

## FACTORS OF THE DEFICIT IN THE IMPLEMENTATION OF LEGISLATIVE AND NON-LEGISLATIVE ACTS OF THE PROVINCIAL ASSEMBLY OF TSHOPO

TYPE BOKANGA MPUTU ET LOUIS & MARIE MUSAU BAKAJIKA

University of Kisangani, Congo

<https://doi.org/10.37602/IJREHC.2025.6530>

### ABSTRACT

In order to consolidate national unity, on the one hand, and to create centres of impetus at the grassroots, on the other, the constituent assembly has structured the constitutional reform established by the Constitution of 18 February 2006, as amended to date; it has resolutely committed itself to the sharing of powers between the central government and the provinces. Thus, Article 195 of the said Constitution establishes provincial political institutions in order to bring together the rulers and the governed. The objective that we have set ourselves, in writing this study, is to identify the causes of the deficit in the implementation of legislative and non-legislative acts. From this angle, it was a question of analyzing the various factors of the deficit in the implementation of legislative and non-legislative acts of the Provincial Assembly around the withholding tax of 40% of national revenues, the interventionism of the central authorities in the affairs of the province, clientelism in the choice of the leaders of the provincial political institutions.

**Keywords:** Factors; deficit; legislative and non-legislative acts, Provincial Assembly.

### 1.0 INTRODUCTION

In order to consolidate national unity, on the one hand, and to create the centers of impetus at the grassroots on the other, the Constituent Assembly has structured in the constitutional reform put in place by the Constitution of February 18, 2006, as amended to date, the mechanism that requires clarification.

As a result, Article 2, paragraph 4 of the said Constitution of the Democratic Republic of the Congo specifies that the distribution of powers between the State and the provinces shall be carried out in accordance with the provisions of Title 3 of this Agreement<sup>1</sup>. In addition, this article stipulates that the provinces and decentralized territorial entities shall have legal personality, managed by local bodies, and enjoy free administration and autonomy in the management of their economic, human, financial and technical resources.

Thus, under article 195 of the said Constitution, two provincial political institutions are established with the aim of bringing together the rulers and the governed; but with distinct competences that are supposed to work for the collective well-being<sup>2</sup>.

---

<sup>1</sup> Constitution of 18/02/2006 as amended to date, article 3

<sup>2</sup> Constitution, Op.cit., articles.68, 195

It is clear that severe criticism is being made of the collaboration and/or functioning of these provincial political institutions about seventeen years after their installation. The long-awaited development has so far been a pipe dream, the implementation of provincial edicts, provincial government programs, recommendations from parliamentary inquiries and other steps is not satisfactory.

However, the control exercised in order to assess the degree of implementation of this is ineffective, the search for personal benefits takes precedence over the implementation of provincial edicts, recommendations and other development projects voted and/or adopted by the Provincial Assembly with a view to improving the living conditions of the populations they administer. While it turns out, obviously, that it is through the implementation of these acts that the wish of the legislator can be materialized as well as any development project that the provincial political actors could propose. To do the opposite would justify the low impact of the implementation of public action designed for the benefit of the province by provincial political authorities with a view to achieving the collective well-being and the socio-economic balance of all citizens. Thus, throughout this study, we will devote ourselves to analyzing the institutional factors of the deficit in the implementation of legislative and non-legislative acts of the Provincial Assembly of Tshopo.

Thus, in addition to the introduction and conclusion, it will be a question of analyzing the various institutional factors of the deficit in the implementation of legislative and non-legislative acts of the Provincial Assembly. The institutional factor around the withholding tax of 40% of national revenues (section 1); the interventionism of the central authorities in the affairs of the province of Tshopo (section 2); clientelism in the choice of leaders of provincial political institutions (section 3)

## 2.0 METHODOLOGICAL FRAMEWORK

Moreover, in order to reach the explanation of the present study, we have resorted to the strategic analysis of Michel Crozier and Erhard Friedberg, in order to understand the articulations between the interplay of actors and the system of concrete actions. Strategic analysis is a model of organizational analysis that focuses on understanding the relationships between interdependent actors. To this end, it positions itself on the level of power relations between actors, and the implicit rules that govern their interactions<sup>3</sup>.

The research on the deficit in the implementation of legislative and non-legislative acts of the Provincial Assembly of Tshopo led us to use mainly the documentary technique, the semi-direct interview, the sampling technique. The documentary technique has the advantage of being objective material, in the sense that it does not tolerate different interpretations; it is the same for the whole seeker, and does not change. This allowed us to read some reports of the ordinary and extraordinary session of the Provincial Assembly of Tshopo, minutes, parliamentary annals, committee reports etc.; and information from the Internet that is relevant to our subject of study.

---

<sup>3</sup> Crozier M and Friedberg. E, Actor and System: Strategic Analysis of Organizations, Ed. du Seuil, coll. "Points essais", 1992, p 1-4

The semi-structured interview served us to question some leaders of the civil society force, national and provincial political actors, on the deficit in the implementation of legislative and non-legislative acts of the Provincial Assembly of Tshopo. To this end, the questions were open and gave our interviewees freedom in their answers. The main questions revolved around the causes and consequences of the deficit in the implementation of legislative and non-legislative acts. It is necessary to specify that at the beginning two interview guides were planned. The first will be intended for the members of the provincial government who cover the period of our study, as well as the advisors of their respective cabinets; The second concerns the MPPs of the legislature from 2019 to 2023.

