

# DEMOCRACY AND HUMAN RIGHTS IN THE DEMOCRATIC REPUBLIC OF THE CONGO

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## HEARING BEFORE THE TOM LANTOS HUMAN RIGHTS COMMISSION

UNITED STATES  
HOUSE OF REPRESENTATIVES

ONE HUNDRED AND FOURTEENTH CONGRESS  
SECOND SESSION

—  
NOVEMBER 29, 2016  
—

Official Transcript

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# DEMOCRACY AND HUMAN RIGHTS IN THE DEMOCRATIC REPUBLIC OF THE CONGO

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TUESDAY, NOVEMBER 29, 2016

HOUSE OF REPRESENTATIVES,  
TOM LANTOS HUMAN RIGHTS COMMISSION,  
*Washington, D.C.*

*The Commission met, pursuant to call, at 10:07 a.m., in Room 2255 of Rayburn House Office Building, Hon. James P. McGovern [co-chair of the Commission] presiding.*

Mr. MCGOVERN. We welcome everybody. Somebody once said it takes a village; I say it takes a bigger hearing room. I apologize to all those who are standing, but I appreciate the fact that so many are interested in being here.

So good morning to everybody and welcome to the Tom Lantos Human Rights Commission hearing on democracy and human rights in the Democratic Republic of the Congo.

I would like to welcome our witnesses, and I want to thank them for sharing their expertise and in-country experience with us today. I am pleased to see the State Department so ably represented by Assistant Secretary Tom Malinowski and my former colleague in Congress Tom Perriello, who currently serves as special envoy for the Great Lakes region of Africa. I very much look forward to hearing your testimonies.

I want to extend a special welcome to those of you from the DRC who are joining us this morning. I would like to recognize the DRC's chief diplomatic adviser to President Kabila, Ambassador Barnabe Kikaya, and the DRC ambassador to the U.S., Ambassador Balumuene. Thank you very much for being with us today.

I also want to recognize Mr. Mayombo Mbanza, a lawyer who represents the DRC diaspora in Chicago. Your presence is a good indicator of the importance and relevance of this hearing.

We are here today because the Democratic Republic of the Congo, which the United States considers a strategic priority due to its size, location, and role in Africa's Great Lakes region, is facing a constitutional crisis. In 2002, the U.S., working with African and European partners, helped facilitate a Congo peace accord that included a democratic transition and free elections under a new constitution limiting the President to two terms.

In 2006, Joseph Kabila, who assumed the Presidency in 2001 after the assassination of his father, was elected President in his own right in a landmark election that was widely viewed as credible. He was reelected in 2011, although

the analyses of that election by international observers was not as positive.

President Kabila's second term is scheduled to end in about 3 weeks, on December 19th, but it seems that the President has no intention of stepping down on that date. On the contrary, for the last couple of years, the President and his party have repeatedly sought to delay, in a variety of ways, the elections that should have taken place this year, and they have succeeded. Elections that were scheduled by the National Electoral Commission for last November 27 failed to occur, and it is now too late to elect a replacement for Mr. Kabila before the 19th.

Meanwhile, we will hear today that the human rights situation in the DRC has deteriorated, as government repression against pro-democracy activists, opposition political leaders, protesters, and the media has intensified. The State Department's 2015 human rights report on the DRC noted, and I quote, "increased intimidation of political and civil rights activists and journalists, in the form of arbitrary arrests, prolonged detention and threats, and restrictions on the ability to change the government peacefully," end quote, as well as, and I quote, "widespread impunity and corruption throughout the government," end quote, state security force abuses, and a judiciary that is, quote, "corrupt and subject to influence," end of quote.

So what happens next? That is the question we are trying to answer today. There is a lot of concern up here on the Hill that the conflict will deepen after the 19th, that protests could mushroom, leading to increased repression and mass violence. The administration has pursued many strategies in its effort to help consolidate democracy in the DRC, including targeted sanctions and calling for a negotiated solution on the timing of elections, and we will hear more about those efforts today.

I am especially interested in the views of the witnesses on the recent political agreement reached under the auspices of the African Union, but with very limited participation by opposition leaders, that would postpone elections until 2018, while allowing Mr. Kabila to remain in office until then.

We in the Congress have also done our part to insist on the critical importance of adhering to democratic rules of the game. Most recently, we passed House Resolution 780, which calls for more sanctions on DRC officials who impede democratic progress through credible elections. And I would like to recognize the leadership of my colleagues Representatives Chris Smith, Karen Bass, Eliot Engel, and Ed Royce, the original cosponsors of that initiative.

Yet, here we are. Some of you may ask why this hearing is so focused on the issue of Presidential succession when the DRC faces many other very serious human rights problems -- ongoing armed conflict in the east, sexual- and gender-based violence, recruitment of child soldiers, conflict minerals. There can be no doubt that these problems are of grave concern and, in fact, they have received congressional attention, for example, through the conflict minerals legislation of 2010.

But one factor distinguishes the current political crisis in the DRC, with its foreseeable risk of increased human rights abuses. It is due primarily to the actions of one man, and that is President Kabila, and his supporters and enablers. It is the President's refusal to comply with the letter and spirit of his country's

constitution that is undermining the democratic aspirations of his people and causing this crisis, and it is within his power to diffuse it.

To do so, to rise above his personal desires and motivation, to put his country first, would be the sign of a true statesman and political leader. That is what democracy requires, and it would set a very important example for neighboring countries, where the issue of presidential term limits is also in play: Burundi, Rwanda, the Republic of Congo. We can and should hope that wisdom will prevail in the coming weeks.

So, having said that, I would like to recognize our first panel. Tom Perriello, who is the special envoy for the Great Lakes region of Africa, was appointed by the Secretary of State, John Kerry. He previously served as a very distinguished Member of Congress from Virginia's Fifth District, and he was formerly also special adviser to the prosecutor of Special Court for Sierra Leone. And he has got a long resume, and I will insert all that in the record, but he is an incredibly distinguished and honorable human being, and we are proud to have him here.

And I am also happy to welcome my friend Tom Malinowski, who was sworn in as Assistant Secretary of State for Democracy, Human Rights, and Labor. He was the Washington Director for Human Rights Watch, one of the world's leading independent international organizations dedicated to defending human rights. He has, again, also an incredibly long and impressive resume. But I can't think of two people better qualified to speak about this issue today and we want to welcome them.

And the floor is yours, and, Tom, why don't we begin with you.

[The prepared statement of Co-Chair McGovern follows:]

**PREPARED STATEMENT OF THE HONORABLE JAMES P.  
MCGOVERN, A REPRESENTATIVE IN CONGRESS FROM THE  
STATE OF MASSACHUSETTS AND CO-CHAIR OF THE TOM LANTOS  
HUMAN RIGHTS COMMISSION**



**Tom Lantos Human Rights Commission Hearing**

**Democracy and Human Rights  
in the Democratic Republic of the Congo**

**Tuesday, November 29, 2016  
10:00 AM – 12:00 PM  
2255 Rayburn House Office Building**

**Opening Remarks as prepared for delivery**

Good morning, and welcome to the Tom Lantos Human Rights Commission's hearing on Democracy and Human Rights in the Democratic Republic of the Congo.

I'd like to welcome our witnesses and thank them for sharing their expertise and in-country experience with us today. I am pleased to see the State Department so ably represented by Assistant Secretary Tom Malinowski and my former colleague in the Congress, Tom Perriello, who currently serves as Special Envoy for the Great Lakes Region of Africa. I very much look forward to hearing your testimonies.

I want to extend a special welcome to those of you from the DRC who are joining us this morning. I would like to recognize the DRC's Ambassador to the United States Barnabé Kikaya Bin Karubi; and Mr. Mayombo Mbanza, a lawyer who represents the DRC diaspora in Chicago. Your presence is a good indicator of the importance and relevance of this hearing.

We are here today because the Democratic Republic of the Congo, which the United States considers a strategic priority due to its size, location and role in Africa's Great Lakes region, is facing a constitutional crisis.

In 2002 the U.S., working with African and European partners, helped facilitate a Congo peace accord that included a democratic transition and free elections under a new constitution limiting the president to two terms. In 2006 Joseph Kabila, who assumed the presidency in 2001 after the assassination of his father, President Laurent Kabila, was elected president in his own right, in a landmark election that was widely viewed as credible. He was reelected in 2011, although the analyses of that election by international observers were not as positive.

President Kabila's second term is scheduled to end in about three weeks, on December 19<sup>th</sup>. But it seems that the President has no intention of stepping down on that date. On the contrary, for the last couple of years, the President and his party have repeatedly sought to delay, in a variety of ways, the elections that should have taken place this year – and they have succeeded. Elections that were scheduled by the National Electoral Commission for last November 27<sup>th</sup> failed to occur, and it's now too late to elect a replacement for Mr. Kabila before the 19<sup>th</sup>.

Meanwhile, we will hear today that the human rights situation in the DRC has deteriorated, as government repression against pro-democracy activists, opposition political leaders, protestors and the media has intensified. The State Department's 2015 Human Rights Report on the DRC noted "increased intimidation of political and civil rights activists and journalists in the form of arbitrary arrests, prolonged detention, and threats; [and] restrictions on the ability to change the government peacefully," as well as "widespread impunity and corruption throughout the government," state security force abuses and a judiciary that is "corrupt and subject to influence."

So what happens next? That is the question we're trying to answer today. There is a lot of concern up here on the Hill that conflict will deepen after the 19<sup>th</sup> – that protests could mushroom, leading to increased repression and mass violence.

The Administration has pursued many strategies in its effort to help consolidate democracy in the DRC – including targeted sanctions and calling for a "negotiated solution" on the timing of elections – and we will hear more about those efforts today. I am especially interested in the views of the witnesses on the recent "political agreement" reached under the auspices of the African Union, but with very limited participation by opposition leaders, that would postpone elections until 2018 while allowing Mr. Kabila to remain in office until then.

We in the Congress have also done our part to insist on the critical importance of adhering to democratic rules of the game. Most recently we passed House Resolution 780, which



calls for more sanctions on DRC officials who impede democratic progress through credible elections – and I’d like to recognize the leadership of Reps. Chris Smith, Karen Bass, Eliot Engel and Ed Royce, the original cosponsors, on that initiative.

Yet here we are.

Some of you may ask why this hearing is so focused on the issue of presidential succession, when the DRC faces many other very serious human rights problems – ongoing armed conflict in the east, sexual and gender-based violence, recruitment of child soldiers, conflict minerals. There can be no doubt that these problems are of grave concern, and in fact they have received congressional attention – for example, through the Conflict Minerals legislation of 2010.

But one factor distinguishes the current political crisis in the DRC, with its foreseeable risk of increased human rights abuses: it is due primarily to the actions of one man, President Kabila, and his supporters and enablers. It is the President’s refusal to comply with the letter and the spirit of his country’s constitution that is undermining the democratic aspirations of his people and causing this crisis, and it is within his power to defuse it. To do so, to rise above his personal desires and motivations, to put his country first, would be the sign of a true statesman and political leader. That is what democracy requires. And it would set a very important example for neighboring countries where the issue of presidential term limits is also in play: Burundi, Rwanda, the Republic of Congo. We can and should hope that wisdom will prevail in the coming weeks.

With that, I would like to introduce our witnesses, whose testimonies I formally submit into the hearing record.

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**STATEMENTS OF TOM PERRIELLO, SPECIAL ENVOY FOR THE GREAT LAKES REGION OF AFRICA, U.S. DEPARTMENT OF STATE; AND TOM MALINOWSKI, ASSISTANT SECRETARY, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, U.S. DEPARTMENT OF STATE**

**STATEMENT OF TOM MALINOWSKI, ASSISTANT SECRETARY, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, U.S. DEPARTMENT OF STATE**

Mr. MALINOWSKI. Thanks. Of course, that could mean either one of us, right?

Thank you, Mr. Chairman, for the leadership that you have shown and this Commission has shown all across the world in standing up for human rights, something that I think is going to become even more intensely important in the years ahead, and, in particular, for your focus on the DRC today. I want to start by putting the events there in a slightly broader context and then zero back in on what is happening in Kinshasa.

One of the most important and hopeful developments we have seen in Africa politically in the last several years has been this extraordinary popular movement for constitutional term limits. All across the continent, ordinary citizens, mostly young people, have been challenging the idea that leaders can change the rules of the game in the middle of the game so that they can stay in power for life, and it is the policy of the United States to stand with those people wherever these movements arise.

That policy is not meant to be a judgment on the qualities of any particular leader. It is just based on a judgment that leaders who cling to office for term after term eventually are able to consolidate power around their person in ways that undermine the checks and balances that are necessary for democracy. We think that democracy is stronger when there are regular peaceful transitions of power from one group of leaders to another and from one generation to another.

That is why President Obama said last year when he spoke to the African Union in Addis that no one should be president for life. And I can't think of a statement by any sitting American president that has resonated more positively across the African continent than that statement that President Obama made.

We have seen these popular movements succeed in a number of countries, in Burkina Faso, in Senegal, to name two examples. In other countries, leaders have resisted calls to respect term limits. We have seen that in the Republic of Congo, in Rwanda, and with very tragic consequences, of course, in Burundi. And now this same drama is playing out again on an even bigger stage with, I think, even bigger potential consequences in the DRC.

On December 19, the second and constitutionally stipulated final term of President Kabila will end. There should have been an election this month to choose his successor. It obviously didn't happen. The government of the DRC has claimed that this delay happened only because elections in the DRC are complicated to organize, they take time to prepare. But, obviously, the

government has always known how long the preparations would take. It deliberately did not start them on time.

Instead, it has followed a strategy of bureaucratic delay, which the Congolese refer to in French as *glissement*, causing the election to be postponed at least until the latter part of 2017, and this has led to widespread anger in the DRC. In a poll released last month by the Congo Research Group, 81 percent of respondents rejected changing the constitution to allow Kabila to run for a third term; 74 percent said he should leave office when his term ends next month.

Now, you mentioned the special factor of the DRC's size, its position in the region. It has, as you know, a very bitter history of conflict. The potential for violence and mass atrocities in the DRC if this situation is not resolved is very, very real. The civil war there that began in the 1990s, as you recall, arguably took more lives than any other war anywhere in the world since World War II, drawing in neighbors from across the region. So ensuring timely and credible elections and a peaceful transition is incredibly important in a country that is recovering from such recent trauma.

Now, President Kabila's refusal to say publicly that he will not seek a third term has already fueled mass protests. Those protests have been met with violence by security forces against peaceful activists, political and religious leaders, and others. In September, in Kinshasa, for example, Congolese security forces violently suppressed peaceful protesters. That action left dozens dead and hundreds injured. So far this year, the U.N. has documented a 216 percent increase in the number of human rights violations from all of last year.

The government has also cracked down on journalists. It has blocked radio signals to deny Congolese access to credible independent reporting during moments of tension. That is also very important in terms of avoiding atrocities, to have information freely going in and out of the country.

Now, we have been working intensively since the beginning of this crisis to encourage a path forward based on democratic principles and respect for human rights. Special Envoy Perriello has spearheaded our diplomatic efforts, which he will describe in a moment.

I will say that we have done this in very close coordination with regional states, who worry that they themselves would bear the consequences if the political situation in the DRC were to unravel, and with our partners in Europe. We have signaled our determination to hold accountable those individuals responsible for acts that threaten the DRC's peace and security or that undermine democratic processes and institutions by imposing targeted sanctions, as now has the European Union. We have already sanctioned three security personnel responsible for abuses, and more designations will come if abuses and these actions continue.

In this context, we should also keep in mind one other thing, and that is the growing allegations of corruption against the DRC government and its financial backers. According to organizations like Global Witness and the Enough Project, corruption is diverting billions of dollars in revenues that should be going to the DRC treasury and support public services. This is an especially harmful problem given the economic difficulties that the DRC is currently facing.

Law enforcement agencies throughout the world are increasingly interested in investigating and prosecuting corruption associated with high government officials when the proceeds enter the international financial system. While this is not the providence of the State Department, I think it is reasonable to assume that leaders clinging to power in defiance of their people and the international community will find themselves more exposed to such scrutiny.

So, for all these reasons, I think it should be clear that a peaceful transition, consistent with the DRC's constitution, would be in the region's best interest, in the country's best interest, and, arguably, in President Kabila's personal best interest. I am confident that the international community will stay engaged at the highest levels in support of the Congolese people and their pursuit of a more democratic future. Thank you.

[The prepared statement of Mr. Malinowski follows:]

## **PREPARED STATEMENT OF TOM MALINOWSKI**

Testimony

Tom Malinowski

Assistant Secretary, Bureau of Democracy, Human Rights, and Labor

Tom Lantos Human Rights Commission

Washington, DC

November 29, 2016

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Thank you Chairman McGovern for your continued leadership and that of the Commission in defending human rights around the world, and for your focus on Democratic Republic of the Congo (D.R.C.) today.

One of the most important political developments we have seen in the world in the last few years has been the popular movement for constitutional term limits in Africa. All across the continent, ordinary citizens, mostly young people, are challenging the idea that leaders can change the rules in the middle of the game so that they stay in power for as long as they like.

It is the policy of the United States to stand with them. This policy is not meant to be a judgment on any particular leader. It's based on our observation that leaders who cling to office for term after term eventually are able to consolidate power around their person in ways that undermine the checks and balances necessary for democracy to work. Democracy is stronger when there are regular, peaceful transitions of power from one group of leaders to another, and from one generation to another. That's why President Obama said last year before the African Union that "no one should be president for life." That message has aligned us with the aspirations of large majorities of people in country after country in Africa.

