

**Decentralization Issues in  
Post-Conflict Democratic Republic  
of the Congo (DRC)  
(preliminary draft)**

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## **Abstract**

The main advantage of decentralization over centralized government is its informational superiority. Local service delivery can then be tailored to the needs and preferences of the citizens. This paper analyses if this assertion, that holds for developed countries, is also valid in the case of a post-conflict low-income country. Since there is no panacea for successful decentralization, it then confronts theory with the case of the Democratic Republic of the Congo (DRC). Finally the author assesses the new law on decentralization in this country.

## **Résumé**

L'avantage principal d'une décentralisation politique est la supériorité d'information concernant les préférences des citoyens. La production de biens publics locaux peut alors être mieux adaptée aux besoins des gouvernés. Ce document de travail analyse si cette hypothèse qui vaut pour un pays développé, est aussi valable dans un pays à faible revenu et sortant d'un conflit. Puisqu'il n'y a pas une formule unique pour une décentralisation réussie, le document confronte la théorie avec le cas de figure de la République Démocratique du Congo (DRC). Enfin l'auteur évalue la nouvelle loi sur la décentralisation dans ce pays.

## 1. Introduction

Development thinking has always been dominated by certain insights and fashions that prop up and then disappear after new insights more or less eclipse the former. The fifties were dominated by the concepts of take-off and accumulation of physical capital. The sixties by planning and the need for an active state to be followed by a basic needs approach and a new international order in the seventies. The eighties and nineties stressed structural adjustment and the necessity of getting the fundamentals right. The Millennium Development Goals and the new international financial architecture finally put the poverty, good governance and market democracy issues in the middle of the new concerns (Hirschman 1984, Sen. 1984 and 2001, Stiglitz 1999).

It is in this latter vein and developments that decentralization issues begot a favorable prejudice. Indeed, it was thought that good governance and the process of democratization could best be deepened by bringing policy decisions as close as possible to the needs and preferences of the population. So decentralization became a popular theme lately and embraced by the donor community. As early as 1990, the UN-Rio conference on Sustainable Development elaborated “Local Agenda 21” as a specific program to enhance local governance and democracy. Subsequently a consortium of UNDP, FAO, etc developed the most elaborated website on the issue of decentralization ([http://www.ciesin.org/decentralization/SB\\_entry.html](http://www.ciesin.org/decentralization/SB_entry.html)). The World Bank from 1995 up to today dedicated a lot of resources and developed indicators of decentralization (World Bank 1995–2003). The IMF, in conformity to its mandate, has a long standing tradition of work on fiscal decentralization, however, not specifically dedicated to low-income countries. Intellectually the idea and fashion of decentralization is certainly also due to the development of the ideas of social capital, where Putnam, in his seminal work “Making Democracy Work” eloquently showed that democracy is working best where there is a longstanding tradition of local governance and accountability, whereas more centralized government produced less results both in economic performance as in civic well being (Putnam, 1993).

If the ideal of local governance and democracy is beyond dispute, the outcomes and implementation of decentralization processes are, especially in low income countries more problematic. So, before embarking on serious decentralization in a low income country and in the context of post-conflict, it is worthwhile to go into that discussion.

Therefore, we shall first (section 2) give a short overview of concepts and a few definitions, because decentralization encompasses political, administrative and fiscal aspects. At the end of that section we shall concentrate on the theoretical discussion on fiscal decentralization, where there is a long standing discussion on merits and problems. Because most of the discussion on fiscal decentralization was influenced foremost by processes in mature democratic countries, it did not reflect enough the specific problems of low

income countries where human capital and other resources are scarcer. This problematique will be tackled in the next section three of this draft. We will first show that there are specific concerns for decentralization in LIC's and that there are as many decentralization processes as there are countries and that the extent of decentralization, measured by the ratio of sub national budget/national budget, is not the only relevant factor to measure successful decentralization. Therefore, one should go beyond the fiscal decentralization debate. The scarce and scanty evidence on decentralization and especially on the much heralded better service delivery if local governance and democracy prevail, will show us how difficult it is to go for an across the board or "one size fits all" decentralization. By then we will have sufficient background to develop the next section ( section 4). In that section we will first highlight the very specific institutional and historical context in which the debate of decentralization has to be framed. DRC has specific characteristics which might have as a consequence that decentralization has to be tailored to this specific context. Especially the context of a failed state in recovery after a devastating conflict and with very heterogeneous conditions in terms of populations and resources make it a peculiar case. We shall then develop the deconcentration politics that existed before the conflict and dating back to the law from 1982 , before looking at how the new law on decentralization, that is in the making, tackles this specific situation.

In this central section of the text we shall discuss the new proposal on decentralization in DRC formulated in the "Projet de Loi Organique, no. xxx Portant Organisation Territoriale et Administrative de la RDC". It reflects adequately the new power balance that is laid down in the "Constitution de la Transition". It combines the reflection of the new power balance with the overall popular sentiment that the country should stand united, notwithstanding its diversity. The unity of the country is reflected in the continuation of the territorial organization whereby the executive levels of all decentralized units are the representatives of/ and appointed by the central state. The reflection of the new power balance resides in the fact that at the deliberative levels of all decentralized units, the heads of the regional and local councils must be from another "composante" than the heads of the executive levels. This power balance, often seen as a source of discord and potential conflict, has also proven to be operational, in the sense that it is a way of creating "checks and balances" in governance. At the central level it is one of the mechanisms that has led to a certain stabilization of the economy through the mutual control of using government revenue more correctly and thus to break the "malignant triangle of hyperinflation, hyper recession, and hyper depreciation of the currency"(Tshiunza, 2003).

This initial statement on the new proposal for decentralization in the DRC does however not mean that it cannot be improved or amended. This proposal refers very often to the "Constitution de la Transition" meaning that it is a transitional proposal, as testified by discussions and ongoing proposals for amendment at the parliament. One of these important amendments

is for example that the appointment of the legislative councils will not be effective before the elections have taken place. If this amendment is voted then the characteristics of this new law are twofold. It is first a law on deconcentration and it regulates thus mainly the administrative territorial organization. In this sense the democratic contents of a decentralization is postponed and therefore the law can best be seen as laying the foundation for future deepening of the democratic contents of a real decentralization.

## **2. Decentralization**

### **2.1. Concepts and Definitions**

The literature on decentralization in both the French and the Anglo-Saxon tradition distinguishes three levels of decentralization—political, administrative and fiscal—and opposes it to deconcentration (Mpinga-Kasenda 1968, Mawhood 1984, Bird 1995). Thus, “decentralization” means the sharing of part of the governmental power, empowered by law, by a central ruling group with other groups each having authority within a specific area of the state. It means that in the units of local government, formal decision-making is primarily exercised by locally representative councilors or officials. At the fiscal level, it means that these units have not only a separate legal existence, but also its own budget to allocate material resources on a range of issues decided by law. “Deconcentration” however, implies the sharing of power between members of the same ruling group having authority respectively in different areas of the state. There the formal decision-making is exercised by centrally appointed officials, who also decide on the allocation of funds to be spent locally, stipulated by central government.

Decentralization is nowadays looked upon as intrinsically valuable as opposed to centralization associated with red tape, distant from the local needs and preferences. Of course it cannot be denied that decentralization, that is associated with devolution of power, whereby there is democratic and political decentralization as opposed to bureaucratic and administrative decentralization associated with deconcentration, is intrinsically better if the preconditions are fulfilled. In other words if the local scene is not dominated by a small elite, capturing the local fiscal resources for their own benefit but manned by a capable and accountable local government that is well using the transfers of the central government and the local tax resources, then decentralization is superior. It may however be that the local capacity to govern is still at its infancy stage, and that increasing the layers of decision-making without the checks and balances, only increase the opacity of government and taps into the already weak resource base. These are only a few of the preconditions that need to be fulfilled in the case of LIC’s and that we will develop later.

There are also other conditions that need to be fulfilled and it is the literature on fiscal decentralization that warns us that decentralization is only valuable for a certain set of functions (allocative efficiency) and not for other purposes and goals of national policy (income distribution issues and macro-economic stabilization).

## 2.2. Fiscal Decentralization

The standard theory on the responsibility of the public sector in economic life distinguishes three functions that cannot be fulfilled by the market mechanism: (i) stabilization or macroeconomic management; (ii) income distribution concerns; (iii) and allocation of public goods (Musgrave 1959). It is especially in the latter domain of efficient allocation of public goods that the fiscal decentralization theory has propped up.

The whole theory of fiscal decentralization – whereby we define it as devolving revenue sources and expenditure functions to lower tiers of government – hinges primarily on three theoretical arguments.

- The first goes back to the model of Tiebout (1956), who claimed that decentralization leads to greater variety in the provision of public goods, allowing for better tailoring of public spending to the needs of the population. In this approach, different local governments offer different public tax-expenditure bundles, and mobile individuals are supposed to allocate themselves according to their preferences. In that model the consumers or electorate “vote with their feet” and change jurisdictions to adapt individual preferences to the supply of public goods by different local governments. Different authors have argued forcefully that the assumptions required for such a model are very stringent and not adapted to the conditions prevailing in most LIC’s. (Bird and Vaillancourt, 1999; Bruekner, 2000; De Mello, 2000; Smoke, 2001; and Bardhan, 2002 ). We will come back to the arguments of these authors in the next section.
- The second argument has been developed by Oates (1972 and 1993) and Bruekner (1999). Decentralization is to be preferred when tastes and preferences are heterogeneous and there are no spillovers to other jurisdictions. In that case, decentralized public infrastructure (e.g., local roads) and service delivery are better suited to local conditions, therefore increasing the effect on growth. If spillovers as in the construction of highways, controlling epidemics and pollution, etc, are relevant then underprovision of local public goods is possible.

The potential benefits of devolving fiscal responsibilities to lower levels of government are believed to lie in the reduced information and transaction costs associated with the provision of local public goods. An increase in efficiency in service delivery is believed to be forthcoming because it reflects better the local differences between regions and localities.(World Bank, 1997).

The “reduced information and transaction costs” argument has however been countered lately by the “coordination failures” inherent in increased complexity when lower levels of government enjoy greater autonomy, created by decentralization policy. (Poterba, 1996; Ter-Minasian, 1999; and De Mello, 2000). These coordination failures may induce sub national governments to spend inefficiently and beyond their means, thereby compromising macroeconomic stability and waste of scarce national resources. The negative characteristics associated with central government, may then be compounded by decentralization policies. These “coordination failures” are more prone to manifest themselves in the context of weak state structures and LICs. The “coordination failure” problematique and the possible effect on the other functions of public finance (macroeconomic stabilization and distribution cum poverty concerns) point to another related problem. The three functions are interrelated and the mutual impact need to be taken into account when designing a proposal for decentralization especially when applied to LICs

The instruments of fiscal decentralization are the legal provision for the decentralization rules, a coordination centre that spells out the different rules, monitors and accompanies the vertical relations between the centre and the decentralized units and the horizontal ones ruling the relations between the regions and the different other tiers of the governance structure. The fiscal decentralization entails also procedures and rules for expenditure and revenue raising. There are three different financing mechanisms for local government: Local taxes, user fees and central government grants. Ideally real fiscal decentralization would be that the lower tiers of government are responsible for their own decisions on spending in line with their capacity of raising local or regional taxes and user fees. User fees is an interesting device in making users accountable not to overspend and they are easy to understand. They are however not adequate in addressing inequality of access to services, therefore local taxes or central grants are more adapted. Ideally local and/or regional taxes should be territory bound (e.g., property tax). Since a lot of taxes are however better levied on a national scale, lower tiers of government will often draw on transfers by the national government. A distinction can be made between general grants, assigned revenues, incentive grants and deficiency grants.

