

EFFECTIVENESS OF THE RIGHT TO VOTE: BETWEEN FORMAL LEGALITY AND DEMOCRATIC LEGITIMACY IN THE DRC

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ABSTRACT

Voting rights are a cornerstone of constitutional democracy because they simultaneously function as a fundamental political right, a mechanism for legitimizing public authority, and a means through which citizens participate in public affairs. In the Democratic Republic of the Congo, this right is formally guaranteed by constitutional and electoral norms affirming popular sovereignty, universal and equal suffrage, and an institutional framework meant to secure free and transparent elections. However, the existence of this legal framework does not automatically ensure the effective enjoyment of voting rights. Between 2018 and 2023, the Congolese electoral cycles revealed a persistent gap between formal legality and democratic legitimacy.

This article examines that gap through a doctrinal and documentary study focused on the 2018 and 2023 general elections. It argues that the main challenge to the effectiveness of voting rights in the DRC lies not only in the content of the law, but in the practical conditions under which the vote is exercised: voter registration weaknesses, unequal access to polling, logistical failures, procedural ambiguities, insufficient transparency in the tabulation of results, and limited effectiveness of electoral remedies. Consequently, voting rights should not be assessed solely by the existence of legal guarantees, but by the actual capacity of the electoral system to enable citizens to vote under conditions of equality, liberty, security, traceability, and public trust.

The paper shows that both the 2018 and 2023 elections were held within a relatively comprehensive legal framework, yet one whose implementation was often selective or contested. It further demonstrates that recurring deficiencies in transparency, verifiability, and electoral inclusion weakened the perception that official outcomes genuinely reflected the will of the people. The article concludes that strengthening voting rights in the DRC requires a deeper alignment between legal norms, electoral administration, and judicial oversight so that suffrage may become not merely a proclaimed right, but an effectively guaranteed one.

Keywords: right to vote, effectiveness, formal legality, democratic legitimacy, elections, CENI, electoral disputes, DRC.

1.0 INTRODUCTION

In contemporary democracies, the analysis of the right to vote can no longer be limited to its sole enshrinement in constitutional and legislative texts. While many States formally recognize universal suffrage and provide a legal framework for electoral processes, the effective exercise of this right often depends on material, technical and institutional conditions that determine its real scope. This dissociation between normative recognition and the concrete realization of the law justifies a reflection on the effectiveness of suffrage in the Democratic Republic of the Congo.

The existing literature, mainly consisting of election observation reports [1] and institutional analyses [2], highlights various irregularities, without always offering a global reading of the electoral phenomenon. In this perspective, this study is based on an analytical distinction between formal legality, understood as the conformity of the electoral process with the legal norms in force, and democratic legitimacy, understood as the acceptance of the results by political actors and society, based on the requirements of transparency, inclusiveness and sincerity of the vote.

In the Democratic Republic of Congo, the right to vote is based on an explicit normative framework. The revised Constitution of 2011 (2011) enshrines the sovereignty of the people and the principle of universal, equal and secret suffrage, while the electoral legislation [4] organizes the different stages of the electoral process, from the registration of voters to the proclamation of the results. This legal mechanism aims, in principle, to guarantee free and credible elections.

However, the 2018 and 2023 general elections highlighted persistent dysfunctions affecting the transparency of the process, equal access to the vote and the credibility of the results. Observations made by several organizations (2024), including the Carter Center (2019), underline that these elections, although organized within an identifiable legal framework, were marked by shortcomings in their implementation, likely to affect trust in electoral institutions.

Therefore, a central question arises: How was the right to vote, between 2018 and 2023, effectively guaranteed beyond its formal legality?

The hypothesis defended is that the fragility of the vote in the DRC results less from a normative deficit than from structural limits in the application of electoral rules, affecting the inclusion of voters, the regularity of operations, the transparency of results and the effectiveness of judicial control mechanisms. The effectiveness of the right to vote must therefore be assessed on the basis of the concrete conditions in which it is exercised and the capacity of the electoral system to produce credible results.

