



Hearing: U.S. Policy in Central Africa: The Imperative of Good Governance

Senate Foreign Relations Committee

Testimony of Sarah Margon
Washington Director, Human Rights Watch

February 10, 2016



Chairman Corker, Ranking Member Cardin, thank you for holding this important and timely hearing. I am very pleased to have the opportunity to testify on behalf of Human Rights Watch.

Today, many countries in central Africa are undergoing political crises. Some of the tactics are different than in the past where military coups and other blatant uses of force were employed to take or maintain power. The African Union's clear policy of not recognizing governments that come to power through coups may have been crucial to the change but we are still seeing crises nonetheless.

However, we are seeing new tactics emerge. Now many leaders in the region are attempting to cling to power by revising constitutional term limits and holding elections that are so imbalanced and restricted that only an incumbent leader is likely to emerge victorious. Of course the question of term limits is one that ought to be decided by the democratic process, but all too often these legal maneuverings are accompanied by human rights abuses and brutal crackdowns on those who object.

The suppression of rights is frequently part of a cadre of ruthless tools used to destroy the rule of law, perpetuate impunity, and reverse progress on good governance – all the while creating a pretext to remain in power in perpetuity. Sometimes it is security forces employing lethal force in response to peaceful demonstrations. Sometimes it is government officials detaining activists or opposition party members without charge or on politically motivated charges. Other times governments obstruct the media and curtail civil society organizations from covering “sensitive issues” such as corruption, human rights and fiscal transparency. Often it is all of the above together – along with threats or physical assaults against those who contest an incumbent's actions.

With this in mind, I will focus my remarks today on the repressive tactics Human Rights Watch has documented in the Democratic Republic of Congo, Uganda, Rwanda and Burundi where longtime leaders are all trying to hold onto power. I will then discuss implications for US policy and provide some recommendations. I am also happy to talk about the Central African Republic and Ethiopia during the Q&A.

Democratic Republic of Congo

In the Democratic Republic of Congo, President Joseph Kabila's second term is due to end on December 19, 2016, but the government has deliberately stalled preparations for elections and Kabila's supporters have floated a variety of proposals to extend his stay in power beyond the end of his constitutionally mandated two-term limit. This political dynamic is referred to by the Congolese as "*glissement*" – or slippage – a nod to Kabila's attempt to slide into a third term – or at least extend his current one by a few more years.

When Kabila's government attempted to change the electoral law, in January 2015, to extend his term in office, there were mass protests in the country that forced him to back down. Kabila has since proposed a national dialogue to address electoral questions but the opposition sees this as a delaying tactic and so has rejected it (unless the president first provides a clear indication that he will follow the law and step down). To date, Kabila has refused to do so.

Meanwhile, as the election ambiguity has developed, we have seen the government increasingly resort to violent acts of repression, particularly against those who oppose Kabila's efforts to stay in power. Government officials have clamped down on activists and political opponents, in some cases arbitrarily arresting them without charge or on trumped up charges. Among those arbitrarily detained are Fred Bauma and Yves Makwambala, both of whom were arrested for participating in a workshop to encourage Congolese youth to peacefully and responsibly perform their civic duties. They have now been jailed for 11 months.

Security forces have responded to peaceful demonstrators with excessive force, including in January 2015, when more than 40 people were killed and dozens others wounded. Government officials have blocked free speech by shutting down media outlets, specifically targeting ones that aired messages about the protests. They also shut down text messaging services and the Internet in an attempt to stop protest leaders from communicating with each other and to block the opposition movement from building momentum. Some activists have fled the country, fearful that if they return they too will be detained on trumped up charges.

Congo is at a historic crossroads: a peaceful democratic transition could bring hope to the Congolese people that the future will bring greater respect for human rights and the rule of law. But a bleaker future is also very possible. National protests in support of the constitution and timely, credible elections are due to begin next week. That the government may take repressive measures against these protesters is cause for grave concern.

Uganda

On February 18, 2016, Ugandans will go to the polls to vote in presidential and parliamentary elections. The current president, Yoweri Museveni, has been in office for 30 years and shows no

signs of relinquishing power, thus setting the tone for what we are seeing more widely throughout central Africa. Opposition parties were illegal in Uganda until 2005, when in exchange for multi-party politics Museveni pushed through a constitutional amendment to lift term limits – with little to no regional or international criticism. Since then, he and his party have repeatedly created an uneven campaigning environment by silencing dissenting voices, using public funds unlawfully for his own campaigns, emboldening the police to act in an aggressive and partisan manner and threatening media outlets for airing opposition views. Campaigns over the past 15 years have been marred by intimidation, police brutality, obstruction of the media and arbitrary arrests. Basic rights are often and sometimes violently under siege in Uganda even outside campaign periods, but this dynamic is exacerbated during campaigns when state security forces and the ruling party ratchet up intimidation, threats and abuse.

