



The Democratic Republic of Congo at a Precipice

Ending Repression and Promoting Democratic Rule

September 18, 2016

The Democratic Republic of Congo is at a critical juncture: In the coming months, President Joseph Kabila could agree to step down at the end of his constitutionally mandated two-term limit on December 19, 2016, and allow for the organization of credible presidential elections. This could set the vast central African country on the path toward stronger democratic governance, the rule of law, and respect for human rights, marking a significant precedent for Congo and the entire region. However, should President Kabila seek to remain in power outside the clear limits of the constitution, the country risks violence, instability, and repression on a widespread scale.

Three months before the December 19 deadline, the authorities have deliberately stalled plans for the organization of elections, Kabila has repeatedly refused to declare whether he plans to step down, and those loyal to him have systematically sought to silence, repress, and intimidate the growing coalition of voices calling for credible, timely elections, and a peaceful transition of power.

The Crackdown

Since January 2015, government officials and security forces have arbitrarily arrested scores of activists and opposition leaders, some of whom were held incommunicado for weeks or months while others were put on trial on trumped-up charges. Peaceful pro-democracy youth activists were accused of plotting terrorist acts and wrongfully detained for nearly a year-and-a-half in the face of widespread public indignation, and a Congolese parliamentary report that found no evidence of their supposed wrongdoing.

Throughout the country, government officials and security forces repeatedly banned opposition demonstrations, prevented opposition leaders from moving freely, and fired teargas and live bullets on peaceful protesters. The deadliest crackdown occurred during nationwide demonstrations in January 2015 against proposed changes to the electoral law that would require a national census to be conducted before elections, potentially delaying the elections by several years. Police and the Republican Guard presidential security detail killed at least 38 people in Kinshasa and five people in the eastern city of Goma. At least five others were forcibly disappeared in Kinshasa, and dozens more wounded, including three who were shot and injured when Republican Guard soldiers fired upon Kinshasa's general hospital.

In a demonstration in Kinshasa in, September 2015, senior security and ruling party officials hired thugs to assault peaceful protesters. Armed with clubs and wooden sticks, the assailants beat the demonstrators, spreading fear and chaos throughout the crowd of several thousand. Several recruits told Human Rights Watch that they had been called to a meeting with officials at a military camp in Kinshasa the night before, paid about US\$65 each, and given instructions on how to conduct the attack.

On May 26, 2016, security forces fired teargas and live bullets as they sought to prevent demonstrations from going forward in Goma, killing at least one person and injuring at least 11 others, including four children. Opposition leaders had called for nationwide demonstrations to protest the Constitutional Court's controversial ruling, on May 11, that the president could remain in office "until the installation of the new elected president."

During some of the demonstrations over the past two years, protesters responded to the crackdown by hurling rocks at the security forces, injuring a number of police officers.

In March 2015, security forces buried more than 400 bodies in a mass grave on the outskirts of Kinshasa. Some of the bodies are believed to be of those killed by security forces during political demonstrations, and whose families were never able to organize funerals.

The government shut down media outlets close to the opposition, at least seven of which remain blocked. The signal for Radio France Internationale (RFI), the most important international news outlet in Congo, was repeatedly cut during sensitive political moments, and internet access, social media, and text message communications were blocked during and following nationwide protests in January 2015. In August 2016, the Congolese

government blocked a Human Rights Watch senior researcher, who had been based in the country for more than eight-and-a-half years, from continuing to work in Congo.

On May 4, 2016, Congo's justice minister opened what appeared to be a politically motivated investigation into one of the country's leading opposition figures, Moïse Katumbi, for alleged recruitment of mercenaries. After police fired teargas and threw rocks at demonstrators who had gathered to support Katumbi when he was called in for questioning at the prosecutor's office in the southeastern city of Lubumbashi, Katumbi was authorized to leave the country for health reasons. He was later convicted *in absentia* by a local court in Lubumbashi for forgery regarding a real estate deal and sentenced to three years in prison and a US\$1 million fine. One of the judges described in a public letter, and in an interview with Human Rights Watch, how she had been threatened by the director of the National Intelligence Agency (Agence Nationale de Renseignements, ANR), Kalev Mutond, and forced to hand down the conviction – a blatant example of the intelligence's agency interference in the justice sector.

In what the justice minister announced was an effort to ease political tensions, nine human rights activists and pro-democracy youth activists were released from prison between August 27 and September 5. They had been arrested over the past 18 months after calling for respect of the constitution or participating in peaceful protests and other activities. Many were held for weeks or months by the ANR without charge and without access to their lawyers or families, before eventually being transferred to Kinshasa's central prison and put on trial on trumped-up charges.

Their release ended their wrongful detention, but in itself did not signify a shift in government policy. The repression has not stopped, and much more needs to be done: charges against most of the released activists have not been dropped; many other political prisoners remain in detention, including about a dozen pro-democracy youth activists who were arrested in Kinshasa on September 15 and 16; protests and political meetings in Lubumbashi and Kinshasa, on August 29 and on September 1 and 16, turned violent when police fired teargas on the demonstrators and arrested dozens of protesters; and the officials who have led the brutal repression have not been held to account and remain in positions of command.

