

Sovereignty and Government of the Congo Free State:
An Analysis of the Autocracy of His Majesty Leopold II, King of the Belgians and
Sovereign of the Independent State of the Congo

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The Congo Free State, recognised officially during the 1885 Berlin Conference, became a victim of its ill-formation through nearly twenty-five years of autocratic mismanagement by its self-appointed king-sovereign, His Majesty Leopold II, King of the Belgians and Sovereign of the Free State of the Congo. Leopold II manoeuvred into a position where he could assume the rule of the Congo Free State on his personal authority rather than as a dominion of the Kingdom of Belgium. This enabled him to maintain autocratic rule, to avoid the ire of the other Powers¹ at Belgian control over the Congo, and to enjoy the benefits of a sovereign entity under international law. Through Leopold II's domination the Congo Free State degenerated into a mismanaged quasi-colonial playground for the King. This rapid decline in the conditions and economic viability of the independent Free State led to the ultimate (and inevitable) annexation of its territory to the Crown of Belgium.

The creation and recognition of a sovereign Congo Free State were based on a questionable determination that the Free State's predecessor, the International Association of the Congo, had obtained a *de facto* status as a State under international law (Reeves 101). This determination was largely an act of convenience for the Powers in preventing a scramble for the vast Congo River basin, but its incompetent governance resulted in a colonized Congo; exactly what the Powers had sought to avoid as one of the major objectives of the Berlin Conference. On the surface, the reasoning that “[t]he existence of the sovereign state is independent of its recognition by other states” was used

by the Powers to accept the Congo Free State as a *fait accompli* which happened to coincide with their wishes to obtain free trade in the Congo region (Rivier I, 57, qtd. in Reeves 101)².

The ambiguity surrounding the status of the Congo Free State as a sovereign state stems from the way the International Association of the Congo was founded as independent of any national ties. This nonalignment complicated the issues surrounding sovereignty adding to the confusion between the ideas of *imperium* and *dominium*³. The area was nominally governed by the Association, but was not, at the time, considered a *de facto* sovereign state (Reeves, 102). The international law of the time regarded the occupation of territory *rei nullius* to be a condition for *de facto* assumption of *dominium*, but required an active capacity of *imperium* as a precondition of annexation or sovereignty. This formal ability to rule did not exist within the Association as most of the natives were not even aware of the entity now claiming sovereignty over them (Reeves 106-107). Precedent dictated that “[i]n these cases the individuals or companies acquired *dominium*; the *imperium* belonged to the state to which the individuals or companies owed political allegiance.” The vexing problem of the Congo Free State was that the Association which held *dominium* over the Congo Basin was not officially sponsored by any state.

Leopold II’s rule of the Congo Free State was based upon the shaky pretences detailed above; he lacked the consent and even, perhaps, the knowledge of the people he claimed *imperium* over and was granted this economically vital area containing some eleven to thirty millions of natives without so much as a thought to the welfare of the inhabitants (Reeves 107). In fact, “no actual control over the natives was first attempted”

by Leopold II, due to lack of infrastructure and manpower (there were, at the time, only approximately two-hundred and fifty Europeans inhabiting the area) in his newly created state (Reeves 107). This very lack of governmental apparatus is an indictment of the notion that the Congo Basin was no longer *rei nullius* and a serious cause to doubt the realistic sovereignty of the newly created state. Leopold II did, however, negotiate and approve myriad treaties and agreements (including 300 treaties negotiated by Henry M. Stanley with the natives of the region) in his capacity as Sovereign of the Free State of Congo. In a prophetic treaty, Leopold II agreed to “give France the right of preference (*droit de préférence*) in case the association [International Association of the Congo (nominally led by Leopold II)] were ever forced to alienate them (*raliser ses possessions*). As *quid pro quo* France agreed ‘to respect the stations and free territories [*sic*] of the association, and to put no obstacle upon the exercise of its rights. (*de ne pas metre obstacle a l’exercice de ses droits*)’” (Reeves 105 & 109, portions qtd. in Reeves 109)

During the twenty-five years of its existence, the Congo Free State was barely governed except by regulating trade (and eventually imposing import/export duties) and ostensibly attempting to counter the slave trade. The one exception to this lack of direction was the brutal form of quasi-colonization practised by some representatives of Leopold II as depicted by Conrad’s Kurtz in *Heart of Darkness*. These practises eventually led to a transfer of power from the Sovereign to local colonists operating of their own volition. Partially due to this splintering of authority and partially due to Leopold II’s inability to continue to fund the Free State from his private purse, public outcry eventually forced Leopold II to formally annex the territory of the Congo Free State for Belgium, assuming all its international obligations and treaties.

Works Cited and Consulted

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Rivier. *Les Principes du Droit des Gens*, I, 57.²

¹ "Powers" is used to refer to the major colonial parties of the Berlin Conference of 1885, specifically Austria, Belgium, France, Germany, Great Britain, Italy, the Netherlands, Portugal, Russia, and Spain, throughout.

² This source was referenced in Reeves 1909 as "Rivier, *Les Principes du Droit des Gens*, I, 57," but after extensive search in the Library of Congress and Bibliothèque nationale de France catalogs I was unable to locate the complete citation.

³ *Imperium* – the ability to exercise governmental rule

Dominium – physical control and/or occupation of territory

Rei nullis (sans maître) – the condition of being without government (literally, without king or without master)