With the 2016 election fast approaching, we have seen even more complicated and insidious repression. It is nuanced, and often (although not always) occurs outside the capital city of Kampala – where English is not the dominant language and independent actors and donor partners have less routine access. For example, one ruling party official was recorded telling constituents in Luganda – one of the country’s major languages – that if they came out to protest election results then the state would “kill their children.” Ugandan police meanwhile have recruited and trained tens of thousands of unregulated pro-government “crime preventers” and vested them with law-enforcement powers – allowing them to take the law into their own hands. Human Rights Watch has documented crime preventers carrying out partisan activities, as well as brutal assaults and extortion with no accountability.

These types of repeated and systematic threats to fundamental rights are a critical part of the ruling party’s overarching strategy to maintain its grip on power. As a result, journalists, media outlets, civil society organizations, and even ordinary Ugandan citizens must accept an eroded political space as the status quo, where the threat of state orchestrated violence – particularly against those who might contest election results – tests the willingness to support the opposition given the potential risk to one’s life.

By doubling-down on this type of pressure and tapping into the financial resources of the state, Museveni’s ruling party has consistently been able to manipulate the pre-election environment and all but guarantee an electoral victory. We expect little will be different this time around.

Rwanda

In Rwanda, President Paul Kagame would have run up against a term limit in 2017 but for his recent successful effort to amend the constitution. The proposed changes reduced presidential terms to five years while also creating a transitional seven-year term starting in 2017 thereby

resetting the clock so Kagame can run for president again in 2017 and could still hold that position in 2034 – completely in accordance with the constitution.

Kagame enjoys considerable public support across the country, particularly because of the country's remarkable progress in economic development since the 1994 genocide. But finding out Rwandans' true opinions is difficult. The ruling Rwandan Patriotic Front (RPF) has dominated all aspects of political and public life ever since the genocide and has instituted severe restrictions on freedom of speech. Independent media and civil society organizations are tightly squeezed, while several opposition party members remain in prison. Dissidents inside and outside the country have been threatened, attacked, and even murdered.

Parliamentarians did hold nationwide consultations on changes to the presidential term limits and reported that a majority of Rwandans supported them. However, the context in which they sought these views was not at all conducive to free expression. In contrast to other countries in the region, Rwandan civil society did not voice any criticism of the process or the amendments – they were simply unable or unwilling to do so – which meant that there was very limited space to have a fair and balanced discussion about such a major constitutional change.

As a result – and as you might expect – the parliament approved these amendments. A corresponding public referendum, held this past December, saw 98 percent of Rwandans support the change, and soon afterwards, President Kagame announced his intention to stand again in 2017. There are little or no signs of any opening of political space, which means that Rwanda's 2017 presidential elections, like many prior, will take place in a tightly controlled and monitored environment.

Burundi

President Pierre Nkurunziza's decision to run for a third term in office in 2015 led to widespread indignation at what many saw as an attempt to defy the spirit of the 2000 Arusha Agreement that ended the Burundian civil war. Weeks of public protests and defections from his own government and party – not to mention pressure from international and regional actors – did not change the president's mind about clinging to power. Instead, the political crisis deteriorated further as his government responded brutally to dissent and opposition, including the use of lethal force against protesters, shutting down popular media outlets, arbitrarily arresting hundreds of people, and using inflammatory language reminiscent of that which had incited violence before and during the Rwandan genocide in 1994.

Hundreds of people have been killed since April 2015, many by government security forces and the youth wing of the ruling party, known as the *Imbonerakure*, others by armed opposition groups and by unknown assailants. Killings escalated sharply in the second half of 2015, following highly

controversial elections that returned Nkurunziza to power. The United Nations found that at least 400 people had been killed since April 2015, and noted that the death toll may be considerably higher. There have been no efforts to seriously investigate reports of grave human rights violations or to hold those responsible to account. The justice system is under the control of the government and lacks independence. The few trials that have taken place have been deeply flawed. During this same period over 240,000 Burundians have fled to neighboring countries, most of whom are trying to escape the escalating repression and violence.

Although key regional and international actors have been engaging on the Burundi crisis at very senior levels for many months, the situation in Burundi continues to deteriorate at an alarming rate. Violence and repression have actually worsened as Nkurunziza and the ruling party have made clear their intention to use any means necessary to retain power. Killings are occurring daily, and an alarming new trend of enforced disappearances has emerged in recent weeks. It is becoming increasingly difficult to gain access to first-hand information in Burundi as witnesses and victims are terrified to speak for fear of retributive violence. The flow of information is further blocked by the government's closure of the four most popular private radio stations and the suspension of the activities of 10 civil society organizations. The potential for the violence to escalate further remains extremely high.

Implications for US policy

The US has an important role to play in improving governance in central Africa, not only because of decades of bilateral support – both financial and diplomatic – but also because of commitments from this administration, as well as previous ones, to support institutions over individuals and help strengthen the rule of law. Speaking at the African Union headquarters last summer, President Obama noted that “our efforts to ensure our shared security must be matched by a commitment to improve governance. Those things are connected. Good governance is one of the best weapons against terrorism and instability.”¹ In the same speech he also noted that “Africa’s democratic progress is also at risk when leaders refuse to step aside when their terms end.”