In this regard, our study population is composed of political actors who have intervened in the implementation of legislative and non-legislative acts of the Provincial Assembly of Tshopo. As a result, the fact that our study population is not finished, we have resorted to non-probability sampling of the purposive choice type based on four (4) categories of actors, namely: members of provincial governments, provincial deputies, national political actors, civil society actors. The above information reveals that the sample size is 45 respondents from the following categories:

- ❖ 15 provincial deputies;
- ❖ 12 Members of Provincial Governments;
- ❖ 5 national political actors;
- ❖ 13 Informed observers of civil society;

Thus, we have selected fifteen (15) out of a total of twenty-eight (28) provincial deputies of the second legislature of the Provincial Assembly of Tshopo; then, we submitted our survey questionnaire to twelve (12) provincial ministers due to six (6) for the Provincial Government of Her Excellency Louis-Marie Wale Lofungola and six (6) others for the Provincial Government of Her Excellency Madeleine Nikomba Sabangu. We had the interview with five (5) national political actors of the Tshopo; and finally, we interviewed 13 civil society observers.

### **Section I. The institutional factor around the non-withholding tax of 40% of national revenues**

The management of Congolese public finances is currently carried out within a legal and institutional framework that is totally unsuited to the context of the Constitution of 18 February 2006, which advocates, inter alia, the free administration of the provinces and decentralization<sup>4</sup>. To this end, Article 43 of Law No. 08/012 of 31 July 2008 on the fundamental principles relating to the free administration of the provinces provides: the finances of the central government and those of the provinces are separate; the finances of the province include internal and external resources. The current revenues of the province include: the share of national revenues allocated to the provinces; resources and subsidies allocated to investment expenditure, in particular resources from the National Equalization Fund; finally, internal gifts and legacies; any subsidies from the central government other than those earmarked for investment. In any case, the Constitution, as well as the above-mentioned laws, have granted

---

<sup>4</sup> Explanatory memorandum to Law No. 11/011 of 13 July 2011 on Public Finances

and recognized to the provinces an indisputable financial autonomy guaranteed by both internal and external revenues<sup>5</sup>.

To this end, financial autonomy involves only the provinces as legal persons, and independent entities with the right to mobilize and allocate their resources freely without any interference being justified. The Congolese constituent had perfectly distinguished the finances of the central government and those of the provinces, and he quickly realized that there was a category of common resources, namely: resources of national interest that the two levels of power should share. Thus, to avoid the monopolization of these resources by the central government, as had often been the case; The Constituent Assembly devised a safety valve, by instituting the mechanism of withholding 40% of national revenues by the provinces, in order to fully guarantee their financial autonomy<sup>6</sup>. By recognising the political and financial autonomy of the provinces, the Constitution of 18 February 2006 intended to give impetus to the development of the provinces by providing them with significant powers and financial resources. Through the constitutional mechanism of withholding 40% of national revenues, it established a guarantee of security for financial autonomy.

Thus, by trampling on the principle of withholding 40% of national revenues, the central Government is not only violating the Constitution, but also torpedoing this financial autonomy, which is a guarantee of the development of the provinces. In this regard, Nach Mback<sup>7</sup> specifies that local development is a new approach to development issues that privileges the initiatives of actors in the field, those who are daily confronted with the problems, and the reality of the needs of local populations, because local public action implemented by the authorities according to the competences assigned to them and whose recipients are the inhabitants of the entity. From this point of view, it was supposed to arouse enthusiasm instead of fear, a fear of being stripped of nostalgic powers that we were used to concentrating to the detriment of the base.

To this end, the issue of withholding tax of 40% of revenues of common interest is a fight led by the Governors of the provinces since 2007 at the time of Prime Minister Adolphe Muzito, it has been about eighteen years now that this impasse has persisted. Despite this, the central government is still hesitant to transfer this competence to the provinces. Thus, a technical commission was set up by the central Government to determine the share of each province on the basis of well-defined criteria, namely: equalization, population demography, and finally mobilizing capacity.

In view of the above, it should be noted that the provincial government is under the control of the central government based on what happens at the time of the distribution of the retrocession attributed to the provinces. Thus, the criteria determined by the technical commission are only a paper barrier, because in practice, nothing is done as planned: the provincial governments complain about the way in which the distribution of funds from national revenues is carried

---

<sup>5</sup> Act respecting the free administration of the provinces, op.cit. Articles 43, 142

<sup>6</sup> Katunda Elongo wa Loshima, "The Constitution of 18 February 2006 and the transfer of competences to provincial political institutions in the Democratic Republic of Congo" Strategic Intelligence Journal of Scientific Publications Volume 4, number 009 April-September 2021

<sup>7</sup> Nach Mback, "Decentralization in Africa: Issues and Perspectives, Contemporary Africa", Special Issue 3rd Quarter, 2001, Pp 95-114

out, without taking into account the criteria previously defined. According to members of the provincial governments of Tshopo, three other headings are retained by the central government to on-lend to the provinces revenues of common interest.

To do this, the costs of staff remuneration; the operating costs of the Provincial Government; and finally, the investment costs; although that, at the time of implementation, it is only the staff remuneration component that is sent to the provinces, also in an irregular manner, namely: once a quarter; let us not talk about the operating costs of the provincial political institutions, which hardly arrive, sometimes once or twice a year, when it was planned that this fund would arrive every month.

Finally, the investment costs that do not arrive, simply because all investments remain managed directly from the central government by the central ministers. The argument often put forward in the corridors of these ministries is that governors are not able to respect the rules of good governance in the management of public finances, particularly in terms of public procurement<sup>8</sup>.