This study has a dual objective: to analyze the normative and institutional framework of the right to vote in the DRC, and to evaluate its effectiveness through a comparison of the 2018 and 2023 elections. It is part of a doctrinal and documentary approach, mobilizing legal sources, election observation reports and specialized analyses.

The article follows, a progression in four stages. The first part presents the methodology of the research. The second presents the results of the analysis relating to the normative and institutional framework of the right to vote in the DRC. The third develops a comparative discussion of the 2018 and 2023 elections based on the notions of formal legality and

democratic legitimacy. Finally, the conclusion summarises the achievements of the demonstration and proposes ways to strengthen the effectiveness of suffrage.

2.0 METHODOLOGY FRAMEWORK

This research is based on an approach based on the critical exploitation of a corpus composed of normative texts, election observation reports and specialized institutional analyses during the period from 2018 to 2023 relating to electoral processes in the Democratic Republic of Congo.

In this perspective, the research uses a comparative method, making it possible to analyse the continuities and breaks between the 2018 and 2023 electoral cycles. In this regard, Giovanni Sartori emphasizes that comparison makes it possible to produce scientific knowledge by linking similar cases in order to identify explanatory variables (Sartori, 1994).

In addition, the research adopts a dogmatic legal approach, consisting of analysing the relevant legal texts, in particular the Constitution and electoral legislation, in order to identify their normative scope. This method is classic in public law and aims to interpret norms from their letter, their spirit and their purpose (Nkoue, 2019).

According to Raymond Quivy and Luc Van Campenhoudt, documentary research makes it possible to gather a coherent corpus of relevant data for critical analysis (Luc et al., 2011). This technique is particularly suited to this research, insofar as it is mainly based on the gathering of a corpus composed of normative texts, electoral observation reports and specialized institutional analyses relating to the period 2018-2023 in the Democratic Republic of Congo.

Laurence Bardin emphasizes that content analysis aims to produce a rigorous and systematic interpretation of textual data (Bardin, 2013). The data collected were exploited through this analysis, which consists of identifying, classifying and interpreting the relevant information with regard to the research problem. This technique made it possible to identify trends, regularities and significant relationships between the different variables studied.

2.1 Sources mobilized

The revised Congolese Constitution of 2011 (2011) and the coordinated electoral law have been used [12] to define the formal legality of the right to vote, i.e. the set of guarantees that the Congolese legal system claims to ensure before, during the election and after the election.

These include reports from the Carter Center [13], as well as analyses produced by institutions such as the Africa Center for Strategic Studies [14] and the Institute for Security Studies [15]. These documents provide essential empirical data on the actual conduct of elections.

They include scientific books and articles relating to democracy, electoral law and the effectiveness of fundamental rights. These sources make it possible to construct the conceptual framework and to interpret the empirical data used by means of a reading grid built around five variables; electoral inclusion, procedural regularity, transparency of results, effectiveness of appeals and political acceptability of the election. These variables make it possible to move from a factual description to an assessment of the effectiveness of the right to vote. In other

words, they serve to measure the degree to which voting could be exercised as a real right and not as a mere theoretical faculty.

The choice of the period 2018 to 2023 is not arbitrary. It corresponds to two major and politically structuring electoral cycles. The 2018 elections represented a pivotal moment, marked by a presidential alternation officially proclaimed but durably contested on the basis of the sincerity of the results.

The 2023 elections were expected as a possible correction of previous dysfunctions; However, they have brought back several criticisms relating to transparency, logistics and equality before the vote. The scientific interest of the comparison therefore lies in the possibility of observing whether the Congolese electoral system has evolved from a one-off crisis to a structural improvement, or whether it has on the contrary reproduced, in new forms, the tension between formal legality and democratic legitimacy.

3.0 RESEARCH LIMITATIONS

However, there are some limitations to the approach taken. First, it depends on the availability and quality of documentary sources. Secondly, the numerical data on electoral behaviour remain incomplete or scattered. Finally, the analysis does not claim to definitively decide the material truth of each electoral result. Despite these limitations, this methodology seems adequate for work in public law. It makes it possible to treat the question of the effectiveness of the right to vote as a normative, institutional and democratic issue.

