

# Implementing provisions of the African Women's Protocol through the Law on Public Financing of Political Parties in the Democratic Republic of the Congo: a case against femocracy

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**ABSTRACT:** The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa obliges states to promote, protect and fulfil women's equal participation in politics. The Democratic Republic of Congo (DRC) ratified the Protocol in 2008, aligning with its 2006 Constitution's commitment to women's rights. However, Law 8/005 on Public Financing of Political Parties undermines this commitment, at least in two key ways. First, articles 5 and 9 of the Law allocate annual subsidies for political parties at 0.5 to 1 per cent of the national budget and set electoral campaign funding at 2 per cent of the budget, tied to the national budget law after each election. The lack of implementation of these provisions disproportionately disadvantages women, who often lack the financial resources to sustain party operations or campaigns. Second, its article 7 limits public funding to parties with representation in key government institutions. This marginalises women seeking to lead or establish political parties because their parties will not have had representation in such institutions. Using the Union for Democracy and Social Progress (UDPS) and the Union for the Congolese Nation (UNC) as case studies, this study demonstrates how the failures to revise and implement Law 8/005 violate the Protocol. It argues that this perpetuates femocracy in the two leading political parties. As defined by Amina Mama femocracy is a political system in which elite women, with the backing of powerful men, occupy positions of power and influence but primarily advance their personal or male interests rather than addressing systemic issues affecting ordinary women. This study used key informants to examine the dynamics within the UDPS and UNC. These interviews revealed key challenges faced by women in political leadership.

## TITRE ET RÉSUMÉ EN FRANÇAIS

### **L'application du Protocole de Maputo à travers la loi portant financement public des partis politiques en RDC : analyse contre la «féminocratie»**

**RÉSUMÉ:** Le Protocole à la Charte africaine des droits de l'homme et des peuples relatif aux droits de la femme en Afrique oblige les États parties à garantir une participation égale des femmes à la vie politique, à travers des mesures effectives de promotion et de protection de leurs droits. Ratifié par la République démocratique du Congo (RDC) en 2008, ce Protocole s'inscrit dans la continuité de l'engagement constitutionnel de 2006 en faveur des droits des femmes. Toutefois, la loi n° 8/005 portant financement public des partis politiques compromet ces objectifs sur deux plans majeurs. Premièrement, les articles 5 et 9 de cette loi prévoient des subventions annuelles aux partis politiques à hauteur de 0,5 % à 1 % du budget national, ainsi qu'un financement

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des campagnes électorales équivalent à 2 % du budget national. Cependant, l'absence de mise en œuvre effective de ces dispositions pénalise disproportionnellement les femmes, qui, en raison d'inégalités économiques structurelles, peinent à mobiliser les ressources nécessaires pour soutenir les activités et campagnes des partis. Deuxièmement, l'article 7 limite l'accès au financement public aux partis représentés dans les principales institutions étatiques. Cette disposition marginalise les femmes qui aspirent à créer ou à diriger de nouveaux partis, souvent exclus de ces instances de pouvoir. À travers les exemples de l'Union pour la Démocratie et le Progrès Social (UDPS) et de l'Union pour la Nation Congolaise (UNC), cette étude démontre que les lacunes dans la révision et la mise en œuvre de la loi n° 8/005 constituent une violation manifeste des engagements de la RDC au titre du Protocole. L'analyse s'appuie sur la notion de «féminocratie», définie par Amina Mama comme un système où des femmes élites, soutenues par des hommes influents, occupent des positions de pouvoir tout en perpétuant des intérêts masculins ou personnels, sans traiter les problèmes structurels affectant les femmes ordinaires. En s'appuyant sur des entretiens avec des informateurs clés, cette étude met en lumière les défis structurels auxquels sont confrontées les femmes dans les sphères politiques en RDC et appelle à une révision substantielle de la loi pour garantir une mise en œuvre cohérente et respectueuse du Protocole de Maputo.

**KEY WORDS:** the Law on Public Financing of Political Parties; femocracy; African Women's Protocol; Democratic Republic of Congo

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## 1 INTRODUCTION

Discrimination against women in political affairs in the Democratic Republic of Congo (DRC) is not novel. The colonial establishment considered it unwise to have Africans in political positions, fearing that they would turn into agitators demanding the end of colonialism.<sup>1</sup> In Belgium-Congo, all political decisions did not involve its 'Congolese' subjects, let alone women.<sup>2</sup> At the time of independence from the Belgians in 1960, women's participation in political decision making was still non-existent.<sup>3</sup> This state of affairs continued with Mobutu Sese Seko's dictatorship, from 1965 to 1997, under which women were still excluded from political participation in decision making because

1 M Ndulo 'Legal education in an era of globalisation and challenge of development' (2014) *Cornell Law School Publications* Paper 957.

2 United Nations Economic and Social Council 'Economic and Social Affairs Conference' 22 December 2023 99, <http://www.esaconf.un.org> (accessed 22 December 2023).

3 A Matundu Mbambi & M-C Faray-Kele 'Gender equality and social institutions in the DRC' (2010) *Peace Women* 3.

political power was concentrated in one man.<sup>4</sup> The country went into civil wars from 1993 to 2003, and a transitional government was established from 2003 to 2006. During this period, political power went from being concentrated in the hands of another male dictator (Laurent Desiré Kabila) to being shared among the heads of rebel groups, all of whom were male and had no consideration for women's participation in political decision making.<sup>5</sup>

It is against this historical backdrop that the Congolese people, in adopting the 2006 Constitution (as revised in 2011), did not hesitate to provide for gender equality.<sup>6</sup> The aim was to allow Congolese women to participate, among other things, in political life, in the same way as men do. Article 5 of the 2006 Constitution states that without prejudice to other provisions of the Constitution, all Congolese citizens of both sexes, who are at least 18 years of age and enjoy their civil and political rights, are voters and eligible for public office.<sup>7</sup> Additionally, article 13 complements it by stating that a law or any act of the executive should not discriminate on any ground, including sex, against a Congolese person in matters of accessing public functions.<sup>8</sup> Furthermore, article 14 guarantees women equitable representation in national, provincial and local institutions, and requires the state to ensure that there is no discrimination in these institutions.<sup>9</sup> Indeed, articles 5, 13 and 14 place women on equal footing with men. This means that Congolese women are entitled, just as Congolese men are, to run for any 'political decision-making positions' in the government. These articles form the foundation of gender equality in the Congolese legal system. They have contributed to transforming the country from a colonial, dictatorial and civil war-torn culture, which was fundamentally patriarchal and did not allow women to have a say in political decision making. While Articles 5, 13, and 14 of the 2006 Constitution establish the foundation for gender equality in the DRC, this ideal is far from being achieved. Articles 13 and 14 of the Constitution mandate 50/50 political representation between men and women in all government institutions.<sup>10</sup> However, the 2023 UN Women Africa report shows that Congolese women's political representation has only slightly increased, from 8.4% in 2006 to 10% in 2018 at the national level, 6.8% to 10.2% at the provincial level, and 4.6% to 19% at the senatorial level – falling short of the 50/50 goal.<sup>11</sup> Additionally, while article 13 of the 2022 Electoral Law incentivises female representation by exempting party lists with 50 per cent women from deposit fees, this has instead made

4 F Janyszeck 'The politics of legitimization under Mobutu' (21 January 2019), <http://www.innovativeresearchmethods.org/the-politics-of-legitimation-under-mobutu/> (accessed 13 January 2024).