As a result, we notice the virtual absence of large-scale investment work in the province, nor of actions that contribute to the well-being of the population. To do this, Matata Ponyo Mapon<sup>9</sup> specifies in this regard that development is not spontaneous, it is based on the universal cardinal values of vision, work, discipline, sacrifice, self-sacrifice, patriotism, to name only the most important. As a result, it must be desired and managed with energy and control by the actors.

On the other hand, Ramazani Shadary Mu landa, notes that there is a certain correlation between public policy and development, insofar as any development plan is conceived and carried out through policies, as long as Congolese regionalism is in fact fought against by those who should promote it, and the Constitution is not or is poorly applied in its article 175. the progress of the provinces of the Democratic Republic of Congo will be even more delayed<sup>10</sup>. In the same vein, Bara Gueye<sup>11</sup> affirms that a well-conducted decentralization policy undoubtedly contributes to accelerating and strengthening the participation of grassroots communities in the design of policies and their implementation of community development programs.

Indeed, the table below presents the responses of our respondents on the effects of the non-withholding of 40% of national revenues on the implementation of legislative and non-legislative acts of the Provincial Assembly.

**Table 01: The non-withholding tax of 40% of national revenue**

Respondents' opinions	Justifications	MGP	MAP	MSC	APN	TOTAL

<sup>8</sup> Gérard Gerold, DR Congo: The Failure of Provincial Powers, a New Stage in the Deconstruction of the Third Republic, East African Notebooks, the Great Lakes Observatory in Africa, Pp 67-86

<sup>9</sup> Matata Ponyo Mapon, for an Emerging Congo: Interviews with Kibambi Shintwa, Editions privé, 1 rue de Stockholm-75008 Paris, Pp 31-35

<sup>10</sup> Ramazani Shadary Mu landa, Op.cit., p66

<sup>11</sup> Bara Gueye, Où va la participation: expérience de l'Afrique de l'Ouest Francophone, IIED, Dossier n°87, 1999, p23

		f	%	F	%	F	%	f	%	f	%
YES	Unavailability of retrocession funds provided for in the budget lines;	4	8,89	2	4,44	2	4,44	2	4,44	10	22,22
	Irregularities in the sending of national revenues;	2	4,44	2	4,44	1	2,22	0	0	5	11,11
	The retrocession introduced to date remains an illegal system;	2	4,44	3	6,67	1	2,22	1	2,22	7	15,56
	The amount sent by the central Government remains a lump sum;	1	2,22	2	4,44	1	2,22	0	0	4	8,89
NOT	Weak means of action of the provincial government.	1	2,22	4	8,89	4	8,89	2	4,44	11	24,44
	The implementing actors do not feel concerned about the issue;	2	4,44	2	4,44	4	8,89	0	0	8	17,78
TOTAL		12	26,67	15	33,33	13	28,89	5	11,11	45	100

From this table, the result emerges that 26 provincial actors, or 57.78% of our respondents, confirmed that the non-withholding of 40% of national revenues is one of the factors of the deficit in the implementation of legislative and non-legislative acts of the Provincial Assembly. By the fact that there are budget lines reserved for this fund in the provincial budget, but this does not happen regularly. This irregularity in the sending of national revenues allocated to the provinces poses enormous difficulties for the provincial governments in the implementation of the general provincial policy, and thus creates the instability of the members of the provincial governments, the inability of these provincial governments to implement certain development projects whose financing should come from this budget line, the impossibility of regularly paying the emoluments and benefits intended for the members of the Provincial Governments, and their cabinets, the non-payment of subsidies for the Provincial Deputies and the administrative staff of the Provincial Assembly, to name but a few.

This is how Eric Oliva<sup>12</sup> notes in this regard that local financial autonomy is a concept that should be widely studied in political science, as Paul-Marie Gaudemet has already expressed, since the powers of administrative authorities can be similarly determined by the size and nature of their financial resources. The measure of decentralization appears much better through the finances of local authorities than it appears from the list of legal competences granted to regional authorities. Muyej Mangeze<sup>13</sup> thinks in turn that decentralization translates into the partial transfer of powers, competences, responsibilities, resources and burdens to the provinces and decentralized territorial entities, but also through the participation of the populations in the decision-making process on the problems that concern them in daily life. As

<sup>12</sup> Eric Oliva, "The conception of local financial autonomy, what content? What effectiveness"? Cahan Lavoisier, vol 2 n° 2, 2017, Pp 17-24

<sup>13</sup> Muyej Mangeze, Progressiveness and Consensus, Implementation of Decentralization and Territorial Partition, MIRAK, Kinshasa, October 2012, p.5

a result, the decentralization enshrined in the 2006 constitution promised greater autonomy for the provinces, but institutional, financial and political realities hinder their ability to act. Miché Kanimbu<sup>14</sup> explains the fact that, in areas of shared competence, national laws take precedence over provincial edicts in the event of incompatibility, which suggests that the current system reduces the Provincial Assemblies to chambers of registration, and slows down local initiatives, thus making provincial deputies dependent on Kinshasa's decisions. According to a report by the Institute for Security Studies between In 2007 and 2013, only 6 to 7 percent of national revenues were transferred to the provinces, far from the 40 percent prescribed by the Constitution. This financial retention limits the ability of provincial political institutions to fund projects, forcing them to seek approval from the central government; in turn, Samuel Lietaer believes that the provinces exercise other competences in conjunction with the central government and share national revenues with the latter at the rate of 40% and 60% respectively. In the absence of the 40% withholding tax on national revenues, the province is condemned to settle for a retrocession of revenues, the rate of which is very low compared to the real volume of achievements at the level of the financial authorities in the province. This rate is around 4%, ten times less than what is defined by law<sup>15</sup>. And 19 provincial political actors, or 42.22%, do not confirm this hypothesis since, according to them, there are other resources reserved exclusively for the province, which on the other hand generates a lot of revenue, but is poorly managed by the members of the provincial governments.