In the last two years, we've seen the popular movement for term limits succeed in Burkina Faso. In Senegal, voters refused to re-elect a president who was trying for a controversial third term, and the new president has supported changing the constitution to shorten the amount of time presidents can stay in office.

In other countries, leaders have resisted calls to respect term limits. We've seen this in the Republic of Congo, in Rwanda, and with the most tragic consequences in Burundi,

Now this same drama is playing out on an even bigger stage, with even greater potential consequences, in the Democratic Republic of the Congo. On December 19th, the second and constitutionally-stipulated final term of President Joseph Kabila will come to an end. There should have been an election this month to choose his successor. The government has claimed, including in a recent letter to the Washington Post, that the delay has happened only because elections in the D.R.C. are complicated to organize and take time to prepare. This is preposterous – the government has always known how long the preparations would take, and deliberately did not start them on time. Instead, it has followed a strategy of bureaucratic delay (referred to in French as “glissement”), causing the election to be postponed at least until the latter part of 2017.

This has led to widespread anger across the D.R.C. In a poll released last month by the Congo Research Group, 81% of respondents rejected changing the constitution to allow Kabila to run for a third term, and 74% said Kabila should leave office when his term ends next month.

Given the D.R.C.’s size, position in the region, and history of conflict, the potential for conflict and mass atrocities if this situation is not resolved is very real. The civil war that began in the D.R.C. in the late 1990s was arguably the deadliest conflict in the world since WWII, resulting in more than five million deaths, and drawing in neighbors across the region. Ensuring timely and credible elections and a peaceful transition is particularly important in a country recovering from such a recent trauma.

President Kabila’s refusal to state publicly that he will not seek a third term has already fueled mass protests that have been met with violence by the security forces against peaceful activists, political and religious leaders, and others. In September in Kinshasa, for example, Congolese security forces violent suppression of peaceful protestors left dozens dead and hundreds injured. Opposition party offices were burned. Human rights investigators kicked out.

So far this year, the UN Joint Human Rights Office (UNJHRO) has documented a 216% increase in the number of human rights violations from all of last year.

The government has also cracked down on journalists and blocked radio signals to deny Congolese access to credible, independent reporting during moments of political tension. Including two of the most critical sources of information for the Congolese people, Radio France International (RFI) and the UN-funded Radio Okapi.

In short, the potential for violence and long-term civil unrest in the D.R.C. is extraordinarily high unless the government takes immediate steps to reach an inclusive resolution with the opposition that guarantees the holding of presidential elections and a transfer in executive power.

We have been working intensively since the beginning of this crisis to encourage a path forward based on democratic principles and respect for human rights. My colleague Special Envoy Perriello has spearheaded our diplomatic efforts, which he will describe in a moment. We’ve worked in close coordination with regional states who worry that they would bear the consequences if the political situation in the D.R.C. were to unravel, and with our partners in Europe. We have also signaled our determination to hold accountable those individuals responsible for acts that threaten the D.R.C.’s peace and security or undermine democratic processes and institutions by imposing targeted sanctions, as has the European Union. We have already sanctioned three security personnel responsible for human rights violations and more designations will come if these actions continue.

In this context, we should also keep in mind the growing allegations of corruption against the D.R.C. government and its financial backers. According to Global Witness and the Enough Project, corruption is diverting billions of dollars in revenues that should go to the D.R.C. treasury

and support public services; this is especially harmful given the macroeconomic difficulties the D.R.C. is currently facing. Law enforcement agencies throughout the world are increasingly interested in investigating and prosecuting corruption associated with high government officials when the proceeds enter the international financial system, as they inevitably do. While this is not the provenance of the State Department, I think it's reasonable to assume that leaders clinging to power in defiance of their people and the international community will find themselves more exposed to such scrutiny.

For all these reasons, it should be clear that a peaceful transition consistent with the D.R.C.'s constitution would be in the region's best interest, the country's best interest and in President Kabila's best interest. I am confident that the international community will stay engaged at the highest levels in support of the Congolese people and their pursuit of a more democratic and prosperous future.

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Mr. MCGOVERN. Thank you.  
Tom.

**STATEMENT OF TOM PERRIELLO, SPECIAL ENVOY FOR THE  
GREAT LAKES REGION OF AFRICA, U.S. DEPARTMENT OF STATE**

Mr. PERRIELLO. Thank you so much to you and your fellow co-chair for calling this very, very timely hearing. We see the Democratic Republic of Congo certainly at an inflection point in terms of its security, its constitutional developments, and the enormous impacts thereof. I want to welcome and say hello to the extremely professional and impressive diplomatic leadership of the Democratic Republic of Congo, which I have had the honor to work with, as well as some very courageous members of Congolese civil society that are here as well.

One thing that I am consistently asked by the Congolese people all over the country is to share with Congress their appreciation for the bipartisan support the United States has shown to the DRC. I have worked in a lot of countries around the world, and rarely have I seen as much appreciation and enthusiasm for American engagement and an understanding that this has gone across different administrations and has consistent interest here on the Hill, and that means a great deal as the country pursues what would be its first peaceful democratic transition of power in a very long and painful history.

And while much of what we will say today is understandably concerning about the situation, we do also want to keep an eye on the positive, which is that while tensions are rising and the economic situation is becoming very fragile, there is still time for this to be a historic development, where everybody in leadership, through all sectors -- majority, opposition, civil society, et cetera -- walk away very proud of the statesmanship that has been displayed and a real turning point.

As Tom mentioned, we have seen that countries where constitutional term limits and democratic transitions of power are respected tend to see significant security and economic gains after that transition happens. And in over 90 percent of the countries that have allowed those transitions to happen, they have not gone back and had subsequent constitutional or security crises in Africa. So this is an extremely important test case for the country.

The crisis in the DRC was tragically easy to avoid as it stems almost entirely from the government's failure to prepare for constitutionally required elections, in an effort to extend President Kabila's hold on power beyond the end of his second mandate on December 19. As a result, the government will soon be operating outside of those constitutional parameters, which has created a great deal of uncertainty and instability as we head towards possible clashes on December 19, when the main opposition coalition, the *Rassemblement*, intends to take to the streets to protest the situation.

It is worth noting President Kabila deserves a great deal of credit over the last 15 years for helping to bring the country out of civil war and into a period of security, helping bring the constitution into existence, and arguably defending the

most open political space in the region for opposition and civil society to operate before turning that trend a bit over a year ago, as was mentioned, towards significant acts to close off those very developments for which we believe he should be so proud.

Kabila's popularity in the DRC is now in the single digits, and the Congolese people have made known their desire and expectation for a transfer of power. The United States does not care who wins this election, but we do believe the Congolese people want and deserve the chance to choose their next leader.

For nearly two years, the President and opposition leaders have proposed various forms of dialogue to resolve outstanding issues related to elections, but these efforts have failed to bring key stakeholders to a single table. The most substantive effort, convened under African Union auspices, made some progress earlier this fall on a series of technical questions, but the process and resulting October 18 Agreement failed to garner the participation or support of a quorum of opposition and civil society leaders. While it is a foundation point to start, the October 18 Agreement did not provide adequate guarantees about the President's commitment to leave power and would delay elections until April 2018, a position that has generally met with great resistance from the population as well as civil society experts.

Under pressure from regional leaders, who fear a widening crisis in the DRC, Kabila did ask the highly respected Conference of Catholic Bishops, or CENCO, to lead further discussions in pursuit of a more inclusive agreement. We strongly welcome the President's decision to invite this role by the bishops and fully support what is the best effort and perhaps the last effort to find resolution ahead of December 18.

The Catholic bishops are deeply respected, not only among the Catholic community, but provide many lifesaving services well beyond the Catholic community across the country in many places that NGOs and even the government have trouble operating. They gave the benefit of the doubt to the earlier rounds of negotiations, but had to abandon that process based on its failure to meet inclusivity and constitutional standards. So this development is extremely important. We have put very clear pressure on both the President and the opposition to give full cooperation to this process.

President Kabila has moved forward with appointing a new Prime Minister on November 17, based on what he sees as an urgent need to implement the October 18 Agreement. This was seen as undermining to some extent the CENCO process, but not fatally killing it, and we appreciate that all sides have continued to engage on some level in this process.

Supporting CENCO's effort is our top priority from now until December 19, along with deterring not only violent repression from the government but any turn to violence by the opposition as well. I was in Kinshasa recently and will be returning later this week, because I believe there is still a window for the bishops to succeed and, by extension, for all the Congolese people to succeed. U.S. Government officials are in near constant contact with stakeholders on all sides, pushing them to work with CENCO in good faith and to offer realistic proposals and to prioritize consensus over individual or party gain.



There will need to be compromises on all sides to reach an agreement. We have seen some more signs of cooperation in the past two weeks, but time is short and many of the dynamics and momentums headed to December 19 are already in motion. We believe that an agreement is more likely to succeed in reaching consensus and thus averting potential violence or instability and leading the country to timely elections if it has a few key elements, which we can probably talk about during an exchange, but certainly an electoral timeline that guarantees Presidential elections within 2017, as the technical experts have said is possible, has enormous psychological advantage, among other things, within the country; a guarantee that the constitution will not be amended, building on some of the stronger statements President Kabila made recently in his address to the Parliament; an agreement that neither the transitional President nor the Prime Minister can be a candidate in the next election.

We must understand that this is not just about a technical agreement. There is a deep reservoir of distrust between both sides that any agreement that is reached will be respected, whether that is a respect for President Kabila and his family after they leave power or assurances that a deal will not see the majority find ways to extend the election cycle or call a national emergency after a deal is made.

The region and international community are nearly unanimous in wanting a consensus agreement. Angola and the Republic of Congo deserve credit for rallying regional support for a constructive solution. We continue to work, of course, with our European partners as well as support, as appropriate, to the Catholic Church through the CENCO process.

If CENCO succeeds in brokering an agreement, the international community may have a key role to play in convincing all stakeholders to endorse it and to ensure its implementation. The United States certainly may be asked to play a role in that process, and we have offered to be a constructive partner.

International engagement will be key to holding signatories to their commitments, including through the threat and use of targeted sanctions. The United States has already sanctioned three security officials, as was mentioned, and we are continuing to consider additional targets based on events that have already occurred as well as those that may occur in the coming weeks.

While we are working day and night to avert a crisis, we are also working with the U.N. and DRC peacekeeping mission, MONUSCO, on contingency planning for a worst-case scenario. MONUSCO's mandate has a strong civilian protection component and sufficient authorities to respond to electoral violence. But the country is vast and potential needs are great, even with the 20,000 personnel spread across a country of close to 80 million people. Along with Security Council partners, we are working with MONUSCO to prioritize efforts to ensure civilian protection.

The United States has been a major partner, as you know, and proponent of peace and development in the DRC across multiple administrations in recognition of the country's critical importance to the stability of Central Africa and the potential of the Congolese people. And I can tell you, as someone who has spent a great deal of time there, there are few places on Earth that are more

inspiring, more beautiful, and have more potential, both human and economic potential, than the DRC. Our continued engagement in the coming months will be crucial to ensuring the country turns a corner from the worst of its past towards the best of its future. Bipartisan congressional support for the DRC has been extremely helpful in empowering our diplomacy and supporting the democratic aspirations of the Congolese people.

With so much already invested in the region by the United States and so much at stake in the months ahead, now is the time to intensify our efforts on advancing democracy, stability, and prosperity for the people of the DRC. We will continue to work with the government, the opposition, and civil society in hopes of imagining all have the best motives and the best intentions for this chapter of DRC's history. But we will work hard to deter any actions by any sides that we think could take this into a true regional crisis.

Thank you very much for your interest.

[The prepared statement of Mr. Perriello follows:]

## **PREPARED STATEMENT OF TOM PERRIELLO**

Testimony

Thomas Perriello

Special Envoy for the Great Lakes Region of Africa

Tom Lantos Human Rights Commission

Washington, DC

November 29, 2016

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Thank you to the Co-Chairs of this Commission, James McGovern and Joseph Pitts, for holding this important and timely hearing on the historic Constitutional inflection point facing the Congolese people and its impacts on security, development, and human rights. The Congolese people consistently ask me to share with you their appreciation for the bipartisan support the United States has shown to the DRC, and their hope that we will continue to lead international efforts to support their pursuit of their country's first peaceful democratic transition of power in its long, painful history.

The crisis in the DRC was tragically easy to avoid, as it stems almost entirely from the DRC government's refusal to prepare for constitutionally required elections in an effort to extend President Kabila's hold on power beyond the end of his second mandate on December 19th. As a result, the government will soon be operating outside of its constitutional parameters, creating enormous uncertainty and sending the country headlong towards potential clashes and instability on the 19th, when the main opposition coalition, the Rassemblement, intends to take to the streets to protest the President's violation of the Constitution. Kabila's popularity in the DRC is in the single digits, and the Congolese people have made known their desire and expectation for a transfer of power.

For nearly two years, the President and opposition leaders have proposed various forms of dialogue to resolve outstanding issues related to elections, but previous effort failed to bring key stakeholders to a single table. The most substantive effort, convened under African Union auspices, made some progress earlier this Fall on a series of technical questions, but the process and resulting October 18 Agreement failed to garner the participation or support of a quorum of opposition and civil society.

While a foundation from which to start, the October 18 Agreement did not provide adequate guarantees about the President's commitment to leave power and would delay elections at least until April of 2018. Moreover, given the lack of an adequate oversight mechanism, the DRC government could use the deteriorating macroeconomic situation and continuing instability in Eastern Congo as a pretext to delay elections beyond 2018.

Under pressure from regional leaders who fear a widening crisis in the DRC, Kabila recently asked the highly-respected Conference of Catholic Bishops, or CENCO, to lead further discussions in pursuit of a more inclusive agreement. We strongly support CENCO in this role, given its credibility and neutrality, and believe its efforts provide the best chance of reaching a consensus agreement capable of averting wide-spread violence, and guaranteeing the holding of elections. CENCO is working on borrowed time, however, as President Kabila is already implementing the October 18 Agreement, including by appointing a new Prime Minister on November 17. Moreover, the political will of the government and the opposition to make the necessary concessions to reach a credible agreement remains unclear.

Supporting CENCO's efforts is our top priority. I was in Kinshasa recently and will be returning later this week, because I believe there is still a window for the Bishops to succeed. U.S. government officials are in near constant contact with stakeholders, pressing them to work with CENCO in good faith, to offer realistic proposals, and to prioritize consensus over individual or party gain. We have seen more signs of cooperation in the past two weeks, but time is short.

We believe that an agreement is more likely to succeed in reaching consensus, averting violence, and leading the country to timely elections, if it has a few key elements, including an electoral timeline that guarantees presidential elections in 2017; a guarantee that the Constitution will not be amended; agreement that neither the transitional President nor the Prime Minister can be a candidate in the next election; and electoral safeguards to ensure a free and fair election, including impartial electoral commission (CENI) leadership, and protections of open political space.

The region and international community are nearly unanimous in wanting a consensus agreement, and stand ready to press various stakeholders. Angola and the Republic of Congo deserve particular credit for rallying regional support for a constructive solution. We are closely aligned as well with our European partners on joint messaging and maximizing pressure on hardliners.

If CENCO succeeds in brokering an agreement, the international community will have a key role to play in convincing all stakeholders to endorse it and ensure its implementation, which will necessarily include some level of electoral funding moving forward. Additionally, international engagement will be key to holding signatories to their commitments, including through the threat and use of targeted sanctions. The United States has already sanctioned three security officials, and we are continuing to consider additional targeted sanctions.

While we are working day and night to avert a crisis, we are also working with the UN and the DRC peacekeeping mission, MONUSCO, on contingency planning for a worst-case scenario. MONUSCO's mandate has a strong civilian protection component, and sufficient authorities to respond to electoral violence. However, MONUSCO's capacity and resources are limited, with fewer than 20,000 personnel spread across a country of close to 80 million people. With other Security Council partners, we have pressed MONUSCO to prioritize relocating personnel to electoral hotspots, and are working with the UN to identify steps to strengthen mission capacity.

The United States has been a major partner and proponent of peace and development in the DRC across multiple administrations, in recognition of the country's critical importance to the

stability of Central Africa and the potential of the Congolese people. Our continued engagement in the coming months will be crucial to ensuring that the country turns a corner from the worst of its past towards the best of its future. Bipartisan Congressional support for the DRC has been extremely helpful in empowering our diplomacy, and supporting the democratic aspirations of the Congolese people. With so much already invested in the region and so much at stake in the months ahead, now is the time to intensify our focus on advancing democracy, stability, and prosperity for the people of the DRC.

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Mr. MCGOVERN. Well, thank you, thank you both for your testimony. And I probably should have said this at the beginning, but I also want to thank you for your service to our country during your time in your positions. You know, human rights is obviously very important to me; otherwise, I wouldn't be on this Commission. But, in a very bipartisan way, human rights is of great concern to this Congress, and you both have been really quite incredible. So I want to thank you for your service.

So you mentioned the Catholic Bishops Conference, CENCO, and it seems that in the short-term that that may be the best hope to try to kind of move beyond this impasse. And December 19 is, like, less than three weeks away, so that is not a lot of time. And obviously we hope that this effort succeeds.

I guess my question would be, what can Congress do to support the CENCO process? Is there anything we can do to be wind at the backs of those who really want to avoid a conflict and see something concrete happen by the 19th?

Mr. PERRIELLO. Well, some of the actions, I think, have been already very much noticed. We know that there are true hardliners on both sides, the majority and the opposition, those who probably do not want to see a deal reached, and believe, I think, people on both sides think they would have the advantage if this gets settled in the streets. We think that would be a disaster for the people of Congo.

