

Calendar No. 436

115TH CONGRESS
2D SESSION

S. RES. 386

Urging the Government of the Democratic Republic of the Congo to fulfill its agreement to hold credible elections, comply with constitutional limits on presidential terms, and fulfill its constitutional mandate for a democratic transition of power by taking concrete and measurable steps towards holding elections not later than December 2018 as outlined in the existing election calendar, and allowing for freedom of expression and association.

IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2018

Mr. FLAKE (for himself, Mr. BOOKER, Mr. COONS, Mr. MERKLEY, Mrs. FEINSTEIN, Mr. ISAKSON, Mr. CARDIN, and Mr. MENENDEZ) submitted the following resolution; which was referred to the Committee on Foreign Relations

MAY 24, 2018

Reported by Mr. CORKER, with an amendment and an amendment to the preamble

[Strike out all after the resolving clause and insert the part printed in italic]

[Strike the preamble and insert the part printed in italic]

RESOLUTION

Urging the Government of the Democratic Republic of the Congo to fulfill its agreement to hold credible elections, comply with constitutional limits on presidential terms, and fulfill its constitutional mandate for a democratic transition of power by taking concrete and measurable

steps towards holding elections not later than December 2018 as outlined in the existing election calendar, and allowing for freedom of expression and association.

Whereas the United States people have a strong relationship with the people of the Democratic Republic of the Congo (DRC) and a strong commitment to the principles of democracy and adherence to the rule of law;

Whereas, in 2006, the Government of the DRC adopted a new constitution that limited the President to two consecutive five-year terms, which for President Joseph Kabila expired on December 19, 2016;

Whereas President Kabila swore to uphold the constitution of the DRC as part of his oath of office;

Whereas the constitutionally required elections have not yet taken place;

Whereas citizens of the Democratic Republic of Congo have repeatedly demanded that their constitutional right to elect a new President after two terms be upheld and that President Kabila must therefore step down;

Whereas, on December 31, 2016, the National Episcopal Conference of Congolese Bishops mediated a political agreement between the ruling coalition and main opposition parties under which President Kabila is prohibited from running for a third term, constitutional changes which would extend the President's time in office are prohibited, and elections were to be held before the end of 2017;

Whereas, on March 31, 2017, the United Nations Security Council adopted Resolution 2348, which called for a "swift implementation" of the December 2016 political agreement, including "peaceful, credible, inclusive and

timely elections no later than December 2017, leading to a peaceful transition of power”;

Whereas, on June 21, 2017, the United National Security Council adopted Resolution 2360, which stressed “the importance of the DRC and its national partners taking all necessary steps to accelerate preparations for the elections without further delays”;

Whereas, on November 5, 2017, the Congolese electoral commission released a calendar that would delay elections until at least December 23, 2018, while noting numerous “constraints” that could impact respect of this calendar;

Whereas the failure to hold constitutionally required elections has increased political uncertainty, violence, and instability inside the DRC, and the United Nations Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator said that amid the political stalemate, “conflict is rapidly spreading across the country and in appalling ways, even in a country blighted by violence and insecurity for decades”;

Whereas political space in the DRC continues to be heavily restricted, as evidenced by arrests and detention of members of the political opposition, democratic activists, and journalists, and by restrictions on fundamental freedoms such as speech and assembly; and

Whereas opposition have been targeted, arrested, harassed, and violently attacked by security forces: Now, therefore, be it

Whereas the people of the United States have a strong relationship with the people of the Democratic Republic of the Congo (DRC) and a strong commitment to the principles of democracy and adherence to the rule of law;

Whereas, in 2006, the Government of the DRC adopted a new constitution that limited the President to two consecutive five-year terms, which for President Joseph Kabila expired on December 19, 2016;

Whereas President Kabila swore to uphold the constitution of the DRC as part of his oath of office;

Whereas the constitutionally required elections have not yet taken place;

Whereas citizens of the DRC have repeatedly demanded that their constitutional right to elect a new President after two terms be upheld and that President Kabila must therefore step down;

Whereas, on December 31, 2016, the National Episcopal Conference of Congolese Bishops mediated a political agreement between the ruling coalition and main opposition parties under which President Kabila is prohibited from running for a third term, constitutional changes which would extend the President's time in office are prohibited, and elections were to be held before the end of 2017;

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Whereas, on November 5, 2017, the Congolese electoral commission released a calendar that would delay elections until at least December 23, 2018, while noting numerous “constraints” that could impact respect of this calendar;

Whereas the failure to hold constitutionally required elections has increased political uncertainty, violence, and instability inside the DRC, and the United Nations Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator said that amid the political stalemate, “conflict is rapidly spreading across the country and in appalling ways, even in a country blighted by violence and insecurity for decades”;

Whereas, despite contributions in billions of dollars in development, peacekeeping, humanitarian, and diplomatic support from the United States and the international community over the past two decades, persistent insecurity has plagued the DRC and a perpetual humanitarian crisis is devolving rapidly further as a result of President Kabila’s continued effort to maintain the presidency;

Whereas the natural wealth of the DRC is monopolized by a narrow few and enabled by endemic corruption, regional proxy conflict, and poor governance, which together have promoted insecurity and resulted in rates of internal displacement, disease, and mortality approaching the highest in the world;

Whereas political space in the DRC continues to be heavily restricted, as evidenced by arrests and detention of members of the political opposition, democratic activists, and journalists, and by restrictions on fundamental freedoms such as speech and assembly, and Congolese state security forces have repeatedly responded to peaceful protestors with violence including assaults on Catholic communities;

