



Elections in the Democratic Republic of the Congo

Executive summary

This policy brief examines the December 2018 presidential elections in the Democratic Republic of the Congo (DRC). It posits that in hybrid regimes, where tendencies of liberal democracies and authoritarianism remain present, neo-patrimonialism and personalized clientelism determine politics and the outcome of elections. In politics in Africa, elites continue to see elections not as fundamental expression of collective choice, but rather as a mere legitimizing process. Neo-patrimonialism and personalized clientelism affect the principle of democratic accountability by awarding loyalty over competence, and wealth and power over moral character. Such practices are still prevalent in the DRC, possibly explaining the tumultuous run-up to the election and Felix Tshisekedi's recent controversial election victory. Creating strong institutions, increasing democratic accountability by strengthening the judicial system, and ramping-up anti-corruption efforts are some of the steps the Government of the Democratic Republic of the Congo should take to ensure free, fair, and meaningful future elections.

Background

The Democratic Republic of the Congo (DRC) was scheduled to hold elections on December 23, 2018, but the polls were postponed

to December 30, 2018. The *Commission Electorale Nationale Indépendante* (CENI) cited the fire in a warehouse storing ballot papers and voting machines in Kinshasa as the reason for the postponement. Additionally, three major towns, Beni, Butembo, and Yumbi, known Fayulu strongholds, are scheduled to hold elections in March 2019, after Tshisekedi has already been sworn in as president. Joseph Kabila, who has been in power since the assassination of his father in 2001, was supposed to leave office in 2016, when his second constitutional term in office officially expired. The government's proposed candidate, Emmanuel Ramazani Shadary, has been sanctioned by the European Union for obstruction of the electoral process and alleged human rights violations in a crackdown during his time as interior minister. The main opposition consists of the Martin Fayulu and Felix Tshisekedi, former partners in opposition. When Fayulu was chosen to lead the united opposition, Tshisekedi and Vital Kamerhe broke away from the opposition bloc and started their own campaign for the presidential elections.

The DRC has a weak track record with regards to peaceful and credible elections. In 2006, the presidential elections were relatively peaceful, but the collection of results was chaotic, leading to armed clashes and instability.

Nevertheless, the 2006 elections constitute a major milestone in DRC's long history of repression and strongman rule, indicating a strong desire of the population to finally choose its own leaders (Carter Center, 2019). The 2011 presidential elections were different. Voting and tabulation of results were marred by serious irregularities, undermining the credibility of the presidential and legislative results (Carter Center, 2011). Additionally, in the run-up to the 2011 presidential election, the government passed laws to abolish the second round of presidential elections, and tried to change the electoral legislation. After the elections, the opposition reported widespread irregularities, while the government argued the contrary. The opposition in the DRC believes that Kabila influences both CENI and the Supreme Court, institutions normally perceived to be objective. Both institutions play significant roles in the electoral process.

On December 10, 2018, it became clear that Kabila is planning to leave office, but not politics. The *BBC* reported that in response to questions whether he might seek re-election in 2023, Kabila said: "Why don't we wait for 2023 ... to envision anything? In life, as in politics, I don't rule out anything." Additionally, there have been worries that even though Kabila will officially no longer be the leader of the DRC, he might still pull the political and economic strings. To this extent, Kabila formed the Common Front for Congo (FCC), and made all its leaders swear allegiance to him. In February 2019, the FCC announced that it

would form a government, asking questions to what extent Tshisekedi is actually in power.

In the early hours of Thursday January 10, 2019, CENI released results announcing that Felix Tshisekedi was elected president. Martin Fayulu protested, claiming that the results were obviously fake and that "the Congolese will never accept such a fraud" (BBC, 2019). The current situation in the DRC is tense. Rumors in recent days that Tshisekedi met with Kabila have deepened suspicion on the true outcome of the elections. The Catholic Church, an influential actor in DRC society, apparently told foreign diplomats that Fayulu had won, feeding into the DRC's gossip mill.