By way of illustration, the Governor of the province Louis-Marie Walle Lufungola maintained loud and clear that the accounts of the Province were not funded when he took office, it appears from data from banking institutions that the amount of 112,471,783 Congolese francs were withdrawn on his authorization from the Commercial Bank of Congo (BCDC) and RawBank respectively on May 27 and 30, 2019; the embezzlement of envelopes of 704,289.41 USD and that of 2,000,000 USD for the work of removal of quagmires and resurfacing Kisangani-Banalia (Tshopo) and Kisangani-Niania-Komanda (Tshopo-Ituri) the National Road No. 04 financed by Road Maintenance Fund respectively from March 19 to May 31, 2019 for the first and in October 2019 for the second<sup>16</sup>. Munda Banyurwa Gilbert<sup>17</sup> said that the immediate challenge for the Democratic Republic of Congo in general and the province of Tshopo in particular is to reduce political uncertainty and mitigate macroeconomic imbalances to enable provincial governments to meet the expectations of the nation, subscribe to good practices, and establish performance in public management. Long-term fiscal sustainability is difficult due to low government revenue revenues, inefficiencies in public spending, and pressing social needs.

## **Section 2. The institutional factor surrounding central government intervention in provincial affairs**

---

<sup>14</sup> Kanimbu Miché, <https://heshimardc-net.cdn.ampproject.org/v/s.heshimardc.net/v1/2025/06/12/députés-provinciaux-en-rdc-entre-impuissance>, consulted on 01/08/2025 at 12h

<sup>15</sup> Samuel Lietaer, "Decentralization in the Democratic Republic of Congo. What consequences for Katangan policy in the mining sector", *Economische, politieke en Sociale Wetenschappen*, Vrije Universiteit Brussel, 2008-2009

<sup>16</sup> Motion of censure against the Provincial Government, *Op.cit.*, p 9

<sup>17</sup> Munda Banyumba Gilbert, "Problematic of public revenue mobilization in the DRC from 2014 to 2018", *Centre for the Study of the Development of the Great Lakes Region*, September 2020, Pp4-12

The interventionism of the central government is an observable factor in several areas of provincial life. Autonomy as established by Law No. 08/012 of July 2008 on fundamental principles relating to the free administration of the provinces is struggling to be effective. It should be noted that the provincial political institutions are under the control of the President of the Republic, the Central Government and the Provincial Assembly. On the one hand, the power of the Head of State to dissolve the Provincial Assemblies in the event of a persistent crisis, to dismiss the Governor, constitutes to a certain extent a limitation of the organic autonomy of the provinces. Because, in a political environment such as ours, characterized by political maneuvers and several latent burdens, it is possible that the external political actors of these provincial political institutions are pulling strings to the persistence of the crisis.

These interferences can be observed by the involvement of certain authorities of the central power native to the province of Tshopo during major political issues through some members of the head of state's cabinet, ministers of the central government (native and non-native), national deputies and senators, as well as other notabilities evolving indirectly in the political arena.

To do this, the control of the central authorities begins on the one hand, at the time of the Governor's assumption of office, the latter disburses for the procedures a large sum of more than five hundred thousand US dollars so that he can be invested by a presidential ordinance, yet Article 80 of the Constitution of February 18/2006 as revised to date provides that the President of the Republic invests the governors and vice-governors by ordinance. On the other hand, the one who acts as interim provincial governor sends money to the central authorities.

This reality suggests that the governors' elections are not enough, we must go beyond that; This is how the provincial authority to consolidate its power, it multiplies the mechanism of maintenance, namely: the sponsorship by key figures of the political scene at the level of the central Government in order to weave solid protective ties to ward off all the threats of the Provincial Assembly, the sending of large sums of money that should serve the implementation of the general policy of the province.

To add to this thesis, this phenomenon had grown at the time when Evariste Boshab and Ramazani Shadary were respectively at the helm of the Ministry of the Interior. The members of their respective cabinets carried out missions to the various problem provinces to request the postponement or cessation of all the activities of the Provincial Assembly in the direction of parliamentary control initiated by the latter or at a time when the violins were not in agreement between the provincial political institutions. If the members of this deliberative body resisted the injunctions of the central authorities, the latter intensified the pressure on the members of the Bureau, or even proceeded to close the Provincial Assembly. This is how Melmoth Sébastien believes that, since the institutional links between the state centre and its resource-providing peripheries, the Congolese decentralised communities' risk having not more but less power in the light of the gap between law and reality<sup>18</sup>. And this is the basis of certain insubordinating behaviours displayed by some governors with regard to their deliberative

---

<sup>18</sup> Melmoth Sébastien, "Democratic Republic of Congo: decentralization and exit from conflict", *revue-afrique-contemporaine*, 2007/1, n° 221, p. 84

bodies, no longer executing the legislative and non-legislative acts of the Provincial Assembly; they become like free electrons at the same time.

