

**INCLUSION OF PEOPLE LIVING WITH DISABILITIES IN
DECISION-MAKING BODIES IN THE DRC: A CRITICAL STUDY OF
THE PROVINCE OF TSHOPO FROM 2018 TO 2025**

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ABSTRACT

The inclusion of people living with disabilities in decision-making bodies in the Democratic Republic of Congo (DRC) is one of the priorities for the implementation of the Sustainable Development Goals agenda. This study analyzes the representativeness of people with disabilities in political institutions in the DRC, a critical study in the province of Tshopo that involves the confrontation of Decree No. 24/22 of March 7, 2024 on the modalities of the representation of people with disabilities in institutions in the DRC with the reality within the provincial institutions of Tshopo. It is in this perspective that we propose to verify the application of legal texts on the political inclusion of people with disabilities in the province of Tshopo. To achieve this, legal positivism and legal sociology have served as a framework with the technique of free interview and investigation. Thus, we have reached the results that notwithstanding the legislative advances in terms of the inclusion of people with disabilities in decision-making bodies in the DRC in order to respond positively to the objectives of sustainable development, the representativeness of people with disabilities in the provincial political institutions of Tshopo is 00%.

Keywords: Inclusion, people with disabilities, decision-making bodies.

INTRODUCTION

The commitment made by the United Nations to the rights of persons with disabilities on 13 December 2006 at the United Nations headquarters in New York was concretized on May 3,

2008 by the entry into force of the Convention on the Rights of Persons with Disabilities (CRP)¹.

The DRC has made efforts to accede to this convention to solve the problem of inclusion of people with disabilities. The Congolese legislator has enshrined a law on the protection and promotion of the rights of persons with disabilities and a decree on their representativeness within public and private institutions.

According to this decree, the representation of people with disabilities must be at least 5% in public institutions and at least 3% in the private sectors² in order to respond positively to the agenda of the Sustainable Development Goals.

Unfortunately, it is noted that people with disabilities are not represented in political institutions in the DRC. The decrees appointing members of the provincial government are always in favour of persons deemed capable or able-bodied, and no person with a disability has obtained the confidence of the population to represent them in the Provincial Assembly. From this perspective, it is difficult to respond positively to the Sustainable Development Goals, which leave no one behind.

This situation raises the following question: What is the state of play of the legal text on the inclusion of people with disabilities in decision-making bodies and the practical realities in the Province of Tshopo?

The challenge is twofold. On the one hand, it is a question of analyzing the spirit of the legal instrument, and on the other hand, of verifying the state of play of the inclusion of people with disabilities within the decision-making bodies in the province of Tshopo, especially in terms of compliance with at least 5% as dictated by the decree.

This study is based on two perspectives. On the scientific level, she makes her modest contribution to the doctrine of the rights of people with disabilities by verifying their inclusion in decision-making bodies in the Province of Tshopo. On a practical level, it is a reference document for Congolese leaders to effectively implement the inclusion of at least 5% of people with disabilities in decision-making bodies in the DRC, which makes it possible to respond favourably to the agenda of the Sustainable Development Goals. It is also a plea in favour of people with disabilities.

To achieve this, legal positivism and sociology of law have served as a framework with the technique of free interviews and investigations. This study makes it possible to apply legal texts by confronting them with political realities.

This study is divided into two parts. The first part deals with the legal framework for the inclusion of people with disabilities in decision-making bodies in the DRC. And the second part addresses the practical realities in the Province of Tshopo.

¹ N'GBANSONHFI GBANDEY, Professional Integration and Job Retention of People with Disabilities: Challenges of Inclusive Employment, University of Lomé, p.348

² Article of Decree No. 24/22 of March 7, 2024 on the modalities for the representation of people with disabilities in institutions in the DRC

I. Legal framework for the inclusion of persons with disabilities in the DRC

Two legal instruments provide the legal framework for the inclusion of people living with disabilities in decision-making bodies. These are: the Constitution of 18 February 2006 as amended and supplemented by Law No. 11/002 of 20 January 2011 and Decree No. 24/22 of 7 March 2024 on the modalities for the representation of people with disabilities in institutions in the DRC.

