



Causes of recurrent succession conflicts in kisangani: investigation conducted at the kisangani high court from 2011 to 2020

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ABSTRACT

The courts and tribunals are called upon to settle the delicate question of succession which sometimes constitutes one of the reasons for conflicts between those who are called upon to inherit the property left by the deceased. However, according to the surveys carried out in the city of Kisangani, we have recorded several causes of inheritance disputes, in particular the non-vulgarization of the family code, the non-respect of the Minutes of the family council, the absence of the will as well than polygamy. Given that the question of successions presents significant stakes, when justice is above all guided by the spirit of gain, one can only expect that this conflict subject to the jurisdiction of the judge will not be resolved. effectively. This article questions the reasons underlying the conflicts of successions in the city of Kisangani.

It is important to assess the level of these conflicts and to propose possible solutions.

Keyword: Kisangani, Conflicts of successions, inheritance, de cujus

INTRODUCTION

I.1.PROBLEM

The following questions guide our reflections:

- What is the level of succession conflicts in the city of Kisangani?
- What should be recommended to put an end to the recurrent succession conflicts in the city of Kisangani?
- What are the factors explaining succession conflicts in the city of Kisangani?

I.2.THE LEGAL BASIS OF SUCCESSION IN CONGOLESE LAW

Succession has been provided for by Congolese legislation. Indeed, it should be noted that the legal basis of the succession is based on Article 795 of the Family Code, which provides: In the case of intestacy, the heirs of the first category appoint a liquidator from among themselves. Failing this, the eldest of the heirs is responsible for the liquidation of the estate. If the liquidators have been designated by the will or if there is a universal legatee, the liquidation of the estate will be attributed to them. When the will designates several universal legatees, the liquidator will be the oldest of them. If the legal and testamentary heirs who are minors or prohibited are present, the succession must be confirmed by the Court of Peace (TRIPAIX), for inheritances not exceeding 1,250,000 Congolese francs (Fc); and by the Court of First Instance (TGI). For other inheritances, by reasoned decision subject to appeal, the competent court may appoint another liquidator from among the heirs.

If the heirs are not known or are too far apart, or if they have all renounced their inheritance, or in the event of a serious dispute over the liquidation, the competent court appoints a judicial liquidator who is a relative or a stranger to the family on its own initiative or at the request of the Public Prosecutor's Office (MP) or one of the heirs.

II.PRESENTATION OF DATA AND INTERPRETATION OF THE RESULTS OF THE CAUSES OF RECURRENT SUCCESSION CONFLICTS IN KISANGANI FROM 2011 TO 2020

II.1.SOCIO-DEMOGRAPHIC CHARACTERISTICS OF THE SURVEYS

II.1.1.Gender

Table 1 : Distribution of respondents by sex

Gender	Frequency	Percentage
Male	30	75
Female	10	25
Total	40	100

Source : Our field survey.

The data in this table show a predominance of male subjects, i.e. 75% compared to 25% of the female sex.

II.1.2.Age

Table 2: Distribution of subjects by age

Age groups (in annexes)	Frequency	Percentage
≤30	6	15
31-40	14	35
41-50	10	25
51-60	6	15
61 and over	4	10
Total	40	100

Source : Our field survey.

Table 2 shows that the majority of subjects, i.e. 60%, are between 31 and 50 years old.

I.1.3. Municipality of residence

Table 3 Distribution of subjects by commune of residence

Municipality of residence	Frequency	Percentage
Kabondo	4	10
Kisangani	1	2,5
Lubunga	1	2,5
Makiso	19	47,5
Mangobo	9	22,5
Tshopo	5	12,5
Lubuya-bera	1	2,5
Total	40	100

Source : Our field survey.

Table 3 shows that most of the surveys, i.e. 47.7%, live in the commune of Makiso.

II.1.4. Profession

Table 4: Distribution of respondents by occupation

No.	Profession	Frequency	Percentage
1	State agents	3	6
2	Teachers	2	4

3	Pupils and students	3	6
4	Merchants	5	12,5
5	All works	10	20
6	Housewife	5	12,5
7	No profession	12	24
	Total	40	100

Source : Our field survey.

The occupations of our respondents are as follows: State employees (6%); Teachers (4%); Pupils and students (6%); Shopkeepers (12.5%); All jobs (20%); Housewives (12.5%). However, we recorded (24%) subjects who do not exercise any profession.