From the above, it is clear that local governance faces a number of major constraints that hinder the local development process of the Province of Tshopo. These constraints are caused by factors inside and outside the province. Inside, we can mention: the challenges related to the leadership of actors, local governance, its human resources, the isolation of rural areas and the non-competitiveness of the industrial sector. Externally, the problem related to the effectiveness of decentralization, namely: lack of real will to transfer the competences of the provinces by the central authorities.

As a result, in the current Government of the Democratic Republic of Congo, the Minister of the Interior, Security, Decentralization and Customary Affairs is at the same time Deputy Prime Minister. Ordinance No. 20/017 of March 27, 2020 setting out the attributions of the Ministries assigns to it, among other things, the policy of territorial administration, the maintenance of public order, the security of people and their property, hence its hierarchical power over the national police and the security services, etc. In addition to this, the Deputy Prime Minister and Minister of the Interior, Security and Customary Affairs was also assigned the coordination of relations between the members of the Government and the provincial governors in collaboration with the Minister in charge of decentralization. Of these various powers, nowhere is it indicated that the Deputy Prime Minister of the Interior exercises hierarchical power over the provincial governors, but all of his powers place him in a position of authority vis-à-vis the latter, especially when it comes to the policy of territorial administration and the maintenance of public order<sup>19</sup>.

It is by virtue of his prerogatives that the former Deputy Prime Minister of the Interior, Security, Decentralization and Customary Affairs Gilbert Kankonde had, in September 2019, demanded that the Governors cancel all their decisions on the movement of personnel within their respective territorial administrations. He also asked them to suspend the provincial commissioners from their duties, a position which, according to him, is "unregulated", "superfluous" and "to be abolished". It should be noted that some Governors, while urban and local elections were long overdue, had appointed mayors, mayors, heads of sectors and territorial administrators on a temporary basis to "ensure the continuity of public services of the State". The former Deputy Prime Minister had deemed this step unconstitutional<sup>20</sup>.

As a result, the table below presents the responses of our respondents on the interventionism of the central authorities in the affairs of the province.

**Table 02: Central Intervention in Provincial Affairs**

Respondents' opinions	Justifications	MGP	MAP	MSC	APN	TOTAL

<sup>19</sup> Germain ngoie Tshibambe and Janvier Lemere Kiyombo maKonga, "The encroachment of function and its various vicissitudes in the management of the provinces in the DRC: the case of the interim of the provincial governor" DOI: 10.12818/P.0304-2340.2024v84 p184-185

<sup>20</sup> Ditto

		F	%	f	%	F	%	F	%	f	%
YES	The interventionism of the central government can be observed during major issues at the provincial level;	3	6,67	5	11,11	5	11,11	2	4,44	15	33,33
	The obligation to take charge of the central government authorities on mission by the province;	3	6,67	2	4,44	1	2,22	0	0	6	13,33
	Recommendations of certain members of the provincial governments by the central government;	1	2,22	1	2,22	2	4,44	0	0	4	8,89
	The central government remained hesitant to transfer certain competences reserved for the provinces;	2	4,44	2	4,44	1	2,22	0	0	5	11,1
NOT	There is no interference in all acts taken at the local level.	1	2,22	2	4,44	1	2,22	1	2,22	5	11,1
	The probity of political actors is a problem in our province.	2	4,44	3	6,67	3	6,67	2	4,44	10	22,22
TOTAL		12	26,68	15	33,32	13	28,90	5	11,1	45	100

This table shows the result that 30 provincial political actors, or 66.67% of our respondents, confirmed that the central authorities intervene in the affairs of the province, and this has an impact on the effectiveness of provincial political institutions in several aspects, particularly during the implementation of legislative and non-legislative acts.

From the above, in October 2023, the former Deputy Prime Minister and Minister of the Interior Peter Kazadi suspended all activities of the Provincial Assembly of Kinshasa, including the attempts to convene plenaries, due to internal tensions between the Bureau and the deputies, same situation in South Kivu where the past legislature was characterized by the interventionism of the central authorities to curb the conflicts that persisted between the members of the two institutions provincial policies.

On the other hand, the Vice-Governor of the province of Lualaba, in his provincial order on the reorganization of the Provincial Government of Lualaba, in the part devoted to visas, referred to letter No. 25/CAB/VPM/MININTERSEDECAC/AOK/340/2022 of March 11, 2022 of the Deputy Prime Minister, Minister of the Interior, Security, Decentralization and Customary Affairs, relating to the authorization of the redevelopment of the Provincial Government of Lualaba. If, therefore, the authorization to reorganize the Provincial Government of Lualaba came from the VPM of the Interior, the question is to know by virtue of what authority and on what constitutional or legal basis this authorization is based, because neither the Constitution, nor the law relating to the free administration of the provinces, envisages the reshuffling of a provincial Government by a vice-governor, acting as the Governor. If we go further, in 2012 Adolphe Lumanu, then Minister of the Interior, suspended

the plenaries of the North Kivu Assembly, after some deputies left their political parties, a decision described as an assassination of democracy by the rapporteur of the Provincial Assembly of North Kivu at the time.

Finally, these interventions, although justified by the central authorities by the need to restore order in the functioning of provincial political institutions, were criticized for their impact on the decentralization and autonomy of the provinces<sup>21</sup>. Contrary to the Weberian, idealistic approach, which opposes any politicization of public administration, reality tells us that political influences are remarkable within public administrations; because they are not totally removed from political hazards; the absolute separation between politics and administration is only an illusion<sup>22</sup>.