4.0 FORMAL LEGALITY AND CLARIFICATION OF CONCEPTS

4.1 Clarification of key concepts

Before examining the concrete cases of the 2018 and 2023 elections, it is necessary to specify the operational concepts that structure the analysis.

A. Effectiveness of the right to vote

In legal theory, the effectiveness of a right refers to the ability of this right to produce real effects in behaviour, institutions and social relations. In this regard, Norberto Bobbio points out that one of the major challenges of fundamental rights lies less in their formal recognition than in their effective implementation, thus distinguishing between "proclaimed" and "realized" rights (Bobbio, 1990).

Applied to suffrage, this idea implies that the right to vote must be able to be exercised without arbitrary exclusion, without disproportionate obstacles, under adequate material and informational conditions, and with a reasonable guarantee that the vote cast will be properly counted and legally protected. From a complementary perspective, Amartya Sen insists on the importance of the real capacities of individuals to exercise their rights, stressing that the formal existence of a right does not guarantee its effective exercise in the absence of concrete favourable conditions (Sen, 2009).

B. Formal legality

Formal legality, on the other hand, refers to the apparent conformity of the electoral process with written rules. In this context, the existence of a constitution, an electoral law, a legally constituted electoral commission, an official timetable and judicial procedures may be sufficient to affirm that the State is acting in accordance with the law. This conception finds an important theoretical basis in the work of Hans Kelsen, for whom the validity of a legal order rests on its conformity to a hierarchy of formally established norms (Kelsen et al., 1988).

However, this approach remains insufficient when the implementation of the law is affected by inappropriate derogations, interpretative ambiguities, selective application of rules or administrative practices that neutralize the guarantees provided for by the texts. From this point of view, Max Weber reminds us that legal domination is based not only on the validity of rules, but also on the belief in their legitimacy and their effective application (Weber et al., 1959).

C. Democratic legitimacy

Democratic legitimacy refers to the recognition by citizens and political actors of the fact that the power resulting from elections is the result of a free, equal and sincere expression of the popular will. This conception is in line with the tradition of Jean-Jacques Rousseau, for whom sovereignty belongs to the people and can only be expressed through their effective participation in collective decisions (1712-1778 & Bruno, 2001).

In a more contemporary approach, John Rawls considers that the legitimacy of institutions rests on their ability to be accepted as fair by citizens (1921-2002), 1995), in particular through fair and transparent procedures. For his part, Joseph Schumpeter proposes a procedural conception of democracy, in which legitimacy derives from free electoral competition between political elites (Schumpeter, 1972).

Therefore, democratic legitimacy exceeds formal legality. An election can be legally organised while being politically contested if it does not offer sufficient guarantees of transparency, inclusion and verifiability. Conversely, democratic legitimacy cannot be sustainable if it is deployed without any normative basis. The challenge therefore lies in the articulation between these two dimensions.

D. Distinction between proclaimed right and right exercised

The distinction between proclaimed rights and rights exercised occupies a central place in contemporary theory of fundamental rights. The formal recognition of a right in legal texts does not necessarily guarantee its concrete realization in social practice.

In this perspective, Norberto Bobbio observes that the fundamental problem of human rights no longer lies in their proclamation, but in their effective protection and real implementation. Amartya Sen develops a "capabilities" approach, according to which rights can only be considered real if individuals actually have the means to exercise them.

In addition, the political sociology of voting has also highlighted the gaps between formal law and actual practice. In this respect, Daniel Gaxie shows that the exercise of suffrage is socially differentiated and that invisible inequalities can limit effective access to political participation, despite the existence of universal suffrage.

Thus, the distinction between a proclaimed right and a right exercised makes it possible to go beyond a strictly normative reading of the right to vote to include an empirical analysis of the conditions under which it is exercised. It leads to the conclusion that the effectiveness of the vote depends not only on its legal framework, but also on factors such as access to the electoral process, the transparency of operations, confidence in institutions and the effectiveness of control mechanisms.

In the context of the Democratic Republic of the Congo, this distinction is of particular importance. Indeed, while the right to vote is clearly enshrined in constitutional and legislative texts, its effective exercise remains confronted with multiple constraints that call into question the ability of the electoral system to faithfully reflect the will of the people.