**General Grants** are given without any direction as how they have to be spent. They are often calculated on the basis of a formula to take into account the relative wealth or poverty of each region or locality and its needs for local government services. **Assigned revenues**, prescribed and collected by the central government but handed over under strict conditions to the lower tiers of government. **Incentive grants** in order to help local government to carry out certain expenditures that have priority , but since these grants do only cover part of the cost, local government will have an incentive to use the grant efficiently. **Deficiency grants** do cover deficits run by local government Of course these kinds of transfers do not enhance responsibility by local governments. In this context fiscal decentralization literature often mention the

problem of the danger for macro economic stability if local governments can borrow money autonomously. Often, unlike China, most central governments then have to rescue local governments and bail them out if they have spent far beyond their means. However, this and other problems emerge more often in high- and middle-income countries and in certain emerging economies. In low-income countries, problems and dangers of fiscal decentralization lie most often elsewhere. (Mawhood, 1984; Bird and Vaillancourt, 1999; and Bardhan, 2002).

### **2.3. “Coordination Failures” and Problems of Fiscal Decentralization**

Coordination failure stems from two sources. First, there are agency problems, arising from the delegation of fiscal competency to lower levels of government, and second, “common pool” problems may arise from local expenditure financed through central grants. Agency problems are due to the asymmetry in information that works in both ways. Central government is less close to the preferences and needs of the local population, and that is the main rationale for decentralization. On the other hand cost of information is going to rise for central government with devolution of fiscal power as well as a possibility of loss of efficiency in tax raising. Thus, if on the expenditure side, spending might be more tailored to the need of the population, it is possible – especially if expenditure at the local level comes through central grants – that at the revenue side there is less willingness and efficacy in raising taxes, so that the overall tax base may shrink.

The latter point relates to the other set of possible pitfalls arising from decentralization (common pool problems). With revenue sharing, local governments have an incentive to minimize own costs (raising local taxes) of service delivery, and stimulate overspending, especially if central government pay deficiency grants. Such free rider behavior and interregional competition for central government grants, can and does lead in a lot of countries to a decrease in fiscal discipline and overall higher budget deficits. De Mello (2000) has found substantial evidence of “coordination failure” leading to higher fiscal deficits in decentralized settings. Certain authors do question the validity that what might be true for developed countries does not necessarily hold for low-income countries (Bird and Vaillancourt, 1999). The sample of countries chosen by De Mello only contains one sub sahara african country, South Africa, and consists of 17 OECD countries and 13 non OECD countries, none of them really is a low income country. Is that enough to discard the findings of De Mello? In order to answer that question, let us go into some of the characteristics of decentralization in LICs.

### **3. Decentralization in Low Income Countries (LICs)**

A lot of literature on decentralization has emerged in contexts of countries such as the United States, European countries or certain middle income countries and emerging economies. The picture and accents may be very different if decentralization is looked upon in the context of LICs, because the institutional context is very different as well as the opportunities and possibilities of local taxation.

#### **3.1. Specific Problems with (Fiscal) Decentralization in LICs**

First, fiscal decentralization, has been propagated mainly for its capacity of improving allocative efficiency by bringing decisions on allocating local public goods and services closer to the preferences of the population. If however the major goal, as formulated in the Millenium Development Goals, is to reach and empower the poor, often living in remote areas, then success in poverty alleviation is a more important criterion than the efficiency in interregional resource allocation. In other words, because of important differentials between regions in opportunities, income and endowments and because of low income and human development in general in LICs, the distribution concerns overarch the principle of allocative efficiency. This does not mean that decentralization is not possible, only that in LICs the poverty and distribution concerns have a priority over allocative efficiency concerns, or should explicitly take into account the interregional differences.

Another assumption in the literature is that decentralization is intrinsically a way of checks and balances in order to restrain central government's power. In many LICs however, the poor and the minorities are often oppressed by local power groups. If this is so, decentralization may reinforce oppression. This argument could however be turned around and depends on concrete historical settings.

Third and related to the first problem is the mobility assumption made by the decentralization literature. Because of low income, cross jurisdictional mobility in order to "vote with their feet" is much less possible in LICs. Moreover, close knit relations in many of the rural communities in poor countries would not permit such a behavior since a sharp difference is made between "insiders" and "outsiders" making mobility almost impossible.

Fourth, there are a number of related problems that lead to the "coordination failure" arguments that explain how fiscal discipline first at the sub national, then at the national level, decreases after decentralization. They are all related with the characteristics and capacities of local government and decentralized civil servants. Indeed for decentralization to succeed, the literature assumes that different levels of government, have similar levels of technical and administrative capacity, and sufficient incentives (salaries) to perform. These conditions tend to increase with income levels and are par-

ticularly problematic in LICs. The scarcity of capable bureaucrats in LICs is further compounded by the fact that in poor countries, information and accounting mechanisms of monitoring these public bureaucracies are equally dependant on the level of income. Moreover in poor countries the institutions of local democracy and of political accountability are often weak. If this is the case, then public goods can be captured by local elites instead of leading to the alleged advantages of decentralization being, lower transaction costs and better information leading to better provision of public goods.

As weaker governance on the central and local levels tend to relate to income levels, then because of the former arguments, “coordination failures” are due to be more prevalent in LICs thereby jeopardizing the already fragile results of macro economic restructuring and poverty alleviation policies. Because of the presumed negative impact of “coordination failures” on fiscal discipline we will tackle this in the following point.

Bird adds another aspect arising from information asymmetry (1995) in LICs and that has to do with the alleged improvement of service delivery by decentralization: The central government may not know what to do, the local government may not know how to do it. Of course this asymmetry problem depends on the kind of service. Local road maintenance, garbage collection, street cleaning, local security may not be a problem, but in matters like power plants, irrigation systems, tarred roads and public health, expertise beyond the reach of local capacity might be necessary. In the former examples, local government can be quite capable of doing a better job than central provision of these services, in the latter examples decentralization might be problematic.

### **3.2. Lessons learnt**

For all the above reasons “coordination failures”, “agency and information costs” may be more problematic in the context of poor countries. Coordination failures may lead to increased budget deficits especially in a context of LICs. There, accounting and control mechanisms are weaker and regional free riding enhanced because of weak political governance and the capture of local public goods and finance by local elites who may more easily dominate weaker sections of the populations. In this case “Efficiency gains”, which are the main advantages of decentralization, may be dwarfed by the challenges of ensuring macroeconomic governance and fiscal discipline in a decentralized government (De Mello, p.374).

We have learnt that fiscal decentralization may jeopardize macroeconomic stability and, in certain contexts of capture by local elites, poverty alleviation. The question is then if decentralization must be discarded altogether in the context of LICs. Therefore, one has to go beyond the problematique of fiscal decentralization, although it narrows, in my opinion, the scope and instruments of decentralization in order to safeguard other and may be more important priorities in society.

The main case for decentralization has two components. Information on the local needs and preferences can better be taken into account if local administration and government are accountable and capable. Second, through that process of accountability, service delivery could be improved. Up to now, there still is very little empirical evidence of the link between better service delivery and decentralization, examples are scant and might be due to other accompanying factors as in the case of Kisenso/Kinshasa (see *infra*). It is astonishing that not more research has gone into that crucial aspect of decentralization (Bardhan, 2002)

The empirical evidence not on service delivery but on decentralized budgets has well been documented. Usually, the ratio of sub national budgets/central budget is then taken as the measure for decentralization. The article of S.Ndegwa on “decentralization in Sub Saharan Africa: A Stocktaking Survey” (World Bank, 2002) is typical in the sense that good decentralization is measured and identified by large devolution of revenue to the lower tiers of government. As Smoke argued convincingly in the comparative case between Ethiopia and Kenya, that in the latter case decentralization is more genuine although local budgets are relatively far smaller than in Ethiopia where revenue sharing or grants from central government are far higher (Smoke, 2001). The more genuine decentralization in Kenya is mainly due to the fact that political accountability is far greater in Kenya and linked with own restricted fiscal responsibility and less grants from central government. So more decentralized budget does not necessarily mean better decentralization.

Notwithstanding all the problems concerning “coordination failures” and information costs, decentralization still retains its informational advantage at the local and regional level and is in principle superior to a centralized government depending on the following conditions:

- There is local political accountability, that is, if local government can be elected, controlled, revoked by a majority of the population with safeguards for non discrimination of minority groups. However, this is a long process that has to be initiated and monitored cautiously.
- Horizontal redistribution between regions and vertical revenue sharing in public goods provision is dependent on needs of the population and not on the relative wealth of the regions. These provisions have to be regulated by law and coordinated and monitored at a central level.
- Financial accountability by sub national entities has to be enforced, thereby devising instruments that enhance financial responsibility and penalize free rider behavior
- If there is one point where literature on decentralization agrees, then it is that there is no panacea for a successful decentralization policy. It depends on the particular historical trajectory and evolution of institutional environment of each country (Mawhood, 1984; Bird and Vailancourt, 1999)

## 4. Decentralization in Post-Conflict DRC

### 4.1. The Specific Institutional Context and Historic Trajectory

Since specificity matters for the form that decentralization could/should take, we will try to spell out in the following paragraphs these characteristics of the DRC that are important to take into account.

DRC is a **vast and extremely heterogeneous** country in terms of natural endowments, peoples, languages. With a territory 82 times its former colonial power and five times the surface of France, it is an important player in the region with an important economic potential (the so-called geological scandal). The heterogeneity of this vast territory in terms of endowments and peoples is at the same time a problem and an opportunity for decentralization.

A problem, since certain regions are very differently endowed and regional frontiers do not correspond with languages and/or ethnic identity. The first aspect is a problem since certain regions would, in the extreme case of fiscal autonomy, be able to mobilize relative vast amounts of revenue (Katanga, Kivu, Bas Congo) whereas other provinces (Equator, Maniema, Bandundu) would be largely dependant on agricultural production, which in the context of very weak infrastructure puts them at a serious disadvantage. An historical example is certainly the case of Gecamines in the seventies. This copper and cobalt producing nationalized enterprise, at the apex of its production capacity, was responsible for 70 percent of all earned forex and half of the national budget revenue. Extreme fiscal decentralization in such a case is a disaster nationally. The second aspect of the heterogeneity is that regional borders do not coincide with languages and ethnic groups. Only at a very decentralized level would one find a certain homogeneity that checks for the problem of one group dominating another .

The heterogeneity is also an opportunity, because of the complementarities. For instance, the production profile in agriculture between the East and the West is highly complementary. The West (Bas Congo, Kinshasa, Bandundu), because of its lower altitudes, produces very different produce than the Kivu and Oriental provinces (De Faily, 2004). With higher altitudes they can produce cash and staple food production that the West cannot. To take advantage of these relative different and complementary endowments, important decentralization at the level of provinces is not advisable because of the spillover effects (what you need is infrastructure encompassing regions) and the heterogeneity of the population. **In sum**, these peculiar aspects of the DRC plead for decentralization in small jurisdictions with limited but real functions, and not for large competences at the provincial level.