For this reason, Bantamba Bonyenga<sup>23</sup> specifies on this subject: attempts at decentralization in the Democratic Republic of Congo do not succeed, given, among other things, the ambiguous attitudes of the central government, social spending as well as other expenditures of the annexed budget of the province are found under the heading of special funds, which are financial or material allocations from the central government to the province, and which do not involve any movement in the provincial government's coffers. It is in this context that Ndeke Zamba and Papy Kolongo Nguma<sup>24</sup> believe that the untimely interventions of the central government in the area of competence reserved for the provinces, particularly in the public finances of the province, undermine the responsibilities of the leaders of the provincial political institutions, namely: the members of the provincial governments who are supposed to implement legislative and non-legislative acts.

### **Section 3. The institutional factor relating to clientelism in the choice of facilitators**

To this end, the choice of facilitators within the provincial governments depends on several parameters, which sometimes contribute to the deficit in the implementation of legislative and non-legislative acts of the Provincial Assembly. Thus, the provincial governor bases the choice of his facilitators on the basis of several criteria, including the following:

In the first place, the provincial authority appoints the members of the Government based on the criterion of a partisan order, that is to say, the future leaders of the Provincial Government are chosen from its political family, namely: the comrades who had invested themselves, then actually competed in the elections alongside the winning candidate, have somewhere, the right to participate in the management of public affairs at the provincial level. The partisan choice at first seems not to be clientelistic, it should be specified that it is clientelistic, by the fact that the room for manoeuvre of the provincial governor is reduced, since he can only appoint the members of the Government from among the candidates whose names the political party has

---

<sup>21</sup> <https://heshimardc-net.cdn.ampproject.org/v/s.heshimardc.net/v1/2025/06/12/députés-provinciaux-en-rdc-entre-impuissance>, consulted on 01/08/2025 at 12 noon

<sup>22</sup> Malukisa Nkuku, "Austria's policy and the chronic fragility of administrative reform in the Democratic Republic of the Congo", University of Antwerp /IOB/ Institute of Development policy : working paper /2025.10, ISSN2294-8643

<sup>23</sup> Bantamba Bonyenga, Local governance and sustainable development of the Yalikoka-mboso chiefdom in the territory of Isanga, spa, fssap, 2023-2024, unpublished

<sup>24</sup> Ndeke Zamba and Kolongo Nguma, "Provincial Assembly of the Orientale Province facing the challenges of parliamentary control from 2006 to 2014" in IRSA, UNIKIS, n° 22, 2015, Pp 85-90

sent. Secondly, the choice made in such conditions can have an impact on the effectiveness of the provincial government, since these political parties propose candidates on the basis of militant criteria, and not necessarily competence.

In this regard, Milacic Slobodan<sup>25</sup> thinks that representative government is the subject of severe criticism insofar as the citizens of these regimes have the impression of being poorly represented; they seriously question the legitimacy of representative institutions, since they have realized that elected officials work for interests that are foreign to the commons.

Secondly, the choice resulting from the political arrangements between the partners is when a provincial deputy as a voter in the second-degree elections has been able to negotiate his vote, in exchange for a ministerial position, either for himself or for someone else; As you know, the political universe is a world where you have to make alliances or concessions to conquer power; considering this, these arrangements put the Provincial Governor in a position where he could appoint inexperienced or less competent persons as members of the Provincial Government.

Thirdly, the central authorities recommend theirs for the purpose of learning to the provincial authority certain persons as potential members of the provincial governments, when in reality in most cases they are individuals who have no proven experience in the field of management. In addition, clientelism favors the plethora of members of the provincial governor's cabinet, members of ministerial cabinets, as well as in the provincial government. These collaborators do not facilitate anything to the provincial authority, as we have just shown how they came to power; As a result, they do nothing randomly, they seek to profit from everything, maximizing their optimal interest.

The table below presents the responses of our respondents on clientelism in the choice of facilitators.

**Table 08: Clientelism in the choice of facilitators**

Respondents' opinions	Justifications	MGP		MAP		MSC		APN		TOTAL	
		f	%	f	%	F	%	F	%	f	%
YES	Political arrangement or compromise at the time of electoral alliances;	4	8,89	4	8,89	4	8,89	2	4,44	14	31,11
	Partisan choices of political actors within the political family;	2	4,44	3	6,67	3	6,67	1	2,22	9	20
	Nomination of candidates who, through political influence;	2	4,44	3	6,67	2	4,44	0	0	7	15,56
	Appointment of certain members of the Government	2	4,44	2	4,44	1	2,22	0	0	5	11,11

<sup>25</sup> Milacic.S, Representative Democracy in the Face of a Historical Challenge, Brussels: Bruylant, 2006, pp 26-37

	through the influence of national actors of the Tshopo;										
NOT	Weak political will of provincial actors;	1	2,22	1	2,22	2	4,44	1	2,22	5	11,11
	Provincial government being under the central government system	1	2,22	2	4,44	1	2,22	1	2,22	5	11,11
TOTAL		12	26,68	15	33,33	13	28,89	5	11,1	45	100

In this table, the result emerges according to which 35 provincial political actors, or 77.78% of our respondents, confirmed that clientelism in the choice of members of provincial governments causes the deficit in the implementation of legislative and non-legislative acts, because inexperienced people, without any notion of management of the res publica, occupy positions of responsibility, impact on the effectiveness of provincial governments' actions.