3.1.5. Level of Education

Table 5: Distribution of subjects according to their level of study

No.	Level of Education	Frequency	Percentage
1	Primary	8	20
2	Secondary	20	50
3	Superior	12	30
	Total	40	100

Source : Our field survey.

A glance at Table 5 shows that half of the respondents, i.e. 50%, are at secondary level.

II.2.ISSUE OF INHERITANCE DISPUTES

II.2.1.Polygamous state of the deceased Father

Table 6: Respondents' opinions on their late father's polygamous status

Respondents' responses	Frequency	Percentage
Yes	20	50
Not	20	50
Total	40	100

Source : Our field survey.

A reading of the data in Table 6 shows that 50% of the respondents said that their late father was polygamous; compared to 50% who reacted with negation.

Among the 50% of subjects who reacted in the affirmative, the situation is as follows:

Table 7: Number of the deceased Father's wives

Topic Responses	Frequency	Percentage
2	10	50
3	5	25
4	5	25
Total	20	100

Source : Our field survey.

It appears from this table n^o7 that half of the subjects declared that their late fathers each had two (2) wives.

II.2.2.Procreation of children with each woman

All respondents (100%) said that their late fathers had procreated children with each of the women.

II.2.3.Family Size

Table 8: Respondents' opinions on the size of their respective families

Family Size	Frequency	Percentage
1-5	3	15
6-10	12	60
11-15	3	15
16-20	1	5
21 and over	1	5
Total	20	100

Source : Our field survey.

The data in Table 8 show that the majority of families, i.e. 60%, have a number of children between 6 and 10.

II.2.4.Procreation of children out of wedlock

Table 9: Respondents' opinions on the procreation of children outside the marital roof by their late fathers

Topic Responses	Frequency	Percentage
Yes	8	20
Not	32	80
Total	40	100

Source : Our field survey.

The data recorded in Table 9 note that 20% of the subjects said that their late fathers had children outside the marital roof; compared to 80% who reacted with negation. For the 20% who confirmed that their late fathers had children outside the marital roof, all said that their height ranged from 1 to 3 children.

II.2.5.Appointment of liquidator

Table 10: Respondents' opinions on the appointment of a liquidator after the death of their father

Topic Responses	Frequency	Percentage
Yes	30	75
Not	10	25
Total	40	100

Source : Our field survey.

It appears from Table 10 that the majority of subjects, i.e. 75%, affirmed that a liquidator was appointed after the death of the father.

II.2.6.Liquidator status

Table 11: Respondents' opinions on the status of the liquidator

Respondents' responses	Frequency	Percentage
Brother	16	50
Sister	4	12,5
Father's family member	4	12,5
Myself	4	12,5
Widow	4	12,5
Total	32	100

Source : Our field survey.

It appears from Table 11 that half of the liquidators, i.e. 50% as mentioned by the respondents, were brothers.

II.2.7.Behaviour of the brother liquidator towards the heirs

Table 12: Respondents' opinions on the liquidator's behaviour towards them

Respondents' responses	Frequency	Percentage
Equitable distribution of assets	10	50
Having monopolized all the goods	68	40
To have inherited all the property because he is the only legitimate child	2	10
Total	80	100

Source : Our field survey.

Table 12 shows that half of the respondents (50%); said that there was an equitable distribution of the property; 40% said that the liquidator took over all the property alone, while 10% of the subjects said that they had inherited all the property because they were the only legitimate child.

II.2.8.Behaviour of the liquidator who is a member of the deceased's family towards the heirs

Of the deceased father's family members appointed as liquidators, 3 subjects said that they left all the property to the children; compared to 1 subject who said that there was an equitable distribution of the property between the liquidator and the children.

II.2.9.Existence of wealthy people in the family of the deceased Father

Table 13: Subjects' responses to the existence of wealthy people in the families of deceased fathers

Topic Responses	Frequency	Percentage
Yes	15	37,5
No	25	62,5
Total	40	100

Source : Our field survey.

The data recorded in this table note that the majority of respondents, 62.5%, said that there are no wealthy people in the families of their late fathers.

II.2.10.Existence of children with money in the family

Table 14: Respondents' opinions on the existence of wealthy children in their respective families

Topic Responses	Frequency	Percentage
Yes	9	22,5
No	31	77,5
Total	40	100

Source : Our field survey.

A reading of the data in Table 14 reveals that the majority of respondents, i.e. 77.5%, said that there are no children with money in their respective families.

II.2.11.Division of property

Table 15: Respondents' opinions on the division of property according to custom or family code

Topic Responses	Frequency	Percentage
According to custom	26	65
According to the Family Code	14	35
Total	40	100

Source : Our field survey.

