

Democracy and Human Rights in the Democratic Republic of Congo

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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

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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 The commission also argues that the voter registry is out of date and requires an integral update.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 happen 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.