4.2 The formal legality of the electoral process in the DRC

An analysis of the normative sources shows that the DRC does not suffer, principally, from a lack of a legal basis for the right to vote.

The 2011 Constitution lays the essential foundations of the democratic regime: sovereignty of the people, universal, equal and secret suffrage, recognition of the electorate for all adult Congolese enjoying their civil and political rights, equality before the law and political pluralism (2011). The CENI is designed as an institution to support democracy, while the legislator is responsible for defining the conditions for the organization of elections (2011).

The coordinated electoral law completes this foundation by regulating the different stages of the process. It specifies the conditions for registration on the electoral rolls, the procedures for identifying voters, the organisation of polling stations, the rules for counting, the compilation of results and the means of appeal [25]. This normative density is important, because it allows, at least in theory, to avoid administrative arbitrariness and to guarantee the predictability of electoral operations.

4.3 The democratic legitimacy of suffrage

The existence of a complete text does not amount to an absolute guarantee. Several weaknesses appear when we examine the areas of ambiguity or the gaps between the letter of the law and administrative practices.

Already in 2018, the Carter Center noted that certain parts of the legal framework, in particular those relating to the independence of the CENI and the settlement of electoral disputes, should be clarified [26] (2011). The same source observed that the introduction of voting machines raised doubts as to its conformity with existing law, due to an ambiguous normative framework and a lack of prior consensus [27] (2011).

For 2023, the Carter Center reiterates that the legal framework is broadly in line with international standards, while adding that it contains ambiguous provisions and heterogeneous applications [28]. This formulation is decisive. It means that the formal legality of the Congolese electoral system is not totally fictitious; it exists. But it remains fragile, because it does not always translate into sufficient legal certainty in the effective conduct of the process.

Thus, the right to vote in the Democratic Republic of Congo is presented as a solidly proclaimed right, but unevenly secure in its implementation. This distinction structures the entire reasoning that follows.

5.0 DISCUSSION

The 2018 general election is a revealing moment in the tension between legality and legitimacy. On the one hand, the election took place within an identifiable constitutional and legal framework, after the publication of an electoral calendar, the registration of voters and the formal completion of numerous operations provided for in the texts [29] [2] (2011). On the other hand, the main observation reports have accumulated reservations of such seriousness that the mere existence of a legal basis has not been sufficient to preserve democratic confidence.

5.1 Electoral exclusion (Beni, Butembo, Yumbi)

A first problem is voter inclusion. The Carter Center notes that nearly 1,359,000 voters were deprived of participating in the presidential election due to the postponement of the presidential elections in Beni, Butembo and Yumbi, with no immediate alternative solution to effectively exercise their right to vote [30] (2011). These areas were widely perceived as strongholds of the opposition, which reinforced suspicions about the neutrality of the decision. Legally, this measure was justified by exceptional circumstances related to safety and public health; Politically, it was perceived as a direct attack on the equality of suffrage and the universality of the vote.

A second problem concerns the reliability of the electoral register. The Carter Center notes that the CENI did not publish the final voters' list in accordance with legal requirements and that external audits were not sufficiently followed up to correct the shortcomings identified [31] (2011). Several irregularities related to the lists were observed on election day. The right to vote, however, presupposes that a citizen can not only be qualified to vote in theory, but also find his registration, verify his data and effectively access the office where he is called to vote. When the register is imperfect or not very transparent, the right to vote becomes uncertain.

5.2 Voting machines and controversies

A third problem, which is particularly decisive, concerns the introduction of voting machines. The Carter Center explains that this innovation, which was contested as soon as it was adopted, was not the subject of sufficiently inclusive consultation or adequate technical transparency [32] (2011). The debate was not purely technological. It directly affected the formal legality of the process, the understanding of voters, the possibility of independent observation, the secrecy of the vote and the traceability of the results. So technology didn't just complicate the administration of the poll; it has also weakened the perception of its regularity.