The DRC has known an **exceptionally long period of decay of the formal economy and the state**. Since the mid-seventies, the neopatrimonial policies under the regime of President Mobutu, have led to a downward spiral where the formal economy has been dwarfed, leading to diminished state revenues. The following Table 1 illustrates more than words the economic regress and state decay, only comparable to a situation of devastation after a long civil war. The formal economy shrunk to almost a third of its value two decades ago, with a population that doubled its numbers. Especially the nineties saw the steepest decline. Since government revenue depended, to a great extent, on exports and taxation of formal enterprises, the state gradually saw its role reduced not only in absolute terms, where own revenue became ridiculously low, but also in relative terms. By 1999 and by way of comparison, the total budget of Congo was merely one tenth of that a middle large city in Europe (e.g., Brussels) for a population 60 times as large. Especially in the nineties, since the national budget had become symbolic, the Mobutu government resorted to criminal practices, by using the money press to cover its expenses and at the expense of the population who was crushed under a hyperinflation. Since the state functions and the formal economy were bankrupt, all state functions and public goods provision almost disappeared. This has different indirect implications for decentralization. Table 1 also shows that the decline of the formal economy is not linear, but that a different allocation has been realized. The copper and cobalt sector collapsed, so that the weight of the Katanga province as main industrial region has been overtaken by Kinshasa and the Kasai province. Kinshasa because of its concentration of population and the salient fact that cement production has substantially risen, points to the regional substitution but also to a shift from international tradables to (quasi) non tradables. Indeed, the rise of the cement production within the overall fall of GDP points to the partial substitution of the formal sector by the informal sector, more directed to local demand and purchasing power. That brings us to an important and underrated phenomenon.

**Table 1. Indicators for State and Formal Economy Decay**

	Unit	1980	1999
Population	Millions	27	50
GDP	Millions U.S. dollars	14922	5200
GDP	Percent of 1980 GDP	100	35
Gov. Expenditure	Millions of .US dollars	3870	260
Gov. Expenditure /GDP	Percent	26	5
Exports	Millions of USdollars	2507	1050
Imports	Millions of US dollars	1117	540
Copper	1000 tons	468 (in 1988)	35
Cement	1000 tons	85 (in 1988)	149
Diamond	1000 carat	18163 (in 1988)	26084

Source: Based on World Bank, World Development Indicators and Lukusa, CEDAF, 1999, IFS

The bankruptcy of the formal economy and the state led to an unprecedented **informalisation of society**. People had to fend for themselves and use whatever means they had to survive. The development of the informal economy compensated partly (almost half of the loss in GDP-De Herdt and Marysse, 1996) for the fall in formal income and employment and guaranteed a supply of private goods. The rise of the informal economy, as a popular response to the collapse of the formal economy, is spectacular and underrated by economists. Spectacular because there are not many countries where only five to ten percent of the active population has a formal job and yet succeed in surviving. Underrated because it has not only substituted partially for the fall of the formal economy, taking over essential tasks such as feeding and transporting the population, but also laying the foundations for local entrepreneurship.

The informal economy has however serious drawbacks. The **tax base had eroded** and public goods were non-existent except in negative terms. Since people in the state sector had to survive, they used their position to earn some money by creating all kinds of “informal Taxes”. Even when there was no war, soldiers and police created roadblocks to levy “their taxes” on the roads. Customs tax at the entry of the country had to be paid informally if not, long administrative procedures followed, making Congo infamous for its very high “transaction costs” (e.g., transporting coffee from Equator province to Kinshasa is more expensive than from the exporting port to any destination in the World). The transmission mechanism of these “transaction costs” followed the same pattern of national politics viz by patron-client relations. Whatever venture you wanted to set up, or whatever problem of health or education you have, you had to know someone who could help you. Without these social links, sometimes horizontal, often vertical patron-client relations, you are considered as “Mobola” (a poor person because you have nobody “to lean on”). Public accountability, necessary ingredient for a successful decentralization, has in these circumstances completely disappeared. Restoring accountability will be a long task and necessarily passes through a thorough reform of the public sector, to start with paying decently those who work. Increasing the numbers of civil servants by increasing the number of layers of government through complex decentralization must be kept at a minimum or only there where political accountability is possible and capture by elites minimized. Central government can be monitored by IFIs, local government by the population. The intermediary tiers of government however is more problematic, since they do not have anymore the informational advantage of local government and the problems of capture by dominant elites is much more difficult to be set aside and ‘coordination failures’ are more prone to appear at these intermediary levels.

Another aspect of the erosion of the tax base is of course that the figures given by the ministries are totally underestimating the real possibilities of taxation.

If private goods produced by the formal economy can be substituted by the informal economy, the substitution of public goods by an informalized society is much more difficult. **Civil society** has taken over different functions of the state and a lot of public goods have been privatized and produced by the informal economy. Churches and NGOs have continued to deliver services in the area of education and health in extremely difficult situations, but coverage was insufficient and overall quality has gone down in view of a growing population and shrinking standards of living. The most important legacy of this period, especially from 1990 onward, is that people have been creative to substitute for a collapsed economy and state, but that **awareness and collective action has developed on an unprecedented scale, preparing the ground for decentralization on a local scale** (see experiment Kisenso/Kinshasa and peaceful resistance by civil society in Bukavu). But there is also an important positive national aspect to the growing awareness of the civil society. One could, in a *“boutade”*, sum up the merits of the civil society for the country as follows: The nation (civil society and the population) has rescued the (unity) of the state, it is now in the post-conflict era the responsibility of the state to rescue the population.

Certain public goods however cannot be substituted by civil society, most notably national security and public infrastructure. Zaire/RDC had become a giant on clay feet, formally united but in reality fragmented, because the state had failed to procure these two essential elements of a minimal state. The failed state, compounded by the spill-over of the Rwandan conflict and the change in geo-politics, was one of the essential factors leading to the outbreak of the first international African **war and the de-facto fragmentation of the country**. Notwithstanding the physical fragmentation of the country, there has been a popular awareness and determination that the country could not fall apart, in fact it is the population and not the state that has saved the nation. This popular determination to stay united is an important factor restraining strong regional governments, but again that does not imply that decentralization on a local level is not feasible.

If the West of the country has not suffered too much from the war, except during the siege of Kinshasa in August-September of 1998, the costs of the war in human suffering and economic costs have been extremely severe. We have not yet a full picture of the devastation by the war, but the scattered evidence is frightening. The IRC has estimated very roughly that at least 2.5 million people directly or indirectly have died because of the war. Privileged eye witnesses (chef de zone de Santé of Lodja) said that the incidence of HIV, because of rape by rebels and invading forces, would have risen from 5 percent to 25 percent. Agricultural production e.g., in the provinces of Kivu because of plunder and population on the run declined further with the war. The following Tables 2 and 3 give an idea on the decline in a zone that was particularly struck by the war e.g., Masisi.

**Table 2. Agricultural Production in Masisi (In tons )**

	1992	2002
Beans	32.274	15.825
Cassava	27.074	25.150
Maize	11.870	1.763
Peanuts	1.408	140
Millet <sup>(1)</sup>	15.522	6.935

Source: SNSA, / For 2002; Administration territoriale de Masisi

<sup>(1)</sup>Production of Millet is that of 1993.

**Table 3. Cattle and Animal Husbandry (Number of heads )**

	1992	2002
Cattle	234.340	31.705
Sheep& goats	57.053	20.376
Animal husbandry	211.986	12.502

Source: SNSA for 1992 / Data for 2002: l'Administration territoriale de Masisi

The Democratic Republic of the Congo is a post-conflict country where recovery after the war is real but fragile. Table 4 shows that after the war there was a remarkable recovery.

**Table 4. Inflation and Economic Growth Performance without and with IFI intervention**

Period	Years	Inflation rate Annual increase in percent	Growth of GDP Annual change in percent
Government of L.Kabila	1998	134.8	-1.7
With limited ODA	1999	483.3	-4.3
And without IFI intervention	2000	511.2	-6.9
Government of J. Kabila	2001	135	-2
With ODA and IFI intervention I	2002	16	+3
	2003	8	+5
	2004	6*	+6*

Sources: Ngonga Nzinga ,V., "Programme Interimaire Renforcé (PIR) et Evaluation à mi-parcours du Programme Economique du Gouvernement (PEG)" in (**Notes de Conjoncture**), Kinshasa, Octobre 2003. IMF, "**DRC-Third review Under the Three-Year arrangement Under the Poverty Growth Facility and Request for Waiver of Performance Criteria**," EBS /04/26, Washington D.C., February 26, 2004, forthcoming on [www.imf.org](http://www.imf.org)

\*projections.

The **recovery is real** and promising because of internal changes but also because of changes by the international community that is not anymore bound by the constraints of a cold war. On the political front government of president J. Kabila reached an inclusive and global agreement leading to a government of national union that would lead to elections within two years. On the economic front, the opening of president J.Kabila towards the international community and the change in economic direction was a famous departure from his fathers policies and with the help of the IFI's and certain bilat-

eral donors, the country achieved a remarkable macro-economic stabilization and for the first time in more than two decades some economic growth. The change in attitude by the international donor community is also due to the change in geopolitics. If IFI's and bilateral donors have in the past condoned patrimonial policies and predatory behavior for reasons of cold war international reasons, this is not the case anymore. Monitoring of the international community will be much more focused on good governance and look if donor efforts do reach the poor. The only draw back there is that donor fatigue, because of the necessity of a long period of recovery in a difficult environment, might lead to a stop and go policy without sufficient time horizon and financial means. Although this latter problem, because of the aid pledges of the donor community for the coming years, seems to be less of a problem, may however pop up when elections are not coming forward or because of the political breakdown of the peace agreement.

The **recovery is fragile** for different political and economic reasons.

**Political** stumbling blocks are easy to discern but difficult to overcome. Notwithstanding the very underestimated technical aspects to organize free and fair elections in a country as vast and devastated as DRC, a main difficulty is political. One can almost daily refer to situations that endanger the fragile political agreement. Distrust is deeply engrained and each dispute between the former belligerent parties is seen as a possible break up of the peace process. However, the specificity of the new government is that former leaders of rebellion are now together in the capital city and that "centralization" of formerly regionally based leaders are forced to look for a compromise and permits also mutual "control". This thwarts the tendency of capture at the national level, because every composante of the government does not want the others to run away with the rents. This is certainly part of the explanation of the successful macro-economic stabilization (Tshiunza 2003) *This particular characteristic of the post-conflict arrangements does not plead again for a strong decentralization along regional or provincial lines.*

The **main economic** pitfall jeopardizing a possible sustainable recovery lies in the lack of international trust. As we explained above, the agency of the IFI and the government of

J. Kabila has been instrumental to create the preconditions for an economic recovery by bringing down inflation, creating a realistic exchange rate policy, restoring economic equilibriums and bringing growth. Above all the new government has shown that it has resisted the temptation to serve itself by using the money press.

