunal of Kinshasa/Gombe (6) Tribunal de Grande Instance (District Court) of Kinshasa/Gombe (7) Tribunal de Grande Instance (District Court) of Kinshasa/Matete (8) Peace Tribunal of Kinshasa/N'djili (9) Peace Tribunal of Kinshasa/Kalamu

### **II. Quality**

2. I took part in the judicial proceeding as a (1) Litigant (2) Lawyer

### **III. Outcome of the proceedings**

3. What was the outcome of your judicial proceeding? (1) Successful (2) Unsuccessful (3) Ongoing

### **IV. Judicial transparency**

Please indicate your agreement or disagreement with the following statements with Strongly Disagree (1), Disagree (2), Uncertain (3), Agree (4), Strongly Agree (5)

#### **A. Information Accessibility**

4. The Court has an information board.
5. The Court has a website.
6. I have access to whatever information related to my case without any problem.
7. The court's agenda is always made accessible to court users.

8. Judicial proceeding fees are made public.
9. There are regulations which oblige court personnel to make public judicial proceeding related information equitably.

**B. *Information Relevance***

10. Court personnel provide me with complete information related to my case.
11. Court personnel provide me with updated information.
12. Information provided by court personnel fills my needs for the continuation of my case.
13. Information provided by court personnel includes all the details determinant for the outcome of my case.
14. Information provided by court personnel allows a better orientation of my case.

**C. *Information Reliability***

15. Judicial proceedings information is delivered in clear and simple terms.
16. Court personnel provide judicial proceedings information in a better timeframe.
17. Information provided by court personnel is accurate.
18. Information provided by court personnel remains the same regardless the person who provides it.
19. There is a specific office that provides information related to judicial proceedings.

**V. *Judicial Corruption***

**A. *Perception of corruption***

Please select the most appropriate answer: Very Low (1), Low (2), Uncertain (3) high (4), Very High (5)

20. How do you see corruption in judicial proceedings?

Please select the most appropriate answer: Never (1), Sometimes (2), Uncertain (3), Very Often (4), Always (5)

21. How many times do you perceive court personnel to demand any incentives to perform procedural acts?
22. How many times do you perceive court personnel to accept offers or presents for having performed any procedural act?
23. Do court personnel delay proceedings to perceive bribes as a motivation?
24. Court personnel charge fees which are prescribed by the law.

***B. Experience of corruption***

Please select the most appropriate answer: Never (1), Sometimes (2), Uncertain (3), Very Often (4), Always (5)

25. Court personnel solicited an incentive to perform a procedural act related to my case.
26. I willingly provided some incentives to motivate court personnel to perform procedures related to my case.
27. I have incentivized court personnel to fast track my case.
28. Court personnel charged me more than the amount of money legally provided to perform judicial proceedings.
29. I have given some presents to court personnel after a successful completion of my case.
30. I had to pay additional fees to court personnel to have access to information related to my case.
31. I have incentivized judges to win the case.

**VI. Open-ended questions**

32. Please briefly describe some of the factors that make the Congolese judicial proceedings prone to corruption.
33. Please briefly describe some of the factors that explain the lack of more transparency in the Congolese judicial process.
34. Please provide some suggestions to increase transparency in the Congolese judicial proceedings in order to control corruption.

**VII. Demographic Information**

35. Gender (1) Male (2) Female

36. Age (1) 18-25 years (2) 26-35 years (3) 36-45 years (4) 46-55 years  
(5) 56-65 years (6) 66 years or above
37. Education level (1) High School (2) Undergraduate (3) Bachelor (4)  
Master (5) PhD
38. Annual income (1) less than 1,000 \$, (2) 1,000 – 5,000 (\$), (3)  
6,000 – 10,000 (\$), (4) 11,000 – 50,000 \$, (5) 51,000\$ or above

**Table 13: Demographic comparisons for transparency**

Variable	Category	N	Mean	STD
Gender	Male	110	2.36	0.99
	Female	74	1.75	0.61
Quality	Lawyer	100	2.63	0.86
	Litigant	84	1.51	0.52
Age	18-25 years	8	1.81	0.62
	26-35 years	93	2.55	0.85
	36-45 years	35	1.88	0.88
	46-55 years	31	1.48	0.57
	56-65 years	15	1.59	0.72
	66 or above	2	1.44	0.44
Education	Bachelor	104	2.45	0.87
	High School	15	1.10	0.07
	Master	28	2.23	0.93
	PhD	11	1.99	0.65
	Undergraduate	26	1.30	0.19
Income	<1,000USD	69	2.16	0.99
	1,000 - 5,000USD	61	2.05	0.86
	6,000 - 10,000USD	31	2.15	0.92
	11,000 – 50,000USD	13	2.18	0.96
	51,000 or above	10	2.08	0.65
Jurisdiction	Cassation Court	13	2.13	0.71
	Constitutional Court	13	2.09	0.77
	CA Kinshasa/Gombe	19	2.47	0.92
	CA Kinshasa/Matete	17	1.86	0.98
	PT Kinshasa/Kalamu	20	1.76	0.88
	PT Kinshasa/N'djili	23	1.66	0.54
	TT Kinshasa/Gombe	17	2.12	1.23
	TGI Kinshasa/Gombe (DC)	33	2.66	0.87
	TGI Kinshasa/Matete (DC)	29	2.05	0.79
Outcome	Ongoing	60	2.24	0.90
	Successful	62	2.19	0.94
	Unsuccessful	62	1.93	0.88