5 F Reyntjens 'Briefing: Democratic Republic of the Congo political transition and beyond' (2007) 106 *African Affairs* 310.

6 Matundu Mbambi & Faray-Kele (n 3) 3.

7 Art 5 Constitution of the Democratic Republic of Congo 2006 (as revised in 2011).

8 Art 13 Constitution of the Democratic Republic of Congo 2006 (n 7).

9 Art 14 Constitution of the Democratic Republic of Congo 2006 (n 7).

10 Art 13, 14 Constitution of the Democratic Republic of Congo 2006 (n 7).

11 UN Women Africa *DRC: The electoral reform and women's political participation* (2023) 2.

women more vulnerable due to economic disparity. Male-dominated parties add women for financial gain, not empowerment.

To promote substantive equality in political participation, the 2006 Constitution mandates that political parties may receive public funds from the state to finance their electoral campaigns or activities.<sup>12</sup> This led to the enactment of Law 8/005 of 10 June 2008, on public financing of political parties. Article 5 of this law states that the subsidy allocated each year to finance the functioning of political parties cannot be less than 0,5 per cent or more than 1 per cent of the DRC's national budget.<sup>13</sup> Additionally, article 9 specifies that the state's contribution to the financing of electoral campaigns should be included in the national budget law of the year following the organisation of each electoral consultation, which is set at 2 per cent.<sup>14</sup> Sadly, women, particularly those starting new political parties, would not benefit from Law 8/005 as much as men. Article 7 of the law requires that a party must be represented in at least one of several governing bodies to receive public financing,<sup>15</sup> which inherently discriminates against women, as few women and women-led parties are represented in these positions due to their historical exclusion from political affairs in the DRC. Despite its enactment, Law 8/005 has never been revised and implemented or reflected in national budgets. This article will shortly come back to this.

The article examines whether the DRC government's failure to revise and implement Law 8/005 on Public Financing of Political Parties violates articles 9(1) and (2) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (African Women's Protocol). Article 9(1) of the Women's Protocol states that states must ensure equal women's participation in politics and governance.<sup>16</sup> Article 9(2) goes on to state that the states shall ensure increased and effective representation of women in decision-making roles.<sup>17</sup> This article argues that one consequence of this violation is the promotion of 'femocracy' rather than 'democracy' when one considers the place of Congolese women in political parties and electoral processes.

In part 2, the article examines Congolese women's experiences in two leading political parties, namely, the Union for Democracy and Social Progress (UDPS) and the Union for the Congolese Nation (UNC). It also analyses the extent to which Law 8/005 aligns with articles 9(1) and 9(2) of the African Women's Protocol. Part 3 explores how the non-revision and non-implementation of Law 8/005 violate articles 9(1) and 9(2) of the African Women's Protocol, and how it promotes femocracy. It is important to note at this stage that Mama teaches us

12 Art 6 Constitution of the Democratic Republic of Congo 2006 (n 7).

13 Art 5 Financing of Political Parties Act (Law 8/005 on Public of 2008), Law 8/005 of 10 June 2008 on the Public Financing of Parties Policies (leganet.cd) (accessed 13 January 2024).

14 Art 9 Financing of Political Parties Act (n 13).

15 Art 7 Financing of Political Parties Act (n 13).

16 Art 9(1) African Women's Protocol.

17 Art 9(2) African Women's Protocol.

that femocracy is a system where a small group of elite women, backed by powerful men, claim to support women's causes but are driven by their self-interest. Their power is firmly influenced and supported by powerful men who hold higher political offices and do not care about the causes of ordinary women. Consequently, ordinary women's causes are never meaningfully addressed by femocratic women.<sup>18</sup> In part 4 the article considers the resolution adopted during the eightieth ordinary session of the African Commission on Human and Peoples' Rights (African Commission), mandating the Special Rapporteur on the Rights of Women in Africa to develop a model law for implementing the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (African Women's Protocol).<sup>19</sup> Additionally, the article argues that there is no need to wait for a model law to be put in place. It looks at regional bodies such as the African Commission and the East African Court of Justice (EACJ) decisions to push the DRC government to discharge its responsibilities under the African Women's Protocol.

## **2 CONGOLESE WOMEN IN POLITICAL PARTIES, PUBLIC FINANCE OF POLITICAL PARTIES AND THE AFRICAN WOMEN'S PROTOCOL**

### **2.1 Congolese women's experiences in UDPS and UNC**

This part of the article is based on interviews conducted with both men and women from the Union for Democracy and Social Progress (UDPS) and the Union for the Congolese Nation (UNC), two leading political parties in the DRC, to demonstrate the experience of Congolese women.

UDPS is the oldest political party in the DRC that is still functioning. It was created in 1982 by Etienne Tshisekedi. As article 9 of the UDPS constitutive document notes, the fundamental values underlying UDPS are inspired by social democracy.<sup>20</sup> Today, UDPS is the leading party in the DRC with Felix Antoine Tshisekedi, son of the deceased Etienne Tshisekedi, as its national president and as the

18 A Mama 'Feminism or femocracy? State feminism and democratisation in Nigeria' (1995) 20 *African Development* 61.

19 African Commission 'Resolution for the development of a model law on implementation and domestication of African Women's Protocol – ACHPR/Res.592 (LXXX) 2024' (12 August 2024), <http://www.achpr.org/RESOLUTION-FOR-THE-DEVELOPMENT-OF-A-MODEL-LAW-ON-THE-IMPLEMENTATION-AND-DOMESTICATION-OF-THE-AFRICAN-WOMEN'S-PROTOCOL> (accessed 17 August 2024).

20 Art 9 Statute of the Union for Democracy and Social Progress (2013), Les Statutes - UDPS (accessed 17 August 2024).

President of the country.<sup>21</sup> On the other hand, UNC is a political party founded in 2010 by Vital Kamerhe, who currently is the president of the National Assembly. UNC fights for national unity, economic development and social justice. It advocates policies that promote private sector growth, job creation and poverty reduction, as well as greater transparency and accountability in the government.<sup>22</sup> UNC has positioned itself as a powerful political party since its creation by standing as a leading opposition party between 2011 and 2018, and by joining UDPS to lead the country since 2018.