Whereas American Michael Sharp and Swede Zaida Catalán, members of the United Nations Group of Experts, were assassinated in 2017 while investigating reports of atrocities by state security forces in the Kasai region, and there has been little effort made by the Government of the DRC to cooperate with any independent investigation into these murders; and

Whereas members of the opposition have been targeted, arrested, harassed, and violently attacked by security forces: Now, therefore, be it

1 *Resolved, That the Senate—*

2 ~~(1) expresses concern that the Government of~~
3 ~~the Democratic Republic of the Congo failed to hold~~
4 ~~elections in 2016 as required by the Constitution~~
5 ~~and later failed to fulfill its political commitment to~~
6 ~~hold elections in 2017;~~

7 ~~(2) expresses concern that the growing security,~~
8 ~~humanitarian, and human rights crisis in the DRC~~
9 ~~is exacerbated by the lack of a duly elected leader-~~
10 ~~ship;~~

11 ~~(3) recognizes that impunity and lack of effec-~~
12 ~~tive rule of law undermine democracy, and that the~~
13 ~~arrest and detention of civil society activists and the~~
14 ~~harassment of political opponents close political~~
15 ~~space and repress peaceful dissent;~~

1 (4) calls on the Government of the DRC to
2 complete concrete steps towards holding elections;
3 including—

4 (A) issuance of district-level voter registra-
5 tion figures;

6 (B) completion of any legislation to enable
7 redistricting;

8 (C) fulfillment of the constitutionally re-
9 quired step of “calling the electorate”;

10 (D) publication of the final list of presi-
11 dential and parliamentary candidates; and

12 (E) holding presidential, parliamentary,
13 and provincial elections by December 23, 2018;

14 (5) calls on the opposition to take all steps pos-
15 sible within the DRC to support and promote imme-
16 diate free, fair, and inclusive elections; and

17 (6) urges the President of the United States, in
18 close coordination with regional and international
19 partners, to—

20 (A) use appropriate means to provide ap-
21 propriate electoral assistance to support the or-
22 ganization of credible elections as soon as pos-
23 sible; and

24 (B) use appropriate means to deter further
25 electoral calendar slippage and abuses against

the Congolese people, including consideration of targeted sanctions against high-level DRC officials, including close associates of President Kabila responsible for further delay or impediment to elections or otherwise maintaining President Kabila's rule beyond the constitution's two-term limit should any of the election benchmarks fail to be met.

That the Senate—

(1) expresses concern that the Government of the Democratic Republic of the Congo failed to hold elections in 2016 as required by its Constitution and later failed to fulfill its political commitment to hold elections in 2017;

(2) expresses concern that the growing security, humanitarian, and human rights crisis in the DRC is exacerbated by the lack of a duly elected leadership;

(3) recognizes that impunity and the lack of effective rule of law undermine democracy, and that the arrest and detention of civil society activists and the harassment of political opponents close political space and repress peaceful dissent;

(4) calls on the Government of the Democratic Republic of the Congo to complete concrete steps towards holding elections, including—

1 (A) issuance of district-level voter registra-
2 tion data;

3 (B) completion of legislation to enable redis-
4 tricting;

5 (C) fulfillment of the constitutionally re-
6 quired step of “calling the electorate”;

7 (D) publication of the final list of presi-
8 dential and parliamentary candidates; and

9 (E) holding presidential, parliamentary,
10 and provincial elections by December 23, 2018;

11 (5) calls on the opposition to take all steps pos-
12 sible within the DRC to support and promote imme-
13 diate free, fair, and inclusive elections;

14 (6) welcomes United States Government sanc-
15 tions targeting several senior security officials and
16 other individuals responsible for human rights abuses,
17 impeding democracy, and gross corruption in the
18 DRC;

19 (7) encourages the careful vetting of all planned
20 United States assistance to Congolese state security
21 forces to ensure that its impact and importance to
22 United States national security objectives outweigh
23 the potential damage to United States interests that
24 might result in working with the state security serv-
25 ices of the DRC;

1 (8) notes the importance of continued unity
2 among the international community that untested,
3 un-piloted technology, such as electronic voting ma-
4 chines, given their high cost, risk of failure, and po-
5 tential for manipulation, should not be used if a cred-
6 ible election process is intended to benefit all Congo-
7 lese citizens;

8 (9) calls on the Government of the Democratic
9 Republic of the Congo to cooperate with United
10 States, Swedish, and United Nations officials to en-
11 able a credible and independent investigation of the
12 killing of Michael Sharp and Zaida Catalán, and to
13 identify and bring to justice those responsible for their
14 murder;

15 (10) calls on the Government of the Democratic
16 Republic of the Congo to end political arrests and free
17 political detainees, including youth activists, in sup-
18 port of a credible and inclusive electoral environment;
19 and

20 (11) urges the President of the United States, in
21 close coordination with regional and other inter-
22 national partners, to use appropriate means—

23 (A) to provide appropriate electoral assist-
24 ance to support the organization of credible elec-
25 tions in the DRC by December 23, 2018; and

1 *(B) to deter further electoral calendar slip-*
2 *page and abuses against the people of Congo, in-*
3 *cluding through the consideration of targeted*
4 *sanctions against high-level DRC officials, in-*
5 *cluding close associates of President Joseph*
6 *Kabila responsible for further delay of or im-*
7 *pediment to elections or otherwise maintaining*
8 *President Kabila's rule beyond the constitution's*
9 *two-term limit.*

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preamble