Source: Author

**Table 14: Demographic comparisons for accessibility**

Variable	Category	N	Mean	STD
Gender	Male	110	2.44	0.92
	Female	74	2.04	0.72
Quality	Lawyer	100	2.76	0.77
	Litigant	84	1.71	0.59
Age	18-25 years	8	2.04	0.79
	26-35 years	93	2.65	0.77
	36-45 years	35	2.15	0.86
	46-55 years	31	1.65	0.66
	56-65 years	15	1.78	0.85
	66 or above	2	1.75	0.59
Education	Bachelor	104	2.61	0.78
	High School	15	1.27	0.19
	Master	28	2.37	0.85
	PhD	11	2.33	0.79
	Undergraduate	26	1.42	0.31
Income	<1,000USD	69	2.27	0.94
	1,000 - 5,000USD	61	2.22	0.85
	6,000 - 10,000USD	31	2.34	0.82
	11,000 – 50,000USD	13	2.47	0.84
	51,000 or above	10	2.27	0.76
Jurisdiction	Cassation Court	13	2.46	0.62
	Constitutional Court	13	2.50	0.87
	CA Kinshasa/Gombe	19	2.59	0.82
	CA Kinshasa/Matete	17	1.86	0.68
	PT Kinshasa/Kalamu	20	1.88	0.83
	PT Kinshasa/N'djili	23	1.99	0.70
	TT Kinshasa/Gombe	17	2.33	1.23
	TGI (DC) Kinshasa/Gombe	33	2.68	0.79
	TGI (DC) Kinshasa/Matete	29	2.14	0.83
Outcome	Ongoing	60	2.42	0.90
	Successful	62	2.30	0.86
	Unsuccessful	62	2.11	0.82

Source: Author

**Table 15: Demographic comparisons for relevance**

Variable	Category	N	Mean	STD
Gender	Male	110	2.36	1.17
	Female	74	1.50	0.61
Quality	Lawyer	100	2.56	1.10
	Litigant	84	1.36	0.56
Age	18-25 years	8	1.53	0.59
	26-35 years	93	2.52	1.10
	36-45 years	35	1.68	1.00
	46-55 years	31	1.31	0.46
	56-65 years	15	1.49	0.68
	66 or above	2	1.30	0.42
Education	Bachelor	104	2.36	1.10
	High School	15	1.00	0
	Master	28	2.12	1.11
	PhD	11	1.71	0.65
	Undergraduate	26	1.25	0.32
Income	<1,000USD	69	2.13	1.17
	1,000 - 5,000USD	61	1.90	0.98
	6,000 - 10,000USD	31	1.99	1.14
	11,000 – 50,000USD	13	1.97	1.08
	51,000 or above	10	2.02	0.77
Jurisdiction	Cassation Court	13	1.92	0.94
	Constitutional Court	13	1.72	0.83
	CA Kinshasa/Gombe	19	2.36	1.13
	CA Kinshasa/Matete	17	1.88	1.32
	PT Kinshasa/Kalamu	20	1.67	1.11
	PT Kinshasa/N'djili	23	1.48	0.56
	TT Kinshasa/Gombe	17	1.94	1.29
	TGI (DC) Kinshasa/Gombe	33	2.66	1.10
	TGI (DC) Kinshasa/Matete	29	2.00	0.81
Outcome	Ongoing	60	2.17	1.08
	Successful	62	2.08	1.08
	Unsuccessful	62	1.80	1.03