A. The Constitution of 18 February 2006 as amended and supplemented by Law No. 11/002 of 20 January 2011

Article 11 of the Constitution of the Democratic Republic of Congo states: All human beings are born free and equal in dignity and rights. However, the enjoyment of political rights is granted only to Congolese, except for exceptions established by law³.

The DRC recognizes human rights and fundamental freedoms to all Congolese citizens without exception. It emphasizes that these freedoms are attached to the person from birth. That is to say, every natural person born alive and viable is free.

All Congolese citizens also enjoy equality in dignity and in legal terms. This equality was to be manifested in respect for human rights, otherwise known as human rights.

To achieve this, the constitution emphasizes that all Congolese are equal before the law and have the right to equal protection of the laws⁴. Despite this clarification, the idea did not come out clearly.

In addition, for the participation of all, the Constitution specifies in its article 49: " The elderly and the person with disabilities have the right to specific measures of protection in relation to their physical, intellectual and moral needs. The State has the duty to promote the presence of persons with disabilities in national, provincial and local institutions. An organic law shall lay down the procedures for the application of this right⁵»

It is clear from these constitutional provisions that the Congolese State recognizes the political rights of all its citizens without discrimination on the basis of sex, origin or disability. These political rights imply the right to vote, the right to hold and exercise political office, the right to participate in decision-making on an equal footing with others.

Since people with disabilities are discriminated against or excluded from their political rights, the Congolese State first had to guarantee them special protection and then enshrine in a specific legal instrument the representativeness of people with disabilities in national, provincial and local political institutions.

³ Article 11 of the Constitution of the Democratic Republic of Congo as amended by Law No. 11/002 of 20/01/2011 revising certain articles of the Constitution of the Democratic Republic of Congo of 18/02/2006, In Journal Officiel de la RDC n° spécial 2011, of 05 February 2011

⁴ Article 12 of the Constitution of the Democratic Republic of Congo, Op.cit

⁵ Article 49 of the Constitution of the Democratic Republic of Congo, op. cit. cit

B. Decree No. 24/22 of March 07, 2024 on the modalities for the representation of persons with disabilities in institutions in the DRC

This decree is designed to respond positively to the fundamental principle of the 2030 Agenda of the Sustainable Development Goals "leave no one behind". It is for this reason that it is important that there is the right to participation and representation of persons with disabilities within the country's institutions at the local, provincial and national levels⁶.

First of all, it should be noted that the purpose of this legal instrument is to:

- Eliminate all forms of discrimination based on disability in public and private life;
- Promote the social inclusion of people with disabilities through accessibility and empowerment mechanisms for their participation in the country's sustainable development process;
- To carry out representation on a quota basis in public institutions, especially in the civil service, and in the private sector at the national, provincial and local levels⁷.

In addition to the element of discrimination on the basis of disability in all employment-related initiatives such as conditions of recruitment, hiring, advancement in grade, hygiene conditions at work, remuneration for equal work, and job retention except in cases of persistent disability, the rate of representation of persons with disabilities is at least 5% in public institutions and at least 3% in the private sector⁸.

This decree is in line with the sustainable development goals. It is important that people with disabilities participate fully and effectively in the sustainable development of the Congolese State.

Moreover, disability is not an element that should call into question the ability of people with disabilities to give the best for the emergence of the State in order to align it with the agenda of the Sustainable Development Goals.

Add to this, the inclusion of people with disabilities in decision-making bodies constitutes the participation of all in public affairs. Since citizens are called upon to contribute to the construction of the nation, it is appropriate that people with disabilities be integrated.

This decree is also a response to the establishment of the principle of equality in political rights. It also aims at equal opportunities and the fight against discrimination.

To align Congolese legislation with the agenda of the Sustainable Development Goals, the effective implementation of the application of this decree in relation to the inclusion of people with disabilities in decision-making in the affairs of the Republic is the best solution.