Jason K. Stearns (2019), expert on the DRC, concluded in an article by Congo Research Group that information obtained through two leaked documents, one from CENI and one from the Catholic Church, shows that Fayulu should have won by a big margin. CENI's leaked document, which had 86 per cent of the total votes counted, showed Fayulu had won by around 59 per cent of the vote, while the document from the Catholic Church put Fayulu at 62 per cent. Either way, it is highly unlikely that Tshisekedi could have won the vote without some sort of manipulation. On Sunday January 20, 2019, the Constitutional Court confirmed Tshisekedi's presidential election victory while dismissing Fayulu's claims. Fayulu, who accuses Tshisekedi of electoral fraud and of conspiring with Kabila, asked the international community to reject

the Court's ruling, and declared himself the legitimate president of the Democratic Republic of the Congo.

Key Findings

Villalón and VonDoepp (2005) posit that hybrid regimes are regimes in which elements of democracy and liberal politics operate in contexts where neo-patrimonialism and authoritarian tendencies also remain.

Abebanwi and Obadare (2011) argue that regimes in Africa are almost always hybrid regimes, where limited access to power and resources continues to over-determine politics. The political elite will continue to see elections as a mere legitimating process rather than the fundamental expression of collective choice.

Lindberg (2003) found that neo-patrimonialism and personalized clientelism heavily affect the principle of democratic accountability in liberal democracies. Elected officials are not being held accountable for their actions or inaction with regards to public matters and their political agenda.

Stearns (2012) argues that neo-patrimonialism and personalized clientelism is widespread in the DRC. "In the Congo, everything flows from political office: the best business deals, influence, and status." The political system in the DRC privileges loyalty over competence, and wealth and power over moral character.

Schmitter and Karl (1991) discuss the fallacy of 'electoralism': "the

faith that merely holding elections will channel political action into peaceful contests among elites and accord public legitimacy to the winners” (p. 78). They argue that there is a widespread adherence to ‘electoralism’ which ignores other political realities.

Hartmann (2007) argues that “in contrast to the situation in established

democracies, the independence, efficiency and neutrality of African electoral administrations cannot be assumed as given” (p. 146). Electoral administrations, or commissions, organize the elections, finalize candidate lists, and oversee the election procedure.

Ríos-Figueroa and Aguilar (2017) posit that representation in the

Supreme Court and special jurisdictions enables the ruling coalition to solve intra-elite conflicts to their advantage.

Moustafa (2014) underpins Ríos-Figueroa and Aguilar’s (2017) argument by arguing that many authoritarian regimes use law and courts as important instruments of governance.

Conclusion

The recent elections were far from free and fair. In the run-up to the elections, main opposition candidates Jean-Pierre Bemba and Moïse Katumbi were both blocked from running for the presidency by CENI and the Supreme Court, institutions perceived by the opposition to be supporting Kabila. In the DRC, there is a widespread belief that elections will solve the DRC’s problems and channel political action into peaceful development. However, problems run deeper than that. Neo-patrimonialism and clientelism are deeply embedded in Congolese society, and loyalty is more important than competence. “This in turn fuels corrupt systems of patronage, whereby ethnic leaders embezzle public funds in order to reward their supporters” (Stearns, 2012, p. 331). The Supreme Court’s recent decision to uphold the highly contested results without a recount shows that the DRC is a hybrid regime where, currently, systems of patronage and clientelism trump the concept of democratic accountability.

Recommendations

The new government of the Democratic Republic of the Congo should:

- Create strong and neutral institutions (CENI and Supreme Court) to safeguard the election process.
- Actively prevent clientelism and neo-patrimonialism.
- Ramp up anti-corruption efforts to help prevent fraudulent elections.
- Actively involve all Congolese, including opposition parties.
- Increase democratic accountability among leaders and government officials by strengthening the judicial system
- Refrain from using violence against protesters and supporters of the opposition.
- Allow for independent and objective international assistance in the aftermath of the elections.

Parties assisting the DRC in the aftermath of the December 2018 presidential election, and during future elections, should:

- Stand together and urge calm and careful verification of the electoral results.
- Call on the government of the DRC to refrain from using violence against protesters and opposition supporters.
- Assist the government in creating strong institutions to safeguard election process and increase democratic accountability.

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