However, only when investment by those Congolese who have their money abroad and by serious international investors, comes back, then and only then will the recovery be sustained. Up to now very insignificant amounts of private investments have come in. Distrust in the policy is still very great, but there are signs of a regained interest in a potentially important country,

All those entrepreneurs with some background information know that Congo is one of the countries where “transaction costs” are enormous. Bringing exports crops or bulky products from the hinterland to Kinshasa is more expensive than to ship them to any place in the world. As long as it is cheaper to get staple food thousands of miles from abroad instead of a few kilometers from the capital city then sustainable recovery will be impossible. These transaction costs are most importantly due to the degradation of the transport infrastructure but also due to corruption and red tape. These stumbling blocks are not insurmountable but will demand still a long pre-investment period by the international donor community to lift them, because these are public goods that cannot be created by a bankrupt state.

Seen from this angle first priority in order to enhance growth and combat poverty is the restoration of the minimal state by creating infrastructure that is far beyond the reach and the interest of one region or province. Because of the ranking of priorities, scarce means and because of the spillover effects, **decentralization along regional or provincial lines can best be kept limited, while at the same time reinforcing the local decentralization at the lower levels and only in partnership with other actors of the civil society who are trusted.** This will restore credibility in local government.

#### **4.2. The Deconcentration Policies before the Proposed Reform**

The legal text that regulate decentralization – in fact this has never been a decentralization, but much more a deconcentration – in Zaire/DRC is the “Ordonnance-Loi no. 82/006” from February 25, 1982. This law regulates the political, territorial and administrative organization of the “deconcentration.” The fiscal deconcentration rules are regulated by the “Loi Financiere no. 83/003” of February 23, 1983, completed by “L’Ordonnance-loi #87-004” of January 10, 1987. First we will go into the organizational and administrative aspects. In the next point we will analyze the fiscal aspects of the deconcentration policies followed up to now.

##### **4.2.1. The administrative organization of the territory or the deconcentration in Zaire/DRC**

The territory of the DRC is organized in seven hierarchical entities or levels. The first is the central state and the second is the level of the provinces or regions, as they will be called after the reform. There are 11 provinces with the capital city Kinshasa included having the status of Province and also headed by a “gouverneur.” The only exception to the status of Province by Kinshasa is that it has no automatic right on the retrocession of 10 percent of taxes collected on its territory. Since most of the taxes levied are in fact central taxes, it would compound the problem of concentration in Kinshasa.

On the third level of the administrative hierarchy we find the cities and the districts. All regional capitals together with six other big agglomerations and districts have the status of Entites Administratives Decentralises (hereafter EAD). The country counts 25 districts. With an average surface of 93,000 square kilometers—about three times Holland or Belgium—and an average population of 1.7 million inhabitants, these entities can be heterogeneous in terms of socio-economic characteristics. Some think that this level of administrative deconcentration is the relevant level for further decentralization efforts, especially as cities are thought of as relevant motors for regional development. The rural districts having also the status of EAD seem to be less favored as possible decentralization focal points. The fact that in the newly formed provinces—the former Kivu province has been split in three provinces Maniema, North—and South Kivu- districts have been abolished as relevant administrative entities, points in that direction.

The fourth level is composed by 145 rural “territories” in rural areas and by “communes” in the cities. The capital city counts 24 communes, whereas there are 57 communes spread over the country. This seems to be a level where decentralization should focus on because it is mostly quite homogeneous and is an appropriate level where services could be organized close enough to the population, with the exception of rural health centers, primary schools and local infrastructure. At the fiscal level communes with populations averaging between 250,000 and 300,000 inhabitants could be able to raise some (mainly property) taxes.

The fifth level is less relevant for fiscal purposes but certainly important in terms of political decentralization, because it corresponds with the core electoral circumscription. These are the “quartiers” at the level of the communes and (476) “secteurs” and (276) “chefferies” in rural areas. The difference between “secteurs” and “chefferies” lies in the traditional homogeneous communities in the case of “chefferies.” When we speak about local governance/democracy in the rest of the text, it is mainly at this level that the notion is relevant and that people refer to it. It is also at this level that basic service delivery can be relevant and viable .

The last two hierarchical levels are found less relevant. In rural areas, “secteurs” and “chefferies” are subdivided in “groupements” (5434 for the whole territory) and then in “villages.” For the lowest level in service delivery and poverty, the level of “groupements” can be taken into consideration although it is often only certain structures of the churches and NGO that are sometimes present.

#### **4.2.2. The importance of the regions (provinces) and its potential fiscal capacity**

We already showed in table one the collapse of the formal economy years before the war began and that was essentially due to patrimonial policies and the implicit condoning thereof by the international donor community. The war was, among other factors, due to the decay of the state and its impossibility to guarantee the integrity of national sovereignty.

Of course what is true for the country is necessary a reflection of the sum of the regions. However, as we can see from the following tables, regional differences are important and their importance is shifting over time.

Aggregate data especially after 1990 and even simple data as population are most of the time estimates. There has not been a population census since 1984 and everything is based on projections of data, gathered from different sources. “Communes” and “quartiers” have more or less kept books and from the 322 “zones de sante” covering the whole territory data on births and mortality gave a crude idea on population growth figures. More problematic are the estimates of aggregate indicators such as income, that became very approximate with the collapse of the formal sector and the growth of the informalization of the economy. However, Tables 5 and 6 tell something.

Next to the general regress of the economy the most important shift is the concentration of population and income in Kinshasa. Not only has the population increased five times, without any adequate urbanization, but Kinshasa has also overtaken the province/region of Shaba/Katanga as the most important economic centre. The latter, heavily dependent on one company (Gecamines called, the mother and the father of all Katangese people) saw its industrial production of copper and cobalt fall to 5 percent of its former production capacity in the beginning of the nineties because of widespread mismanagement.

Third not only was there in all provinces an absolute decrease in income, long before the war, but the poorest provinces saw their relative inequality further increase with time. Indeed these poor provinces, mostly dependent on agricultural production and sales, suffered most by the complete degradation of the transport-infrastructure. The income gap with Kinshasa grew further and consequently the capital city attracted even more people.

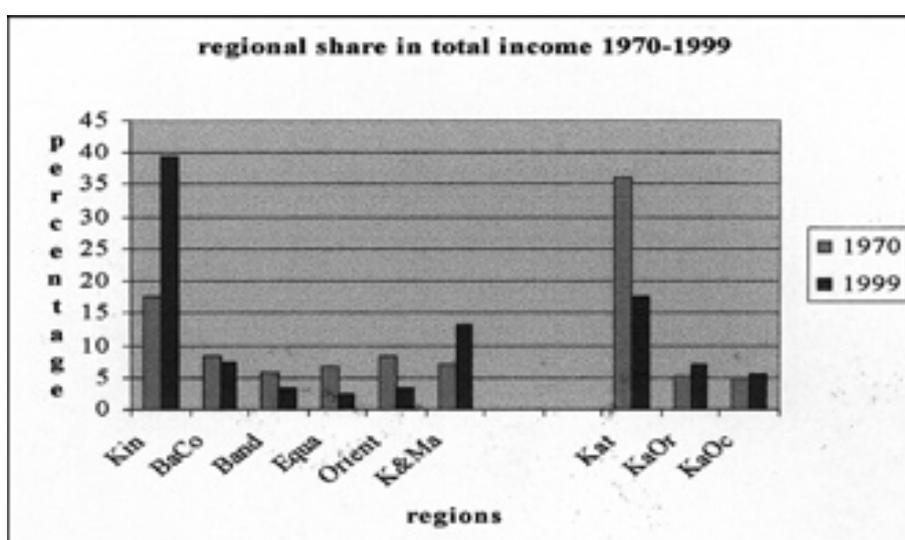
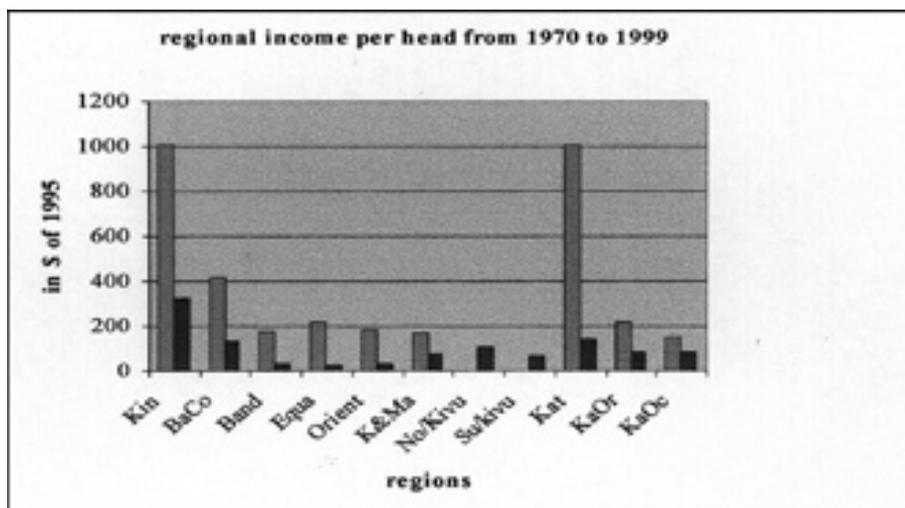
**Table 5. Population in regions from 1970 to 1999**

Regions	Population 1970 (1000 hab.)	Share in tot.pop. 1970 in percent	Population 2003 (proj.) in 1000	Share in tot.pop. 2003 in percent
Kinshasa	1,241	6.1	7,274	12.6
Bas-Congo	1,424	7.0	3,267	5.6
Bandundu	2,442	12.0	6,230	10.8
Equateur	2,789	11.2	6,136	10.6
Province Orientale	3,154	15.5	6,798	11.8
Maniema	3,154	15.5	1,333	18.4
Nord-Kivu			5,038	
Sud-kivu			4,258	
Katanga/Shaba	2,584	12.7	7,599	13.1
Kasai –Oriental	1,770	8.7	5,255	9.1
Kasai-Occidental	2,279	11.0	4,045	7.0
Tot population	20,348	100	57,238	100

Sources: for data on 1970 based on Leon de Saint-Moulin and World Development Indicators (WDI) for later data UNDP, Rapport National sur la Pauvreté, WDI, Commission Electoral, Ministère des Finances.

**Table 6. Income per head and relative economic importance of the regions 1970-99**

Regions	Income per capita 1970	Income per capita 1999 (in \$1995)	Share in total income 1970	Share in total income 1999 (in \$1995)
Kinshasa	1010	323	17.6	39.4
Bas-Congo	420	137	8.3	7.5
Bandundu	171	32	5.8	3.3
Equateur	218	25	6.9	2.6
Province Orientale	187	31	8.2	3.5
Maniema	164	71	7.2	13.3
Nord-Kivu		110		
Sud-kivu		67		
Katanga/Shaba	1006	138	36.1	17.6
Kasai–Oriental	216	82	5.3	7.2
Kasai-Occidental	152	82	4.8	5.6



If one has to be realistic about decentralization, then one should look at different factors in order to assess the means to finance a sustainable reform. Of course decentralization is not in the first place “fiscal decentralization” but it is the motor of a genuine decentralization process that has as a goal the empowerment of local populations so that they can broaden their entitlements and capabilities (Sen 1999).