To this end, Albert Malukisa Nkuku<sup>26</sup> points out that, in developing countries in general, and in sub-Saharan Africa in particular, public administrations are characterized by the hybridization of formal and informal norms, and especially the pre-eminence of informal norms in the relations between users and civil servants on the one hand, and between civil servants and political leaders on the other hand. He goes on to say that the real functioning of these administrations is the result of compromises, negotiations, and the invention of new rules of the game that puts the interests of the actors first. Yuma Mwana<sup>27</sup> adds that several researchers support the thesis that the application of decentralization is delayed, thwarted and diverted since it clashes with the political interests of the actors; and where it exists, it operates by obeying political and economic power relations, rather than the letter and spirit of the law.

### 3.0 DISCUSSION OF THE RESULTS

The results of this study reveal that institutional factors relating to the non-withholding of 40% of national revenues, the interventionism of the central authorities in the affairs of the province, and clientelism in the choice of facilitators are at the root of the deficit in the implementation of legislative and non-legislative acts of the Provincial Assembly of Tshopo.

To this end, this statement on the issue of withholding revenue at source is manifested by the fact that, 5 7.78% of our respondents confirmed that the non-withholding of 40% of national revenues is one of the factors of the deficit in the implementation of legislative and non-legislative acts of the Provincial Assembly; 66.67% of our respondents said that the central authorities intervene in the affairs of the province; 77.78% of our respondents confirmed that clientelism in the choice of members of provincial governments causes the deficit in the implementation of legislative and non-legislative acts, because inexperienced people, without any notion of management of the res publica, occupy positions of responsibility, which has an impact on the effectiveness of the actions of provincial governments.

<sup>26</sup> Malukisa Nkuku, Op.cit., p5

<sup>27</sup> Yuma Mwana. E., "Local Governance and Development of the Province of Tshopo" In International Journal of Researcher, Volume I, Number 4, 2020

In view of the above, we can affirm that the implementation of political regionalism instituted by the Constitution of 18 February 2006 as amended to date, is struggling for its effective implementation. For the interventionism of the central government is an observable factor in several areas of provincial life. Autonomy as established by Law No. 08/012 of July 2008 on fundamental principles relating to the free administration of the provinces is struggling to be effective. However, Jérôme Marie and Eric Idelman<sup>28</sup> point out that African states, although strongly encouraged by international bodies, seem reluctant to give in to their prerogatives; although legal frameworks often provide for the possibility of transferring certain competences to decentralized territorial entities, the measures that made them concretely applicable are not generally taken. In addition, François Paul Yatta considers that in most African countries, despite the multiple laws on the transfer of powers to decentralized entities, vagueness continues to persist for several reasons. Like Cameroon, in its decentralization process, it is still waiting for the implementing decrees that will allow it to be effectively operationalized.

As a result, it should be noted that the provincial political institutions are under the influence of the national political institutions, in this case: the President of the Republic, of the Central Government. At the provincial level, the provincial government is under the control of the Provincial Assembly. Faced with conflicts between provincial political institutions, the Minister of the Interior intervenes by giving the directives to be followed, either to suspend the activities of the Provincial Assemblies and/or the Provincial Governments. Such a measure raises questions about the province's autonomy. In December 2020, Deputy Prime Minister Gilbert Kankonde had already denounced this move in the province of Maniema, insisting that the Vice-Governor is not competent to reorganize the provincial government, such a step is unconstitutional. If things are so strict in the event of a Governor being dismissed by the Provincial Assembly, how much more so in the event that the Governor is still in office. The Governors claimed to be acting on the basis of article 28, paragraph 4, of the Law on the Free Administration of the Provinces, according to which the Governor has the public administration in the provinces.

As such, all provincial and national public services in the provinces are placed under its authority, but they have forgotten that, as representatives of the central government in the provinces, in the exercise of this mission of representation and coordination of the public services decentralised in the provinces under the terms of article 64 of the same law, they are accountable for their actions to the central government to which, they can receive instructions<sup>29</sup>. The same thing was observed in the environment and sustainable development sector, on the issue of the surface tax and the area fee was the subject of several meetings for double taxation, while Ordinance-Law Nos. 18/003 and 018/004 of March 2018 setting the nomenclature of taxes, duties and fees respectively of the central government and the province were clear on this. There was an uncertain imbroglio in that the same tax base was going to be taxed twice, etc., to the detriment of the forestry companies by the confusion maintained in the measures for the implementation of these two above-mentioned ordinances-laws taken by the Central Government by the interministerial order No. CAB/MIN/EDD/2020/005 and CAB/MIN/FINANCES/2020/066 of July 24, 2020 fixing the rates, duties, taxes and fees to be collected at the initiative of the Ministry of the Environment in terms of forest management,

---

<sup>28</sup> <https://doi.org/104000/échogéo.12001>, Jérôme Marie and Eric Idelman "Decentralization in West Africa: A Revolution in Local Governance"

<sup>29</sup> Ibid

requesting the federation of timber industrialists and forestry companies operating in the province of Tshopo to pay this fee to the General Directorate of Administrative and State Revenues. While Ordinance-Law No. 018/004 of March 2018 setting the nomenclature of taxes, duties and fees respectively of the central government and the province specifies that the fee on the area is the responsibility of the province.