Source: Author

**Table 16: Demographic comparisons for reliability**

Variable	Category	N	Mean	STD
Gender	Male	110	2.29	1.11
	Female	74	1.65	0.65
Quality	Lawyer	100	2.54	0.98
	Litigant	84	1.43	0.63
Age	18-25 years	8	1.83	0.61
	26-35 years	93	2.47	0.98
	36-45 years	35	1.74	0.98
	46-55 years	31	1.42	0.70
	56-65 years	15	1.47	0.71
	66 or above	2	1.20	0.28
Education	Bachelor	104	2.36	1.03
	High School	15	1.01	0.05
	Master	28	2.19	0.96
	PhD	11	1.85	0.68
	Undergraduate	26	1.21	0.23
Income	<1,000USD	69	2.06	1.09
	1,000 - 5,000USD	61	1.99	0.97
	6,000 - 10,000USD	31	2.08	1.00
	11,000 – 50,000USD	13	2.05	1.08
	51,000 or above	10	1.92	0.62
Jurisdiction	Cassation Court	13	1.92	0.79
	Constitutional Court	13	1.97	0.77
	CA Kinshasa/Gombe	19	2.45	0.98
	CA Kinshasa/Matete	17	1.84	1.12
	PT Kinshasa/Kalamu	20	1.69	0.85
	PT Kinshasa/N'djili	23	1.45	0.50
	TT Kinshasa/Gombe	17	2.04	1.28
	TGI (DC) Kinshasa/Gombe	33	2.62	1.03
	TGI (DC) Kinshasa/Matete	29	1.96	0.98
Outcome	Ongoing	60	2.09	0.89
	Successful	62	2.17	1.10
	Unsuccessful	62	1.83	0.99

Source: Author

**Table 17: Demographic comparisons for perception of corruption**

Variable	Category	N	Mean	STD
Gender	Male	110	4.36	0.70
	Female	74	4.51	0.57
Quality	Lawyer	100	4.22	0.72
	Litigant	84	4.65	0.48
Age	18-25 years	8	4.75	0.40
	26-35 years	93	4.20	0.75
	36-45 years	35	4.59	0.45
	46-55 years	31	4.72	0.40
	56-65 years	15	4.63	0.56
	66 or above	2	4.50	0.71
Education	Bachelor	104	4.28	0.74
	High School	15	4.97	0.07
	Master	28	4.31	0.48
	PhD	11	4.29	0.54
	Undergraduate	26	4.82	0.24
Income	<1,000USD	69	4.44	0.81
	1,000 - 5,000USD	61	4.47	0.51
	6,000 - 10,000USD	31	4.32	0.63
	11,000 – 50,000USD	13	4.40	0.48
	51,000 or above	10	4.32	0.61
Jurisdiction	Cassation Court	13	4.29	0.40
	Constitutional Court	13	4.31	0.58
	CA Kinshasa/Gombe	19	4.22	0.55
	CA Kinshasa/Matete	17	4.56	0.40
	PT Kinshasa/Kalamu	20	4.69	0.47
	PT Kinshasa/N'djili	23	4.77	0.34
	TT Kinshasa/Gombe	17	4.25	1.03
	TGI (DC) Kinshasa/Gombe	33	4.19	0.83
	TGI (DC) Kinshasa/Matete	29	4.48	0.63
Outcome	Ongoing	60	4.27	0.79
	Successful	62	4.35	0.62
	Unsuccessful	62	4.64	0.48

Source: Author

**Table 18: Demographic comparisons for experience of corruption**

Variable	Category	N	Mean	STD
Gender	Male	110	3.54	0.99
	Female	74	3.78	0.74
Quality	Lawyer	100	3.41	0.95
	Litigant	84	3.91	0.76
Age	18-25 years	8	4.07	0.61
	26-35 years	93	3.37	0.95
	36-45 years	35	3.69	0.88
	46-55 years	31	4.13	0.70
	56-65 years	15	3.89	0.60
	66 or above	2	4.07	0.10
Education	Bachelor	104	3.42	0.97
	High School	15	4.53	0.28
	Master	28	3.53	0.79
	PhD	11	3.66	0.57
	Undergraduate	26	4.10	0.57
Income	<1,000USD	69	3.63	1.03
	1,000 - 5,000USD	61	3.71	0.86
	6,000 - 10,000USD	31	3.60	0.78
	11,000 – 50,000USD	13	3.49	0.95
	51,000 or above	10	3.60	0.55
Jurisdiction	Cassation Court	13	3.65	0.65
	Constitutional Court	13	3.63	0.78
	CA Kinshasa/Gombe	19	3.11	0.88
	CA Kinshasa/Matete	17	3.61	0.67
	PT Kinshasa/Kalamu	20	3.97	0.88
	PT Kinshasa/N'djili	23	4.10	0.69
	TT Kinshasa/Gombe	17	3.64	1.10
	TGI (DC) Kinshasa/Gombe	33	3.40	1.03
	TGI (DC) Kinshasa/Matete	29	3.69	0.91
Outcome	Ongoing	60	3.50	0.88
	Successful	62	3.48	0.96
	Unsuccessful	62	3.93	0.79