A first factor to assess fiscal decentralization is to look at what has been done in the past. In the following table (Table 7), based on data from the IMF and the Ministry of the Interior, we look at what has been budgeted and done in the last year where we had full data (2002). Real decentralized expenditure to the regions (Kinshasa considered as a province or region included, skewing somewhat the reality) reached 18.9 percent of total expenditure of the state. The bulk of these US\$76 million went to wages, and half of that amount were wages paid in Kinshasa (based on appendices 1, 2, and 3).

**Table 7. Deconcentrated budgets in 2002 in million of Congolese Francs (in million USD\*\*)**

	Expenditure	Revenue
Total state budget (excluding grants and ODA)	168,430 (441)	152,193 (398)
Regional budgets planned (6 regions)	34,831(91)	34,831(91)
Disbursed and spend (estimation)	8,000(21)	
Regional budget if all 11 regions are included *	38,887(101)	
Wages and retirement payments budgeted and disbursed (6regions)	23,840(62)	23,840(62)
Wages and retirement payments budgeted and disbursed (if 11 regions)est.*	25,914(67)	

Sources: based on data\*\* "Ministère de l'Intérieur" (see appendix 1,2,3)\*\*IMF country report no. 03/270 p.22-30\*\*exchange rate used (period average 382 FC=1 \$) IFS 2003, p.302. see also paper prepared by Mr. Ghonda (Ministère de l'Economie, des Finances et du Budget of DRC) at the international seminar organised in Paris, Oct.2002 on "Relations Intergouvernementales et Décentralisation Financière en Afrique Francophone", *Décentralisation Financière : La répartition inégalitaire des ressources et la péréquation. Le cas de la RDC*, Paris, oct.2002.

Of course if budgeted means would have been disbursed, deconcentrated budgets in the assumption of reunification would amount to 37 percent of the whole state budget. Different remarks apply.

First, only wages and retirement payments budgeted seem to be the only item that has really been disbursed more or less in line with the foreseen amount. No reliable data exist of what has been effectively disbursed e.g. in the province of East-Kasai, 34,030 active and retired civil servants received together the sum of US\$2.7 million or an average annual salary of US\$79 , or US\$6.6 per month.

Provisional estimates of the Ministry believe that effective disbursement of other budget items, besides salaries paid, is around CF 8000 million (US\$21 million) in 2002. If one goes into certain details, one can measure the rather insignificant amount going to the regions. Appendix 2 informs us on what should have been spent and disbursed to lower tiers of government in the regions, the so called EAD (Entites Administratives Decentralisees) . Bandundu e.g., the most populated province with more than 7 million. inhabitants, should have received, as transfers to the lower tiers of government, some CF 138.5 million or US\$3,630,00. That is not \$5 cents per person per year.

In Table 8 (based on appendix 4), we give a synthesis of the financial flows between the centre and the regions.

**Table 8. Financial Flows between Central Government and the Regions in 2002 (CF million)**

Regions	Kinshasa	Bas Congo	Katanga	East Kasai	Others*	Total
Tax income to central Gov.	46,332	30,953	9,996	3,707	628	91,616
1. Customs and excise (OFIDA)	16,095	26,025	7,200	3,035	220	52,575
2. income taxes (DGC)	30,237	4,928	2,796	672	408	39,041
Transfers to regions						31,840
1. wages & pensions	16,070	1220	1,490	1,250	3810	23,840
2. other transfers	n.a.	n.a.	n.a.	n.a.	n.a.	8,000(est)
Income from /transfer to (in percent)	288	2537	670	296	16	287

Sources: Ministries of Finance and the Interior-Appendix 4.\* The others here are the regions or “provinces” Bandundu, West Kasai and Equator. The four other provinces (North-Kivu, South Kivu together with Maniema, forming one province before 1980, and Oriental Province) were under the control of rebellion/involving forces during the war.

Some interesting features can be deduced from this table.

**First**, The capital city, administratively with the status of region, and Bas Congo represent about 80 percent of total revenue, mainly because you find the most important entry-points there with the main export/import port and the national airport. Since customs and excise tax income is the most important revenue, then of course taxation is concentrated there.

**Second**, the other two regions with economic importance, Katanga and Kasai provinces are important for their mineral exports that are however less and less processed within the country, leaving too little value added in the country. Copper and cobalt from Katanga is now mostly exported as “heterogenite,” a non processed ore that is mostly informally exported without being taxed. Diamonds from Kasai represent on average—since the collapse of the copper and cobalt production—60 percent of all exports (on average officially around US\$400 million in the last five years). However, documented estimates say that total exports are at least US\$1,200 million, leaving the country, in part by Congo Brazzaville who has almost no production of diamonds, and in part by Rwanda and Uganda ( Marysse&Deherdt, 2001)who have no diamond production either. We estimate the part of diamond production leaving by the provinces under rebellion/invasion forces at approximately one-third of total exports.

**Third**, the proportion of the flows between the central government and the regions seem to suggest that the central government is extremely centralized, but that the poorest regions receive much more than they contribute. In a sense that is so and illustrate the point that decentralization in situations of important regional inequalities should be corrected by central government. Although in the “loi financiere” of 1983 explicit provision is made for “perequation”—meaning an equalization fund between rich and poor regions—this fund has never been active and the relative redistribution happens through the fact that in the poor provinces taxes have not been raised officially. However we have to do with extreme low figures and budgets, so that the redistribu-

tion effect realized by the mix of centralization/deconcentration is in absolute terms not very significant. The “centralization bias” of the Congolese government is only apparent. An overall restoration of the administrative capacity at central and regional level could increase the tax base for both layers of government without compromising the redistributive role of central government and give more incentives at the regional level in mobilizing taxes, that are overall too low, as can be seen from the following examples.

**Fourth**, if our rough estimates about legal/illegal exports reflect reality, then the fiscal pressure in the Kasai provinces appears to be less than 1 percent of total value of diamond production only. In other words even in the case today, the dwarfing of the state and the general informalisation of society does not reflect a sound degree of taxation and this is may be the only reason why fiscal decentralization should also implicate and stimulate regional taxation, and have proceeds be split in a way both government entities could improve their situation. In fact 10 percent is what is already provided for in the “loi financiere” but for reasons of “informal taxation” it seems as if there is no stimulus at all for levying local taxes. This is only apparent.

**Fifth**, the four regions/ provinces that were under rebellion/invaders command during the war are not taken into account. The taxation potential and therefore financing of some potential decentralization is also underestimated in the figures of the table. Not only because the rebellion gave no estimates on tax revenue and expenditure, but for the same reason as above. An underestimation of tax base, because of the devastated administration over the whole of the national territory. An example during the war showed the potential. In the coltan boom of 2000, the rebellion government in South-Kivu was able to mobilize US\$1million a month by taxing coltan exports representing e.g. one fourth of all central government expenses to the regions in 2002.

**Sixth**, not only the revenue side of regional deconcentration budgets is underestimated for all the reasons mentioned above (devastated administration, informalisation of society, patrimonial policies, etc) but so is the expenditure side. Expenditure now reflects, as we have seen, only (dismal) payment of wages and pensions for the civil servants. What is not accounted for is that health and education expenses are paid for more than 90 percent by efforts of the parents, local and central actors such as the churches and donors .

In sum, given the poor level of official tax raising regionally, deconcentrated budgets are underestimated and could be more substantial. Without an improvement in tax raising at regional levels, actual deconcentrated budgets dismally low as they might seem, are already too high in view of the numerous other priorities that the government has to take up. Does that mean that decentralization has no sense nor scope? No, but it will have to be very gradually introduced.

If we assume that the level of government finance could be restored at the level of the seventies, say more or less tenfold , then of course the scope

widens. Teachers, nurses, medical assistants and doctors, etc could again be paid normally and not forced to use “tricks” to earn a decent living. Especially a return to less overall insecurity and uncertainty would diminish the now prevalent levels of what is called corruption or “le mal Zairois/Congolais.” Indeed high levels of uncertainty sparks off a behavior of “taking whilst you can.” It would however be very unwise to bank on such a potential increase for decentralization and not learn from previous mismanagement. If there is one thing to be learnt, then certainly it is that the state should cooperate and delegate certain functions and service delivery to other actors of civil society. In other words, what holds for the private sector and the necessity of privatization of private goods and services, holds for delegation to actors of the civil society for certain public goods (education, health services, poverty alleviation). That does not mean that the government should not coordinate or regulate. As in the sphere of production, it does not mean that the government should not regulate and intervene in the production of certain goods or services. In the case of natural monopolies or scarce natural resources with national interest there are externalities, that begs for the intervention of a responsible state. Unfortunately, up to now, these well documented cases of necessary state intervention have often been abused as an excuse for predatory behavior.

In sum, the country in view of the numerous priorities and the paucity of their own budget in the medium term, the decentralization effort shall preferably have the following ingredients:

- **More centralization** in order to desenclave the poorest regions. Because of the spillover effects of that first priority, this will have to be organized on a supra regional level.
- **More realism in the tasks of decentralized administration.** The stipulations foreseen in the “Ordinance-Loi “of 82-83 and 87 overstretch the tasks of the regional and local governments.
- **More partnership** with these structures that are firmly grounded in local structures, e.g., provision of health services can also be better continued along the lines of the national health system in “zones de sante.” There are 322 zones de sante spread evenly over the whole territory. For reasons of equity this system has to be continued, organized by the Ministry of Health, but as proved by numerous examples, best in partnership with the structures of the churches and NGO’s, which are the structures in which people at subnational levels have most trust. The same holds for education at the local levels. More partnership also with central government in terms of finding ways of creating more incentives for tax raising at the regional level by sharing revenue systems for solidarity with poorer regions but at the same time benefiting the region (e.g. a fixed percent for the regionally based taxes).

- **More genuine local democracy** at the lower tiers of government (quartiers, secteurs, chefferies)

In the next section we shall discuss the new proposal for decentralization and try to evaluate it in the light of theoretical insights highlighted in the former sections.

### **4.3. The New Law on Decentralization**

#### **4.3.1. Characteristics of the proposed law on decentralization**

A new proposition of law on decentralization is being discussed in the parliament called “Projet De Loi Organique no....Portant Organisation Territoriale et Administrative de la Republique Democratique du Congo”.

The new law is a combination of continuity in the territorial organization together with a reflection of the new power relations that emerged from the peace agreement of Pretoria and a willingness to rationalize and clarify the competences of the different tiers of government. In Table 9, we show a synthesis of the territorial organization that reflects the administrative hierarchy and the logic of organization largely based on criteria of population and surface.

As we have seen, DRC is subdivided in 11 regions or Provinces, with the capital city Kinshasa as the eleventh or first province. The ten other provinces are those already mentioned in the table 5 and 6. They have around 6 million inhabitants and are the first level of decentralization with the juridical status of “Entites Administrative Decentralise” (EAD). This juridical status means that these decentralized units have a separate legal personality and have a certain fiscal autonomy in that they can levy own taxes and raise revenues. All EAD have also two levels of organization, an executive level and a deliberative level. The executive level means that the central state designates and nominates the head of the decentralized unit as the representative of the central state. The deliberative level consist of a counsel where members are designated as representatives of the decentralized units.