On the other hand, the untimely interventions of the central government in areas reserved for the provinces, particularly in provincial public finances, are detrimental to the implementation of legislative and non-legislative acts of the Provincial Assembly, even if they are decreed by the provincial political authorities. The interventionism of the central government, particularly in the free choice of the leaders of the provincial political institutions, namely: the Governors and Vice-Governors, the members of the bureau of the deliberative body, the members of the provincial governments, to name but a few. The central Government's right to oversee certain decisions deemed not to be in line with the proper functioning of provincial political institutions, and the granting of substitute powers when local authorities want to act as free electrons, hinders the law on the free administration of the provinces.

In summary, the implementation of public policies of decentralization is expressed in most African countries by significant interventions in the legislative, administrative, and public spheres. During the elections of provincial governors and vice-governors, the formation of the provincial government team through recommendations, the election of bureau members, during parliamentary controls, the provincial deputies receive the order from their staff to be able to vote for this or that candidate; to protect the provincial government because it defends the existing system.

#### **4.0 CONCLUSION**

This study proposed to analyze the institutional factors that contribute to the deficit in the implementation of legislative and non-legislative acts of the Provincial Assembly of Tshopo. It is in this context that a survey questionnaire was administered to a non-probability sample of 45 political actors, due to 15 provincial deputies, 12 members of provincial governments, 5 national actors, and 13 civil society actors. The results obtained revealed that institutional factors relating to the non-withholding of 40% of revenues of a national nature, the interventionism of the central authorities in the affairs of the province, and clientelism in the choice of facilitators are at the root of the deficit in the implementation of legislative and non-legislative acts of the Provincial Assembly of Tshopo.

#### **REFERENCES**

##### **1. Works**

1. Bara Gueye, *Où va la participation: expérience de l'Afrique de l'Ouest Francophone*, IIED, Dossier n°87, 1999,
2. Crozier M and Friedberg. E, *Actor and System: Strategic Analysis of Organizations*, Ed. du Seuil, coll. "Points essais", 1992,
3. Gérard Gerold, *DR Congo: the failure of provincial powers, a new stage in the deconstruction of the Third Republic, the East African Notebooks, the Great Lakes Observatory in Africa*

4. Matata Ponyo Mapon, for an emerging Congo: Interviews with Kibambi Shintwa, Editions privé, 1e rue de Stockhonlm-75008 Paris,
5. Muyej Mangeze, progressiveness and consensus, implementation of Decentralization and territorial division, MIRAK, Kinshasa, October 2012,
6. Ramazani Shadary Mulanda, Provincial Institutions Facing the Challenge of Development in the DRC, Paris, L'Harmattan DRC, 2018

## 2. Journal articles

1. Eric Oliva, "The conception of local financial autonomy, what content? What effectiveness"? Cachan Lavoisier, vol 2 n° 2, 2017,
2. Germain ngoie Tshibambe and Janvier Lemere Kiyombo maKonga, "The encroachment of function and its various vicissitudes in the management of the provinces in the DRC: the case of the interim of the provincial governor" DOI: 10.12818/P.0304-2340.2024v84,
3. Katunda Elongo wa Loshima, "The Constitution of 18 February 2006 and the transfer of competences to provincial political institutions in the Democratic Republic of Congo", Strategic Intelligence Review, Journal of Scientific Publications, Volume 4, number 009, April-September 2021
4. Malukisa Nkuku, "Austria's policy and the chronic fragility of administrative reform in the Democratic Republic of the Congo", University of Antwerp /IOB/ Institute of Development policy : working paper /2025.10, ISSN2294-8643
5. Melmoth Sébastien, "Democratic Republic of Congo: decentralization and exit from conflict" revue-afrique-contemporaine, 2007/1 n° 221,
6. Milacic.S, Representative Democracy in the Face of a Historical Challenge, Brussels: Bruylant, 2006,
7. Munda Banyumba Gilbert, "Problematic of public revenue mobilization in the DRC from 2014 to 2018", study center for the development of the Great Lakes region, September 2020,
8. Nach Mback, "Decentralization in Africa: Challenges and Perspectives, Contemporary Africa", Special Issue 3rd Quarter, 2001,
9. Ndeke Zamba and Kolongo Nguma, "Provincial Assembly of the Orientale Province facing the challenges of parliamentary control from 2006 to 2014" in IRSA, UNIKIS, n° 22, 2015,
10. Samuel Lietaer, "Decentralization in the Democratic Republic of Congo. What consequences for Katangan policy in the mining sector", Economische, politieke en Sociale Wetenschappen, Vrije Universiteit Brussel, 2008-2009
11. Yuma Mwana. E., "Local Governance and Development of the Province of Tshopo" In International Journal of Researcher, Volume I, Number 4, 2020

## 3. Unpublished theses and dissertations

1. Bantamba Bonyenga, Local governance and sustainable development of the Yalikokamboso chiefdom in the territory of Isanga, DES spa thesis, fssap, 2023-2024, unpublished Official documents, reports
2. Constitution of 18/02/2006 as amended to date, article
3. Act respecting the free administration of the provinces, op.cit. Articles 43, 142

4. Explanatory memorandum to Law No. 11/011 of 13 July 2011 on Public Finances
5. Motion of censure against the Provincial Government of Tshopo

### **5. Webographies**

1. <https://heshimardc-net.cdn.ampproject.org/v/s.heshimardc.net/v1/2025/06/12/députés-provinciaux-en-rdc-entre-impuissance>,
2. Kanimbu Miché, <https://heshimardc-net.cdn.ampproject.org/v/s.heshimardc.net/v1/2025/06/12/députés-provinciaux-en-rdc-entre-impuissance>,