So I think there has certainly been notice of the continued threat of economic sanctions and consequences that has had bipartisan support on the Hill, as well as recent statements from the Europeans. Continuing to support, I think, the diplomatic efforts of this office and others through the transition period is going to be extremely important. As I said, I am flying out on Friday to get back to see how these efforts are going forward.

One of the things that we have heard from some quarters has been, what do the Americans want? What is the American plan? And we felt like it is quite important not to have a plan that we determine. It is really something that has to come from the Congolese people and the Congolese stakeholders. Where we feel like there has been broad consensus, for example, on a shorter timeline, we have tried to reinforce the importance of that within a deal. We think that, again, the bishops are taking their role very seriously, and we believe that the Congress showing that their interest will continue through December 19th, but also continue to watch events as they develop thereafter, is an important thing for the region to hear.

Mr. MCGOVERN. I know you say you are going to be traveling there, but, I mean, if there are statements that would be helpful to come out of this Commission or us to make on the floor of the House to indicate our support for a process and for people to be focused on trying to avoid a deeper conflict, let us know. I mean, I think people are watching this very, very carefully. And, again, you will have a better sense of what kind of progress is being made, but, again, December 19 is not that long from now, and if there is anything we can do to help push all sides to be reasonable and to try to put the best interests of the people of the country forward, we are open to doing that. So I would just make that

statement.

Is there anything we can do, again, in the short-term here to encourage the DRC government to release opposition and civil society activists from detention and reverse kind of this growing restriction on press freedom, which, again, is alarming to many of us as we are watching events unfold?

Mr. Malinowski.

Mr. MALINOWSKI. Yes, of course. And I think continuing to highlight the issue as you are doing today is helpful, but also highlighting the individual cases. When a radio station is shut down, we all should be speaking about it right away. When activists are arrested, we should be all over that. And I think when we have done so in the past, we have actually been able to get people who have been unjustly imprisoned released. We have been able to effectively impress some Congolese authorities that these kinds of actions are wrong and not in their interest.

And I think doing it in this critical period, which it both should be a transitional period in the DRC and is a transitional period in the United States, is particularly important, because it shows that there will be continuity of effort through all of this uncertainty. I think there may be folks in the DRC who are wondering not just what the Americans want, but what are they going to continue to want through this transitional period.

My own sense is that this is a policy that is deeply rooted in our values and interests. It has bipartisan support in the U.S. Congress. It reflects not just an American position, but the position of the Europeans, of the regional countries. And it will continue for all of those reasons, but I think, to the extent there are any questions or doubts about that, reminding everybody that there will be continuity is extremely important right now.

Mr. MCGOVERN. Tom, do you want to add something?

Mr. PERRIELLO. Yes, I was going to add a couple of things.

First, I think one of the real values that has already been expressed by Chairman Royce, Congressman Smith, yourself on this side, Senators Flake, McCain, Markey, and others, is that we have seen this movie before. If you spend weeks and months closing off avenues for legitimate political dissent -- peaceful rallies, access to the media, detaining young activists -- and then things explode on your watch, the reality is the government has an affirmative obligation not just to not detain and beat its citizens, but also an affirmative obligation to create that space. And too often we have seen that when a government does not allow legitimate opposition, you see illegitimate or more hardline opposition rise up. And while we will continue to deter that and tell the opposition there will be consequences, if we get to that situation, that responsibility still lies primarily with the government.

And I think the statements, the bipartisan statements that Congress has already made made clear, because you all have the benefit of seeing this over many years and many different countries, to understand basically that that playbook is not something that is going to fool people up here. So I think setting that standard early, as has been done, is extremely important.

Now, we have also obviously communicated to the opposition that if we

see armed resistance like we saw in Burundi, we sanction individuals in the opposition, both those who are involved in a coup attempt and those who took up arms afterward. So we certainly want to message that to both sides.

But there is no question that a government has a unique and affirmative obligation to its citizens, and that the tension that is rising right now, both in terms of the extreme economic fragility and uptick of inflation, as well as the political repression, are based on proactive steps that the government has taken that is helping to create this situation, and therefore we do see a particular need for them to see responsibility in finding a solution.

So all of those are going to be important elements, I think, that we have continued to hear from this end of Pennsylvania Avenue.

Mr. MCGOVERN. So kind of going back to the question about what Congress can do, and I appreciate Mr. Malinowski's response, but we are trying to figure out what works and what doesn't work. I mean, of the congressional actions that have been taken so far, what do you think has been the most effective tools that we have used?

And several actors have called for targeted sanctions against a larger number of DRC government officials and of greater seniority. Do you share their view that more and higher-level sanctions would be effective at preventing a violent crisis? Is that something we should be taking a look at?

Mr. MALINOWSKI. Well, I mean, we are not only taking a look at it, we are doing it. We have begun to impose targeted sanctions. The intent here is to steadily ratchet those up, if necessary. We would, of course, be very, very happy if we never had to impose another sanction of the DRC again, and our message to the government has been that that is a very possible outcome, that the door is open here to a solution that will resolve this crisis and enable us not to have to use this tool, but that we are prepared to steadily escalate the sanctions against higher and higher level officials in the DRC if the human rights abuses continue, if there are continued threats to the peace and stability of the country and to a democratic transition.

One of the things that we have been particularly focused on in the last month, even as we think about our own sanctions, is to try to multilateralize the targeted sanctions. So we have worked quite assiduously to encourage the European Union to follow our lead, and, indeed, the EU has decided to begin its own targeted sanctions program. I think that sends a very, very important message, that, again, this is not just the United States, there is a united international community, and while there is a way out of the crisis, there is also a path that will result in greater and greater, greater pressure being placed on President Kabila and others around him if they continue to resist the way out that has been offered.

Mr. MCGOVERN. Tom.

Mr. PERRIELLO. Yes. I think that -- I am tempted to take a straw poll of the room, but I won't -- that if you ask the majority of Congolese stakeholders on all sides, they would believe that the targeted sanctions have been extremely important and noticed. I think that this is an incredibly dynamic and impressive elite in the DRC who are very cosmopolitanly engaged around the world, an

incredibly impressive diaspora, and a tremendous amount of talent. And I think the issue about access, financial and personally, to the U.S. and EU is certainly something that would be a serious consequence for individuals involved and has been taken notice.

There have been points, while we have been very concerned, obviously, about the closing of political space and detentions by the government, there have been some situations where less violent or repressive tactics were used to close that space, including some rather creative efforts to stop recent peaceful rallies by having 12-hour-long soccer matches in the parade routes. On the one hand, obviously, it is positive when they are not shooting and using RPGs, like we saw on September 19. On the other hand, it doesn't solve the problem. It is still creating a pressure cooker. It is still cutting off the space for legitimate dissent that then makes the idea of more violent dissent more likely. So certainly that is a factor that people are looking at.

I think there is also at this point a serious, by most reports, a very serious fiscal and budget crisis coming up. We have, obviously, preferred more targeted sanctions because we want to focus on the individuals responsible as much as possible and not have people suffer. Unfortunately, during recent trips by the World Bank and IMF, the country was not meeting basic transparency or stability standards to see the kind of support that might be necessary to avert greater economic pain in the coming months.

The EU has talked about revisiting its development partnerships after December 19. I think there are going to be a series of difficult questions to be asked at that point. But I think right now we feel like this is in the hand of a limited number of individuals, quite frankly, on the government side and the opposition side who are in a position to come together and reach a consensus, and we would like to target as much of not just our negative incentives but our positive incentives on those who might be able to help bring that together.

Mr. MCGOVERN. I have a couple more questions here. What are the primary factors behind the decision by regional heads of state to endorse the October 2016 political agreement at the recent heads of state meeting, summit in Angola? To what extent do you believe that the regional heads of state share the administration's concerns about the DRC government's crackdown on the rights and freedoms of the Congolese people? What options do you see working with regional heads of state in the African Union to promote the outcome that the administration has sought in the DRC, i.e., timely, credible elections as called for by the DRC's constitution, culminating in a peaceful transition?

Mr. PERRIELLO. I would say that while our tactics may be different, I think one of the things that gives me hope about the situation right now is that we actually see the situation quite similarly to the neighbors and have aligned in many ways, perhaps coming from different motivations or different perspectives, but reaching the same conclusion, which is that a situation where things start to destabilize December 19 is bad for the Congolese and bad for the region, particularly those likely to see significant refugee flows, and a pretty strong sense that the deal so far doesn't cut that.

Now, how much one says in public versus private and tactics that are more



of, say, an American style don't necessarily work for others. But I think this is not about agreeing on every detail, it is agreeing about how important it is diplomatically to avoid this crisis and an awareness that the efforts so far have not been sufficient in bringing enough people into a deal with enough guarantees of a transition to avoid that crisis. So I think we are working very well, again, with allies and strategic partners across the continent as well as Europe in those efforts.

Mr. MCGOVERN. I guess my final question is, going back to the Catholic bishops' efforts, so what happens if they can't come to some sort of agreement by the 19th? What do we expect the next steps to be? I mean, I don't want to sound pessimistic here or I don't want to undercut the potential of success, but, I mean, I think we are talking less than 3 weeks away. I mean, what do we anticipate follows not coming to an agreement?

Mr. PERRIELLO. I think nobody knows. It is a little bit of through the looking glass at December 19th. But I think one of the concerns is that there is a loss of control by all actors, including the President himself, over the events that go from there.

What we saw, if September 19th and 20th was a preview of the tactics being used by both sides, I think we could see things spin out of control very, very quickly. On the other hand, we saw massive rallies when opposition leader Etienne Tshisekedi returned in late July, with perhaps as many as a million people in the streets. The police acted professionally and people went on with their business the next day.

So anything is possible, but I would say the general sentiment is a deep level of concern that if we get to that point the protests could be massive. They could become antagonistic. If the police and particularly the Presidential Guard use the kind of tactics that we have seen previously, this could be a very, very bad situation. I think that is what the neighbors hope to avoid, what all of us hope to avoid. But, again, in the absence of a deal, the chances of that go up, and that is one of the reasons I think we are hoping that all sides go in that direction.

You also have individual consequences. I mean, I think one of the things, as I said earlier, is that President Kabila right now has very much the chance to leave a national hero. He has an incredible future, whether that is as a comeback politician or businessman or academic, whatever he wants to be. Unbelievable talent. Came in at a young age. People expected very little of him. He has constantly surpassed expectations, including bringing the country to the Sun City Accords, bringing the constitution into being. And he still very much has the chance to leave with this unbelievable legacy.

But if we end up in a situation with hundreds of dead bodies in the street, that is a very different reality, both in terms of his international relationships and partnerships and investment, but also concerns about the ICC and other things that come in it at that point.

So we are now in a world before we have to worry about those things where, again, everybody can leave really getting a hero's departure, or we can get into a situation that could be deeply concerning.

Mr. MCGOVERN. Do you think the President fully appreciates that fact?

Mr. PERRIELLO. The President is a smart man. You know, he has been

head of one of the largest countries in the world since he was 28, 29 years old. And he is also someone who tends to keep his cards very close to his chest with most people. So I can't know for sure. We certainly tried to meet with him on every trip. Sometimes we do; sometimes we don't.

But I do think he at the end of the day cares a great deal about his country and I think he doesn't want to see it dissolve. As he said, he wants to see stability in the country. And our hope is that everyone will rise up to their best self in the situation and will find a deal that heads towards that peaceful democratic transition.

Mr. MCGOVERN. And you are leaving when? Next week or --

Mr. PERRIELLO. Friday.

Mr. MCGOVERN. Friday. Do you plan to meet with the President? Are you hoping to meet with the President?

Mr. PERRIELLO. We will ask, and we would hope to meet with the President.

Mr. MCGOVERN. I would hope that he would see the importance of meeting with you, especially at this moment, and maybe he can offer you some reassurance so that we could all feel a little bit better here.

Mr. Malinowski, any final --

Mr. MALINOWSKI. I would, maybe just to reinforce what Special Envoy Perriello just said, I think we should look to what has happened in Burundi as an example of just how bad things can get. And I think the lesson of Burundi is that at a certain point a line is crossed that is very difficult to come back across. When there has been violence on both sides, when there has been total polarization, when each side knows that it has done enough to the other side that the other side is not likely to forgive it and, therefore, that leads to a psychology in which you feel like your only hope of survival is just to hold onto what you have and not to give an inch.

And the result of that dynamic has been just a horrible civil conflict in which hundreds of people have died, many have disappeared, been tortured. And we are still working very hard on it and I haven't given up on Burundi. But it is hard to see going back to a scenario where an election can just solve the problem.

So the bad news is that that could happen in the DRC. The ingredients are there on a much larger scale. The good news is that I think, I am quite confident that they have not yet crossed that line. The door is still open to a reasonable political compromise that enables the Congolese people, the ruling party, the opposition, President Kabila, to come out of this winners, all of them. And President Kabila has not closed the door to that. He has not said that he is not going to do the things that need to be done in order to achieve that solution.

And there is, again, I would stress, a united international community, probably more so than in the case of Burundi, that is willing to lend him and the country a hand if that kind of solution is reached. As you mentioned, we don't have a lot of time, but we will use every moment we have to try to get to where we need to be.

Mr. MCGOVERN. Well, I appreciate both your testimonies. And I want to remain hopeful that in a few weeks we are going to be talking about how we

can work to kind of get beyond where we are right now.

The frustrating thing is that this is all so avoidable and everybody knew this was going to come to this. Now we are down to the final days and if it doesn't go right, who is going to suffer the most are the people. We do hearings every week here and it is always heartbreaking and tragic to hear about the suffering that is going on in so many parts of the world. It is so senseless and so needless. And this is one of these cases where, I mean, if everybody actually rises to the occasion, we can avoid a really nasty, awful situation. I hope that is the case.

I hope the President will meet with you, Mr. Perriello, when you are there. I think it is important, because I think he needs to hear that there is a lot of concern. I know his diplomatic people here in Washington are communicating that, but I think it is important for you to be able to communicate that. And anything we can do to be wind at your back -- and, Mr. Malinowski, same thing -- please let us know. But I wish you luck and thank you so much for your testimony. Appreciate it.

Mr. MALINOWSKI. Thank you.

Mr. PERRIELLO. Thank you.

Mr. MCGOVERN. So we are going to call our next panel.

And I am hoping I am going to pronounce your name properly -- please correct me if I don't -- Mvemba Phezo Dizolele, who is a writer, a former policy analyst, an independent journalist, also a lecturer in African studies at Johns Hopkins University School of Advanced International Studies. Dizolele was a grantee of the Pulitzer Center on Crisis Reporting and covered the 2006 elections in the Democratic Republic of Congo.

We are grateful that you are here.

Ida Sawyer, senior researcher and advocate on the Democratic Republic of Congo. She has been based in Congo since January 2008. However, following a series of Human Rights Watch publications on political repression, Congolese authorities barred Ida from continuing to work in the country in August of 2016.

And you are also related to Brian Keane, right?

Ms. SAWYER. Yes.

Mr. MCGOVERN. That is a good friend of mine. So tell him we said hi.

Fred Bauma, a Congolese human rights, pro-democracy activist with the Youth Movement. For over 5 years now, he has worked to empower young people to be agents for change through active participation in the socioeconomic and political life of their communities.

We are grateful to have you here.

And finally, last but not least, Sasha Lezhnev, an associate director of policy at the Enough Project, where he focuses on peace, conflict, and corporate accountability issues in Central Africa.

And we appreciate seeing you again.

Thank you for all that you all do.

And, Mr. Dizolele, we are going to begin with you.

## **STATEMENTS OF MVEMBA PHEZO DIZOLELE, PROFESSORIAL**

**LECTURER, JOHNS HOPKINS SCHOOL OF ADVANCED INTERNATIONAL STUDIES; IDA SAWYER, SENIOR RESEARCHER, HUMAN RIGHTS WATCH; FRED BAUMA, LUCHA; AND SASHA LEZHNEV, ASSOCIATE DIRECTOR OF POLICY, ENOUGH PROJECT.**

**STATEMENT OF MVEMBA PHEZO DIZOLELE, PROFESSORIAL LECTURER, JOHNS HOPKINS SCHOOL OF ADVANCED INTERNATIONAL STUDIES**

Mr. DIZOLELE. Co-chairman McGovern, members of the Tom Lantos Commission on Human Rights, thank you for the invitation and honor to testify before your Commission today. I speak today in my personal capacity and assume full responsibility for my statements.

With your permission, Co-chair, I would like to submit my prepared remarks for the record.

Mr. MCGOVERN. Without objection.

Mr. DIZOLELE. Thank you, sir.

The Congolese people are caught in a maelstrom of bankrupt leadership, mismanagement of public resources, breakdown of social contract, and lack of political will at the highest echelon to steer the country to a peaceful, orderly, and democratic transition of power as mandated by the constitution.

A few weeks ago, on September 19th and 20th, Congo witnessed pro-democracy protests that brought thousands of young people and political opposition partisans to the streets in several cities. The trigger point has been President Joseph Kabila's effort to remain in office beyond the constitutionally mandated two terms. While most of the protests across the country remained peaceful, the ensuing police and military repression in the capital city of Kinshasa resulted in tens of youths being either killed by gunfire or arrested.

The repression has continued in major cities, particularly Kinshasa, Lubumbashi, and Kisangani, where arbitrary arrests and abductions are now alarmingly common. Political opposition leaders, civil society leaders, youth activists, and other proponents of the respect of the Constitution remain the primary targets of this campaign of repression. In other words, this is the open season of the state violence against anyone who opposes the subversion of the constitution. This is unacceptable and needs to stop.