The capital city is subdivided in 24 “communes” whereas provinces are subdivided in cities (Villes) and districts in the rural areas without major cities in its administrative circumscription. These cities called “Villes” is an important local level where there is a concentration of social, economic and public activity and with a substantial concentration of population (see Table 9). The “communes” in Kinshasa and the “villes” in the regions have also the status of EAD and with the same attributions and competences on their territory as all EAD but under the authority of the higher tiers of government. Districts, who continue to lose importance as decentralized units do not have the status of EAD, but are called “Entites Deconcentres” without legal personality and just as an administrative circumscription with limited attributions and competences. This is in continuity with what happened when

**Table 9 Territorial Organization, surface and population**

	Level	Capital = Province	Region	
	National State	Kinshasa	Urban	Rural
<b>first level</b>				
total surface	2.345.000 km <sup>2</sup>			
total population	55 millions			
<b>second level</b>		<b>Capital city</b>	<b>Provinces</b>	
number of units		1	10	
juridical status		EAD	EAD	
average surface			235.000 km <sup>2</sup>	
average population		6,3 millions	4,9 millions	
<b>third level</b>			<b>Villes</b>	<b>Districts</b>
number of units			16	25
juridical status			EAD	ED
average surface				93.000 km <sup>2</sup>
average population			340.000	1.7 millions
<b>fourth level</b>		<b>Communes</b>	<b>Communes</b>	<b>Territoires</b>
number of units		24	57	145
juridical status		EAD	EAD	EAD
average surface				16.000 km <sup>2</sup>
average population		260.000	95.000	300.000
<b>fifth level</b>		<b>Quartiers</b>	<b>Quartiers</b>	<b>Secteurs / Chefferies</b>
number of units				476/261
juridical status		ED	ED	ED
average surface				
average population				
<b>sixth level</b>				<b>Groupements</b>
number of units				5.454
juridical status				ED
average population				
<b>seventh level</b>				<b>Villages</b>
number of units				
juridical status				ED

**EAD:** **Entité administrative décentralisée:** decentralized unit with legal personality

**ED:** **Entite Deconcentre:** deconcentrated unit without legal personality and little attributions and competences

the Kivu province was subdivided in three new provinces in 1988, then the district level there was abolished. The 16 “Villes” in the regions are further subdivided in 57 “communes,” whereas the 25 rural districts are split in 145 “Territoires.” Both decentralized units have EAD status. As can be seen in Table 7, population in these decentralized units range from hundred to three hundred thousand inhabitants.

Both Urban “Communes” and “Territoires” in rural areas are respectively subdivided in “Quartiers” and “secteurs/Chefferies.” The latter decentralized units are called secteurs, when in the rural areas the socio-ethnic diversity is still great, whereas a “Chefferie” has a more homogeneous population. These rural decentralized units have, in contrast with the “Quartiers,” EAD status, and here it is the traditional chiefs that are recognized by the central authority that are the head of the executive level. In other words not appointed by the central authority as is the case of the other decentralized units. The “quartier” as well as the district and the two levels below the “Secteur/Chefferie” viz. “Groupements” and “villages” are not considered as decentralized units, but only as deconcentrated units with mainly administrative competences.

The **new proposal** contains four new features that were absent in the former legal texts on the administrative organization of the Congolese territory.

- First and foremost this is a text that reflects the new power relations resulting from the political peace agreement between the belligerent parties. The “Global and Inclusive Agreement” found its legal expression in the Constitution of the Transition. Since two of the four composing parties (composantes) controlled militarily part of the territory they of course have a stake in a kind of ‘recognition’ of the regional reality. Therefore the new law is a compromise between the willingness of unity and the reality of regional based powerbases. The head of the executive power at the different decentralized levels is the representative of and appointed by the central state (on proposition of the minister of the interior and appointed by the president-art14-79-150). The head of the deliberative counsel however must be from another “composante” than the head of the executive power (art.40-100-129-166). This kind of “checks and balances” has proved to be operational at the national level e.g. in the control of expenditure and inflation. Will it work at the decentralized levels? The idea is certainly that all decisions at the regional and local levels are known and that, in the absence of public accountability based on the outcome of an electoral process, the main form of accountability that is included in the new proposal. Of course if the administration would function correctly, then that would be another form of accountability.
- The next most important feature is a consequence of the first and that is the intention of a greater fiscal autonomy at the decentralized lev-

els. In the accompanying justification of the new proposal it is said that: “Ce projet de loi établit une équation entre le transfert des compétences et le transfert réel des ressources. Il instaure une harmonie entre les textes antérieurs...et la loi financière en cette matière” (Projet de loi, 2004, p.9). The new proposal enables all lower tiers of government with the status of EAD to define and raise taxes in all matters that are not taxed by central government, as well as to borrow money and to take participations in companies operating in their territories (art.37-95-132-209) . However these regional and local loans and taxes other than those who were already in their attributions, must be accepted by the minister of the interior and only acknowledged by the ministry of finance. It is the article 280 that sums up all the possible and impressive number of sources of decentralized income. The possibility to contract loans, take participations in companies did already exist in the former “loi financière no.83-003” amended by “l’Ordinance-loi no 87-004” of 1987 art.9 but was much more restrictive. In that former law a special law had to be voted before regional or local governments could actually make loans to finance capital outlays or it had to be permitted by presidential decree. The present law relaxes the stringent conditionality that was limiting fiscal autonomy.

- The new proposal has certainly the merit of determining with more clarity the attributions and competences of each level of decentralized government and the “division of labor” between the central and the decentralized units. (art.15-37-82-96-132-151-170 et le titre II from art. 245 to 279).
- Finally there is also a light rationalization exercise in that certain levels are considered less important together with a recognition of levels of local government that can play a more significant role in future by giving them the status of EAD. Thus districts have lost their status of EAD and have as ED (deconcentrated units) received a role of inspection and evaluation of the lower tiers of government. This is very much in line with the former tendency of abolishing that level of government when the old province of Kivu was split in three new provinces (Maniema, North Kivu and South Kivu). The inverse tendency happened with the “Communes” and the level below that of the “Secteurs/Chefferies.” These levels, who are a reality and where government can still be close to those governed and at the same time constitute a viable level of possible service delivery, have received the status of EAD and obtain more attributions, competences and can raise local revenues.

#### **4.3.2. A need for clarification**

Although the law has brought some clarification especially in the competences and attributions of the different layers of decentralized government, there are still some areas of the proposal that are unclear. One such an area is in the political sphere, the other is in the domain of the fiscal autonomy for the decentralized levels.

The command and head of the different lower tiers of government are representatives of the state and mostly proposed by the ministry of the interior and officially nominated by the president. This holds for all levels of the EAD except for the head of “secteurs/chefferies” where it is the customs who define the head of these entities but must be accepted by central government. Since the minister of the interior and the president have to intervene in the process of appointing the governors, mayors, bourgmestres, “chefs de territoires” it is to be expected that there will be some political equilibrium exercise in the spread of these functions over the different “composantes” of the transitional government, although the minister of the interior has here a great discretionary power. Unclear is the way in which people are chosen to seat in the deliberative councils at the different levels. The new law proposal determines the maximum number of members for each deliberative council and mentions that the head of the provincial-, city-, commune-, territoire-, secteur/chefferies-councils, must be of another ‘composante’ than the head of the executive power (e.g. art 34). One might wonder what that means at the lowest levels, but more fundamentally it is here that a possible problem may arise. Not only are the council members not elected, but they can well be members of a same group without any representative quality except of being from a particular region or locality. Given the high discretionary powers in fiscal affairs and the fact that a simple majority can decide on all matters of regional or local importance, the possibility of capture at the regional or local level is possible. No checks and balances at this level thus.

The other domain of possible confusion and contradiction is that of the fiscal autonomy of the lower tiers of decentralized government. One determining the fiscal attributions of the different levels of the EAD there is always reference to the “*Loi financière no.83-003 du 23 février 1983, telle que modifiée et complétée par l’Ordonnance-loi no. 87-004 du 10 janvier 1987*” who seems still the law governing financial attributions, obligations and regulations (see e.g. art. 37-132). However, in this “loi financière” article 9 explicitly forbids the possibility of lending and borrowing as well as participating in companies, except under very stringent conditions. And article 16 of this same law stipulates limitatively the taxes that can be levied by the lower tiers of government. The new proposal departs from these two fundamental limitations of fiscal autonomy by lower tiers of government. However, there is a loophole in the loi financière that stipulates that only a law is able to change these provisions. If our reading is correct that means that the “loi financière” holds except if the new law on decentralization stipulates otherwise. The accompanying text on “motivation” of the new law, seems to subscribe this latter view. We get a summary of the fiscal competences of the decentralized levels of government in article 280 of the new law where the impressive list of possible taxes and income sources of the different EAD’s is listed. To see a possible impact of fiscal autonomy, possible contradiction and need for clarification we shall cite the whole article in French

## Article 280

Sans préjudice des autres dispositions légales ou réglementaires, notamment la loi financière, les recettes des Entités Administratives Décentralisées proviennent de :

- (a) produits des contributions et taxes sur les matières non imposées par l'Etat ;
- (b) revenu du patrimoine ;
- (c) recettes administratives rattachées aux actes générateurs dont la décision relève de leur compétence ;
- (d) emprunts dans les limites et conditions fixées par la loi ;
- (e) taxes de consommations sur les matières non taxées par l'Etat ;
- (f) additionnels sur certains impôts de l'Etat ;
- (g) rétrocession aux Provinces, de 30 pour cent des recettes générées par les Régies financières<sup>2</sup> ;
- (h) subvention de l'Etat aux Entités Administratives Décentralisées pour couvrir les dépenses d'intérêt général ;
- (i) redevances sur les produits ci-après :
  - 40 % sur les produits miniers,
  - 40 % sur les produits forestiers,
  - 40 % sur le café,
  - 40 % sur vente de l'électricité à l'étranger ;
- (j) produits des contributions et taxes fiscales ci-après cédées par le Pouvoir Central aux Entités Administratives Décentralisées :
  - contribution personnelle minimum,
  - contribution foncière tant des personnes physiques que morales,
  - contribution réelle sur les véhicules,
  - taxes spéciale de circulation routière,
  - contribution sur les revenus locatifs des personnes physiques et des entreprises à caractère local,
  - contribution professionnelle sur les bénéfices et profits des petites et moyennes entreprises (PME),
  - contribution professionnelle sur les rémunérations dues par les employés œuvrant dans les entreprises à caractère local,
  - contribution exceptionnelle sur les rémunérations des expatriés dues par les entreprises à caractère local,
  - droit d'accises ou de consommation sur les produits fabriqués par les entreprises à caractère local ;
- (k) recettes provenant du fonds de péréquation.

<sup>2</sup> These taxes have existed before 1996 and are now again introduced.

The regional and local taxes and revenues in principle financing these levels of decentralized government before the law consisted mainly of g), h), j) and k). This is in principle because as we have seen very little finally was realized. e.g. the “fonds de Péréquation “ that had to finance capital outlays for the poorer provinces has never been implemented. Even with the existing regulations before the new law, different possible problems of interpretation persist, e.g. Under i) who and when is a company considered local. Since most companies have some spatial location that means that long disputes can and do exist on which level is competent for the taxation. In principle, if the “loi financière” holds and the central government is already taxing, then lower tiers could not. But then lower tiers can now use article 280 f).