The US has been strongly engaged on Burundi since the constitutional crisis began but the need for such intense shuttle diplomacy these last 10 months clearly demonstrates that previous efforts to support good governance and the rule of law were insufficient. There has long been significant US engagement in Congo, particularly over the last decade, but the time has come to scale it up significantly: what is needed is a steadfast and coordinated approach that combines both carrots and sticks, and sets a very clear timeline. There is still a chance to ensure Congo does not follow

1. Remarks by President Obama to the People of Africa, African Union Headquarters, July 28, 2015.
<https://www.whitehouse.gov/the-press-office/2015/07/28/remarks-president-obama-people-africa>

Burundi's violent and abusive deterioration due to a leader unwilling to give up power but time is of the essence. The US role is pivotal.

US policy towards both Uganda and Rwanda has a notable and unfortunate deficit when it comes to support for human rights and the rule of law. Part of this myopic approach has occurred because of both countries' role as key regional players and a misguided belief that criticizing domestic circumstances in each could result in negative consequences for the region. There has also been a reluctance to criticize Rwanda's domestic human rights record because of its impressive development performance. This has changed somewhat over the last few years, particularly with regard to Rwanda's unhelpful regional role, but needs to extend more thoroughly to address Rwanda's troublesome domestic human rights record as well. Little has been said about Uganda – which is perhaps the most difficult and intractable situation when it comes to good governance. And with the election just over a week away, time is incredibly short.

Here are a few recommendations to help shore up US policy in the region.

- **Make better use of public statements.** The public expression of concern can be a very powerful – and an often underestimated – instrument of change, especially when it is combined with voices from other countries. I note that this is an important tool not just for the administration but also for you here in the Senate, and particularly for members of the Senate Foreign Relations Committee. Statements can be made in response to disturbing developments – such as increasing attacks or threats on media and civil society, or excessive use of force by state security forces. These statements can and should also be used preventively – to encourage restraint in a potentially volatile situation, like we might see in the aftermath of Uganda's upcoming election or around the protests expected in Congo in the weeks to come. These statements could even warn of potential sanctions for those, including state officials, who perpetrate election violence, as Secretary Kerry did prior to the 2015 elections in Nigeria. Human Rights Watch hears repeatedly from local groups that these statements are important not just to press the government in question, but also because they let local civil society groups, opposition leaders, and even other regional governments know the US is monitoring a situation closely and will respond accordingly.
- **Impose targeted sanctions.** Implementing targeted sanctions before a crisis fully emerges could make a notable difference in preventing further repression. Targeted sanctions are a useful tool to show the possibility of real, individual consequences for repressive acts, particularly when imposed in tandem with the European Union and/or the United Nations. The administration has imposed sanctions against high-level officials in Burundi for human rights violations and should use existing executive orders to impose similar ones on key Congolese offenders who have used the stalled election process as a justification to commitment abuse. Senior officials in the Ugandan government, particularly those who have been responsible for police brutality should

also face restrictions on their ability to travel abroad. Senator Cardin's Global Magnitsky bill, which awaits passage in the House, would make targeted punitive measures even easier to implement down the road. This bill should be passed by Congress and signed by the President as soon as possible.

- **Support civil society more consistently.** Although President Obama launched a civil society initiative in 2013, there has been an inconsistent approach to implementation, which is reinforced by a paucity of funds for democracy and governance nongovernmental organizations (NGOs) across the continent. This is particularly relevant for Rwanda, which lacks a truly independent civil society. But it is equally important in countries like Uganda, where the government is attempting to hamper the activities of NGOs through legislation that contains broad and vaguely worded language. In both cases the erosion of civil society space can be partially countered by ensuring strong US support for independent local organizations, helping to protect human rights defenders, and consistently raising concerns about shrinking civil society space. Congress can make a particularly valuable contribution here by ensuring there is adequate funding for democracy and governance initiatives and that it is allocated smartly. The absence of funds does not necessarily mean the US isn't engaging on some of these issues, but it does signal the absence of a strategic approach to support voices in difficult environments.
- **Be cautious on security assistance.** It is no secret that governance priorities often take a back seat to regional security initiatives, which are generally focused on short-term, operational needs. To make these packages more effective at building sustainable institutions they should be designed and implemented with governance and human rights concerns in mind. As the administration continues to request significant funding for security assistance across the continent, Congress should proceed with great caution, particularly when it comes to providing assistance to regimes with a record of disregard for basic rights and an absence of justice. Security and stability will not come from supporting security forces alone but from helping to create the space – political and otherwise – for the next generation of political leaders and civil society activists to develop. If the current state of affairs in central Africa is any indication, increasingly entrenched leaders are using their security forces not to protect but to prey on, harass and threaten ordinary citizens. Furthermore, the near total absence of meaningful accountability when instances of abuse occur is so widespread that expanding security cooperation may end up contributing to more abuses and greater instability – not less.

Thank you and I'm happy to take your questions.