However, it is a question here of verifying the application of this legal instrument in the political institutions in the Province of Tshopo.

⁶ Preamble to Decree No. 24/22 of March 07, 2024, Op. cit. cit

⁷ Article 1 of DecreeNo. 24/22 of 7 March 2024, Op. cit

⁸ Article 4 of DecreeNo. 24/22 of 07 March 2024, op. cit.

II. Practical realities on the inclusion of persons with disabilities in decision-making bodies in the Province of Tshopo

Under the provisions of article 195 of the Constitution, the provincial political institutions are:

- The Provincial Assembly;
- The Provincial Government⁹.

A. Provincial Assembly of Tshopo

Political rights such as the right to vote, to stand for election and to be elected are fundamental human rights. Ensuring that the exercise of these rights by persons with disabilities is respected does not mean creating a series of new rights or special rights for a specific category. Ensuring respect for the political rights of persons with disabilities is a democratic issue that raises the question of the inclusiveness and effectiveness of democratic systems, which is of interest to the entire population¹⁰.

In Europe, the Parliamentary Assembly of the Council of Europe is convinced that the participation of persons with disabilities in political life can help to eliminate stereotypes, change mentalities and combat discrimination as a whole. Concrete measures can be taken to facilitate their access to voting and participation in elections, but they require political and financial commitments¹¹.

Progress has been made in Europe on the inclusion of people with disabilities in decision-making at parliamentary level and that they have political rights on an equal footing with others.

In the DRC, the Provincial Assembly is the first provincial political institution. Its main missions are to elect the governor and vice-governor of the province, to legislate by means of edicts, to invest and control the provincial government through parliamentary controls, to provide recommendations to the provincial executive for the smooth running of the province and to vote on the budget of the province.

In addition, the Provincial Assembly of Tshopo has internal regulations that outline a line of conduct to be followed. It has 29 members called Honourable Provincial Deputies.

Of these 29 members, 90% are from the legislative elections and 10% are co-opted. The latter are former customary chiefs. It should be noted that there were two legislative elections between the period of 2018 and 2024.

In this regard, the first legislative elections in 2018, we note the participation in the vote and to present themselves as candidates, people with disabilities also fought for the conquest of power.

⁹ Article 195 of the Constitution of the DRC, op. cit. cit

¹⁰ Resolution 2155, Political rights of persons with disabilities: a democratic issue, Text adopted by the Standing Committee, acting on behalf of the Assembly, on 10 March 2017 (see Doc. 14268, report of the Committee on Equality and Non-Discrimination, rapporteur: Ms Mechthild Rawert)

¹¹ Resolution 2155, op. cit. cit

Unfortunately, these candidates with disabilities did not obtain the confidence of the people in this regard.

At the same time, in the parliamentary elections in 2024, people with disabilities stood for once as candidates, but they were unable to gain the confidence of the population during the election campaign.

It should be noted that, of these two legislatures, despite the reform of the legal text and the efforts of people with disabilities, it turns out that no person with disabilities has been elected as a provincial deputy and consequently, these people do not take part in the decision-making process in the Provincial Assembly of Tshopo.

Illustrative table N°01

No.	Identification	Number	Percentage
01	Members of Provincial Parliament	29	100%
02	Fit or Valid	29	100%
03	Living with a disability	00	00%

Source: Data collected from the field

It should be noted that during the legislature, some provincial deputies experienced the health problem. This situation has led them to a state of either infirmity or defect, the treatment of which depends on their financial capacities.

The representativeness of people with disabilities in the decision-making process within the Provincial Assembly of Tshopo remains an obstacle to this day, because the way to access it as a member is the conquest of legislative elections. Of course, people living with disabilities have to go through this struggle to achieve this.

On the other hand, in addition to the members of the provincial assembly who are the 29 provincial deputies, there is also the presence of political staff, support and the administrative service. The main mission of these agents is to support the provincial deputies in the exercise of their duties.