On voting day, operations were deemed technically acceptable in several locations, but were marred by delays, missing equipment, difficulties in using machinery, over-assistance to voters, and instances of violence [33] (2011). Such difficulties are not neutral. When they are cumulative, they affect the real freedom of the vote, the confidentiality of electoral choice and equality between voters, some voting under more favourable conditions than others. The most

serious problem, however, has arisen in the compilation and publication of the results. The Carter Center notes the lack of transparency in tabulation, uncertainty about the possible role played by electronic data, the non-publication of detailed results by polling station and the interruption of certain local compilation procedures [34] (2011). He adds that the discrepancy between the results announced by the CENI and the data claimed by citizen observers has seriously compromised the credibility of the official results [35] (2011). "The lack of transparency in the results-management process severely undermined the credibility of the provisional results announced by the CENI." Carter Center, Final Report 2018[36] (2011)

This observation alone sums up the paradox of 2018. The election was organized legally in appearance, but the conditions for verification were so insufficient that the democratic legitimacy of the results was profoundly damaged. The dispute was not only about isolated irregularities; it was about the very possibility of demonstrating that the official results corresponded to the popular will.

The post-election dispute has not dispelled this doubt. The Carter Center considers that the time limits for appeals were too short to allow for the proper collection and examination of evidence, and that the Constitutional Court did not carry out sufficient review of the material credibility of the results [37] (2011). The constitutional judge, instead of restoring confidence, was therefore perceived as an additional cog in the formal closure of the process. From then on, legality functioned as a validation mechanism, without becoming a legitimation mechanism.

The 2018 election thus reveals three major lessons. First, an electoral system can be legally organized while effectively excluding certain voters. Second, apparent compliance with the procedure is not sufficient when combined with tabular opacity. Third, electoral litigation only fulfils its democratic function if it is able to effectively examine the evidence and make a convincing decision.

5.3 Apparent progress towards an incomplete effectiveness of the vote (2023 election)

The 2023 general elections were presented, before they were held, as an opportunity for an institutional readjustment after the controversies of 2018. Some developments can indeed be noted. The Carter Center mentions a plurality of candidates, the maintenance of SMS and Internet services during the election, as well as a pilot vote of the diaspora in five countries, which reflects a relative desire to expand the space for electoral participation [38] [4]. Compared to 2018, these elements can be read as signs of improvement, at least on certain aspects of the political and technical context.

However, an in-depth analysis of the 2023 final report shows that these advances have not been enough to remove the fundamental questions about the effectiveness of the right to vote. The first issue is that of registration and the quality of the electoral register. The Carter Center reports a lack of transparency in the development of the register, difficulties in inclusion for several vulnerable groups, and inadequacies in voter education [39] [4]. ISS Africa points out, in the same vein, that the electoral register has not been made available for independent verification, despite requests to do so [40] (2019). However, the reliability of the electorate conditions the entire chain of suffrage: if the register is opaque or contested, trust is altered even before the polling stations open.

The second issue is that of material access to the ballot. The Carter Center notes that many polling stations opened late, sometimes several days after the theoretical date, and that some did not open at all due to logistical and technical difficulties [41] [4]. ISS Africa also reports that two-thirds of polling stations opened late and that a large proportion did not comply with all procedures [42] (2019). Such a finding is particularly serious from the point of view of effectiveness. The right to vote is not guaranteed when a citizen has to travel long distances, wait in long queues, return several times or notice that the office assigned to him or her is not open.

The third issue concerns the equal treatment of voters. To limit certain exclusions, the CENI has allowed, in several cases, derogations allowing voters to vote despite documentary or organizational irregularities [43] [4]. Pragmatically, this flexibility may appear as an attempt to preserve access to the vote. But on the legal level, it creates a tension between inclusion and normative certainty. If the rule is applied too rigidly, citizens are excluded; if it is relaxed in a discretionary manner, equality between voters and legal certainty may be compromised. The question is therefore not only whether more people were able to vote, but whether they were able to do so under equal, predictable and controllable conditions.

The fourth challenge, as in 2018, lies in the transparency of the compilation and publication of results. The Carter Center report points out that centralized tabulation from electronic voting devices bypassed the ordinary legal procedure provided for at local results tabulation centers, thus reducing the possibilities of control by parties and observers [44] [4]. The same report states that the results of the presidential election were indeed published by polling station, but after the expiry of the appeal deadlines and without certain essential data, such as the number of registered voters per polling station, which limits the ability to verify [45] [4]. This is a partial improvement, but late and incomplete, which does not fully meet the requirements of democratic transparency.