Upcoming Demonstrations

Growing numbers of Congolese appear to oppose an extension of Kabila's term beyond December 19, while the unemployed and marginalized youth in Kinshasa and other cities

could become increasingly discontented in the coming months if the country's economic crisis deepens. Opposition leaders, pro-democracy youth movements, and others have called for nationwide protests starting on September 19 – three months before the end of Kabila's mandate and when, according to the constitution, the electoral commission is due to convoke presidential elections.

Meanwhile, the security situation in eastern Congo, where dozens of armed groups are still active, remains deeply volatile. In the Beni area, armed forces have killed more than 600 civilians in a series of massacres since October 2014. There are concerns that the many armed groups in eastern Congo and youth leagues in major cities might be manipulated for political ends in the coming months.

How the situation will play out should Kabila decide not to step down is unclear. But the risk of increased violence, instability, brutal repression, and a further shrinking of political space in the coming months is very real. While the window of opportunity is closing, Human Rights Watch believes there is still time to influence the course of events and help to minimize further human rights violations.

The Way Forward

President Kabila himself has shown no indication that he will step down, and some members of his ruling coalition have spoken publicly in support of a referendum to amend the constitution.

Most electoral experts agree that it would now be nearly impossible to update the voter roll (to include Congolese youth who came of age since the last elections in 2011) and to organize presidential elections before the December 19 deadline. Many opposition and civil society leaders have called for a transitional leader, who could not be a presidential candidate, to lead the country during a short period as elections are organized, and after Kabila would step down on December 19, to help prevent further indefinite delays to elections and an extension of Kabila's presidency.

A “national dialogue” convoked by President Kabila, ostensibly to discuss the way forward, officially began on September 1, and the final agreement is due to be announced in the coming days. However, nearly all of the main opposition political parties did not participate, fearing that the dialogue was merely a ploy for Kabila to stay in power by dragging out the process.

Over the past two years, senior United States, European, and United Nations officials have repeatedly called for the organization of timely and credible presidential elections in Congo and emphasized the importance of Kabila stepping down and allowing for a peaceful transition of power in the interests of promoting democracy, human rights, and stability in Congo and throughout the volatile region.

UN Security Council Resolution 2277, adopted on March 30, 2016, to renew the mandate of the UN peacekeeping mission in Congo (MONUSCO), calls on the Congolese government and its national partners “to ensure a transparent and credible electoral process...including prioritization of those conditions necessary for the presidential and legislative elections scheduled for November 2016 in accordance with the Constitution.”

With the end of Kabila’s constitutional mandate approaching, it is more important than ever for Congo’s international partners to remain firm regarding these key principles. The US and members of the “support group” to the African Union facilitator of the national dialogue – including the European Union and UN – should immediately withhold support or endorsement of any dialogue that is not inclusive of all major political parties in Congo or any outcome that does not respect Security Council Resolution 2277 and the Congolese constitution and that does not have broad acceptance from the Congolese public.

Congo’s citizens have the right under international human rights law, and Congo’s own laws, to peacefully demonstrate and make their voices heard. With more demonstrations planned in the coming days and weeks, Congolese government officials should take urgent action to ensure that this right is respected, and that those responsible for past repression are held to account. Congo’s international partners and MONUSCO also have a crucial role to play to help protect peaceful demonstrators and show that there are consequences for repressive actions.

The EU and its member states, the US, and the UN should implement targeted sanctions, including travel bans and assets freezes, against those most responsible for the violent repression and serious human rights violations against dissident voices over the past two years. Senior Congolese officials took notice when the US announced its first targeted sanctions against Kinshasa police commissioner Gen. Céléstin Kanyama on June 23. For the sanctions to have the greatest impact, the US should expand its list and the EU and UN should implement their own sanctions. Particular attention should be given to intelligence agency director, Kalev Mutond, who appears to have been behind much of

the political repression documented by Human Rights Watch, as well as other senior government and security force officers who have ordered, commanded, supported, or executed repressive actions and other serious human rights violations.

The prosecutor of the International Criminal Court should monitor the situation in Congo, visit the country, and publish a statement reminding Congolese officials that the court has jurisdiction over Congo and is watching developments closely.

The continued crisis in Congo's small eastern neighbor, Burundi, should be a dire warning to those interested in a peaceful, stable and democratic future for Congo. Many would contend that strong international action came too late – after President Pierre Nkurunziza had already defied the Arusha Accords and run for a third term – and thus had little impact. The crisis has claimed several hundred lives since April 2015, and an estimated 290,000 Burundians have sought refuge in neighboring countries. Despite some efforts to move forward with a political dialogue and to deploy UN police forces, Burundi remains deeply unstable and embroiled in political turmoil, while many Burundians are living in fear, amidst continuing killings, abductions and torture.

Taking strong action now to address the situation in Congo could help deter further abuses, rein in security forces during upcoming demonstrations, and put further pressure on President Kabila to abide by the constitution and agree to step down at the end of his mandate and help prevent a broader crisis.