Pro-Constitution opposition parties and youth groups have vowed to take to the streets on December 19th, when President Kabila's term ends, as we have heard previously. It is now hard to predict what will happen. Either way, all signs and recent developments indicate that detentions and violent repression will continue unless appropriate deterring measures are taken and the constitutionality of the electoral process is reinstated.

The responsibility of the crisis rests primarily with DRC leaders in Parliament and government. Along the way, however, they have been aided and abetted by foreign partners, including donor countries and the United Nations. Thus, resolving this crisis requires that all partners, including Congo's neighbors, pull their weight. Donors must commit to the democratic process and transition

and back their pledges and declarations with immediate practical, coordinated actions.

Credible and peaceful democratic transition goes through the following steps. President Joseph Kabila is the guarantor of the constitution, and really the only one, and should accept the fact that there is no substitute for his leadership in this matter. He should face the Congolese people and assure them that he will respect the constitution and step down when his term ends, or not.

Donors and partners should support a credible and robust mediation between key stakeholders, including the Catholic Church, the political opposition, the presidential majority and the government, and the youth groups, to map out a course of action out of this crisis which will be consistent with the respect of the constitution and prioritize the aspirations of the Congolese people.

The United States has been very supportive of the Congolese people. Unfortunately, we have to continue asking you to do more, and that is to continue supporting the democratic forces that promote this transition within the majority, within the opposition, and within civil society, and really ask President Kabila to step down and let the President of the Senate lead the transition, as mandated by the constitution.

The Congress should stress on President-elect Trump's team the urgency to appoint a special envoy so the momentum is not killed.

Statements and pronouncements from the U.S. Embassy in Kinshasa should be clear and not send mixed messages. It is not always clear on a daily basis where the U.S. stands, viewed from Kinshasa.

The United States should reinforce coordinated and sustained efforts of special envoys in support of this process.

A greater commitment of democratic transition in DRC is needed from its neighbors and also other regional actors. Here I am thinking specifically of South Africa, which actually has abdicated all of its responsibilities. South Africa was the key sponsor of the peace processes in Burundi and in DRC and since has been a no-show in pushing for the respect of that.

The United States should insist on opening political space, the respect of freedom of the press and civil liberty of the Congolese, and the right to assembly. We have seen the government cut off transmission signals of broadcasting operators such as Radio Okapi and Radio France Internationale. This also needs to stop.

The DRC should follow the recommendation of the U.N. Security Council Resolution 2250 and give youth greater voice in decision-making at all levels, and also allow them space to participate in a meaningful way to peace processes, dispute resolutions, and really contribute to the destiny of their country. It is their country.

Political prisoners should be freed so that their rights are restored and as a confidence-building measure for the transition.

All I know is that the Congolese people have demonstrated a strong commitment to democracy over the last 13 years. They massively supported a constitutional referendum in 2006 to allow the advent of a democratic dispensation in 2006 and 2011. They have since demanded only one thing of

their leaders, and it is not hard to do: to respect the constitution.

So now, whether the DRC knows peace or conflict depends on what their leaders, particularly President Kabila and his associates, do, and what their partners are willing to do, either to support them or steer them in the right direction.

I thank you.

[The prepared statement of Mr. Dizolele follows:]

## **PREPARED STATEMENT OF MVEMBA PHEZO DIZOLELE**

Democracy and Human Rights in the Democratic Republic of Congo

The United States House of Representatives

Committee on Foreign Affairs

The Tom Lantos Commission on Human Rights

Testimony by Mvemba Phezo Dizolele

Professorial Lecturer

Johns Hopkins School of Advanced International Studies

Tuesday, November 29, 2016

Co-chairman McGovern, Co-Chairman Pitts, Members of the Tom Lantos Commission on Human Rights:

Thank you for the invitation and honor to testify before your commission today. I speak in a personal capacity and assume full responsibility for my statements. With your permission, Co-Chairmen, I would like to submit my prepared remarks for the record.

This important hearing comes at yet another critical time for the Democratic Republic of Congo (DRC). The Congolese people are caught in a maelstrom of bankrupt leadership, mismanagement of public resources, breakdown of the social contract and lack of political will at the highest echelon to steer the country to a peaceful, orderly and democratic transition of power as mandated by the Constitution.

As it has been the case in previous instances, one gets the sense that DRC is on auto-pilot, bumping from crisis to crisis. The current situation, however, is different. Congo is in the midst of an electoral crisis. The presidential election was supposed to be held next month, but the country's electoral commission says that a lack of funds and logistical obstacles will prevent a new poll from being held before December of 2018. The commission also argues that the voter registry is out of date and requires an integral update. This process was launched in late August, starting in North Ubangi and is anticipated to conclude in July 2017.

And, subsequent to a ruling by the Constitutional Court, that means President Joseph Kabila would remain in power for more than two terms, and that would violate the country's constitution. This decision raises questions about the legality of the proceeding and the politicization of the Court.

President Kabila has been in power for 15 years. He came to power after his father, Laurent-Désiré Kabila, was assassinated in 2001. The younger Kabila served five years before a new constitution was put in place via a referendum. He was elected in 2006. But the Constitution only allows him two terms, five years each. And now he's trying to wiggle his way into stay longer.

After 10 years of democratic experience, Congo is at a crossroads, and the outcome of the process will determine whether the Congolese enjoy peace and the economic benefits from the abundant resources of their country or see a resurgence of the wider conflict that engulfed DRC from 1996 to 2003 and caused an excess of 6 million deaths.

A few weeks ago, on September 19 and 20, Congo witnessed pro-democracy protests that brought thousands of young people and political opposition partisans to the streets in several cities. The trigger point has been President Kabila's effort to remain in office beyond the constitutionally-mandated two five-year terms. While most of the protests across the country remained peaceful, the ensuing police and military repression in the capital city of Kinshasa resulted in tens of youths being either killed by gunfire or arrested.

The Government's spokesman reported that 17 people had lost their lives, including three policemen, one set ablaze by protesters. Opposition groups estimated the death toll at 70. Headquarters of major political parties were set on fire, further worsening tensions and increasing a sense of foreboding and uncertainty among the populations.

Amidst condemnation from the international community and donor countries, and outcry from human rights groups, the repression has continued in major cities, particularly Kinshasa, Lubumbashi and Kisangani, where arbitrary arrests and abductions are now alarmingly common. Political opposition leaders, civil society leaders, youth activists and other proponents of the respect of the Constitution remain the primary targets of this campaign of repression.

With a median age of 17 years old, young people account for over 60 percent of Congo's population. Yet policymakers have continuously ignored their voices, aspirations and grievances.

The State has failed to provide the youths with the basic services that they expect of their leaders. Healthcare, education and employment remain fleeting mirages for the average Congolese youth. Disenchanted and disillusioned, the youths are caught in the cross-fire between the opposition leaders seeking change and the majority in power.

This predicament is likely to be exacerbated with a dire economic outlook for 2017-18. In 2016, the initial national budget of US\$8 billion was revised down to US\$6 billion in

July due to plummeting prices of natural resources and commodities. That same month, the salaries of civil servants were reduced by 30 percent. Though not passed yet, the 2017-18 budget law anticipates an even lower budget estimated at US\$4.5 billion.

With elections as a main priority this foreshadows even less investments in basic services and thus a further deterioration of living conditions of Congolese citizens.

Tensions between the Government and the youths have consistently increased over the last few years. The youth's discontent is fueled by the lack of opportunities for a better life in DRC and by the mobilization of young people and the emergence of powerful youth movements across the African continent, i.e., Egypt, Tunisia, Senegal and Burkina Faso.

In 2015, emulating their counterparts in other countries who effectively challenged their leaders, young Congolese organized themselves into two high profile movement and organization called Filimbi and LUCHA. Filimbi is Swahili for whistle. It was also the moniker of a nascent collective of youth groups from across Congo who sought to reclaim their destiny through civic engagement. The leaders of the movement came from different professions, bankers, insurance brokers, students, community organizers, and others. They hail from the four corners of the country.

The movement's inspiration had sprang from the need to train, sensitize and mobilize the youths in preparation for the elections scheduled for later in the year. Legislative and presidential elections were set for 2016.

Informed by the 2006 and 2011 electoral experiences, the youths anticipated that they would once again bear the heavy cost of the politicians' empty, unfulfilled promises, unless they weighed in on the democratic process with their ballots.

LUCHA had been particularly active in Goma, North Kivu, organizing sit-ins and other civil disobedience acts to demand better public services for the populations.

These young activists, however, quickly suffered the wrath of the Security Police and Intelligence Service - the Agence Nationale de Renseignement (ANR), which arrested many of them and drove others into exile.

The youths have been marginalized for too long, living with limited opportunities in a country of infinite but untapped potential. The regime seems to be counting on heavy-handed tactics and mass arrests to dissuade some activists and deter even more. Denying the youths the right to mobilize will lead to a lose-lose situation. It may work for now, but it undermines Congo's future.

The regime's reaction to the civil society's engagement has been a consistent attempt to treat activists and advocacy organizations like the political opposition in order to undermine them. Civil society leaders are often co-opted into the regime, threatened with extra-judicial actions or arrested on questionable charges. This approach to law and order has left the youths with no good options and encourages them take to the streets.



Youths do not belong in jails or prisons, and the streets are not the ideal platform for political engagement.

Echoing the political majority's drive to keep President Kabila in office, the Electoral Commission has postponed the election to 2018 at the earliest, unconstitutionally granting him two additional years.

This move will likely continue to fuel tensions and exacerbate street protest related violence. More youths will be coopted into the tug-of-war between the majority and the opposition, and more youths will be killed, arrested or disappeared.

On the political front, the tensions between the presidential parliamentary majority and the political opposition reached alarming levels in 2014 as the President's supporters sought to subvert the National Electoral Law by conditioning the election on a census. Congo last held a census in 1984 and the lengthy operation would have certainly run beyond 2016.

With President Kabila reaching his constitutional term limit in 2016, questions surrounding his future remained unanswered through 2014. Opposed by the parliamentary minority, attempts to revise DRC's constitutionally mandated presidential term limits floundered, and failed to secure the requisite elite political support, even among allies in the presidential majority.

Controversy surrounding this question continued beyond 2014 into early 2015, with protests organized in cities across the country to oppose a revision to the National Electoral Law that would delay the vote by several years. Social media was instrumental to the protests, with the #Telema hashtag on Twitter as a key mobilizing tool.

The Government of DRC responded by blocking social media, including Facebook, Twitter and Skype, for some time. The movement of opposition leaders was restricted, with a number of high-profile civil society activists arrested under charges of "subversion of public order". Pressure borne by the protests ultimately succeeded, however, and forced the Senate to block the initiative to revise the National Electoral Law.

This failure to tie the election to a census did not deter members of the presidential majority from pushing further with other schemes. To-date, President Kabila has not declared whether he would step down at the end of his second term on December 19. Instead, he called for a National Dialogue with the opposition and civil society to chart a way forward under the mediation of African Union-appointed Edem Kodjo.

While a few fringe opposition parties and civil society groups participated, the major opposition leaders, including Etienne Tshisekedi, Moïse Katumbi and Martin Fayulu, boycotted these proceedings. They insisted that any such negotiations respect the Constitution and that President Kabila agree to step down as mandated by the law as the sine qua non condition for their participation.

Still, the National Dialogue concluded with a controversial agreement in October and President Kabila has recently appointed Samy Badibanga, a former member of Etienne Tshisekedi's UDPS, prime minister to lead a power-sharing transition until late 2017, one year beyond his term. Whether or not the election happens after, time will tell.

The opposition parties and youth groups that rejected the Dialogue have vowed to take to the streets and protest on December 19. It is hard to predict what would happen. Either way, all signs and recent developments indicate that the tensions and violent repression will continue unless appropriate deterring measures are taken and the constitutionality of the electoral process is reinstated.

The responsibility for the crisis rests primarily with DRC leaders in Parliament and Government. Along the way, however, they have been aided and abetted by foreign partners, including donor countries and the United Nations. Thus, resolving this crisis requires that all partners, including Congo's neighbors, pull their weight. Donors must commit to the democratic process and transition and back their pledges and declarations with immediate practical, coordinated actions. Credible and peaceful democratic transition goes through the following steps:

- President Joseph Kabila is the guarantor of the Constitution and should accept that there is no substitute for his leadership in this matter, face the Congolese people and assure them that he will respect the Constitution and step down when his term ends, or not.
- Donors and partners should support a credible and robust mediation between key stakeholders, including the Catholic Church, the political opposition, which remains fragmented, and the presidential majority and the Government, to map out a course of action out of the crisis that is pragmatic and upholds the Constitution and prioritizes the aspirations of the Congolese people.
- The United States should unambiguously support the democratic forces promoting credible, peaceful transition within the majority, opposition and civil society, and ask President Kabila to step down and let the President of the Senate lead the transition and organize the presidential election within 90 to 100 days, as mandated by the Constitution. This is the only constitutional way to save the process. This timeframe will most likely be extended as the ongoing voter registry update requires more time. Haiti set a precedent for a similar transition in February 2016 when President Michel Martelly stepped down at the end of his term without a successor, amidst an electoral crisis.
- Congress should stress on President-Elect Trump's team the urgency of the appointment of a special envoy to maintain the momentum of US engagement in DRC.
- Statements and pronouncements from the United States Embassy in DRC should be clear and not send mixed messages about US commitment to the respect of the Constitution and the democratic process.

- No country has been more committed to the democratic process in DRC than the United States. US leadership is critical in rallying European countries for effective engagement in DRC and increased pressure.
- The United States should reinforce coordinated and sustain efforts of special envoys in support of this process.
- Greater commitment to democratic transition in DRC is needed from its neighbors and other regional actors, such as South Africa and the African Union. A key sponsor of the peace processes that resulted in democratic transitions in Burundi and Congo, South Africa has disengaged and abdicated its role, enabling the deterioration of the situation in both countries.
- The United States should insist on the opening of the political space, the respect of freedom of the press and civic liberties of the Congolese and the right of assembly. The Government of DRC has often cut transmission signals of broadcasting operators, including Radio Okapi (UN) and Radio France Internationale. A new law denies transmission rights to operators with less than a majority of stakeholders.
- DRC should follow the recommendations of the 2015 United Nations Security Council Resolution 2250 and give youth greater voice in decision-making at the local, national, regional and international levels. Congo should set up mechanisms that enable young people to participate in a meaningful way to peace processes and dispute resolution, and contribute to the destiny of their country.
- Political prisoners should be freed to restore their rights and as a confidence-building measure for the transition.

The Congolese people have demonstrated their commitment to democracy over the past 13 years. They massively supported a constitutional referendum in 2006 to allow the advent of a democratic dispensation in 2006 and 2011. They have since demanded one thing of their leaders: the respect of the Constitution. Whether DRC knows peace or conflict depends on what their leaders and their foreign partners do.

I thank you.

Mr. MCGOVERN. Thank you very much.  
Ms. Sawyer.

**STATEMENT OF IDA SAWYER, SENIOR RESEARCHER, HUMAN RIGHTS WATCH**

Ms. SAWYER. Co-chairman McGovern, thank you for the invitation to testify.

As we have heard from others, this hearing comes at a critical moment in the Democratic Republic of Congo. Less than 3 weeks before the December 19th deadline marking the end of President Joseph Kabila's constitutionally mandated two-term limit, he still has not made any clear commitment when or even if he will step down. All the while government repression against pro-democracy activists, the political opposition, protesters, and the media has intensified at an alarming rate.

Opposition leaders and activists have called for Congolese to take to the streets if Kabila stays in office beyond his mandate. They will likely be met by security forces quick to use excessive and lethal force. Political leaders could mobilize the dozens of armed groups active in eastern Congo for political ends, or the country's brittle security forces could fracture if Kabila relies on force to stay in power. The country could descend into further repression or widespread violence and chaos, with potentially volatile repercussions across the region, which is why I am here today. I want to set out for Congress the severity of the situation and the important role the U.S. Government can play to help walk Congo back from the brink.

Since January 2015, Congolese authorities have arbitrarily arrested scores of activists and opposition leaders, some of whom are held incommunicado by the intelligence services for months, where they were mistreated or tortured, while others were put on trial on trumped-up charges. Pro-democracy youth activists, like Fred Bauma, who is here with us today, were accused of plotting terrorist acts and held in secret detention for nearly a year and a half.

Throughout the country, government officials and security forces have repeatedly banned opposition demonstrations and fired live bullets on peaceful protesters. In September, security forces killed at least 66 protesters and possibly many more in the capital of Kinshasa. Some of these victims burned to death when the Republican Guard presidential security detail attacked opposition party headquarters. The bodies of many victims were taken away by security forces. Some were dumped into the Congo River and later found washed up on its shores.

The U.S. Government, including Congress, has played a leading role in urging President Kabila to respect the constitution and open political space, but much more could and should be done over the next 3 weeks to help prevent the situation from spiraling out of control.

This body's November 15 bipartisan resolution called on the Obama administration to immediately announce another round of targeted sanctions. The administration should heed this call and sanction the intelligence agency director, Kalev Mutond, Vice Prime Minister Evariste Boshab, and the Republican Guard

commander, General Ilunga Kampete.

I was in Kinshasa when the United States imposed the first round of targeted sanctions on Congo, and I can assure you it had a notable deterrent effect and rattled those implicated in abuses. It seemed that everyone among the political class and senior security force officers was talking about the list, who was on it, who would be sanctioned next, and what they could do to get off the list.

When an estimated half million people took to the streets in Kinshasa a few weeks later to welcome a senior opposition figure, for once security forces acted appropriately. Not a single incident was reported.