The fifth issue is that of electoral disputes. The Carter Center observes that the Constitutional Court has met certain deadlines, but that the reasoning of its decisions has often been found to be insufficient, which weakens the perception of impartiality and rigour of judicial review [46] [4]. In other words, the court functioned as a closing body of the process, but not necessarily as a persuasive guarantor of electoral truth. In a context of accumulated mistrust, the argumentative quality of decisions is nevertheless of particular importance: it conditions the social acceptability of the legal verdict.

The 2023 election therefore presents an ambivalent physiognomy. Compared to 2018, some innovations or adjustments can be reported. However, this progress remains limited by the persistence of structural deficits: contested file, massive delays, uneven logistics, non-transparent compilation procedures and weak judicial review [47] [4] (2019). The formal legality of the process has therefore not completely disappeared; rather, it has combined with a series of practices that continue to erode democratic legitimacy.

5.4 Continuities, inflections and persistence of the divide between 2018-2023

The comparison between the 2018 and 2023 elections makes it possible to go beyond a one-off reading to highlight a deeper dynamic of the Congolese electoral system. This comparison should not erase the differences between the two sequences, but above all it reveals the

persistence of the same structural problem: the difficulty of converting the legal recognition of the right to vote into a fully effective and largely legitimate suffrage.

In 2018, the crisis of credibility reached an extreme level, in particular due to doubts about the presidential results, the exclusion of certain territories from the presidential vote, the opacity of the tabulation and the gap between the data observed by civil society and the official results [48] (2011). In 2023, the protest took a less radical form in terms of the proclamation of a winner, but it persisted in the field of transparency, logistics and integrity of the process [49] [4] (2019). We can therefore speak of a partial shift in the stakes: from an explosive crisis of credibility in 2018 to a more diffuse but still deep crisis of confidence in 2023.

The clearest point of continuity concerns the CENI. In both cycles, the institution appears to be at the centre of criticism: lack of confidence among political actors, insufficient communication, lack of transparency in the management of certain decisive stages, and difficulty in convincing people that the procedures have been applied in a neutral manner [50] (2011) [4]. Legally, the CENI is conceived as an independent institution; Sociologically and politically, it is often perceived as an institution that is insufficiently autonomous. This disjunction between legal status and public perception weakens the legitimacy of the process from its inception.

Another point of continuity lies in the insufficient transparency of the results. In 2018, the lack of detailed publication of results by polling station severely undermined the credibility of the election [51] (2011). In 2023, the partial or late publication of the results did not allow for a legally useful verification within the appeal deadlines [52] [4]. In both cases, the electoral administration did not produce a sufficient level of traceability to make the official proclamation coincide with an effective independent verification. However, the publication of results is not simply a supplement to good governance; it is a substantial condition for the sincerity of the vote.

The comparison also highlights the persistence of incomplete voter inclusion. In 2018, the exclusion of Beni, Butembo and Yumbi from the presidential vote was a frontal attack on the universality of suffrage [53] (2011). In 2023, the challenge took a different form: massive delays, logistical difficulties, obstacles faced by vulnerable groups, unequal access to polling stations and varying ability to exercise law under ordinary conditions [54] [4] (2019). The problem is therefore not only explicit legal exclusion; it is also material or procedural exclusion, often less visible but just as real.

On the other hand, there are changes to be noted. The maintenance of digital communications in 2023, the pilot opening of diaspora voting and a certain institutional continuity can be interpreted as progress compared to 2018[55] [4]. Similarly, the publication of results by polling station, even if late, shows that the requirement for transparency has penetrated more into the institutional discourse. But this progress remains insufficient as long as it is not made in a format, a time frame and a level of detail that allows for effective control.

This comparison confirms the initial hypothesis. The DRC is not evolving between 2018 and 2023 from a non-right to vote to a fully effective right. Rather, it is evolving from an acute crisis of credibility to an incomplete rationalization of a system that is still contested. Formal legality resists; Democratic legitimacy remains fragile.