Recommendations

To Congolese government officials and security forces:

- Allow all Congolese, including civil society groups and opposition parties, to organize peaceful demonstrations and other political activities without disruption;
- Release all political prisoners and end politically motivated prosecutions of individuals for exercising their basic rights to freedom of expression, association and peaceful assembly;

- Investigate and appropriately prosecute those responsible for serious human rights violations, regardless of position or rank;
- Open all media outlets that have been arbitrarily shut down, and ensure that access to information, including independent international media outlets, social media platforms, and text message communication, is not blocked; and
- Allow Congolese and international human rights defenders to work in Congo without interference.

To the leaders of Congolese political parties:

- Do not engage in incitement to violence or hatred; condemn the use of violence by political party members and take appropriate action to end it.

To the United Nations Stabilization Mission in the Democratic Republic of Congo (MONUSCO):

- Deploy peacekeepers to the areas near political demonstrations to deter potential violence, as part of the mission's mandate to protect “civilians under threat of physical violence ... in the context of elections”;
- Ensure rapid deployment of peacekeepers to areas where political violence might break out;
- Put detailed plans in place to protect activists, human rights defenders, journalists, and politicians at risk; and
- Continue strong public and private messages denouncing political repression and other serious human rights abuses; urge the government to immediately release all political prisoners, end politically motivated prosecutions, open arbitrarily closed media outlets, ensure that the right to peaceful assembly is respected, allow Congolese and international human rights defenders to work without interference, and ensure that those responsible for serious human rights violations are appropriately held to account.

To Congo's international donors, including the EU and its member states, the US, and the UN:

- Publicly denounce ongoing political repression and serious human rights violations against those who have spoken out against or opposed attempts to extend President Kabila's presidency beyond the end of his constitutionally mandated two-term limit;
- Urge the Congolese government to immediately release all political prisoners, end politically motivated prosecutions, open arbitrarily closed media outlets, ensure that the right to peaceful assembly is respected, allow Congolese and international human rights defenders to work without interference, and ensure that those responsible for serious human rights violations are appropriately held to account;
- Implement targeted sanctions, including travel bans and assets freezes, against those most responsible for the violent repression and serious human rights violations against dissident voices committed in Congo since 2015. Particular attention should be given to senior government, intelligence, and security force officials implicated in serious human rights violations;
- Immediately withhold support or endorsement of any dialogue that is not inclusive of all major political parties in Congo, is inconsistent with UN Security Council Resolution 2277 and the Congolese constitution, or any outcome that does not have broad acceptance from the Congolese public;
- Raise concerns about human rights abuses committed by the ANR, including prolonged, arbitrary detention of activists and political opponents; call for human rights observers, including members of the UN Joint Human Rights Office (UNJHRO), to have unfettered access to all intelligence agency detention centers;
- Raise concerns about the misuse of the justice system for politically motivated purposes, and suspend assistance to the Congolese justice sector until there are concrete improvements in the independence of the judiciary;
- Use your positions as shareholders of the World Bank, International Monetary Fund, and African Development Bank to urge the institutions to provide direct

budget support to Congo only if the government adheres to the constitutional requirements on term limits and organizes timely presidential elections;

- Suspend support to security forces implicated in rights abuses in the context of political demonstrations, campaigns, or the electoral process;
- Communicate clearly to the Congolese government that the failure to abide by the Congolese Constitution in a timely manner on presidential mandates, elections, and the transfer of power will have serious consequences for bilateral and multilateral relations; and
- Work with other international partners to develop a clear and complete plan for assisting in the funding of Congolese elections, and communicate this widely, once there is a credible timetable and demonstrated political will to move forward with elections, so that lack of resources is not an obstacle to constitutionally mandated elections.

To the African Union, the Southern African Development Community, the International Conference on the Great Lakes Region, and China and other influential states:

- Encourage President Kabila to abide by the two-term limit in the constitution and allow for credible national elections and a peaceful transition of power; and
- Foster, with other international partners, a constructive dialogue in Congo that leads to a credible and fair electoral process in respect of the country's constitution and international human rights law.

To the UN Human Rights Council:

- Establish an independent mechanism, such as an independent expert or an OHCHR team of independent experts, to regularly document and report on human rights abuses in the context of political demonstrations, campaigns, or the electoral process, and with capacity for rapid response;

- Mandate enhanced interactive dialogues on Congo at the sessions of the Human Rights Council in 2017, including with relevant UN bodies and stakeholders, to expand scrutiny of the human rights situation in Congo beyond the current discussions;
- Request thematic reports by the OHCHR, including on political repression and violence in the context of political demonstrations, campaigns, or the electoral process, which would focus on areas of particular concern; and
- Hold an urgent debate during the 33rd session of the Human Rights Council, or a special session, if the situation further deteriorates.

To the prosecutor of the International Criminal Court:

- Monitor the situation in Congo, visit the country, and publish a statement reminding officials that the court has jurisdiction over Congo and is watching developments closely.