Government officials later told me they had made deliberate efforts to restrain the security forces to avoid being added to the sanctions list.

But the deterrent effect hasn't lasted forever, and the impact would be greater if the U.S. Government now shows it is willing to go further up the chain of command. While joint action with the European Union is ideal, delaying because the Europeans are not yet ready to go forward is an inadequate excuse.

Congress and the administration should also continue strong public statements denouncing political repression, and they should press the U.N. peacekeeping mission in Congo, MONUSCO, to more proactively implement its mandate to protect civilians during political violence.

Congress should also work to ensure adequate funds are in place for human rights defenders under threat.

At the same time, senior White House and State Department officials should work with leaders from the region, including in Angola and South Africa, and church officials to show President Kabila that he has a way out and that by stepping down at the end of his mandate, his security and that of his family would be protected.

They should also consider officially endorsing the road map proposed by a broad coalition of Congolese civil society organizations which calls for Kabila to step down on December 19th, and for the president of the Senate to act as interim president in accordance with the constitution as presidential elections are organized. This would likely be the best way to prevent further violence and repression and instability and to protect the constitution and path towards elections. But should President Kabila not step down, Congress and the administration should call for Kabila to, at a minimum, publicly commit to stepping down by a specific date before the end of 2017 and not changing the constitution.

There should then be clear measures to help ensure these commitments are honored and that free expression and assembly will be respected during the electoral period. If an agreement is reached, ideally through mediation by the Catholic Church, and before December 19th, strong diplomatic leadership from the U.S. and technical support to elections will be critical.

Congress should also work to ensure the incoming Trump administration thinks strategically about how to engage with President Kabila if he retains power by force. Reverting to the status quo would be a real setback. The incoming Congress need to take every step it can to ensure that Trump administration does

not resume a, quote, "normal" partnership.

Congress should support the following long-term steps if Kabila clings on by force. One, new targeted sanctions moving further up the chain of command; two, suspend direct U.S. support to the Congolese Government; three, consider bans on U.S. visas for Congolese Government and security officials; four, block bilateral support to the electoral process and support the Congolese Government from the World Bank and International Monetary Fund unless there is a clear electoral calendar in place, demonstrate a political will to implement it, and in opening up political space.

Lastly, support efforts to investigate and appropriately prosecute senior Congolese Government and security officials responsible from serious human rights violations or large-scale corruption.

Members of Congress should work closely with the incoming administration to promote clear messages that, despite what those close to President Kabila have hoped, U.S. policy towards Congo will not change dramatically after President Barrack Obama leaves office and that U.S. leadership will continue, including through the appointment of a new Great Lakes Special Envoy.

The U.S. Government has the opportunity to play a key role in cementing democracy, the rule of law, and the peaceful transition of power, in this country, whose stability is crucial for all of Africa. But to get there, President Kabila needs to be given a strong message now that violating the rights of the Congolese people comes at a high price before there is more bloodshed and it is too late to change course.

Thank you.

[The prepared statement of Ms. Sawyer follows:]

## **PREPARED STATEMENT OF IDA SAWYER**



### **“Democracy and Human Rights in the Democratic Republic of the Congo”**

Tom Lantos Human Rights Commission

Testimony of Ida Sawyer  
Senior Africa Researcher, Human Rights Watch

*November 29, 2016*

Co-Chairman McGovern, Co-Chairman Pitts, members of the Commission, thank you for the invitation to testify. This hearing comes at a critical moment in the Democratic Republic of Congo. Less than three weeks before the December 19 deadline marking the end of President Joseph Kabila's constitutionally mandated two-term limit, he still has not made any clear commitment when or even if he will step down. All the while government repression against pro-democracy [activists](#), the political [opposition](#), protesters, and the [media](#) has intensified at an alarming rate. The so-called "[national dialogue](#)" – which postponed elections to at least April 2018 – was rejected by most of the main opposition and civil society leaders and has not succeeded in easing tensions. The [Catholic Church](#) is pursuing mediation efforts to reach a more inclusive political deal – but time is running out and President Kabila appears increasingly defiant.

Opposition leaders and pro-democracy activists have called for Congolese to take to the streets if Kabila stays in office beyond his mandate. Past protests suggest that they will be met by security forces quick to use excessive and lethal force. There are risks that political leaders could mobilize the dozens of armed groups active in eastern Congo for political ends, or that the country's brittle security forces could fracture if Kabila relies on force to stay in power. The country could descend into widespread violence and chaos, with potentially volatile repercussions across the region – which is why I am here today. I want to set out for Congress the severity of the situation and the important role the US government more widely can play to help walk Congo back from the brink.

Since January 2015, Congolese authorities have arbitrarily arrested scores of activists and opposition leaders, some of whom were held incommunicado by the intelligence services for weeks or months where they were mistreated or tortured, while others were put on trial on trumped-up charges. Pro-democracy youth activists – like Fred Bauma who is here with us today – were accused of plotting terrorist acts and held in secret detention for nearly a year and a half, despite widespread public indignation. The government has shut down Congolese media outlets close to the opposition, at least six of which remain blocked. The signal for Radio France Internationale (RFI), the most important international news outlet in Congo, has been blocked in Kinshasa continuously since November 5.

Throughout the country, government officials and security forces have repeatedly banned opposition demonstrations and fired teargas and live bullets on peaceful protesters. In September, during one of the deadliest [crackdowns](#), security forces killed at least 64 protesters and possibly many more in the capital, Kinshasa. Some of these victims burned to death when the Republican Guard presidential security detail attacked opposition party headquarters. The bodies of many victims were taken away by security forces; some were dumped into the Congo River and later found washed up on its shores.

The US government, including Congress, has played a leading role in urging President Kabila to respect the constitution and in supporting Congolese activists and others targeted by government repression. The work of Special Envoy Thomas Perriello and others in the Obama administration and the attention paid to the crisis by both the House and the Senate – including multiple resolutions, hearings, and letters – have been critical. While time is short there is still much that can be done over the next three weeks to prevent the situation from spiraling out of control.

The bipartisan [resolution](#) that Congress passed on November 15 called on the Obama administration to immediately announce another round of targeted [sanctions](#), including against more senior government and intelligence officials [implicated](#) in abuses. The administration should heed this call and sanction the intelligence agency director, Kalev Mutond; Vice Prime Minister Evariste Boshab; and the Republican Guard commander, Gen. Ilunga Kampete.

I was in Kinshasa when the United States imposed the first round of [targeted sanctions on Congo](#), and I can assure you it had a notable deterrent effect and rattled those implicated in abuses. It seemed that everyone among the political class and senior security force officers was talking about "the list" – who was on it, who would be sanctioned next, and what they could do to get off the list. When an estimated half million people took to the streets in Kinshasa a few weeks later to

welcome a senior opposition figure and call for President Kabila to step down at the end of his mandate, for once security forces acted appropriately: not a single security incident was reported. Government officials later told me that they had made deliberate efforts to restrain the security forces to avoid being added to the sanctions list. But the deterrent effect hasn't lasted forever, and the impact would be greater if the US government now shows it's willing to go further up the chain of command.

We understand there may be an interest to wait for the European Union before announcing the next round of sanctions. Of course joint action is ideal but delaying because the Europeans are not yet ready to go forward is an inadequate reason for not moving forward, especially since the incoming US administration has not indicated how it will proceed.

Congress should continue its public statements – by individual members or by committee – while also encouraging the administration to deliver strong public messages denouncing political repression and other serious human rights violations. It's important to urge the Congolese government to immediately release all [political prisoners](#), end politically motivated prosecutions, open arbitrarily closed media outlets, and ensure that the right to peaceful assembly is respected.

Congress and the administration should also press the United Nations peacekeeping mission in Congo, MONUSCO, to more proactively implement its mandate to protect civilians during political violence as well as individuals who are particularly vulnerable, including activists, opposition leaders, and journalists. Congress has a particularly important role to play down the line by ensuring there are no changes to the longstanding support of the US for MONUSCO. It may be too late during this fiscal year given that the budget bill is likely to be passed in the next few weeks, but as the FY18 budget moves forward, it will be critical to maintain the current backing and ensure the mission is not hobbled by a lack of financial support.

Congress should also work with the administration to ensure adequate funds are in place for human rights defenders under threat and a quick visa response is ready for those who need to leave the country if government repression and targeted attacks intensify.

The White House and State Department should consider endorsing the "[roadmap](#)" proposed by a coalition of 173 citizens' movements and Congolese human rights and civil society organizations on how to overcome the country's political crisis. They call for President Kabila to step down on December 19 and for the president of the senate to act as interim president, in accordance with articles 75 and 76 of the Congolese Constitution, as presidential elections are organized.

Should President Kabila not step down, it is essential that both Congress and the administration work collectively to make sure they are sending the same message that he should, at a minimum, publicly commit to stepping down by a specific date before the end of 2017. There should then be clear, specific measures to help ensure these commitments are respected, and a truly inclusive dialogue should be held to seek a broad consensus on organizing future elections, to determine the transition leadership, and to put measures in place so that a new calendar is adhered to, and that free expression and assembly will be respected during the electoral period. If an agreement is reached, strong diplomatic leadership from the US as well as technical support to the electoral process will be critical to ensuring commitments are respected and the process actually leads to credible elections. Congress should help ensure that adequate and specific funds are made available for these efforts.

Members of Congress from both parties will also have an interest in making sure the incoming Trump administration begins to think strategically about how to engage with President Kabila if he retains power by force, without a clear public commitment on when he will step down and a broad consensus on organizing a [transition period](#) to elections. Reverting to the status quo would be a real setback and the incoming Congress needs to take every step it can to ensure the Trump administration does not resume a "normal" partnership.



Congress should support the following long-term steps, if Kabila clings on by force:

- Add new targeted sanctions, moving further up the chain of command against those implicated in abuses and blocking the democratic process.
- Suspend direct US support to the Congolese government, including the justice sector and security forces.
- Consider bans on US visas for Congolese government officials and security force officers.
- Block bilateral support to the electoral process and support to the Congolese government from multilateral institutions including the World Bank and International Monetary Fund, unless there is a clear electoral calendar in place, demonstrated political will to implement it, and an opening of political space.
- Support efforts to investigate and appropriately prosecute senior Congolese government and security force officials responsible for serious human rights violations or large-scale corruption.

Members of Congress should work closely with the incoming administration to promote clear and consistent messages that – despite what those close to President Kabila have hoped – US policy towards Congo will not change dramatically after President Barack Obama leaves office, and that US leadership will continue, including through the appointment of a new Great Lakes special envoy.

At the same time, White House and State Department officials should work with leaders from the region and senior church officials to show President Kabila that he has a way out and that, by stepping down at the end of his mandate, his security and that of his family would be protected.

Congress should continue to use its influence and ensure the United States plays a key role in cementing democracy, the rule of law, and the peaceful transition of power in this country whose stability is crucial for all of Africa. It needs to send a strong message to President Kabila that violating the rights of the Congolese people comes at a high price – before there is more bloodshed and it is too late to change course.

Thank you.

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Mr. MCGOVERN. Thank you very much.  
Mr. Bauma.

## **STATEMENT OF FRED BAUMA, LUCHA**

Mr. BAUMA. Thank you, Mr. Chairman --

Mr. MCGOVERN. Is your mic on?

Mr. BAUMA. Yes. It works.

Mr. MCGOVERN. Good.

Mr. BAUMA -- for this opportunity to testify. Before I start, I would like to thank you on behalf of Congolese -- on behalf of my country and of LUCHA movement for the support of the Congress to the human rights and democracy in Congo.

A few months ago I was in Kinshasa. I was freed from prison where I spent 17 months and 50 days in custody. The reason of my arrest was my fervent opposition to President Kabila, unwillingness to organize election in order to maintain himself in power by violating the constitution of our country.

Unfortunately, my case is not an isolated one and even not the worst. It even has become a normal routine every single day as we approach the December 19 date to which President Kabila should leave the power due to the constitution.

The LUCHA movement has paid the heaviest price of the fight for democracy. Over 100 of LUCHA activists have been arrested, sometimes kidnapped, and between last year and this year. Add to this, the last free press that once broadcast through the Congolese territory saw their signal being cut, and the Congolese foreign -- Congolese and foreign journalists are regularly attacked, arrested, and sometimes killed just for doing their job.

The political space is sufficiently restricted for peaceful activists which has opened dangerous doors to those who believe in violence as a single way to solve conflict.

The impunity towards warlords, like Gedeon Kyungu in Katanga, only bolsters those who believe in violence compared to the harsh repression on peaceful activists. Nonetheless, this repression has not stopped our -- or discouraged our nonviolent fight for a new Congo.

This fight is not in any way a fight against the person of President Kabila. It is firmly to reaffirm our commitment to the values written in our constitution. It is for peace, social justice, freedom, and dignity, and it is for not re-living the same cycle of violence we have experienced since our childhood.

Mr. Chairman, it is unfortunately clear and obvious that there will not be election this year in Congo, and this situation will plunge the country into a serious crisis of legitimacy, which may lead to stimulate political agenda of armed groups and still plunder the east end of the country. And this situation may affect, once again, all the Great Lakes region and possibly beyond. The main excuse of the Congolese Government for not organizing the election is lack of funding. When, at the same time, million of dollars of Congolese people is being spent in corruption and by Congolese Government to finance lobbyists in the U.S. Government -- for the U.S. Government, including Congress.

Some individuals close to the current government are involved in

large-scale looting of resources, corruption, and large-scale diversion of public money as revealed in recent scandals, the Panama Papers, and even in many reports of international anti-corruption NGOs such as Global Witness.

In coming days, I would suggest to Congress to actively push the U.S. Government to apply more financial sanctions against those Congolese nationals and foreigners involved in many financial malpractice and scandal that has continued to impoverish the Congolese people.

I, therefore, ask the Congress and this Commission to increase the surveillance on the fervent financial transaction in U.S. dollars, that is handled through U.S. financial institutions, and which benefits to those who incessantly continue to consume the lives of innocent Congolese people.

Sanctions would also absolutely be taken against all Congolese individuals directly involved in the repression of peaceful protestors and also responsible for violation of human rights throughout the country.

I will request that these sanctions to be taken should not only be symbolic but should target individuals in the entourage of the President Kabila, because in my opinion, this sanction should not have the purpose to punish the people but to be used as the pressure on the government in order to compel them to respect the constitution and avoid violence.

This is why this sanction should be taken in time before December 19 in order to be useful and effective in preventing violence. It is very important to the United States, to act now, because I am afraid that tomorrow may be too late.

Lastly, I should end this testimony by talking about Beni and that territory of eastern Congo where, for two past years, innocent people -- innocent Congolese men, women, children, are horribly being slaughtered and massacred with machete, forcing thousands of Congolese to flee their homes and villages. All these happening under the impassive watch and presence of MONUSCO, the biggest United Nation mission in the world with a budget of more than \$1 billion every year in which the United States remains the major donor.

The failure of MONUSCO in carrying out this -- peacekeeping mission in Beni as well as in this situation in Congo means the failure of the United Nations to truly fulfill its duty. The Congress should use the United Nations to ensure that MONUSCO truly plays its role of peacekeeping organization and not being a simple government partner when it is, in fact, the same current government is being the major source of danger against the security of the Congolese people.

You have the power and the chance to change the current situation in order to avoid Congo being the next Burundi, the next South Sudan, the next South Africa. We have started the long journey toward freedom, and we ask -- as Congolese, we ask Congress and the American people to join us in our side and the side of Congolese people and the constitution.

We ask you to be on the side of peace through prevention. Thank you.

[The prepared statement of Mr. Bauma follows:]

## PREPARED STATEMENT OF FRED BAUMA

My Testimony on Human Rights situation in DR Congo  
By Fred Bauma

Before I start, I would like, on behalf of my colleagues from the LUCHA movement and the youth of my country, thank the American Congress for the numerous efforts and initiatives for supporting democracy in Africa, making sure that human Rights are respected and observed in DRC but also fighting against the looting of our mineral resources.

Three months ago in Kinshasa, I was freed from prison where I spent seventeen months (17) in custody of which 50 days while being detained secretly, without any right to consult or access a lawyer, without being allowed family to visit me. The reason of my arrest: my fervent opposition to President Kabila's unwillingness to organize elections in order to maintain himself in power thus violating the constitution of our country.

My case is not an isolated one and not the worst; it is even becoming a normal routine every single day as we approach 19 December 2016, a date I would qualify of fateful, date to which President Kabila should leave power due to the Constitution.

Many people were killed during the protests that took place between January 2015 to September 2016 and thousands of people have been victims of arbitrary arrests, many others kidnapped and tortured by our national police, the Republican Guard (Garde Republicaine) and National Intelligence Agency (Agence Nationale de Renseignement).

At the same time, The judicial institutions, which should make sure that justice is restored have been nothing other than an other repressive hand of the current government; not hesitating to condemn civil society and opposition activists and with heavy unexplained penalties while only explaining pacifically their opinion.

The LUCHA movement paid the heaviest price in this fight for democracy. More than 150 activists of the LUCHA have been arrested, sometimes kidnapped more than once and tortured between March 2015 and October 2016; all of them youth activists under the age of 30. Three of them are still detained in prison in Goma waiting for a court decision.

To add on this, the rare free Medias that used to broadcast throughout the Congolese territory saw their signal being cut; Congolese and foreign journalists are regularly attacked, arrested, and some killed for just doing their work. In March 2015, when demonstrations erupted in Kinshasa and Goma against Kabila's attempt to stay in power, the government cut Internet and SMS for 3 months, causing innumerable damage to millions of Congolese, not only from a civic point of view (the right to information and communication), but also enormous economic losses for a population that is already among the poorest in the world. This is likely to happen again in the coming days.