Source: Author

# 사법 절차 내 부패에 관한 연구

: DR 콩고의 사법 투명성을 중심으로

**Rodrick Molonga Elekeleme**

서울대학교 행정대학원

글로벌행정전공

기존의 연구에서 투명성은 정치적 간섭을 줄이고 법원 근무자의 책임성을 향상시키는데 효과적이기 때문에 사법 절차의 부패를 통제하는 핵심적인 도구로 간주되어왔다. 여러 연구에서는 일반 대중으로부터 자료를 수집하여 실증적으로 분석함으로써 콩고 민주 공화국의 사법 제도가 부패하고 불투명하다는 점을 지적하였다. 법원 이용자의 시각과 경험에 초점을 맞춘 본 연구는 투명성의 수준을 살펴보고 명성의 수준이 사법 절차의 부패에 미치는 영향을 분석하였으며 해결책으로써 투명성 강화 정책을 제시하였다. 본 연구는 사법 농단의 실제적 범위를 파악하기 위하여 부패에 대한 인식과 경험을 전반적으로 살펴보았으며 투명성을 측정하기 위하여 사법 정보에 대한 접근성, 적실성, 신뢰성 개념을 활용하였다.

본 연구에서는 설문조사를 실시하여 184 명의 법원이용자의 자료를 수집하였다. 분석결과 DR 콩고 사법 절차의 투명성이 떨어지며 부패가 심한 것으로 나타났다. 투명성은 부패 인식과 부패 경험과 음의 관계가 있는 것으로 나타났으며 이는 선행연구의 결과를 지지하는 결과이다. 해당 관계에서 법원 이용자 수준의

조절효과를 확인하였으며 소송당사자가 변호사보다 더 강한 관계가 있는 것으로 나타났다.

그리고 부정부패는 대부분 불법적인 소송 수수료 과다 청구, 인센티브 지급 등을 통하여 자행되고 있는 것으로 나타났다. 사법 정보에 대한 접근성 향상은 콩고 민주 공화국의 사법부 비리를 줄이기 위한 투명성 제고 정책의 건전한 기반으로서 역할을 할 수 있다.

본 연구는 콩고 민주 공화국 사법 절차의 부패를 억제하기 위한 일련의 해결책으로서 단기적으로는 각 관할 구역 게시판에 의무적으로 절차 비용을 게시하는 규제 틀을 정립하고 장기적으로는 은행 지불시스템과 e-justice 의 이행을 제시한다.

**주제어:** 사법부 부패, 부패 인식, 부패 경험, 사법 투명성, 접근성

**학번:** 2019-26688

## Acknowledgements

Give honor to whom honor is due (Romans 13:7). First and foremost, I would like to thank God Almighty for his grace and mercy upon my entire life and especially during this long academic journey.

I wholeheartedly thank my advisor Professor Kilkon Ko for his tireless advice and orientations that shaped this study and helped me to successfully complete it.

I extend my thanks to my thesis panel members, Professor Koo Mingyo and Lee Sooyoung, for their insightful and constructive comments and suggestions.

Special acknowledgements to the Asian Development Institute (ADI) for its thesis grant that supported this research.

I express my heartfelt thanks to Mrs. Yongmi Lee 선생님 for her unwavering support, and to the GMPA office as well as all the GSPA faculty members.

I would like to thank everyone who has been involved in helping carry out this research in one way or another:

Professor Ben Katoka, Professor Kim Junki, Patricia Gail Amoto, Minjun Hong, Klaus Kirschner, Jerry Kakala, Corneille Kahumba, Didier Kayombo, Yannick Miteo and Guelor Manzita.

My profound gratitude to my thesis gang, Marcel Angwyn and Alchynbek Meimanov, for our regular discussions that empowered me enough to perfect my work.

I am so grateful to my Korean friends and roommates whose affection and attention helped me feel home, Princess Lee Che Yon 이채현, Choi Suyon Teckla, Shin Jun Ha, Sang Il Lim and Yerin Mopepe.

My deepest gratitude to those who helped me embark on this scientific adventure: Maître Paulin Mbalanda, Maître Deo

Bukayafwa, Maître GeorGIN Mutemuni, Maître Angeline Mangana, Maître Yves Sanduku, His Excellency Germain Kambinga, Abbé Perene Musimu, Abbé Steven Masombo, Bobby Singa, Patrick Kindandi, Angela and Julien Tototo.

I extend my gratitude to Korea International Cooperation Agency (Koica) for this opportunity that has been given to me to learn and become a change agent in my country.

To my family and my friends for your moral and spiritual supports, especially to my grandmother Kuyanse Kingiete Marie-Lucie, and my mother Colette Mupepe, please find here the expression of my gratitude.