It is a fact that women are not represented at the highest decision-making positions, both in UDPS and UNC. Article 22 of the UDPS constitutive document establishes the presidency of the party, which is the highest decision-making body of the party. This presidency has the mandate to represent the party, decide and orient the actions of the party, and supervise and generally coordinate all activities of the party. Article 22 goes on by outlining the composition of the presidency of the party. It is composed of the president of the party, the secretary-general of the party, the national secretaries and heads of departments and, finally the general treasurer of the party.<sup>23</sup>

The absence of women in these highest decision-making positions is due to the fact that men have historically led the UDPS party, and have successfully consolidated power and perpetuated male dominance. José Asuka Emina has been an active member of UDPS since 2006, and the president of the Women Federation of Bukavu (in Eastern DRC) and the advisor of the DRC President on matters concerning work and social purveyance.<sup>24</sup> In an interview with her she noted that, since the creation of UDPS almost half a century ago, no woman has ever occupied any of the positions available in the presidency of the party as provided for under article 22 of the UDPS constitutive document.<sup>25</sup> Furthermore, it is difficult for women to hold any of these positions. It is important to note that article 23(4) of the constitutive document gives the president of the party the power to nominate and dismiss any of the members of the presidency of the party.<sup>26</sup> For Emina, the representation of women in decision-making positions of the political party are a sign of power. She notes that when women choose to engage in a political party, it is to show that they can also start and lead. This is why she highlighted that we must give women space for decisions as stipulated in article 14 of the 2006 Constitution on parity between men and women in leadership positions

21 'Felix Tshisekedi steps out of his father's shadow to lead DR Congo' *BBC* 24 January 2019, <http://www.bbc.com/news/world-africa-46929212> (accessed 27 February 2024).

22 Art 10 Statute of the Union for the Congolese Nation (2018), <https://www.bing.com/search?q=le+documnet+constitutive+de+l%27+UNC+en+rdc&q&sp=-1&lq=o&pq=le+documnet+constitutive+de+l%27+unc+en+rdc&sc=9-41&sk=&cvid=AC051D678F924885861A4018F086DoA1&ghsh=o&ghacc=o&ghpl=> (accessed 17 August 2024).

23 Art 22 Statute (n 20).

24 Interview with J Emina Asuka on 17 February 2024.

25 As above.

26 Art 23(4) Statute (n 20).

in society.<sup>27</sup> Similarly, article 27 of the 2018 constitutive document of UNC establishes the National Political Directorate as the body responsible for coordinating all party activities, ensuring the party's proper functioning, and leading it to achieve its goals.<sup>28</sup> The directorate is involved in formulating the social project, government programme and political strategies of the party.<sup>29</sup> According to article 28 of the UNC constitutive document, the members of the national directorate of the party include the president of the party; the advisor to the national president of the party; the secretary-general of the party; the permanent secretary of the party; and the inspector-general of the party.<sup>30</sup> Once again, as is the case with UDPS, the president of the party has the power to nominate other members of the national directorate, as per article 31 of the UNC constitutive document.<sup>31</sup> Blandine Banga is the UNC coordinator of women in Eastern DRC. In an interview with her, she noted that UNC has never had a woman member of the national directorate of the party.<sup>32</sup>

It is important to note that in 2018, UNC, led by Vital Kamerhe, held its congress to make significant changes to its constitutive document. One of the key changes concerned the interim period in the event of the absence or incapacity of the national president, Kamerhe himself. The change was that no election of the national president of the party may be held during the interim period.<sup>33</sup> Instead, the president's term will be suspended until their impediment or incompatibility ends, and then they will be reactivated.<sup>34</sup> This means that Kamerhe (who is male) can keep maintaining his position as national president even in the event of a temporary absence. This amendment allows Kamerhe to resume his duties as soon as the circumstances justifying his absence come to an end.<sup>35</sup> However, a critique may conclude that this amendment to the constitutive document has the potential of strengthening the already-significant power of the male president of the party and shield him from any form of internal challenge or renewal of the leadership. Importantly, it takes away all opportunities for a woman to become the leader of the party.

There are contradictions as to the place of women's ideologies in both UNC and UDPS. The national directorate of UNC is to decide on what should be the agenda of the party at any given moment. This has the effect of rendering women's ideologies in leading the party invisible because, as discussed in the preceding subpart, women do not hold any

27 Asuka (n 24).

28 Art 27 Statute (n 22).

29 As above.

30 Art 28 Statute (n 22).

31 Art 31 Statute (n 22).

32 Telephone communication with B Banga on 18 February 2024.

33 G Mpoyo 'DRC: UNC congress amends its statutes to avoid election of a national president during the interim period' (19 August 2023), <http://www.libregrandlac.com/drc-unc-congress-amends-its-statutes-to-avoid-election-of-a-national-president-during-the-interim-period> (accessed 23 February 2024).

34 As above.

35 As above.

of the positions available in the national directorate.<sup>36</sup> Similarly, in UDPS the presidency of the party is the one vested with the power to validate which policies to consider as part of the plans of the party. It is difficult to enhance women's ideologies, as long as women are not considered the principal actors in implementing feminism consciousness in their agenda.<sup>37</sup> Therefore, one may say, without fear of contradiction, that there is a lack of feminist consciousness in both UNC and UDPS. As noted, feminist consciousness means the struggle for women's political status, monitoring progress towards gender equality.

It may be important to note that article 48 of the UDPS constitutive document establishes the federation of women that deals with women's emancipation in the political party. Equally important to note is the fact that article 50 of the UNC constitutive document establishes that the national women's conference is to be held every year to discuss issues related to the advancement of women. However, both article 48 of the UDPS constitutive document and article 50 of the UNC constitutive document are ill-equipped to bring about a rise of feminist consciousness in UDPS and UNC respectively. This is because, as shared by Banga, women have to align with the party interests and the activities that are selected by the national directorate of the party in the UNC political party, which is male-dominated.<sup>38</sup> Francine Tshisungu is the deputy coordinator of the Federation of UNC Women in Kinshasa. Her insights reveal that the gender role discrimination present in DRC society is also reflected within the UNC.<sup>39</sup> She mentioned that during the Federation of Women meetings, they focus on teaching women how to organise their families, develop their political skills and embrace their roles as guardians of life (mothers of people).<sup>40</sup> However, she did not address the importance of women teaching as a means to achieve autonomy from men or to advance a women's agenda within the party.