It is clear from this table that the majority of the property, i.e. 65%, was divided according to custom.

II.2.12: Presence in the street of the minor children of the deceased father.

All respondents (100%) agreed that there are no minor children of the deceased who are on the street. Others went further by saying that there are no minor children in their families.

II.2.13: Rape of the underage daughters of the deceased

All respondents (100%) said that no underage daughter of the deceased was raped. Others simply said that there are no underage girls in their families.

II.2.14. Forced Marriage

All subjects (100%) also said that underage girls were not forced into forced marriage. Others also said that there are no underage girls in their respective families.

II.2.15. Remarriage of the widow

All the respondents agreed that the widows did not remarry. All the respondents also said that the widows did not engage in debauchery or drunkenness.

II.2.16. Right to inheritance of children born out of wedlock.

Table 16: Respondents' opinions on the right to inheritance of children born out of wedlock

Topic Responses	Frequency	Percentage
Yes	10	25
No	30	75
Total	40	100

Source : Our field survey.

The majority of subjects, 25%, said that children born out of wedlock were not entitled to inheritance, especially since 75% of subjects previously stated that their late fathers had not had children outside the marital roof.

II.2.17. Equitable distribution of property among children born in wedlock

Table 17: Respondents' opinions on the equitable distribution of property among children born in wedlock.

Topic Responses	Frequency	Percentage
Yes	16	40
No	24	60
Total	40	100

Source : Our field survey.

The data in this table show that the majority of subjects (60%) said that there is no equitable distribution of property among children born in wedlock.

II.2.17.Adoption of Children

Table 18: Respondents' opinions on the adoption of children by their late fathers

Topic Responses	Frequency	Percentage
Yes	20	50
No	20	50
Total	40	100

It emerges from this table that half of the subjects said that their late fathers had adopted children against the other half who reacted with denial.

II.2.18.Sharing of the same custom by both spouses

Table 19: Respondents' opinions on the sharing of the same custom by both spouses

Topic Responses	Frequency	Percentage
Yes	16	40
No	24	60
Total	40	100

Source : Our field survey.

It follows from the above table that the majority of the subjects, 60%, said that the two spouses did not share the same custom.

II.2.19.Belonging to the same religion

Table 20: Subjects' responses on whether both spouses belong to the same religion

Topic Responses	Frequency	Percentage
Yes	18	45
No	22	55
Total	40	100

Source : Our field survey.

The analysis of the data in Table 20 points out that more than half of the subjects, i.e. 55%, said that the two spouses did not belong to the same religion.

II.2.21. Registration with the Civil Registry Bar

Table 21: Subjects' opinions on the registration of spouses in the civil registry

Topic Responses	Frequency	Percentage
Yes	19	47,5
Not	21	52,5
Total	40	100

Source : Our field survey.

It follows from this table that more than half of the subjects, i.e. 52.5%, declared that there is no registration of spouses in the civil registry.

II.2.21. Respondents' wishes to put an end to inheritance conflicts

Table 22: Respondents' wishes for the resolution of inheritance disputes

Respondents' responses	Frequency	Percentage
Popularization of the Family Code	20	40
Compliance with the minutes of the family council	15	30
Preparing the Will	10	20
Avoidance of polygamy	5	10
Total	50	100

Source : Our field survey.

Regarding the wishes expressed by the respondents for the end of inheritance disputes, we have: the popularization of the family code (40%); the respect of the minutes of the family council (30%); the preparation of the will (20%) and the avoidance of polygamy (10%).

CONCLUSION

This article has endeavoured; on the one hand, to analyze the explanatory factors of succession conflicts in the city of Kisangani; and on the other hand, the level of succession conflicts in order to identify some possible solutions.

In conclusion, it turned out that the causes of recurrent inheritance conflicts would be said in particular by polygamy, having monopolized all the property by the liquidator, having inherited all the property because it was the only legitimate child, the fact of not dividing the property equitably between the children born in wedlock, etc.

In addition, it has been found that the judge, according to his mission, is always impartial in settling this type of conflict in order to promote family cohesion between the heirs.

Finally, it is necessary to make some recommendations or possible solutions to put an end to recurrent succession conflicts:

- That the Congolese state can make effective the administrative office of succession, the strengthening of the work of the administrative offices in the city of Kisangani, instituted by the legislator in charge of helping the liquidators in their functions;
- Let the law be applied in its rigor;
- That he has the harmonization between law and custom in the context of inheritance disputes.

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