The political space is sufficiently restricted for pacific activists thus only opening doors to only those who only believe in violence as the single way to solve conflicts.

The impunity towards war lords such as Gedeon Kyungu in the Katanga only confronts those who believe in violence compared to the harsh repression on pacific protestors.

This merciless repression has not stopped or discouraged us from our non-violent fight for a New Congo. Our fight is and goes beyond the mere personality of Kabila. It is for Peace, Social Justice, freedom, dignity... it is for not reliving the same cycles of violence we experienced and which most of us have known since the very tender age when we grew up. That's why we are

fighting.

This is not in any way a fight against the person of Kabila, it is firmly to reaffirm our commitment to the values written in our constitution. A hard-won constitution acquired following a long period of war which led to losses of millions of innocent lives, becoming the most deadly conflict after the Second World War with more than 6 million left dead.

Ladies and gentlemen,

It is unfortunately clear and obvious that there will be no elections this year in the Democratic Republic of Congo, this situation will plunged the country into a serious crisis of legitimacy, which may lead to stimulate a political agenda to the armed group that still plundering the east of the country. This situation may affect once again all the Great Lake region.

The main excuse branded by the Congolese government for not organizing the elections is lack of funding. Within this same period, millions of dollars of the Congolese people are being spent by the Congolese government to finance lobbies for the US government and the American Congress; some individuals close to the current government are involved in a large-scale looting of resources, corruption and large-scale diversion of public money, as revealed in recent scandals: the Panama Papers, the Lumumba Papers, and several other reports of international anti-corruption NGOs. All these scenarios often done using the American Dollar as currency which I believe also involves some American financial institutions.

The American Congress should more actively push the US government to apply more financial sanctions against those Congolese nationals and foreigners involved in many financial malpractices and scandals. These incidents and practices are constantly continuing to impoverish the Congolese People and all this for the benefits and interests of a particular group of people that I qualify of predators.

I therefore ask the Congress and this Commission to increase the surveillance on fraudulent financial transactions in American dollars that are handled through American financial institutions which benefit those who incessantly continue to consume the lives of innocent Congolese people.

Sanctions should also absolutely be taken against all the Congolese individuals directly involved in all kinds of actual repressions on pacific protesters and also people involved in numerous violations of human rights throughout the country. These oppressors have been identified and listed by many human rights activists' organizations. Today, LUCHA movement issued a list of 35 top Congolese officials and businessmen it calls "democracy predators", who should be subject to citizens' sanctions.

I will request that these sanctions to be taken should not only be symbolic like the ones taken recently against some Congolese officials. These sanctions should precisely target individuals and dignitaries in the entourage of President Kabila because in my opinion and LUCHA's, these sanctions should not only have for main purpose punishing the perpetrators but also increase pressure on the Congolese government in order to compel them to respect the constitution and the laws of DRC.

That's why these sanctions should be taken in time before 19 December in order to be useful and effective. It is very important that the United States act now because I am afraid that tomorrow will be too late.

Lastly, I should end my speech while talking about Beni, this territory in the Eastern part of DRC where for the past 2 years, innocent Congolese men, women and children are horribly being slaughtered and massacred with machetes forcing thousands of Congolese to flee their homes and villages.

And all these happening under the impassive watch and presence of MONUSCO; the biggest United Nations Mission in the World with a budget of more than one billion dollars every year of which the United States remain the major donors.

Failure of MONUSCO of carrying out its peacekeeping role in DRC means the failure of the United Nations to truly fulfill its duty.

The Congress should urge the United Nations to ensure that MONUSCO truly plays its role of a peacekeeping organization and not being a simple government's partner when it's in fact this same current government being the major source of danger against the security of Congolese citizens.

You have the power and chance to deeply change the current situation going on and avoiding to DRC and the Great Lakes Region to experience once again a serious humanitarian calamity.

The Congolese people are tired of dying and are only dreaming of a lasting peace.

What I ask for is solidarity on your part in order to help us build a free and democratic country at the heart of Africa.

Tomorrow will be late and the current regime is ready "to burn the house".

In order to prevent that DRC becomes a new Rwanda, Burundi or Liberia, in to avoid the statement "Never again", you have to act now and I believe you have the power to do so.

We have started a long journey towards freedom, and we ask the American Congress to join us and be on our side.

Thank you

Mr. MCGOVERN. Well, thank you very much for your powerful testimony. And I am glad you are here and no longer in jail. But it is a real honor to have you here. So thank you for your testimony.

Mr. Lezhnev, welcome.

## **STATEMENT OF SASHA LEZHNEV, ASSOCIATE DIRECTOR OF POLICY, ENOUGH PROJECT**

Mr. LEZHNEV. I appreciate the pronunciation of my name. Thank you, Congressman.

Mr. MCGOVERN. Did I do all right?

Mr. LEZHNEV. Yes, thank you. Thank you very much, Congressman McGovern, and other members of this Lantos Commission for drawing attention to the Congo today during this critical time.

Tom Lantos was a personal inspiration to me in his lifelong fight against oppression, and so it is an honor to testify at the Commission named after him and alongside Fred, who spent 17 months in jail for his beliefs against oppression.

The Congo, as we have heard today, is facing a pivotal turning point in its history. In this light, I would like to focus my remarks on what the U.S. Government can do now to help prevent wider escalation of the violent crisis together with the private sector and European allies, and the key role that Congress can play.

President Kabila's attempt to hold onto power risks taking the country back 15 years to mass violence and the absence of the rule of law.

On the other hand, a successful democratic transition would help move the rule of law forward, increase security across the country, including in conflict-ridden eastern Congo, and lay the foundation for responsible businesses to invest. The repression, corruption, and violence in the East we are seeing today are the latest manifestations of a wider systemic problem in Congo, that of violent kleptocracy.

As the Enough Project highlighted in a recent comprehensive study that I authored, a criminal state, ruling networks in Congo, and their commercial partners have hijacked governing institutions and maintained impunity in order to extract resources for personal gain and maintain the security of the regime. A recent Foreign Corrupt Practices Act case highlighted that Congolese officials received over \$100 million in bribes, and a key Congolese bank run by the president's sister -- excuse me -- run by the president's brother and 40 percent owned by the president's sister was caught in a corruption scandal, BGFIDRC. Ruling elites then used varying levels of violence to maintain power and repress dissent. This system is manifesting itself now with the current regime's attempt to subvert a democratic transition, as it has in driving war in the east. Kabila and his inner circle profit from corruption, are trying by all means necessary to hold on to power.

The key to changing this equation, preventing a wider violent crisis and starting the process of reform away from the system of violent kleptocracy, is to impose serious consequences on those leaders and their business partners, who

profit most from violence, illicit resource extraction, and undermining democracy. We applaud the Catholic Church mediation efforts and this should also be accompanied by policies to improve governance, human rights, and transparency. But those negotiations and policies need leverage to succeed. I would argue that the United States has leverage that it can bring to bear in this situation.

President Kabila's inner circle relies on financial transactions denominated in U.S. dollars, many of which passed through the U.S. financial system. This gives the United States the ability to use certain tools that can create financial pressure in order to prevent the escalation of violence and a constitutional crisis. These tools have been used to counter terrorism and nuclear proliferation in other areas of the world. It is time to use those tools to prevent costly humanitarian crises and atrocities in Africa, including in the Congo.

I would argue that a three-part strategy by the U.S. Government utilizing that leverage would help move the negotiations forward. This combination would strongly support Congolese efforts to change the system.

Congress should urge the Obama administration to take some of these steps immediately. And if the Congolese Government makes progress on the benchmarks by the 1st of January, it could avoid an escalation of pressure.

First, financial pressure through anti-money laundering measures. Congress should urge the U.S. Treasury Department to take measures to counter money-laundering activities at transit from banks in Congo to the international financial system, together with key European governments, particularly Belgium and the U.K.

Specifically, the Treasury Department's Financial Crimes Enforcement Network, or FinCEN, should issue a public advisory concerning the patterns used to launder the proceeds of corruption from Congo. FinCEN issued an analogous advisory related to Ukraine. Such an advisory should include discussion of the correspondent banks used by Congolese banks to connect to the international financial system. This should entail several sub-steps in an escalating manner.

First, FinCEN should issue a request to banks under section 314(a) of the PATRIOT Act to counter money-laundering activities connected to the regime and key elites. This request would demand vigilance by U.S. banks and lead to more vigorous reporting of suspicious activities. This would not cut off the general Congolese population from the banking system but rather be directed against a specific list of individuals and entities.

Another sub-step would be for the State Department and Treasury Department officials to meet directly with U.S. and European banks that do business with Congolese banks and/or Congolese officials and express concern about corruption and money laundering from Congo moving through the financial system.

If these measures fail, FinCEN could escalate by issuing a foreign financial agency request, which requires specific institutions to provide information on particular types of transactions. FinCEN can also declare certain institutions or classes of transactions as primary money laundering concerns under section 311 of the PATRIOT Act and impose special measures.

Number two, political and financial pressure through enhanced targeted



sanctions. The U.S. Government should designate a short list of high-level officials and advisers with strong influence on President Kabila. The designations conducted so far during 2016 have been a good start, but will not change the DRC Government's stance on elections unless higher level targets are designated.

Kabila's top financial advisers and heads of state-owned companies should also be targeted. It is important that sanctions not simply be name and shame but have real financial impact. The U.S. and other governments should learn the lessons of other sanctions, in particular they must aggressively enforce those sanctions against properties and accounts in the United States and abroad and conduct diplomacy in countries where the designees have assets. Applied smartly, sanctions can be used to prevent crisis rather than punish its perpetrators after blood has already been spilled.

If these measures fail, the United States should increase the pressure by targeting senior Congolese politicians, enabling business partners of the regime, and possibly even members of Kabila's family. Such designations would demonstrate seriousness of U.S. pressure.

Looking forward, Congress should urge a Trump administration to issue a new executive order on Congo that expressly includes corruption as a reason to place targeted sanctions on individuals in Congo.

Third, appointing the U.S. Special Envoy. The crisis in Congo and the Great Lakes of Africa requires sustained policy attention, particularly during this critical period. The special envoy position is thus critical to moving policy forward.

And the past two envoys, Tom Perriello and Russ Feingold, have proven that point. Feingold helped negotiate the end of the M23 rebellion, and Perriello has made measurable progress in reducing repression and help preventing mass atrocities from occurring in Burundi.

It is imperative that the next administration continues the Special Envoy position and appoints a new person to that job as soon as it begins. The United States has been the leader on international policy in Congo as Europe has been too slow. Without an envoy, Kabila will take advantage of the U.S. policy gap and move ahead rapidly to subvert democracy. The envoy should report to the White House or Secretary of State so they have proper authority.

Finally, I would urge Congress to take three steps that would help constrain the overall environment for violent kleptocracy. It should pass the Global Magnitsky Act, championed by yourself and Representative Smith in the House.

Secondly, it should keep section 1502 of the Dodd-Frank Act, which has been the backbone of progress on conflict minerals.

And, third, it should increase appropriations to FinCEN and OFAC, the entities at Treasury responsible for anti-money laundering efforts and sanctions.

In conclusion, the U.S. now has an opportunity to be on the right side of history in Congo. With the right combination of financial pressure and diplomacy, it can work with the Congolese people and help them have their first ever peaceful transfer of power and prevent a violent crisis that would risk breaking apart the Great Lakes of Africa again, costing thousands of lives,

subverting the will of Congo citizens, creating a terrible investment climate, and costing hundreds of millions of dollars in aid to respond. Thank you.

[The prepared statement of Mr. Lezhnev follows:]

## **PREPARED STATEMENT OF SASHA LEZHNEV**

### **Tom Lantos Human Rights Commission Hearing**

### **Democracy and Human Rights in the Democratic Republic of the Congo**

#### **Testimony of Sasha Lezhnev**

#### **Associate Director of Policy, the Enough Project**

**November 29, 2016**

Thank you, Congressman Pitts, McGovern, and other members of the Lantos Commission for holding this hearing today on the Democratic Republic of Congo and for the opportunity to testify. Tom Lantos was a personal inspiration to me in his lifelong fight against oppression, and it is a deep honor to testify at the commission named after him.

#### **The Problem**

The Congo is facing another pivotal turning point in its history. Congo has arrived at turning points like this in the past, and the results have usually been tragic. In this light, I would like to focus my remarks on what the U.S. government can do now to help prevent a repeat of history that leads to a much wider violent crisis in the coming weeks, together with the private sector and European allies, and the key role Congress can play in this.

President Joseph Kabila's attempt to hold on to power risks taking Congo back 15 years to mass violence and absence of the rule of law. His government is escalating the current political crisis by failing to hold constitutionally mandated elections, cracking down on protestors and independent media, jailing pro-democracy activists, and increasing grand corruption. According to an Order recently issued by the SEC in a U.S. Foreign Corrupt Practices Act case related to Och-Ziff Capital Management, members of Kabila's inner circle received \$100 million in bribes in exchange for doling out natural resource concessions. December 19<sup>th</sup> is a flashpoint date. Kabila's constitutional term expires then, and sustained mass protests and much more extensive violence will likely take place – that is, unless the Congolese government comes up with a credible interim government that gives the opposition meaningful participation until elections take place, and it takes strong steps to build confidence with its citizens that a democratic transition is truly occurring. If not, regional stability is put at risk, as street and/or militia violence could spark large refugee flows into neighboring Angola and Congo-Brazzaville.

Looking past December 19, if the crisis is not properly resolved, Congo will go backward on many markers of progress that have been made over the past 15 years, as governance and security reforms depend on having a legitimate government and moving forward with the constitutional process. Two important measures of progress have been that the number of internally displaced persons has been cut in half from 2008 to 2016, from 3.4 million to 1.7 million, according to the United Nations, and 79 percent of miners working in previously conflict minerals tin, tantalum, and tungsten mines now work at conflict-free mines, according to the International Peace Information Service. This has been due principally to some progress in resolving the conflict in eastern Congo and a reduction of the conflict minerals trade, and the U.S. government through the Dodd-Frank legislation passed by Congress and Special Envoys Russ Feingold and Tom Perriello have helped spur much of this progress. However, a botched electoral process would put some of

that progress at risk. Furthermore, critical reforms in the areas of justice, the security sector, rule of law and anti-corruption, mining governance, natural resources and fiscal transparency, and other issues that could bring the country forward would stall, leaving the population worse off, creating safe havens for criminality, and leaving a very negative environment for responsible investment. On the other hand, a successful transition would help move the rule of law forward, increase security across the country, including in conflict-ridden eastern Congo, and lay the foundation for responsible businesses to invest.

The repression, corruption, and violence in the east we are seeing today are the latest manifestations of a wider systemic problem in Congo, that of violent kleptocracy. As the Enough Project revealed in a recent comprehensive study that I authored, [“A Criminal State: Understanding and Countering Institutionalized Corruption and Violence in the Democratic Republic of Congo.”](#) ruling networks in Congo and their commercial partners have hijacked governing institutions and maintained impunity in order to extract resources for personal gain and to maintain the security of the regime. This has been the case in various ways for over a century, dating back to Belgian King Leopold’s reign in the 1890s. Ruling elites then use varying levels of violence to maintain power and repress dissent. The pillars of this system include letting security forces pay themselves, personally profiting from lucrative natural resource deals, maintaining an army that pillages on its own soil, and ensuring there is no accountability for regime-connected elites. This system is manifesting itself now with the current regime’s attempt to subvert a democratic transition, as it has in driving war in the east. Kabila and his inner circle profit from corruption and are trying by all means necessary to hold on to power.

### **The Solution: What the United States can do to prevent a wider crisis**

The key to changing this equation, preventing a spark to wider violence in cities and in conflict-ridden eastern Congo, and starting the process of reform away from violent kleptocracy in Congo is to impose serious consequences on those who profit most from violence, illicit resource extraction, theft, and undermining democracy. This should be accompanied by policies to improve governance, human rights, and transparency. However, without financial and legal consequences for the top leadership that run this system, there will not be sufficient leverage to support human rights, peace, and good governance objectives.

### **Why the United States has leverage**

President Kabila’s inner circle relies on financial transactions denominated in U.S. dollars, many of which pass through the U.S. financial system, either directly for activities taking place here or through the correspondent banking system related to activities ultimately taking place somewhere else. This gives the United States options to use certain tools that can create financial pressure in order to prevent the escalation of violence and constitutional crisis related to Kabila’s transition. These tools have been used to counter nuclear proliferation or terrorism. It is time to use those tools to help prevent costly humanitarian crises and atrocities in Africa, including in the Congo.

The good news on this issue is that 1) the vast majority of Congolese citizens strongly believe in democratic change; 2) the United States and Europe have leverage over the Congolese leaders because they use U.S. dollars and Euros for virtually all major transactions; 3) the United States government has a key role to play but the private sector (banks in particular) here and in Europe should also act; 4) the process has already started and has begun to have some impact. But unless more pressure is applied now, we will likely fail to stop the possibility of bloodshed.

### **U.S. Strategy**

A three-part strategy would leverage the negotiations to get the Congolese government to meet the policy benchmarks the U.S. government is working to get it to agree to – namely, committing to hold elections in 2017, publicly stating that Kabila will step down at the end of the transition, dropping criminal charges against democracy activists and opposition candidates, and committing

to require state-owned mining companies to be audited by independent third parties and that the audits be published. This combination would strongly support Congolese efforts to change the system and enhance good governance. Congress should urge the Obama administration to take some steps immediately, and if the Congolese government makes progress on the benchmarks by January 1, it could avoid an escalation of pressure.