During the interview with a UNC male member who has chosen to remain anonymous, the member shares that nothing stops women from vying for the highest positions in the party, but the problem is that women do not vote for women.<sup>41</sup> However, even if women decide to vote for women, the president of the party, who is male, still holds the decision-making power regarding the membership of the national directorate of the party. For UDPS, we refer to an interview with Elie Balol'Ebwami. Balol'Ebwami was the president of the Permanent Electorate Commission of UDPS in 2018 and the coordinator of the Provincial Electorate Surveillance during the 2018 elections in the DRC.<sup>42</sup> He contended that women in UDPS are still struggling to get to the highest level of decision making in the party, and added that

36 Art 27 Statute (n 22).

37 Art 22 Statute (n 20).

38 Banga (n 32).

39 Telephone communication with F Tshisungu on 18 February 2024.

40 As above.

41 Telephone communication with anonymous member of UNC on 23 February 2024.

42 Interview with E Balol'Ebwami on 17 February 2024.



women need to put in more effort to gain representation at the highest decision-making positions of the party.<sup>43</sup> The positions of both the anonymous male member of UNC and Balol'Ebwami of UDPS are not cogent, because article 23 of the constitutive document of UDPS and article 31 of the constitutive document of UNC provide that the only way a woman can access a leadership position in the party is if she has been nominated by the highest decision-making body of the party. As already noted, since the creation of both UDPS and UNC, no woman has ever made it to such a body.

This article is not mistaken in asserting that the lack of empowerment of Congolese women significantly contributes to the perpetuation of male dominance in political parties. The exclusion of women from the highest decision-making roles in their parties has led to a situation where women who appear to hold power often possess only pseudo-power. This power can be revoked at any time by the party's top decision makers. Consequently, the political agendas have been femocratised, failing to address the concerns of ordinary women. As I will demonstrate later, revising and implementing Law 8/005 could have improved this status of Congolese women in parties such as UDPS and UNC by giving them the option to create their own political parties and challenge existing male political agendas.

The next part examines the content of Law 8/005 and how it aligns with the provisions of the African Women's Protocol.

## **2.2 The Law on Public Finance of Political Parties as a way to promote articles 9(1) and 9(2) of the African Women's Protocol**

The African Women's Protocol is one of the most advanced legal instruments for protecting women's rights in Africa.<sup>44</sup> The DRC signed the Protocol in December 2003, ratified it in July 2008 and deposited the instrument of ratification in February 2009. It was subsequently published as part of the laws of the DRC in the Official Gazette in March 2018.<sup>45</sup> Before ratification, the Protocol received parliamentary approval in 2006, along with authorisation to ratify it as expected under article 213 of the 2006 Constitution. Article 213 of the 2006 Constitution states that the government can conclude an international agreement, but it can only become law after having been approved by the National Assembly and the Senate.<sup>46</sup>

43 As above.

44 Women, Gender and Development Directorate (WGDD) 'African Women's Protocol on Women's Rights: a living document for women's human rights in Africa' 4.

45 TM Makunya 'Beyond legal measures: a review of the DRC initial report under the Protocol to the African Charter on Human and Peoples' Rights on the rights of Women in Africa' (2023) 67(2) *Journal of African Law* 225-240.

46 Art Constitution of the Democratic Republic of Congo 2006 (n 7).

The African Women's Protocol mandates states to take specific positive actions to promote participative governance and the equal participation of women in the political life in African countries through affirmative action, enabling national legislation and other measures.<sup>47</sup> Article 6 of the 2006 Constitution enjoins the African Women's Protocol, allowing men and women to create or join a political party of their choice. It also provides for the financing of political parties' electoral campaigns and other activities under conditions defined by law.<sup>48</sup>

However, in the broader structural context, poverty in the DRC remains a significant barrier to women's political empowerment. This may explain the decline in women's political participation, as shown by statistics from the 2023 UN Women Africa report, which revealed a drop from 13,6 per cent in 2006 to 11,7 per cent in 2018 over the past two elections.<sup>49</sup> This is evident from the fact that while Congolese women constitute 52 per cent of the DRC's population, approximately 61,2 per cent of these live below the poverty line. They are economically dependent on their male relatives and face challenges in accessing basic needs such as food, water, healthcare, shelter, social services, education and opportunities.<sup>50</sup> Without economic independence and access to basic needs, the idea of creating a political party or fighting for their empowerment within a political party may prove to be difficult. Furthermore, even of the 38,8 per cent of Congolese women who live above the poverty line, many still face historical and structural barriers that prevent them from accessing the financial support needed to start a political party or fairly compete in elections.

Indeed, it is difficult to discuss promoting women's political participation without addressing the financial support that men predominantly receive. Financial support is crucial in running an election or creating a political party. It enables political parties to maintain their regular administration, disseminate their political programmes, coordinate political actions, and prepare for electoral campaigns. Additionally, it supports the civic and political education of both party members and the general population, while ensuring that women have an equal chance of being eligible alongside men.<sup>51</sup> These measures, which require significant financial resources, are essential for securing the true independence of both the political party and its members.

Historically, in the DRC political arena, which has been heavily dominated by men, there has been a patriarchal belief that political party finances should prioritise male candidates due to their long-standing dominance in political positions and party leadership. This historical advantage means that men are more likely to win elections,

47 Art 9(1) African Women's Protocol.

48 Art 6 Constitution of the Democratic Republic of Congo 2006 (n 7).

49 UN Women Africa (n 11) 2.

50 Femnet 'Document d'orientation sur la participation Politique des Femmes en République Démocratique du Congo (RDC)' 5.

51 Art 6 Financing of Political Parties Act (n 13).

leading donors – who act as investors in electoral contexts – to allocate more resources to male candidates. For donors, this makes ‘business sense’, as men have been in the political arena for a longer time and are the faces that subconsciously Congolese society, which is in many ways practical,<sup>52</sup> expects to lead.<sup>53</sup>

For example, in the 2023 legislative elections, Denis Kadima, the head of the DRC Independent Electoral Commission, noted that the majority of parties and groupings that met the criteria – including financial criteria – were those of the presidential party and its allies, such as Jean-Pierre Bemba, Vital Kamerhe, Julien Paluku and Modeste Bahati. On the opposing side were figures such as Moise Katumbi, Augustin Matata Ponyo, Delly Sessanga and Adolphe Muzito, all of whom were presidential candidates in the 2023 election.<sup>54</sup> Notably, all these individuals have held political positions in the DRC government and led male-led-dominated parties since the beginning of the third republic, which came with the enactment of the 2006 Constitution.<sup>55</sup> It is significant to note that out of the 23 653 candidates selected to contest the 2023 legislative elections, only 3 955 or 17 per cent were women.<sup>56</sup> Consequently, we may conclude, and fairly so, that men are favoured by other men to hold political positions, which contributes to the persistently low percentage of women in political roles. This situation also explains the decrease in Congolese women's political participation.