New sources of imposition of taxes are the points a), b), c), d), e), f) and i). Especially the latter point needs clarification. We understand that this point is meant to give a financial base to almost each province but what does “redevance sur les produits de 40 percent” means? Is it 40 percent on the profit, on the Value Added or on the total value of the production?

Lastly if all levels of decentralized government have these attributions, an enormous amount of uncertainty for households and businesses can arise if all these levels are implementing these articles on fiscal autonomy. There is an article that stipulates that by decree the relations between the different levels of government will be regulated, it opens up an enormous space of (legal) disputes over who decides what. It is certainly not a tax environment that will incite local and other entrepreneurs to invest or declare activities.

#### **4.4. Evaluation of the Decentralization Policies After the Adoption of the New Law.**

An evaluation of the possible effects of a new law on decentralization can only be made if hold against criteria to assess decentralization. In the first three sections of the paper we tried to spell out that a good decentralization law should consider at the same time some general lessons drawn from the literature on decentralization and before all take into account the specifics of each country. Since the DRC is a LIC and recovering from a conflict and a long period of decay of state and economy one should be very cautious . From this cluster of preconditions to assess a proposal of decentralization in such a context we can draw the following criteria:

1. There is an informational superiority of decentralization over centralization and deconcentration if one is anxious to bridge the gap between the delivery of local public goods and the needs and preferences expressed at the local level. This is only so if local government reflects the needs and preferences of the population, serves the people and not itself. In other words if local government is legitimized, accepted and accountable both for central government and local constituency. More **democracy** at the local level thus.
2. Allocative efficiency, allegedly better accommodated through decentralization, has no priority over the redistributive and stabilization functions of economic intervention by the state. Especially in very heterogeneous countries with regions that are unequally endowed, fiscal autonomy should balance between creating incentives at the regional level for improving regional taxation without jeopardizing the necessity for interregional solidarity.
3. Decentralization laws should not overstretch the role of the state and certainly not of lower tiers of government because of lack of human and material resources. In other words it should be **realistic**.
4. In a post conflict country such as the DRC, a decentralization effort has to recognize the underlying reality of the conflict without jeopardizing the necessity of the reconstruction of the minimal functions of the state.

5. The long decay of the state has in formalized all spheres of society with long lasting consequences. In as far as this informalization has substituted for public goods, especially in the areas of health and education, this should be recognized by the (local) government. Institutionalized **partnership** with civil society in these areas will help to attain a **realistic** and more **democratic** decentralization.

The **first** criterion to evaluate a proposal of decentralization is its **democratic** content. This is not only because democracy can be valued as such and preferred over authoritarianism (Sen., 1999). The main reason lies in the fact that without accountability from the local or regional government the advantage of decentralization disappears. Indeed a better match between local preferences and service delivery at these levels, leading to higher citizen welfare is only possible if preferences can be voiced and taken into account. Without the possibility of revocation of local or regional council members and executive authorities it is impossible to know if local /regional government serves itself or the general interest. One could argue that the capture of rent is equally possible by heavy centralization. That is so, but the monitoring by the international donor community (in particular the IMF) is easier in the case of one central government than in the case of more than 700 EAD.

We explained in the section on the features of the proposal on decentralization that it was foremost a proposal that accommodates the different “composantes” of the peace agreement and that must be seen as a transitional proposal. Nowhere in the proposal does the law go beyond the territorial organization and is the democratic content at whatever level non existent. One could object that there are deliberative councils at each level of decentralization. We have shown that a mere representation of people from the territory is not sufficient for popular representation and that it can even be at the detriment of the population since there can be cooptation and domination by one group leading to the problem of capture discussed in the literature (Bardhan, 2002).

**Second**, the advantage of decentralization from an economic welfare point of view , was the superiority of allocative efficiency realized through genuine decentralization. However, in low income countries and countries with high disparities in regional endowments and wealth, fiscal autonomy should be restrained, because of the overarching priority of the other two functions of the state, being stabilization and redistribution. The new proposal gives in principle a large fiscal autonomy to the regions which can jeopardize these two functions. The stabilization function because the decentralized units can contract loans and run deficits hoping to be bailed out by central government in case of payments difficulties. Since the monitoring of the central government by IMF can still be done at national level. If in principle more than 700 decentralized units in DRC with EAD status could run deficits then the monitoring would be impossible. The redistribution function of the state can also be endangered by the new proposal. Indeed we saw that the poorest

regions needed to be disenclaved in order to cope with the isolation of their markets and the huge transaction costs. The necessity of opening up and integrating the vast territory is beyond the scope of individual regions and must be tackled on a national scale. Too many resources kept at the regional level as is in principle envisaged by this new proposal would be counterproductive for the reunification of the country. An important comparative advantage of the DRC is lying in its interregional complementarity and that potential can only be realized at the supra-regional level. The proposed fiscal decentralization is in this sense counterproductive.

A **third** criterion for evaluation is to see if the proposed reform is **realistic**. The new law is on a political level realistic (see fourth criterion), but in terms of the attributions and competences of the different levels of decentralized government and in the technicality of the implementation quite unrealistic. First it overstretches the role of the different levels of government. If one looks into the different competences of the EAD (art.245 to 280) then one can see how the inheritance of the Mobutu regime is still very present. There the state is not only omnipresent but is the almighty and unique actor of steering and commanding development it does not recognize sufficiently the limitations of the state and the new role of the state in the development process. The whole new ideas on the division of labor between the different institutions and actors of development (state, markets and civil society e.g. in World Development Report, 1997) have not influenced the architects of this law. The idea that the state can and must do things that markets and civil society cannot and vice versa, must still make its way. The other bottlenecks in the implementation of the new proposal on decentralization is more technical. First some slightly more than 700 EAD have all to be manned by competent people if this is to succeed. We think that specific training courses for executive personnel need to be organized in order to prepare for this task. A greater difficulty and illustration of the unrealistic character of the law is the aspect of the fiscal autonomy laid down in article 280 fully quoted above. It is believed that by increasing the number of taxes and revenues, the decentralized units will be able to finance itself. From tax literature and the reality of decentralized taxation in Congo before the law, this will only lead to more evasion and sources of “debrouillardise” and corruption. **The multiplication of taxes at the decentralized levels not only opens a space of discretionary power that risks to crush every citizen or business initiative, it is moreover counterproductive in terms of tax raising because the incentives to evade taxes will, if possible, increase by the overwhelming cascade of taxes.** Decreasing the number of taxes and more transparency in order to create more legal security and diminish local discretionary power is absolutely necessary. In the interest of both the decentralized units and the citizens, article 280 should be thoroughly scrutinized and simplified, otherwise it will be perceived as a means of capture by the state and the decentralized government. The last aspect reflecting the fact that the reform has not been thought through in all its aspects is the cost of the of the operation. Since the level of Secteurs/Chefferies has obtained the status of EAD you add some 737 decen-

tralized units. In these units the central government has to pay the salaries of the executive level. Is that accounted for?

The **fourth criterion** was a more political one, judging the decentralization proposal from the perspective of a post conflict situation. Does the proposal strike a balance between the need for unity and the recognition of the diversity of the country and the demand for more regional autonomy. Here the score is more nuanced. First the new proposal reflects well the balance of the new power relations that resulted from the peace agreement laid down in the “Constitution de la Transition.” We have seen that, however intricate, the new balance realized a certain level of “checks and balances” at the national level. As we have seen the same idea has been repeated at all levels whereby the decentralized executive power are the representative of the central government, but that at the deliberative level the head of the regional and local councils must then be from another composante. Although in the absence of elections this seems to be the only viable transitional way to strike the balance between the different “composantes,” it is not sure if that that will necessarily be so at the regional level, where one composante can co-opt many of its clients in the deliberative councils of the decentralized units. This can be a source of much frustration at the regional and local levels.

Finally since the specifics of a country are important in defining and tailoring decentralization proposals, we pointed out the necessity for **partnership**. **Decentralization** proposals should recognize that during the long period of decay of the state, most efforts of education and health-service provisions have been dealt with, without state support. At the demand side parents and social networks have taken care that the children, the sick and the disabled could go to school or treated or helped, whilst at the supply side, organizations of the civil society mainly, churches, NGO’s, informal networks, public/private ventures have taken the initiative to organize and produce these services, although all this was in the attributions of the government. We do not see how they would all of a sudden, because of decentralization, be able to reverse this tendency. In the new proposal, **not one word** on this recognition of a new reality that the state was incapable to deliver. Instead of building on the experience of the past we only have a proposal that makes the same mistake as in the past only repeated at all the decentralized levels, Moreover there was no systematic thought on the specificity of the different public goods that have to be produced and how that impacts on the decentralization. Production and distribution of electricity is another story than garbage collection. What is the right level to deal with producing electricity? May be production should be treated at the central level with some elements of privatization. Even if we accept that the distribution side of electricity and water is a public good, then what is the appropriate level of decentralization? The same goes for schooling and education. If primary schools and professional schools need little regulation from the central government level, the same is less true for higher levels of education and must be dealt with at appropriate levels of decentralization. The organization of health must certainly, depending on medical technical

characteristics, be a combination of centralized and decentralized efforts. Local health centers can be handled at the local level but e.g. epidemic control, or combating the sleeping sickness can only be effective at a national or regional level. etc.

## 5. Concluding remarks

The new proposal on decentralization in the Democratic Republic of the Congo (DRC), formulated in the “*Projet de Loi Organique Portant Organisation Territoriale et Administrative de la République Démocratique du Congo*” reflects adequately the new power balance that is laid down in the “*Constitution de la Transition*”. It combines the reflection of the new power balance with the overall popular sentiment that the country should stand united, notwithstanding its diversity. The unity of the country is reflected in the continuation of the territorial organization whereby the executive levels of all decentralized units are the representatives of/ and appointed by the central state and in common agreement between the different parties to the peace agreement, the so-called “composantes” of the transitional government. The reflection of the new power balance resides in the fact that at the legislative levels of all decentralized units, the heads of the regional and local councils must be from another “composante” than the heads of the executive levels. This power balance, often seen as a source of discord and potential conflict, has also proven to be operational, in the sense that it is a way of creating “checks and balances” in governance. At the central level it is one of the mechanisms that has led to a certain stabilization of the economy through the mutual control of using government revenue more correctly and thus to break the “malignant triangle of hyperinflation, hyperrecession, and hyperdepreciation of the currency” (Tshiunza, 2003)

This initial statement on the new proposal for decentralization in DRC does however, not mean that it cannot be improved or amended. This proposal refers very often to the “*Constitution de la Transition*” meaning that it is a transitional proposal, as testified by discussions and ongoing proposals for amendment at the parliament. One of these important amendments is for example that the appointment of the legislative councils will not be effective before the elections have taken place. If this amendment is voted then the characteristics of this new law are twofold. It is first a law on deconcentration and it regulates thus mainly the administrative territorial organization. In this sense the democratic contents of a decentralization is postponed and therefore the law can best be seen as laying the foundation for future deepening of the democratic contents of a real decentralization.