- 1) Financial pressure through anti-money laundering measures**
- 2) Political and financial pressure through enhanced targeted sanctions**
- 3) Appointing a new U.S. Special Envoy**

**1) Financial Pressure through anti-money laundering measures.** Congress should urge the U.S. Treasury Department to take measures to counter money laundering activities that transit from banks in Congo to the international financial system, together with key African and European government financial intelligence units (FIUs). The Treasury Department Financial Crimes Enforcement Network (FinCEN) should issue a public advisory concerning the patterns used to launder the proceeds of corruption from Congo and concern about how such patterns may be exacerbated at the end of the regime's constitutional term. The recent BGFI bank scandal and corruption with the electoral commission would be a useful starting point for an Advisory. FinCEN issued an analogous Advisory related to the end of the Yanukovich regime in Ukraine. The advisory should also include any other sets of transactions that may represent money laundering activity, such as elements of the gold trade.

Such an advisory should include, where possible, discussion of the correspondent banking channels used by Congolese and regional banks to connect to the international financial system. Other financial intelligence units should take similar advisory steps, which collectively should urge banks and other financial institutions to conduct stronger due diligence and provide more reporting on suspicious transactions. However, given the relevance of the U.S. dollar to transactions that underlie kleptocratic activity in Congo, an advisory from FinCEN would be the strongest first step. FinCEN and FIUs from African governments, such as South Africa, Uganda, and Tanzania, should collaborate on information sharing, capacity building programs, and enforcement to make these advisories and the subsequent investigations more effective.

Several sub-steps can be taken under this umbrella in an escalating manner. A first step would be for FinCEN to counter money laundering activities connected to the regime and key elites by issuing a request to financial institutions pursuant to Section 314(a) of the Patriot Act. The request would demand vigilance and lead to more vigorous reporting of suspicious activity regarding the laundering of the proceeds of corruption. This is a private step that the U.S. government would inform Congolese leaders about but without providing specifics. This would not cut off the general Congolese population from the banking system, but rather be directed against a specific list of individuals and entities.

Another step would be to engage directly with U.S. and European banks that do business with Congolese banks and/or Congolese officials. Treasury and State officials should meet with the U.S. and European correspondent banks that do significant business with banks in Congo that are believed to facilitate money laundering, as well as with key regional bodies. Raising concerns about possible money laundering activities with individual banks could cut off the worst money laundering banks in Congo and elsewhere from the international financial system.

If these measures fail, FinCEN could escalate pressure further, including through issuing a Foreign Financial Agency request (31 CFR 1010.360), which requires specific institutions to provide information on particular types of transactions, such as involving particular senior officials or transactions through BGFI. FinCEN could also declare certain institutions or classes of transactions related to Congo as "primary money laundering concerns" under Section 311 of the Patriot Act and impose special measures, such as the conduct of additional due diligence.

**2) Political and financial pressure through enhanced targeted sanctions.** The U.S. government should designate a short list of high-level officials and advisors with strong influence on President Kabila and who have significant financial assets that can be impacted by a designation. The designation of three Congolese generals during 2016 has been a good start and taken seriously by Kinshasa, but it is likely to be insufficient to change the DRC government's stance on elections unless higher-level targets are designated. Congolese civil society supports additional designations. Kabila's top financial advisors and heads of state-owned companies should be targeted because of the potential for demonstrable financial impact. The United States should continue working with the European Union, African Union, Southern African Development Community, and the United Nations Security Council to pursue multilateral sanctions as well, but the United States should not wait for those bodies in order to move ahead.

It is important that sanctions not simply be "name and shame" but have real financial impact on the regime. The U.S. and the other governments or bodies should learn the lessons of past sanctions, in particular that they must aggressively enforce those sanctions against properties and accounts in the United States and abroad and conduct diplomacy in countries where the designees have assets. Applied smartly, sanctions can be used to *prevent* crisis rather than punish its perpetrators after blood has already been spilled. Sanctions are not intended to motivate change in behavior, rather than punish, but in African contexts, we often use them in exactly the opposite way.

If these measures fail, the U.S. should increase the sanctions pressure by targeting senior Congolese politicians, enabling business partners of the regime, and members of Kabila's family. Members of Kabila's family, certain commercial partners, and senior politicians have been involved in undermining democracy through significant kleptocratic behavior from receiving major bribes to creating shell companies to manipulating banks, as well as repression. Such designations would demonstrate seriousness of U.S. pressure and could trigger a real change in policy. Looking forward, Congress should urge the Trump administration to issue a new U.S. Executive Order on Congo that expressly includes corruption as a reason to place targeted sanctions on individuals in Congo.

**3) Appointing a new U.S. Special Envoy.** The crisis in Congo and the Great Lakes of Africa requires sustained policy attention, particularly during this critical period. That is simply too much for one Assistant Secretary of State who must deal with 54 countries at once. The special envoy position is therefore critical to moving policy, and the past two envoys, Tom Perriello and Russ Feingold, have proven that point. Feingold helped negotiate the end of the M23 rebellion, and Perriello has made measurable progress in helping reduce repression during this critical electoral process and helped prevent mass atrocities from occurring in Burundi through focused diplomacy. It is imperative that the Trump administration continues the special envoy position and appoints a new person to the job as soon as it begins. The United States has been the leader on international policy on Congo, as Europe has been too slow to come to the table. Without an envoy, Kabila will take advantage of the U.S. policy gap, and move ahead rapidly to subvert democracy and put the country at major risk. The envoy should report to the White House or Secretary of State directly so they have authority, as their steps on Congo will need to be bold and require decision making power quickly.

Finally, I would also urge Congress to take three steps that would help constrain the overall environment for violent kleptocracy. First, it should pass the Global Magnitsky Act, championed by Reps. McGovern and Smith in the House. Second, it should keep Section 1502 of the Dodd-Frank act, which is the backbone to progress on conflict minerals. Third, Congress should increase appropriations funding to FinCEN and OFAC, the entities at Treasury responsible for anti-money laundering efforts and sanctions.

In conclusion, the United States has an opportunity now to be on the right side of what has been an all-too-often bloody history in Congo. With the right combination of financial pressure and diplomacy, it can work with the Congolese people and help them have their first ever peaceful

transfer of power and prevent a violent crisis that would risk breaking the Great Lakes of Africa apart again, costing thousands of lives, subverting the will of Congo's citizens, creating a terrible investment climate, and costing hundreds of millions of dollars in aid to respond.

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Mr. MCGOVERN. Well, thank you, all. Thank you very much. This was an excellent panel. And there is a lot of information here.

The way I am looking at this, is as we have a short-term challenge and then there is a longer term challenge. And it goes back to what the first panel talked about, the effort by the Catholic bishops to try to work out some sort of a deal by the 19th. And it seems to me that a lot of our efforts, at least in the short term, ought to be on how do we increase the pressure so there is actually some good news that comes out of, out of all of this on the 19th.

I don't know whether there is progress being made or not, but it seems to me that we ought to -- you know, that is a short-term goal that we ought to be trying to pursue here. I guess -- I would like to maybe get all of you to tell me. I mean, what do you think of this process, and what specifically can we do in these next coming days, because that is all we have, to try to achieve a positive result?

Mr. Lezhnev, you just went through a whole series of things. Some of them may fit into this short-term window. And what I would like to encourage you to do is to work with our staff here to maybe -- we are happy to put together a bipartisan appeal to the administration. Maybe the Enough Project already has submitted a request to the administration. We are happy to support that. But again I am looking at trying to -- you know, I worry that if something doesn't happen positively by the 19th, then we are going to be talking about this whole situation in more dire terms, where there is going to be more violence and more political repression. And I am hoping that maybe -- if we all push harder, that maybe we can avoid that.

So I would like to maybe have all, and anybody who wants to, all of you, want to comment on, what do we think of this process, and what can we do, specifically what can Congress do, what can the administration do, to make this a success?

Mr. DIZOLELE. I may start, then?

Mr. MCGOVERN. Yep.

Mr. DIZOLELE. I think, first of all, is the acknowledgement that all parties are not created equal in this process.

Mr. MCGOVERN. Right.

Mr. DIZOLELE. We have a government, one side; we have a president who holds the key to the impasse. I think we need to continue engaging the President directly. Not his surrogate; he has plenty of those. That is a waste of time for everyone. To engage the man who holds the key to the solution, is the President, and impress upon him the importance of the respect of the constitution, to impress upon him the importance that he discharges the leadership that has been entrusted to him twice, 2006 and 2011, and to respect the constitution that he himself held in front of his people and said that he would be the guarantor of that.

It is not the end of the world. He has a résumé. He has a track record. But I think he holds the country hostage. And we need to acknowledge that and engage through the process through that. The Catholic Church is only as strong as the process or the mandate that it receives. If today the people are not willing to go along with the Catholic Church, is because they don't see an end game. If the principal does not say that he will uphold the constitution, and here is the way

he is going to do it, then for a big chunk of the opposition -- the opposition is fragmented, yes, but the key, the heavy hitters in the opposition, are not going to join. Some of them in exile, some of the youth leaders in exile, some of them are in jail. There is just not enough goodwill for the key stakeholders to come along through this process. And I think an institution like yours have to start at that point. Thank you.

Mr. MCGOVERN. Ms. Sawyer.

Ms. SAWYER. I would agree that the Catholic Church mediation does remain the best hope that we have now to finding a solution before December 19th, but we are only -- it is only going to lead to a consensual agreement with the broad coalition of the opposition leaders and the majority if President Kabila makes some concessions. And unfortunately, we are seeing in recent weeks that he just appears to be increasingly defiant. It was very evident during the U.N. Security Council's visit to Kinshasa when Kabila said clearly that, yes, the constitution has a term limit, but the constitution can be amended.

So I think we do need to see more pressure on Kabila before the 19th to show him that the consequences are real and that it would be in his best interest to stop the escalation of these consequences and do the right thing for him and for the country. Targeted sanctions is something that is ready to go, as I understand. It wouldn't take -- something that can happen quickly before the 19th. So that is one clear step that can be taken.

And as Mvemba said, working with regional leaders trying to get to Kabila himself, showing him that this is the best option and the best way forward is critical. So working through the president of Angola, with South Africa, with others, and trying to get as many people to President Kabila himself is critical here. But time is short, but that is -- I think those two aspects are needed.

Mr. MCGOVERN. Yeah.

Mr. Bauma.

Mr. BAUMA. I would like to add to what Ida and Mvemba said, that in the process of CENCO, of the priests, is maybe the last chance we have to avoid violence, things like that. But I think the principal problem in political space in Congo is the lack of trust within all of the parties. And this mistrust is -- we can see, if -- both parties, especially the government, doesn't respect any agreement they have here, opposition in the past. Even in Congolese people, we have the constitution, which is such a huge agreement with everybody and which is not respected.

So the lack of trust doesn't create a space in which people may have a talk and go to an agreement that it is sure that it will be respected. And the President Kabila has the key to bring the solution to that. It is very simple for him to say that he will not run for a third term. To say it very clearly and not just saying he will respect the constitution, while we know the interpretation of the constitution for them is very different for what the constitution say.

So President Kabila, if he says clearly he will not run for the third term, if he engage himself to respect fully the constitution, and if he create a space for dialogue in freeing all those opposition leaders who are in jail and civil society activists, it may be the first step to really give the -- show to people that he really



wants to bring a space for that dialogue.

And I think another thing is that -- and to come to that point, I think the -- such sanctions may be important to show -- to add pressure to him and people around him to know that if there is killing, if things turn worse in the end of December, there will be -- people will hold them accountable -- they will be responsible for what will happen.

And I think maybe regional leaders may be involved in this process. Although we know that the problem of Congo is the same thing that is happening in Brazzaville and in countries surrounding us. So as a Congolese citizen, I really doesn't have any confidence in regional leadership, because I know it is the same kind of leader.

Mr. LEZHNEV. I would just add that I think the CENCO mediation effort is good. They have the trust of both sides. But I think the real issue right now is that Kabila -- the government doesn't really have a reason to make any concessions right now. And so any deal that it would agree to would be a bad deal for the Congolese people.

I think the mentality right now, as the others highlighted here is that, well, we can throw some people in jail, shut down some media stations, control information, and intimidate democratic protestors by rolling out the tanks and the presidential guard.

I think that -- so, therefore, the leverage is needed to help push that process forward and really allow the government to make some concessions there.

I think the congressional resolution on Congo that was passed recently was excellent. I would really like to thank yourself and Representatives Royce, Smith, Bass, and Engel for pushing that forward. I think now we need something to help, you know, engage the administration directly and say, look, we need some steps taken now, because, otherwise, there will be no good deal at all. And, you know, if the government doesn't make any other concessions, then we need to -- we will escalate those steps.

So perhaps a meeting of a few Members with some senior officials. We understand that Ambassador Rice and the National Security Council is increasingly, you know, heading the administration's policy on Congo. So I would urge either a meeting or a call or perhaps a letter to her to move the situation forward.

Mr. MCGOVERN. And we are happy to do that. And again, I mean, in terms of some of the specifics that have been mentioned in the testimony today, work with us so we can turn something around very quickly.

And, look, I -- you know, I think we all believe that an agreement just for the sake of an agreement that doesn't do anything is not a solution. You know, we want an outcome by the 19th that is reasonable and rational and, you know, takes into consideration all sides and respects the opposition.

But also something that is believable, something that can be enforced and something that be monitored and that has consequences for those who don't keep their part of the bargain. I mean, short of that, then you don't have much of anything.

I mean, I think the goal here is to try to avoid what I think is almost

certainly will happen if there is no agreement, and that is, more repression, more violence, more civil unrest, and I think that is just, you know, a bad deal for the people, you know, who have already suffered so much.

We have talked about the crackdown on opposition. Does anyone have any idea of how many political prisoners right now are behind bars, approximately? I mean, the government tells us that they released people and all this kind of stuff, but I understand there are a lot of people that remain behind bars, and there continues to be intimidation and threats. What are we talking about?

Ms. Sawyer?

Ms. SAWYER. Well, we at Human Rights Watch, we have a list of 29 senior opposition leaders and other political prisoners who are still in detention, cases that we have documented where they were clearly arrested for participating in a peaceful political meeting or demonstration, or because of what they said, calling for the constitution to be respected. There have been dozens of other people arrested in the past few weeks. Some of them have been released, some of them are still in detention. Hundreds of people were arrested during the September 19th demonstrations. We have not been able to document all of those cases to see if, perhaps, some of them were involved in violence, but at least 29, but the actual number is probably higher.

Mr. MCGOVERN. Mr. Bauma, in your testimony you mentioned a list of 35, quote, "democracy predators" who, in your view, should be subject to citizen sanctions. What criteria do you use when you put people on that list?

Mr. BAUMA. I think the name of those people is really known and very well-documented by human rights boards, by -- in our project, by U.N. Office of Human Rights, and by so many NGOs. And we can see in Congo, we know -- there is -- those reports, there is information that we receive every day of their action, and there is also clear influence from them, clear information -- clear power that they have around President Kabila, and that the influence they can have to them.

There is also, among those people, people who are being -- how can I say it? People whose name appear in so many scandal, like Panama Papers, like Lumumba papers, the last one in Congo, and in other many reports, which show they are linked with, in mineral resources in business and clear business and in human rights violations. That is the kind of people.

Mr. MCGOVERN. Okay. Mr. Lezhnev, in your testimony, you argue for a credible interim government after December 19th. So what factors or characteristics would lend credibility to a transitional or interim government?

Mr. LEZHNEV. Well, I think that it is important to have meaningful participation by the opposition. It can't be, you know, one representative, one splinter faction. I think that there needs to be confidence build up with the Congolese people that, in fact, there will be election held by a certain day, and that has got to be in 2017, not 2018. I think also that the Congolese people are waiting on the edge of their seats to hear the announcement that Kabila will not participate in those elections. In fact, he will step down at the end of that transition.

I mean, let's not forget that there have been many different dates named. April 2018 is the latest one. If we move past December 19th with no deal, no credible deal, that could easily be pushed further and further and further. So it is really important that we get some key benchmarks together now. And I think the strategy that Special Envoy Perriello is pursuing with the benchmarks is good. I think the problem, though, is that we don't have enough -- we have a lot of bark behind them but not much bite to make them work.

Mr. MCGOVERN. Right.

Mr. Dizolele, maybe you can help me understand the mind of President Kabila. Like what is this about? I mean, is it power hungry? The access to money? I mean, what is the -- what is the -- why won't he let go? Is it just kind of the same old story that we see with others around the world who are addicted to power? You know, because part of the deal here is, you know, to do everything we can to encourage him to respect the constitution. But I am trying to understand, and if others have comments on this, too, I just think it is probably important to get on the record.

Mr. DIZOLELE. Well, Congressman, I think only Kabila knows what is in his mind. But in short, I would just say within the context I think is really -- that gives us a bit of a sense. I think there was a lot of hope in Congo in 2001 when President Kabila came to power. He was young. He didn't grow up in Congo, so there is a lot of disconnect between the history of the individual and the people in the country. But people trusted him. People were willing to take a chance on him, particularly because he was young, which is kind of the irony today, because there is a big conflict between his regime and the youth.

People saw him as a break from the old regime, from the old people who had been bickering in Kinshasa. Nobody questioned, people were not happy about the succession from father to son, but they were willing to give him a pass, including the opposition, including people like Tshisekedi, hoping that this young man would take the country to the next level, which has appeared tremendous hope.

We saw a little bit of that happen with the Sun City Accord, which would -- different various warring faction and civil society to guide us to the elections, and then people continue to hope that we will continue rising to the occasion. But that has not happened. And I think in part it has not happened in my testimony I said he had been aided and abetted by foreign powers as well.