The African Women's Protocol is crucial to addressing these issues. It mandates states to take positive actions to ensure at least three requirements are satisfied. One is women's participation without any discrimination in all elections.<sup>57</sup> The second is the equal representation of women with men at all levels in all electoral processes.<sup>58</sup> The third requirement is that women are equal partners with men at all levels of development and implementation of state policies and development programmes.<sup>59</sup> In adherence to this requirements, Law 8/005 allows for the financing of political parties to ensure equal opportunity and equal treatment for all political parties in the election process.<sup>60</sup> This Law may be the primary means to challenge the patriarchal *status quo* in the DRC and support women in politics.

52 C Panella Gomez ‘How unequal access to funds hinders women's participation in politics’ (21 January 2023), <https://www.globsec.org/what-we-do/commentaries/how-unequal-access-funds-hinders-womens-participation-politics> (accessed 15 February 2024).

53 As above.

54 RFI ‘Legislative elections in the DRC: 23 653 candidates were selected, 17 per cent of whom were women’ (21 August 2024), <https://www.rfi.fr/en/legislative-elections-drc-23653-candidates-selected-17-women> (accessed 21 August 2024).

55 M Smitall ‘DR Congo adopts new constitution’ (18 February 2006), <https://reliefweb.int/report/democratic-republic-congo/dr-congo-adopts-new-constitution> (accessed 27 August 2024).

56 RFI (n 54).

57 Art 9(1)(a) African Women's Protocol.

58 Art 9(1)(b) African Women's Protocol.

59 Article 9(1)(c) African Women's Protocol.

60 Financing of Political Parties Act (n 13).

### 3 NOT REVISING AND NOT IMPLEMENTING LAW 8/005: A VIOLATION OF THE AFRICAN WOMEN'S PROTOCOL AND A PROMOTION OF FEMOCRACY

#### 3.1 A violation of the African Women's Protocol

Article 2 of the African Women's Protocol requires state parties to ensure increased and effective representation and participation of women at all levels of decision making.<sup>61</sup> As noted, on one hand, article 5 of the Law 8/005 mandates the state to allocate an annual subsidy of no less than 0,5 per cent and no more than 1 per cent of the national budget to political parties for the functioning of political parties.<sup>62</sup> On the other hand, article 9 mandates the state to contribute to the financing of electoral campaigns, which should be included in the national budget law of the year following the organisation of each electoral consultation, which is set at 2 per cent.<sup>63</sup> To receive this fund, the political party is required to take gender parity into account when establishing electoral lists.<sup>64</sup> This legal framework aims to create a more level playing field, encouraging the inclusion of women in politics by providing necessary financial support.<sup>65</sup>

To give life to the content of these two provisions in practice, this means, for example, that for the elections held in 2023, if Law 8/005 had been revised and implemented, political parties, including those created by women, could have benefited from 0,5 to 1 per cent of the DRC national budget between 2018 and 2022 to ensure the functioning of the political parties.<sup>66</sup> This amounts to a total of 68 589 billion Congolese francs, equivalent to US \$34,079 billion, assuming an exchange rate of US \$1 to 2 000 Congolese francs. If 1 per cent of the budget had been allocated to political parties, including those created by women, they could have received a lump sum of US \$340,79 million. Moreover, the state fund for the electoral campaign, included in the national budget of the year following an electoral consultation, is set at 2 per cent. Considering the national budgets of 2012 and 2019, which follow the elections of 2011 and 2018 respectively, the combined amount totals 16 961,5 billion Congolese francs. This is equivalent to US \$8 480,75 billion, assuming an exchange rate of US \$1 to 2 000 Congolese francs. Consequently, the political parties, including those led by women, could have received an amount of US \$169 615 million for their campaigns. However, it has never been implemented.

61 Art 2 African Woman's Protocol.

62 Art 5 Financing of Political Parties Act (n 13).

63 Art 9 Financing of Political Parties Act (n 13).

64 Art 3(5) Financing of Political Parties Act (n 13).

65 As above.

66 National Budgets Laws of the Democratic Republic of Congo (2018-2022).

Additionally, article 7 of Law 8/005 stipulates that for a party to receive public financing, it must be represented in at least one of the following: the National Assembly; the Senate; the Provincial Assembly; the Urban Council; the Municipal Council; or the Sector or Chiefdom Council in proportion to the number of their elected representatives.<sup>67</sup> This provision is inherently discriminatory because very few women and political parties led by women are represented in these positions at this point because of women's political representation declined in the DRC.<sup>68</sup> Moreover, women-led parties motivated to start due to the funds provided by Law 8/005 will face significant challenges in accessing these funds. If they are new, they are unlikely to be represented in the National Assembly, the Senate, the Provincial Assembly, the Urban Council, the Municipal Council, or the Sector or Chiefdom Council. Without such representation, they cannot be eligible to receive the financial support that Law 8/005 makes available.

Due to this lack of revision and implementation of Law 8/005, to secure a seat Congolese women are pushed to join with male-dominated parties. In 2022, among the 66 validated parties running for seats in the National Assembly, the *Alliance pour la Réforme de la République* (A2R) was the only party led by a woman (Henriette Wamu).<sup>69</sup> However, this may raise questions about whether Henriette Wamu truly is in charge ideologically or financially, as her party is allied to the male-led and male-dominated ruling party, the Union for Democracy and Social Progress (UDPS).<sup>70</sup>

This article, therefore, is not out of mark in holding the position that the lack of revision and implementation of Law 8/005 significantly contributes to the inadequate representation of Congolese women in political parties and positions. The failure to revise and implement this law not only constitutes a violation of the African Women's Protocol, which is dedicated to the empowerment and increase in political participation of women in politics.

In the next part this article demonstrates how the failure to revise and implement Law 8/005 has fostered femocracy. It will be referring to the experiences of women in the two leading political parties, namely, the Union for Democracy and Social Progress (UDPS) and the Union for the Congolese Nation (UNC).

67 Art 7 Financing of Political Parties Act (n 13).

68 UN Women Africa (n 11) 2.

69 CENI-RDC 'Liste des partis politiques ayant atteint le seuil de recevabilité à la députation nationale' (11 August) CENI RDC - Annexe I - Liste des Partis et Regroupements Politiques ayant atteint Seuil de Recevabi.pdf (accessed 12 January 2024).

70 'RDC: Henriette Wamu Alliance Pour la Reforme de la Republique pour soutenir la vision de Tshisekedi' *Africa News* November 2020, <https://www.africanews.rdc.net/actu/wamu-lance-a2r-soutenir-fatshi/> (accessed 14 January 2023).