The administrative and political staff as well as those of support are appointed by the decision of the President of the Provincial Assembly after consultation with all the members of the bureau. These staff are notified either by the director of the office of the president of the provincial assembly for those in politics and support, on the one hand, and by the administrative director for those who are in the administration.

On the number of agents and executives of this deliberative body, he reveals that people with disabilities are not represented. No persons with disabilities have been appointed. Because in this political institution, it is trust that counts and the deputies always want to thank or honor

those who accompanied them during the electoral campaigns. In addition to the Provincial Assembly, there is also the second institution, the Provincial Government.

B. Provincial Government of Tshopo

Participation in elections for persons with disabilities promotes more diverse political representation, which allows for better consideration of special needs in policy-making. In addition, greater involvement highlights disability-related issues, which has an impact on policy priorities and social programmes. At the global level, the inclusion of persons with disabilities in the electoral process can represent a country as more democratic and respectful of fundamental rights, which positions it as more equitable¹².

In addition, political rights for people with disabilities in the DRC must attract the attention of Congolese decision-makers. Their inclusion in decision-making is in line with the objectives of sustainable development.

The provincial government of Tshopo is the second provincial political institution. It is composed of a provincial governor, a vice-governor elected from the same list by the provincial deputies and a maximum of ten provincial ministers appointed by order of the provincial governor.

From the above, after the appointment of the members of the provincial government, it appears that out of the ten provincial ministers, none is a person living with a disability. There is then a total absence of representation of people with disabilities in decision-making in the province of Tshopo.

Illustrative table n°02

No.	Identification	Number	Percentage
01	Provincial Ministers	10	100%
02	Fit or Valid	10	100%
03	Living with a disability	00	00%

Source: Data collected from the field

It should be noted that out of all the agents and executives of the governorate and those of provincial ministries, no person with disabilities has been appointed. The political rights of people with disabilities in the province of Tshopo are still theoretical. Much remains to be done to comply with the legal texts.

In addition, since the adoption of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) in 2008, disability inclusion has become an integral part of development

¹² REVAEU CLEMENTINE et al., What obstacles hinder the electoral participation of persons with disabilities and how to overcome these barriers to ensure their full inclusion in the democratic process?, p.14

and human rights agendas, and has received increased support and investment from the international community¹³.

In the Democratic Republic of Congo, there are legislative advances to promote the inclusion of people living with disabilities. However, it appears that there are no accompanying measures for their effective implementation throughout the Congolese national territory.

The inclusion of people living with it in decision-making within provincial political institutions is 00%. This exclusion is the obstacle to the implementation of the Sustainable Development Goals agenda, which leaves no one behind.

CONCLUSION

The present research focused on the inclusion of people with disabilities in decision-making bodies in the DRC with a critical study of the province of Tshopo. To respond positively to the agenda of the Sustainable Development Goals, the Congolese State has put in place a legal instrument guaranteeing the representativeness of people living with disabilities in public and private institutions.

The legal text specifies that the representativeness of people with disabilities in public institutions must be at least 5% and in the private sector at least 3%¹⁴.

After analysis, the results show that there is, of course, progress in terms of legislation on the inclusion of people with disabilities in decision-making bodies in the DRC in order to respond positively to the agenda of sustainable development developments, on the one hand, and the study reveals that the representativeness of people with disabilities in the provincial political institutions of Tshopo is 00%, on the other hand.

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¹³ "SUMMARY Disability Inclusion Policy and Strategy 2022–2030", available on [https://www.unicef.org/media/140146/file/UNICEF%20Disability%20Inclusion%20Policy%20and%20Strategy%20\(DIPAS\)%202022-2030.pdf](https://www.unicef.org/media/140146/file/UNICEF%20Disability%20Inclusion%20Policy%20and%20Strategy%20(DIPAS)%202022-2030.pdf), accessed on 31/01/2026 at 08:54

¹⁴ Article 4 of DecreeNo. 24/22 of 07 March 2024, op. cit.

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