The international community did not challenge the system enough when they start going astray. Instead, the world made excuses why the country is out of the conflict; this is better than Mobutu, give the man some slack. That became the MO of the world community, because they so much wanted him to emerge. That has not happened.

So I think we need to face that music. He has done a lot of good things. We have heard that, a couple of them, the Sun City Accord, the reunification of the country. But Congo is a big country. It is the size of eastern United States. It is not a task of one person. The Congolese are tired of cult of personality. We had that with Mobutu; we had that with others in Africa. People are just committed to moving forward in their country.

But to give another context, Fred is here. Fred is 26. That is how old he is. And a year and a half of that he spent in detention. So when Mobutu left in 1996, Fred was what -- you were 6. You were 6 years old. So now, he is a leader. He is an emerging leader, and we are still talking about where is the country going?

So I just think that the time to understand what is in the head or somebody else's head is actually well gone. It is spent. The time is to get back to the drawing board and say, this is what you committed to do. The international community babied you and really helped you to rise to the occasion. Everything, including the constitution, was customized to accommodate President Kabila at the time, because he showed a lot of potential. And so they did that.

They changed the age from 35 to 30 so he can qualify. They decide, well, the majority is going to stay. They decide in the transition, unlike what they did in Liberia, that they can run for the presidency, which was the source of the problem. Because in the transition, the warring faction should have been prevented from running in 2006. This was successful in Liberia. That is what we then have in Congo. So these free passes that accumulated over time have come home to roost. So I think we need to show enough guts and gumption and to say simply, enough is enough. You are spending a lot of money on DRC --

Mr. MCGOVERN. I know.

Mr. DIZOLELE -- millions of dollars to the U.N., to elections, to humanitarian process, and none of this stuff is working. Instead, the Congolese Government has wasted money. They had an economic boom, to the community boom. They are reducing the budget from 8 billion, which is peanuts, now going on 4.5 billion, and asking civil servants to reduce their salary by 30 percent. How much more sacrifice do you expect of the Congolese, of the Fred Baumas, of our youth who have been literally sacrificed too long, and I think that is what we actually need to understand. So that is --

Mr. MCGOVERN. I appreciate that.

Mr. DIZOLELE. Thank you.

Mr. LEZHNEV. I would like to add just a little bit to that. Let's not forget that Congo is one of the most resource rich countries in the world.

Mr. MCGOVERN. Right.

Mr. LEZHNEV. There is an estimated \$24 trillion worth of copper, cobalt, tantalum, tin, gold, diamonds, oil, you name it, in the ground in Congo. And people either within Kabila's family, senior officials, other business partners, namely Israeli businessman Dan Gertler, and others have personally profited from deals on these natural resources, most of which have been opaque and not made transparent.

One of the lessons from the study that we did over the last 15 months was that, you know, in fact, the history of Congo shows that if you don't stay in power, you will lose everything. The elites don't transfer by and large from regime to regime. And so there is an intense fear by all those individuals and businessmen who are profiting from those deals that they will lose everything. And so -- and those people would have no future in a next regime. And so I think, you know, part of the key is, number one, to enact some consequences for those individuals

to say, well, you can't just continue personally profiting from that. That is not fair to the Congolese people who should be profiting from their natural resources.

And then, number two, allow some sort of -- an exit strategy for some of those people to have personal security and some future in a next process. They just don't have confidence in the next process. So those two things, I think, are key.

Mr. MCGOVERN. Okay.

Mr. BAUMA. Maybe should I add that, even if we trusted Kabila for a very long time, and we are disappointed every time, I think in the mind-set of Congolese people, there is still that idea that if Kabila says today he will not run, people will consider him like a hero, as Perriello was saying. And maybe -- should I use this as an opportunity to send him a personal message for young people, for the youth of Congo, that they still have a chance for him to come in the story like a hero, like someone who bring hope and someone who led the country to a change. Of course, they -- maybe he didn't succeed all his two term, all his 15 years, but he can go and let the country run by someone else.

The importance is the step he made and let someone else lead the country. He still have an opportunity to get in the story like a hero. I urge Kabila to take that opportunity and to let people be proud of him.

Ms. SAWYER. I just want to add that Kabila has become accustomed to power. He has accumulated a massive amount of resources. He is surrounded by other leaders in the region who have managed to cling on by force, change their constitutions. He probably also doesn't know what his entourage, those around him, would do if he were to step down. And I think, you know, it is impossible to know exactly what is in his head, but I think fear of what would happen after is probably a factor.

His father was assassinated, Lumumba was assassinated, what will happen? You know, could he be prosecuted by the International Criminal Court, what will happen to all of his assets. I think this is probably among the factors that are -- that he is considering.

So what can we do now I think is the message that Fred just gave, show there is a way out. And that if he steps down honorably now, his security could be guaranteed, and he does have a future ahead of him. And that is -- yeah, trying to get that message across.

Mr. MCGOVERN. Well, I want to thank you all. This has been a great panel. It has been very informative for me. And we have been making notes up here, of kind of like the to-do list, like, now, in terms of follow-up.

Look, the previous panel comprised of Mr. Malinowski, Mr. Perriello, two people I have great admiration for, and I know they care deeply about trying to get this right, and I think they deserve a lot of credit for what they have done, and I think they would appreciate pressure to do even more, you know, in these next couple of weeks, and we are happy to do that.

And I think, you know, Fred, as you pointed out, I mean -- and as the previous panel pointed out, too, I mean, there is an opportunity here for everybody to come out of this winners. It is just a short window right now, but you know, if President Kabila is concerned about his, you know, long-term

security and, you know, his place in society, you know, that can be ensured now.

But if these negotiations don't provide -- with the bishops, for example, don't amount to anything, and you see an increase in violence, then you are going to end up with people calling for international investigations and accountability, and then you are down a path where there is no return, where you cannot be salvaged or you cannot be rehabilitated. I mean, this is a moment right now that the President and his advisers either need to take, or they are going to go down a very different path where they become international pariahs.

And, you know, I think for a lot of us, it seems obvious what the right path is, but, you know, it is sometimes very hard to convince people in power to think, you know, in a rational way. I think we have seen that in a lot of countries all around the world.

But in the short term, again, we want to -- you know, we are in session for the next couple of weeks, and we want to be able to continue to put pressure on the administration, send the right signals to the government about what we think is important.

And I think -- there is one other thing I just want to say for the record. I have no idea what President Trump is going to be about. I really don't. I mean, I wish I knew. I can't tell you what is in his mind. You know, I don't even want to think about it.

But, anyway -- but I will say this: You know, in many respects, you know, that is beside the point, because I do think that it is clear based on these resolutions that we have passed in Congress that there is strong bipartisan support, you know, in favor of President Kabila respecting the constitution, respecting human rights, of there to be a transitional government, if that is what we need, and to move beyond this impasse. And that is not going to change.

And we may actually pass the Global Magnitsky Act as part of the National Defense Authorization Act, which is coming up this week. I know it is going to be in the Rules Committee, which I am also on this week, so we will probably vote on it this week, and I assume it will pass the House and will pass the Senate, so that will be codified. And so that will be another vehicle for us to, you know, put pressure on people.

And the other thing too, is, look, targeted sanctions of individuals I think is a better way to go than broad sanctions that hurt a lot of people. And there are people that, you know, Mr. Lezhnev, you mentioned and others, who are doing quite well and who are utilizing U.S. banks and resources, and they need to know that there is a consequence if this thing goes bad.

And so I thank you all for being here, and I look forward to working with you in the next few days and see what we can do to up the ante here. And if not, we will come back and do another hearing next year. I hope we don't have to. I hope that we are all going to be pleased with what happens in the next few weeks.

But thank you very much. This hearing has come to an end.

Mr. DIZOLELE. Thank you.

[Whereupon, at 11:57 a.m., the Commission was adjourned.]

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## **A P P E N D I X**

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## **Tom Lantos Human Rights Commission Hearing**

### **Hearing Notice**

### **Democracy and Human Rights in the Democratic Republic of the Congo**

**November 29, 2016  
10:00 AM – 12:00 Noon  
2255 Rayburn House Office Building**

Please join the Tom Lantos Human Rights Commission for a hearing on the status of human rights and democracy in the Democratic Republic of the Congo, as the end date of President Joseph Kabila's second elected term in office approaches.

In 2002 the United States, working with African and European partners, helped facilitate a Congo peace accord that included a democratic transition and free elections under a new constitution limiting the president to two terms. In 2006 Joseph Kabila (who had assumed the presidency in 2001 upon the death of his father, President Laurent Kabila) was elected president in what was widely viewed as a free and fair election, but his 2011 re-election was not seen in the same light by respected international observers. Mr. Kabila's second term is scheduled to end on December 19<sup>th</sup>, 2016, but it appears clear that he will not step down despite an outcry from civil society and the political opposition. An African Union initiative produced an October "political agreement" that led to the appointment of a new prime minister and nominally sets elections for 2018, with Kabila continuing to rule in the interim. However, the main opposition parties boycotted the negotiations and have offered alternative proposals.

In the context of heightened political tensions, since 2015, state security forces have increasingly sought to constrain anti-government mobilization and dissent, including by violently suppressing protests, arresting youth activists, closing down critical media outlets, and expelling widely respected international researchers who have probed sensitive issues. The political impasse raises the



possibility of increased political contestation and intensified human rights abuses after December 19<sup>th</sup>.

Witnesses will describe the current situation in the Congo and discuss policy options for the U.S. government and the Congress in light of U.S. interest in the democratic stability of the country.

### **Panel I**

- **Tom Perriello**, Special Envoy for the Great Lakes Region of Africa, U.S. Department of State
- **Tom Malinowski**, Assistant Secretary, Bureau of Democracy, Human Rights and Labor, U.S. Department of State

### **Panel II**

- **Ida Sawyer**, Senior Researcher, Human Rights Watch
- **Fred Bauma**, LUCHA
- **Sasha Lezhnev**, Associate Director of Policy, Enough Project
- **Mvemba Phezo Dizolele**, Professorial Lecturer, Johns Hopkins School of Advanced International Studies

This hearing will be open to members of Congress, congressional staff, the interested public, and the media. The hearing will be livestreamed via YouTube on the Commission website, <https://humanrightscommission.house.gov/>. For any questions, please contact Kimberly Stanton (for Mr. McGovern) at 202-225-3599 or [Kimberly.Stanton@mail.house.gov](mailto:Kimberly.Stanton@mail.house.gov) or Carson Middleton (for Mr. Pitts) at [Carson.Middleton@mail.house.gov](mailto:Carson.Middleton@mail.house.gov).

Sincerely,

James P. McGovern, M.C.  
Co-Chair, TLHRC

Joseph R. Pitts, M.C.  
Co-Chair, TLHRC



## **Tom Lantos Human Rights Commission Hearing**

### **Witness Biographies**

### **Democracy and Human Rights in the Democratic Republic of the Congo**

#### **Panel I**



**Tom Perriello** is the Special Envoy for the Great Lakes Region of Africa, appointed by Secretary of State John Kerry. Mr. Perriello previously served as a Congressman from Virginia's fifth district in 2008, Special Advisor to the Prosecutor of the Special Court for Sierra Leone, a conflict analyst, and CEO of Center for American Progress Action. Outside of government, Mr. Perriello has co-founded and managed justice entrepreneurship platforms and faith-based organizations advancing human rights, poverty reduction and sustainability. He supported the peace processes in Sierra Leone and Darfur, and has also conducted field research in Egypt, Afghanistan and the Middle East.



**Tom Malinowski** was sworn in as Assistant Secretary of State for Democracy, Human Rights and Labor. Previously, he was Washington Director for Human Rights Watch, one of the world's leading independent international organizations dedicated to defending and protecting human rights. He has also served as Senior Director on the National Security Council at the White House, where he oversaw the drafting of President Clinton's foreign policy speeches and strategic communications efforts around the world. He also served as a speechwriter for Secretaries of State Warren Christopher and Madeleine Albright, and member of the Policy Planning Staff at the Department of State.

#### **Panel II**



**Ida Sawyer** is a senior researcher and advocate on the Democratic Republic of Congo. She has been based in Congo since January 2008, however, following a series of Human Rights Watch publications on political repression, Congolese authorities barred Ida from continuing to work in the country in August 2016. She is now based in Brussels. Ida has conducted research across Congo and in areas of northern Congo and neighboring countries affected by the Lord's Resistance Army. She also conducts high level advocacy with Congolese officials and international actors and outreach with local civil society groups.



**Fred Bauma** is a Congolese human rights and pro-democracy activist with the youth movement, LUCHA (Lutte pour le changement or struggle for change). For over five years now, he has worked to empower young people to be agents for change through active participation in the socio-economic and political life of their communities. In March 2015, he was arrested at the end of a conference on civic engagement of the youth. He then spent 17 months in prison without any normal judicial procedures. He was selected by the magazine [Jeune Afrique to be one of the 50 personalities who will make Africa in 2016](#), and IB TIMES called him [the most prominent activist in DRC](#). Bauma also volunteers with various nonprofit organizations.



**Sasha Lezhnev** is Associate Director of Policy at the Enough Project, where he focuses on peace, conflict, and corporate accountability issues in central Africa. He is a Governance Committee member of the Public-Private Alliance on Responsible Minerals Trade. He previously worked at Global Witness, the International Crisis Group, and the U.S. Institute of Peace on U.S. policy issues on conflict resources, extractive industries transparency, and peace processes in Africa. He was based in Uganda for 2 1/2 years as Senior Program Officer with the Northern Uganda Peace Initiative and advisor to the chief mediator of the peace process with the Lord's Resistance Army.



**Mvemba Phezo Dizolele** is a writer, foreign policy analyst, and independent journalist. He is also a lecturer in African studies at Johns Hopkins University's School of Advanced International Studies. Dizolele was a grantee of the Pulitzer Center on Crisis Reporting and covered the 2006 elections in the Democratic Republic of Congo. With the Pulitzer Center, he produced Congo's Bloody Coltan, a documentary report on the relationship between the Congo conflict and the scramble for mineral resources. He served as an election monitor with the Carter Center in Congo in 2006 and 2011. He was also embedded with UN peacekeepers in Congo.

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**Rep. Chris Smith, Member of the Tom Lantos Human Rights Commission  
Executive Committee, Statement Submitted for the Record**

**Opening Statement  
DRC Human Rights Hearing  
Tom Lantos Human Rights Commission  
Rep. Chris Smith  
November 29, 2016**

Since its independence in 1960, the nation now known as the Democratic Republic of the Congo, or DRC, has been the scene of rampant corruption, blatant political manipulation and the continual denial of human rights. The late Mobutu Sese Seko set the stage early on for what has become perennial rule and misgovernance. While he accumulated billions from stolen government assets, his people remained poor and had their human rights routinely denied.

When Laurent Kabila seized power in 1997, there briefly was hope that the long period of misrule had ended, but neither he nor his son Joseph, who assumed power in 2001 when his father was assassinated, lived up to that promise.

Despite a constitution that forbids the current President Kabila from staying in office past December 19<sup>th</sup> of this year, he has found a dubious loophole to extend his rule. According to the current constitution, Kabila's final term ends on December 19<sup>th</sup>, and elections that had been scheduled for November 19<sup>th</sup> would have selected a new president before Kabila's term expires and elect members of Parliament, whose current term also will expire this year.

According to the constitution, if no election was held on schedule and a presidential vacancy was declared, the President of the Senate would assume power for a three-month term in order to hold elections. However, on May 11<sup>th</sup>, the Constitutional Court ruled that the president would remain in office until his successor is voted in. But the Electoral Commission and the Constitutional court have agreed that the passing of the December 19<sup>th</sup> deadline requires no such declaration of a vacancy, thus Kabila will remain in office past that date. This constitutional loophole does not include Parliament, however, so President Kabila would rule with no legislative restraints.

His government already consistently prevents free elections and free expression. It prevents the effective operation of civil society. Government soldiers often abuse citizens with abandon, killing, disappearing and extorting many. DRC jails are full of those who dared to challenge Kabila's rule. Each hour, an average of 49 women and girls are raped in the DRC – many by members of the DRC's own military. Impunity for these crimes is standard practice.

Public demonstrations are prevented, as were two planned opposition demonstration in Kinshasa and Lubumbashi on November 19<sup>th</sup>. Even when demonstrations are allowed, demonstrators have been met with violent responses from government forces.

The sham national dialogue this past summer has been condemned widely in DRC and in the international community. Regardless of pressure to abide by the constitution, Kabila continues to create a bogus unity government to justify an extension of his rule until 2018. Actually, once the constitution is breached, Kabila can continue in office for as long as he can successfully delay constitutional rule from being reestablished.

Without change in the transition beyond December 19<sup>th</sup>, the long-predicted chaos in the DRC is coming soon. I introduced H. Res. 780 to condemn the manipulation and violation of DRC's constitutional order and the ongoing denial of human rights. It passed the House two weeks ago and a similar version has passed the Senate. Obama Administration officials tell us they intend to accelerate sanctions on DRC officials frustrating the democratic process, but time is quickly running out.

Additionally, my subcommittee has worked with the Catholic church, civil society, Diaspora groups and opposition political parties to encourage them to work together to create a transition plan more faithful to the DRC constitution. Such a consensus plan could then answer the question: “If not Kabila then what?”

The citizens of the DRC have long been denied their basic human rights. Frustration has been building for decades. If Congolese and the international community cannot agree on a way forward soon this nation – bordering nine neighbors – will experience a social explosion more catastrophic than previously seen.

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