### 3.2 Promotion of femocracy

The concept of femocracy has been defined in various ways within political structures. Mama describes femocracy as a form of feminine autocracy that advances the interests of a small clique of women, whose power stems from their control or association with powerful men. It cannot function without male dominance, as it is a product of that system.<sup>71</sup> Femocracy suppresses feminism – the struggle for women’s liberation from injustices, oppression and disadvantages – and instead positions women as targets rather than decision makers.<sup>72</sup> In this system, women’s agency is ignored, and their fate is predetermined. Rather than enhancing gender equality in political participation, it ensures that women’s political success is dependent on men.<sup>73</sup> In this way, femocracy makes women promote and sustain the patriarchal *status quo*, as is the case in DRC political parties.<sup>74</sup> As seen in UDPS and UNC, even if Law 8/005 were revised and implemented to support women economically, the structure of these two political parties’ constitutive documents effectively strips women of any opportunity to become party leaders, further entrenching their subordination.

This dynamic is closely tied to what Mazrui refers to as *malignant sexism* – one of the most pervasive and insidious forms of sexism.<sup>75</sup> Malignant sexism subjects women to both economic exclusion and political marginalisation by creating power disparities between men and women.<sup>76</sup> According to Mazrui, African women have been centred as custodians of life, the economy, politics and society, but have never been empowered to lead or govern due to differences in resources and power between women and men.<sup>77</sup>

This reality is starkly illustrated by the DRC’s failure to implement articles 5 and 9 of Law 8/005. Without this implementation, Congolese women face significant economic barriers that hinder their ability to run for political office. Furthermore, article 7 of the same law entrenches malignant sexism by requiring political parties to be represented in at least one government institution to qualify for public funding. As already mentioned, this condition economically and politically excludes women, as they often lack the financial resources necessary to hold such positions. Additionally, women who attempt to establish new political parties face discrimination in accessing public funds because their parties are not represented in these key government institutions. The number of women holding such positions remains very low, as shown by UN Africa’s report, which highlights a decline in women’s political representation from 2006 to 2018. Many

71 Mama (n 18) 64.

72 Mama (n 18) 69.

73 As above.

74 Mama (n 18) 56.

75 A Mazrui ‘The black woman and the problem of gender: an African perspective’ (1993) 24 *Research in African Literatures* 98.

76 Mazrui (n 75) 84-104.

77 Mazrui (n 75) 101.

women who do manage to attain these roles often do so by aligning with male-dominated political parties, further perpetuating their marginalisation and lack of empowerment.

This situation is seen as a lack of feminist consciousness.<sup>78</sup> This means, while women may intervene in politics, contradictions arise when their agendas, though gendered, fail to address the needs of ordinary women. The only way to ensure the full participation of women in male-dominated political systems is through the development of gender consciousness.<sup>79</sup> As mentioned in both UDPS and UNC, in DRC, women's political participation does not guarantee that their institutionalisation will yield desirable outcomes. The failure to revise and implement Law 8/005 has left women with no option but to work towards advancing male-dominated agendas rather than addressing the needs and priorities of ordinary women, once in positions of pseudo power. This arrangement produces undesirable outcomes, as women are compelled to support male-dominated agendas simply to maintain their roles.

To address these issues, two main avenues for women's empowerment can be pursued. The first is the removal of male dominance in politics, as women remain victims of patriarchy, sex stereotypes and economic disadvantage. The second is to equip women with the same resources and tools as their male counterparts.<sup>80</sup> Law 8/005 directly responds to these two approaches of empowering women. It offers a legislative foundation that could transform the political landscape for women in the DRC. By challenging patriarchal structures and providing women with equal access to political resources, the law holds the potential to significantly enhance women's political participation and representation. However, it is yet to be revised or implemented.

Femocracy has emerged as one of the greatest consequences of lack of empowerment for women in politics in the DRC. It has reduced women to puppets of male-dominated political parties, undermining feminist consciousness and limiting women's empowerment. Therefore, urgent action is needed from civil society and allies to address these systemic challenges and ensure meaningful progress in women's political participation and empowerment.

## **4 WAY FORWARD: AFRICAN WOMEN'S PROTOCOL'S MODEL LAW**

This part proposes potential pathways to address the lack of revision and implementation of Law 8/005. Drawing on the resolution from the eightieth ordinary session of the African Commission, held from 24 July to 2 August 2024, one key recommendation is the development of

78 A Gouws 'The rise of the femocrat?' (1996) 12 *Agenda* 32.

79 As above.

80 Mazrui (n 75) 108.

a Model Law for the Implementation and Domestication of the African Women's Protocol across African countries.<sup>81</sup> This initiative, mandated to the Special Rapporteur on the Rights of Women in Africa, provides a crucial framework that could guide the DRC in aligning its national laws, including Law 8/005, with the principles of the African Women's Protocol. The Model Law would outline specific measures for enhancing women's political participation, ensuring economic empowerment, and combating gender-based discrimination in political structures.<sup>82</sup> Additionally, the DRC's membership in regional treaties, such as the African Charter on Human and Peoples' Rights (African Charter)<sup>83</sup> and the East African Community (EAC),<sup>84</sup> presents new opportunities for external pressure to be applied on the government to fulfil its obligations under the African Women's Protocol. Notably, the country has not yet published its report on implementing the Maputo Protocol. As of 21 May 2024, the DRC began drafting its second report, covering the period from 2016 to 2023.<sup>85</sup> The previous report (2005-2015) highlighted low female representation in decision-making due to outdated customs and procedures as key barriers.<sup>86</sup> The development of this Model Law could significantly enhance the DRC's capacity to reform these outdated customs and procedures, thereby promoting meaningful progress toward gender equality and enabling the country to fulfill its commitments under the Africa Women's Protocol.

At the eightieth ordinary session of the African Commission held from 24 July to 2 August 2024,<sup>87</sup> the African Commission, being aware of the poor implementation and domestication of the African Women's Protocol in many legal systems on the continent, as well as the inconsistent and inadequate legislation on women's rights, tasked its Special Rapporteur on the Rights of Women in Africa – Janet Ramatoulie Sallah-Njie<sup>88</sup> – to work in collaboration with the Pan-African Parliament Committee on Gender, Family, Youth and People with Disabilities, and the African Union Commission on International Law (AUCIL), to develop a model law to assist African countries in

81 African Commission (n 19).

82 As above.

83 East African Community 'Democratic Republic of the Congo' (22 July 2024), <https://www.eac.int> (accessed 10 October 2024).

84 As above.

85 Africa Media Agency, 'The Ministry of Gender, Family, and Children launches the drafting of the state report on the implementation of the Maputo Protocol in the Democratic Republic of Congo' (29 May 2024), The Ministry of Gender, Family, and Children launches the drafting of the state report on the implementation of the Maputo Protocol in the Democratic Republic of Congo - African Media Agency (accessed 13 December 2024).