First, why is this – if one measures the proposal against the thrust in the literature – not really a law on decentralization? The ultimate argument for decentralization over centralized government is its informational supremacy in order to enhance the quality of life of citizens in those matters that can be delegated to lower tiers of government. Indeed, local government can better respond to the needs and preferences of its citizens if it is close to those governed. However, this alleged supremacy of decentralized over centralized government hinges on two crucial assumptions:

- There must be a clear definition of what can be delegated at lower tiers of government. We have seen that the score of the new proposal on this point is mixed. On the positive side the new law extends (future) demo-

cratic control at lower levels of government. Indeed the “communes” and the “secteurs/ chefferie,” two political and popular relevant entities, obtain the status of EAD (Entités Administratives Décentralisées). On the inconclusive side, there is no clear delimitation on technical grounds what kind of service delivery of (local) public goods can be organized/produced at what level of decentralization, e.g. garbage collection or electricity distribution needs clearly different levels of decision making and organization.

- Most important however, is that this supremacy of decentralized government is only guaranteed if the executive and legislative levels of the decentralized units are considered legitimate or democratically controlled, and accountable. We have seen that this is not yet the case. In the proposed law, the possibility of capture of government “rents” by co-opted elites at the decentralized levels is possible.

Second, the proposed law has aspects of fiscal decentralization where it is problematic. The motivational text accompanying the proposal of law on decentralization, stresses that the main reason of the proposal was to reach an adequacy between the (very extensive and large) attributions of the decentralized units and the financial means to finance these activities. In other words there is fiscal decentralization although the agreement of the higher tiers of government is still necessary to engage in borrowing and new forms of taxation at the decentralized levels. Especially the impressive amount of (new) taxes added to the already existent taxes risks to be very counterproductive. We know that the overall level of official taxation and income in DRC is not high ( 8% or GDP). The “informal taxation” is however important and a source, because of its discretionary application, of high transaction costs thereby depressing most formal economic activities and initiatives. Increasing the number of taxes, increases the legal insecurity and discretionary power of all kinds of administrations thereby increasing tax evasion. Therefore the proposals for fiscal decentralization, instead of increasing official revenues, will depress even further the official taxation and thus continue to drive people in the informal sector. Article 280 of this proposed law needs thorough rethinking together with the articles on the possibilities of regional borrowing and participation in local enterprises and ventures .

A last comment on the fiscal decentralization proposal is that it risks to jeopardize the other functions of government intervention, e.g. the stabilization and redistributive function of the state. Indeed, if the law permits that decentralized units define themselves their own tax base and are allowed to borrow, this can destabilize all efforts of fiscal balance or good governance at then national fiscal level. On the redistributive side, in a country like the DRC with large regional differences in endowment, fiscal autonomy could lead to an underinvestment and underdevelopment in the poorer regions of the country. In a post-conflict stage of its development it is important not to jeopardize the fragile re-found economic stability and to reconstruct the country by creating complementarity between regions rather than by financing divergent developments.



## Appendix 1: Quelques données générales de nature sociale, économique et budgétaire

	KIN	B/C	BAN	EQUA	KAT	K/OR	K/OC	N/K	S/K	MAN	P/O	Total
<b>Territoire et population (1)</b>												
Superficie (milliers de kilomètres carrés)	10.0	53.9	295.7	403.3	496.9	170.3	154.8	59.5	65.1	132.3	503.2	2,344.8
Population en 1999 (en milliers)	6,257	3,020	6,932	5,482	5,490	5,299	5,736	3,074	2,978	1,371	6,289	51,928
Taux de croissance annuel	3.9	3.9	3.3	2.9	3.7	3.5	3.4	3.4	3.4	3.4	2.1	3.1
Population en 2002 (en milliers)	7,018	3,387	7,641	5,973	6,122	5,875	6,341	3,398	3,292	1,516	6,694	57,258
Densité de population (ha/km carré)	704	63	26	15	12	34	41	57	51	11	13	24
Répartition du territoire (en %)	0.4	2.3	12.6	17.2	21.2	7.3	6.6	2.5	2.8	5.6	21.5	100.0
Répartition de la population (en %)	12.3	5.9	13.3	10.4	10.7	10.3	11.1	5.9	5.7	2.6	11.7	100.0
<b>Indicateurs sociaux-économiques</b>												
Calories par jour en 1997	1,989	1,765	1,942	1,816	2,008	1,827	1,816	1,741	1,561	1,903	1,758	1,836
IPH-I	24.7	35.4	43.1	43.6	46.1	41.1	42.8	30.2	46.6	42.0	42.5	41.3
PIB par habitant en 1997 (en \$ US)	322	137	32	25	138	82	82	110	67	100	31	103
PIB local par rapport au PIB national (en %)	313	133	31	24	134	80	80	107	65	97	30	100
PIB par habitant en PPP (en \$ US)	2929	1238	293	229	1249	739	744	995	604	641	282	850
PPP local par rapport au PPP national (en %)	345	146	34	27	147	87	88	117	71	75	33	100
<b>Indicateurs macroéconomiques</b>												
PIB en 1999 - millions de USD	1,900	400	200	100	800	400	300	400	200	200	200	4,300
PIB en 2002 - millions de USD												5,455
<b>Fonction publique nationale</b>												
Agents de l'État central en province	113,927	38,061	61,701	24,307	47,822	42,494	34,030					362,342
Retraités de l'État central en province	27,208											27,208
Masse salariale - Actifs (millions FC)	15,425	1,110	1,845	710	1,210	995	945					22,240
Masse salariale - retraités (millions FC)	645	110	80	135	280	255	95					1,600
<b>Budgets des provinces (2002 - millions FC)</b>												
Dépenses prévues	5,470	9,793	2,679	881	7,648	6,300	1,822	60	60	60	60	34,833
Dépenses effectives (estimé)	2,000	6,500	1,000	300	5,000	3,500	900	60	60	60	60	19,440
Dépenses effectives par habitant	285	1,919	131	50	817	596	142	18	18	40	9	340

**Appendix 2: Synthèse des budgets des provinces pour l'exercice 2002**  
(en millions de francs congolais)

	KIN	B/C	BAN	EQUA	KAT	K/OR	K/OC	Total
<b>Recettes prévisionnelles</b>	<b>5,469.5</b>	<b>9,793.0</b>	<b>2,678.7</b>	<b>881.1</b>	<b>7,648.2</b>	<b>6,299.5</b>	<b>1,821.9</b>	<b>34,591.9</b>
A) Recettes courantes	3,747.2	8,931.9	788.3	412.3	6,158.2	1,971.6	670.6	22,680.1
1. Solde au 31 décembre 2001	13.7	10.0	2.8	0.5	36.5	21.8	29.8	115.3
2. Rétrocessions des 3 régies	822.2	8,650.9	59.5	9.7	2,958.4	627.1	78.1	13,206.0
3. Rétrocession du MEFB			328.9	341.8	799.2	360.0	219.8	2,049.6
4. Recettes d'intérêt commun	2,644.8	244.0	230.8	53.6	2,246.0	936.0	312.5	6,667.8
5. Taxes spécifiques des provinces	266.5	27.0	166.2	6.6	118.1	26.6	30.3	641.4
B) Recettes exceptionnelles	29.3	17.6	32.0	3.5	482.3	13.0	96.4	674.0
C) Subvention de l'État pour les S/P	508.1	713.3	833.1	383.9	735.3	449.6	602.6	4,226.0
D) Budget annexe	502.2							502.2
E) Budget pour ordre	682.6	130.1	1,025.4	81.5	272.4	3,865.3	452.4	6,509.7

<b>Dépenses prévisionnelles</b>	<b>5,469.5</b>	<b>9,793.0</b>	<b>2,678.8</b>	<b>881.1</b>	<b>7,648.2</b>	<b>6,299.5</b>	<b>1,821.9</b>	<b>34,591.9</b>
A) Dépenses courantes	2,791.2	4,563.0	513.5	241.2	4,247.5	1,344.2	468.8	14,169.4
1. Rémunérations	437.9	1,074.9	136.4	86.0	791.9	284.6	134.6	2,946.3
2. Fonctionnement	654.2	2,572.4	232.1	114.2	1,709.5	398.0	138.7	5,819.2
3. Rétrocession aux EAD	1,586.9	223.2	138.5	32.1	1,347.6	561.6	187.5	4,077.5
4. Dette intérieure	112.2	692.4	6.5	8.8	398.4	100.0	8.0	1,326.4
B) Dépenses en capital	985.3	4,386.6	306.8	174.5	2,393.0	640.3	298.2	9,184.7
1. Infrastructures	593.2	3,553.6	231.8	150.4	971.3	424.2	159.9	6,084.4
2. Projets productifs	96.5	290.0	48.0		303.7	138.8	10.6	887.6
3. Secteurs sociaux	295.6	543.0	27.0	24.1	1,118.0	77.3	127.7	2,212.7
C) Fonctionnement des services provinciaux	508.1	713.3	833.1	383.9	735.3	449.6	602.6	4,226.0
D) Budget annexe	502.2							502.2
E) Budget pour ordre	682.6	130.1	1,025.4	81.5	272.4	3,865.3	452.4	6,509.7

Source: Ministère de l'Intérieur, sur la base des documents de budget des provinces.

**Appendix 3: Flux financiers entre le centre et les provinces  
pendant l'exercice 2002 (en millions de francs congolais)**

	<b>KIN</b>	<b>B/C</b>	<b>BAN</b>	<b>EQUA</b>	<b>KAT</b>	<b>K/OR</b>	<b>K/OC</b>	<b>Total</b>
<b>Flux des régions vers le centre</b>	46,332	30,953	93	71	9,996	3,707	464	91,616
<b>A) Recettes fiscales perçues par</b>	46,332	30,953	93	71	9,996	3,707	464	91,616
1. OFIDA	16,095	26,025	0	0	7,200	3,035	220	52,575
2. DGC	30,237	4,928	93	71	2,796	672	244	39,041
3. DGRAD	0	0	0	0	0	0	0	0
4. Autres								0
<b>B) Autres transferts vers le centre</b>	0	0	0	0	0	0	0	0
1. Minerval (I)								0
2. Autres								0
<b>Flux du centre vers les régions</b>								
<b>A) Dépenses de fonctionnement</b>	16,070	1,220	1,925	845	1,490	1,250	1,040	23,840
1. Rémunérations et pensions	16,070	1,220	1,925	845	1,490	1,250	1,040	23,840
2. Services provinciaux								0
3. Services sociaux en province								0
4. Rétrocessions aux EAD/CA								0
<b>B) Dépenses sur PIP</b>	0	0	0	0	0	0	0	0
1. Infrastructures								0
2. Projets productifs								0
3. Projets sociaux								0
<b>C) Transferts du gouvernement central</b>								
1. Rétrocession automatique								
2. Rétrocession variable								
3. Subvention de fonctionnement								0
4. Subvention d'équipement								0
<b>D) Aides des bailleurs de fonds</b>	0	0	0	0	0	0	0	0
1. Aide budgétaire								0
2. Aide aux projets								0

\*les quatres autres provinces etaient sous l'autorite des factions rebelles

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