5.5 The effectiveness of the right to vote as a material, procedural and jurisdictional requirement

The previous results invite us to go beyond a purely normative understanding of the right to vote. In the DRC, the effectiveness of the vote must be considered as a set of cumulative guarantees. A voter only truly enjoys his or her right to vote if several conditions are met simultaneously.

A. Material condition for the effectiveness of the right to vote

The existence of this condition requires that the citizen be reliably registered, informed, locatable in the electoral register, able to reach his polling station and vote within a reasonable time. If technical, logistical or security obstacles prevent him from doing so, the right to vote remains theoretical. This dimension is particularly important in a large state, marked by infrastructure constraints and conflict zones. Effectiveness is therefore not detachable from the administrative and territorial capacities of the State.

B. Procedural condition for the effectiveness of the right to vote

Voting must be organised according to clear, stable rules that are known and applied equally. Exceptional derogations can sometimes avoid unfair exclusions, but they must be predictable, supervised and controlled. Failing that, they substitute administrative discretion for the rule of law. The same reasoning applies to technological innovations: they only strengthen the vote if their legal framework, audibility and democratic intelligibility are ensured.

C. Informational and transparency condition for the effectiveness of the right to vote

Voters, observers and parties must be able to understand the process, follow the essential steps, have sufficient access, and the results must be published in conditions that allow them to be verified. Confidence in results is not based solely on the presumed probity of institutions; It is based on the possibility for independent third parties to control and cross-check the data. Thus, a political right is fully effective only if there are accessible, effective, reasoned remedies capable of correcting substantial irregularities. Without access to evidence, litigation serves more to formally close the process than to truly protect the right to vote.

D. Political condition for the effectiveness of the right to vote

The right to vote is not an isolated individual right; it produces a collective result. Its effectiveness therefore also depends on the general acceptability of the outcome of the election. An election whose results are permanently perceived as opaque or unverifiable weakens the very meaning of the vote. In the long term, this situation can fuel abstention, cynicism or conflictuality, which compromises the inclusive function of the election.

From this perspective, the formula "formal legality versus democratic legitimacy" should not be understood as an absolute opposition. Legality is essential. Without a legal framework, there is no security, no liability and no remedy. But legality only reaches its democratic meaning when it is put at the service of effectiveness. The Congolese problem lies precisely in the fact

that legality has too often been used to validate processes that practice had not sufficiently legitimized.

5.6 Reconciling the legality and legitimacy of the vote in the DRC

Finally, the analysis of the period 2018-2023 identifies several conditions for strengthening the effectiveness of voting rights.

A. Functional Reform of the Independent National Electoral Commission

No lasting legitimacy can be built without the true independence of the CENI. Current texts enshrine its independence (2011), but observation reports show that this independence remains insufficiently credible in practice (Kisangani, 2023) [4]. There is a need to strengthen the criteria for appointment, internal control mechanisms, the distribution of sensitive responsibilities, the quality of corporate communication and the obligation to publicly report on controversial decisions.

B. Communication traceability of results

The results should be published in a comprehensive, disaggregated, standardised and usable manner immediately after their consolidation, and within a timeframe compatible with the exercise of the appeals. The late publication of incomplete data does not fulfil this function. The democratic sincerity of the vote requires that the actors be able to verify, by polling station and by compilation centre, the consistency of the figures announced. The time limits for appeals must be sufficient to allow the evidence to be adduced; judicial decisions must be thoroughly reasoned; and judges must be able to order, when necessary, measures of inquiry that are really useful. The electoral judge must not be the simple terminal organ of a calendar; he must be the guarantor of the procedural truth of the suffrage.

C. Substantial voter inclusion

An electoral democracy is judged not only by its overall turnout, but by its ability to reduce concrete inequalities in access to the vote. Voting is only fully legitimate if it is part of an environment that respects public freedoms, pluralistic information, freedom of expression and a minimum of trust between competitors. When the public space is dominated by suspicion, opacity or late decisions, the right to vote loses part of its pacifying and integrating function.

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