86 African Commission on Human and Peoples' Rights, *Report to the African Commission on Human and Peoples' Rights on the Implementation of the African Charter on Human and Peoples' Rights from 2008 to 2015 (11th, 12th and 13th Periodic Reports) and of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women from 2005 to 2015 (Initial Report and 1st, 2nd and 3rd Periodic Reports)* (2015).

87 African Commission (n 19).

88 As above.



harmonising their national legislation with the Protocol and ensuring its effective implementation under article 26 of the African Women's Protocol.<sup>89</sup>

It is beyond the remit of this article to comprehensively and meticulously provide an account of what such a model law should look like so that existing legislation or the lack of relevant legislation on financing political parties in African countries does not foster femocracy. However, for women to be truly empowered and have access to equitable opportunities, including in the running of political affairs, such a model law has to be detailed on some key elements that have been discussed in this article. One is the fact that it should comprehensively explain the relevance of public finances for political parties to foster the political emancipation and independence of African women. It should explain, for example, that state financial support for political parties is crucial because it grants genuine independence to both the members and the parties themselves. This funding allows them to efficiently handle party administration, communicate their political programmes, coordinate their actions, and prepare for electoral campaigns. Furthermore, it aids in the civic and political education of party members and the public, ensuring that women have equal opportunities to participate and be eligible in political processes alongside men.<sup>90</sup>

Furthermore, the model law should be mindful of the fact that while a law may exist and articulate the importance of financial support, there may still be procedural hurdles that impede its effectiveness. The model law must provide a clear implementation framework, establishing precise requirements for accessing public funds to challenge the patriarchal mindset ingrained in Congolese society. Article 7 of Law 8/005 should be revised given their direct economic and political discrimination of women, which is particularly concerning given the decrease in the number of women elected to government positions, which could lead to male favouritism and further perpetuate gender inequality. The model law should also ensure that the DRC submits a report every two years, detailing the progress made, the extent to which Law 8/005 has been revised and implemented, and whether the government is meeting its obligations to address femocracy, as stipulated under article 26 of the African Women's Protocol,<sup>91</sup> and article 62 of the African Charter on Human and Peoples' Rights (African Charter).<sup>92</sup> This reporting requirement will enable human rights stakeholders to engage annually with the state, advocate the liberation of women from femocracy, and promote collaboration to monitor gender parity. Additionally, it will help the state to receive support from both national and international human rights actors.<sup>93</sup>

89 As above.

90 Art 6 Financing of Political Parties Act (n 13).

91 Art 26 African Women's Protocol.

92 Art 62 African Charter.

93 Makunya (n 45) 226.

However, we do not have to wait for the model law to come into existence in order to fight the femocracy to implement articles 9(1) and 9 (2) of the African Women's Protocol. Congolese civil society and allies should present this case to the Constitutional Court, arguing that the failure to revise and implement Law 8/005 has forced women to align with male-dominated political parties to access necessary finances. Within these parties, women are often excluded from the highest decision-making roles. Even when they appear to hold positions of power, their authority is often superficial, as it can be revoked at any time by the party's top leaders. As a result, political agendas have become femocratised, failing to address the concerns of ordinary women.

The Constitutional Court of the DRC is composed of nine judges: three appointed by the President of his own volition, three by the Superior Council of the Magistracy and three by a Parliament dominated by males, as evidence in this article.<sup>94</sup> If five of the nine judges decide to act conscientiously, they should find this argument constitutionally valid. However, if they opt not to, a diligent civil society, along with its allies, will have exhausted all domestic remedies.

As an additional avenue, this study proposes the decision from the African Commission at a regional level and the East African Court of Justice (EACJ) at a sub-regional level. As a member of these African human rights systems, the DRC is bound by the provisions of the African Charter and the East African Community Treaty, particularly with regard to promoting gender equality and women's political empowerment.<sup>95</sup>

In the case of *Equality Now and Ethiopian Women Lawyers Association (EWLA) v Federal Republic of Ethiopia* on 16 May 2017, Equality Now and Women Lawyers Associations submitted a case to the African Commission on behalf of Woineshet Zebene against the Federal Republic of Ethiopia.<sup>96</sup> The complainant alleged that at age 13, she was raped by Aberew Jemma and his accomplices.<sup>97</sup> Although initially sentenced to 10 years' and eight years' imprisonment respectively, the High Court quashed the decision on 4 December, claiming that the acts were consensual, and the men were released.<sup>98</sup> Zebene's appeals to the Supreme Court and Cassation Bench were dismissed, with the latter citing lack of jurisdiction.<sup>99</sup>

94 Art 158 Constitution of the Democratic Republic of Congo 2006 (n 7).

95 Article 62 African Charter; art 6 East African Court of Justice Treaty.

96 African Commission on Human and Peoples' Rights 'Decision on Request for Review of Merits Decision Communication 341/2007 – *Equality Now and Ethiopian Women Lawyers Association (EWLA) v Federal Republic of Ethiopia*' (Zebene case) para 1.

97 Zebene (n 96) para 2.

98 Zebene (n 96) para 4.

99 Zebene (n 96) para 6.

In 2007 Zebene turned to the African Commission. After two years of failed amicable settlement efforts by the respondent, the Commission admitted the case for consideration of its merits.<sup>100</sup> The respondent applied for a review, but it was dismissed under Rule 111(2)(c), as the Commission found no compelling reasons to justify a review, ensuring fairness and respect for human and peoples' rights.<sup>101</sup>

Additionally, in *Nyong'o & Others v Attorney General of Kenya* at the EACJ, a dispute arose over Kenya's 2006 election of representatives to the East African Legislative Assembly (EALA). The plaintiffs, led by Peter Nyong'o, argued that the process violated article 50 of the EAC Treaty, as no proper election or parliamentary debate occurred. They also contended that the 2001 Election Rules, under which the election took place, were invalid as they did not allow for the direct election of nominees, contradicting the EAC Treaty.<sup>102</sup> The applicants obtained an injunction preventing the swearing-in of Kenyan nominees until the case was resolved. The respondents argued that the High Court of Kenya had exclusive jurisdiction over the legality of Kenyan elections and that the EACJ could not assume this role. They also claimed that the applicants lacked standing, asserting that only the Attorney-General could bring such a public interest case.<sup>103</sup>

The EACJ ruled that the 2001 Election Rules were inconsistent with article 50 of the EAC Treaty, as they did not establish a voting procedure for EALA representatives.<sup>104</sup> It also held that the applicants had *locus standi* under article 30 of the EAC Treaty, which allowed them to bring the case without exhausting local remedies.<sup>105</sup>

It is worth concluding that regional and sub-regional African human rights systems, supported by civil society resistance, have made bold decisions when authoritative governments impose discriminatory policies without considering their impact on marginalised social groups.<sup>106</sup> These systems have increasingly become avenues for affected individuals and groups whose domestic legal frameworks fail to offer adequate protection, stepping in to uphold justice and human rights. The involvement of civil society in challenging such actions plays a crucial role in promoting accountability and ensuring that governments adhere to fair, inclusive and non-discriminatory governance.<sup>107</sup>

100 *Zebene* (n 96) para 54.

101 *Zebene* (n 96) para 1.

102 *V Lando* 'The domestic impact of the decisions of the East African Court of Justice' (2018) 18 *African Human Rights Law Journal* 469.

103 *Lando* (n 102) 104.

104 *Nyong'o & Others v Attorney General of Kenya* EACJ Application 1/2006 (EACJ) paras 17-20.

105 *Lando* (n 102) 470.

106 J Ghatii 'Twenty-second annual Grotius lecture: the promise of international law: a Third World view (including a TWAAIL bibliography 1996-2019 as an appendix)' (2020) 114 *Proceedings of the Annual Meeting (American Society of International Law)* 170-171.

107 As above.

Civil society, feminist groups and allies in the DRC should strategically leverage Congo's accession to advocate the government's implementation of Law 8/005 on Public Financing of Political Parties. Organisations such as the Permanent Framework for Women's Consultation (CAFCO) are well-positioned to lead this change. Emerging from the Inter-Congolese Dialogue, CAFCO seeks to integrate gender perspectives into decision-making processes and promote collaboration among Congolese women across political, economic and social spheres. CAFCO's partnerships with global organisations, such as UN Women and the United Nations Children's Fund (UNICEF), enhance its influence on democratic and peace processes in the DRC.<sup>108</sup>

Additionally, the Konrad-Adenauer-Stiftung (KAS) can contribute to the democratic strengthening of the DRC. With a global reach and long-term partnerships, KAS supports democracy, the rule of law and human rights through political education and policy reform. Its initiatives, such as workshops and seminars, build the capacity of political leaders and activists, helping to foster a more inclusive political environment.<sup>109</sup>

The African Women's Development and Communication Network (FEMNET) is another key actor. With over 800 members across 49 African countries, FEMNET focuses on facilitating the exchange of ideas and advocacy for women's rights. Its advocacy and capacity-building efforts can further the conversation on women's participation in governance and promote gender-sensitive reforms in the DRC.<sup>110</sup>

These organisations, through advocacy and collaboration, can create momentum for the DRC to uphold Law 8/005, ensuring a democratic framework that prioritises women's rights and representation.

## 5 CONCLUSION

This article has examined how the failure to revise and implement the DRC's Law 8/005 on Public Financing of Political Parties violates articles 9(1) and 9(2) of the African Women's Protocol, which collectively aim to ensure women's political empowerment and participation without discrimination. This violation promotes femocracy over democracy concerning the role of Congolese women in political parties and electoral processes. This study aimed to achieve three objectives.

First, it examined Congolese women's experiences in two leading political parties, the Union for Democracy and Social Progress (UDPS) and the Union for the Congolese Nation (UNC). It also analysed the

108 Cafco 'About Cafco', <https://cafco-cd.org> (accessed 20 June 2024).

109 Devex 'Konrad Adenauer Stiftung (KAS)', <https://www.devex.com> (accessed 22 August 2024).

110 See, generally, <https://www.femnet.org> (accessed 22 August 2024); and Femnet (n 50) 8-10.

extent to which Law 8/005 aligns with articles 9(1) and 9(2) of the African Women's Protocol. Second, it explored how the non-revision and non-implementation of Law 8/005 violate article 9(1) and 9(2) of the African Women's Protocol, and how it promotes femocracy. Lastly, it was to suggest to the eightieth ordinary session of the African Commission, which mandates the Special Rapporteur on the Rights of Women in Africa, to develop a model law for implementing the African Women's Protocol. It looked at regional bodies, such as the African Commission and EACJ, decisions to push the DRC government to discharge its responsibilities under the African Women's Protocol.

In the first part of the study, which examined Congolese women's experiences in two leading political parties, UDPS and the UNC, it also analysed the extent to which Law 8/005 aligns with articles 9(1) and 9(2) of the African Women's Protocol. The findings revealed that, since the creation of UDPS and UNC, no woman has held a top decision-making position, resulting in a concentration of power among male leaders. This has excluded women from leadership roles and requires them to work towards advancing male-made agendas, as party presidents dictate priorities. It also found that Law 8/005 aligns with the African Women's Protocol, as it has the potential to eliminate the financial barriers that hinder women's political empowerment. This could lead to increased and more effective participation of women in politics by providing funding for their electoral education and campaigns.

In the second part, the article aimed to explore how the non-revision and non-implementation of Law 8/005 violate articles 9(1) and 9(2) of the African Women's Protocol, and how it promotes femocracy. The findings revealed that article 5, 9 and 7 of Law 8/005, which conditions funding on representation in government, discriminates against women and those women who want to create political parties, since it is difficult to found them occupying such positions. As a result, women often align with powerful male-dominated parties to secure seats since they are not represented in the government. This reliance on male support reinforces femocracy and prevents women from achieving genuine leadership roles, pushing them to remain in the shadows and abandon the causes of ordinary women.

Lastly, the article proposed potential pathways for implementing Law 8/005, including leveraging African regional bodies such as the African Commission and the East African Court of Justice. The finding revealed that the African Union is aware of the government's failure to implement the provisions of the African Women's Protocol, which is why it mandated the Special Rapporteur on the Rights of Women in Africa to develop a model law to facilitate implementation of the Women's Protocol. The study recommends that this model law emphasises the importance of public financing for political parties to ensure candidate independence and challenge femocracy. It should also outline a clear method for calculating political party financing, considering women's historical participation and current involvement in politics. Additionally, the composition of the inter-institutional body responsible for regulating party financing must be amended to prevent

male favouritism in elections. The model law should require countries to submit annual reports on women's political advancement to hold them accountable. Finally, civil society should not wait for the implementation of Law 8/005 but actively leverage regional organisations, such as the African Commission and the EACJ, to advocate its enforcement, paving the way for genuine democracy and the empowerment of Congolese women.

To forge a path toward true gender equality and women's empowerment, the DRC government and civil society must address the profound violation caused by the failure to revise and implement Law 8/005. This law's neglect undermines the African Women's Protocol, which was designed to liberate and empower women from the colonial structures of male-dominated political institutions that have long silenced women. Such neglect has perpetuated an agenda of femocracy. Dismantling femocracy demands a colonial deconstruction of these entrenched structures, which have been sustained by post-independence male leadership. One effective approach is to revise and implement Law 8/005, which has the potential to economically empower women to lead, create, or join political parties without being compelled to uphold the patriarchal *status quo*. This would allow them to advance the causes of ordinary women and the interests of society as a whole.