

114TH CONGRESS
2D SESSION

S. RES. 479

Urging the Government of the Democratic Republic of the Congo to comply with constitutional limits on presidential terms and fulfill its constitutional mandate for a democratic transition of power in 2016.

IN THE SENATE OF THE UNITED STATES

MAY 26, 2016

Mr. MARKEY (for himself, Mr. DURBIN, and Mr. MURPHY) submitted the following resolution; which was referred to the Committee on Foreign Relations

RESOLUTION

Urging the Government of the Democratic Republic of the Congo to comply with constitutional limits on presidential terms and fulfill its constitutional mandate for a democratic transition of power in 2016.

Whereas the United States and the Democratic Republic of the Congo (“DRC”) have a history of partnership grounded in economic investment and mutual interests in security and stability, and marked by efforts to address the protracted humanitarian crisis facing the country;

Whereas in 2006, DRC adopted a new constitution with a provision limiting the President to 2 consecutive terms;

Whereas in 2006, Joseph Kabila was elected President in what was widely viewed as a free and fair election;

Whereas many respected international observers concluded that President Kabila's reelection in 2011 was deeply flawed;

Whereas President Kabila's second term and constitutional mandate to serve as President of DRC ends on December 19, 2016;

Whereas, for the past 2 years, President Kabila has used administrative and technical means to try to delay the presidential election, including—

(1) by trying unsuccessfully to persuade the Parliament of DRC—

(A) to change the Constitution of DRC to allow him to run for a third term; and

(B) to pass a law requiring a multiyear census in advance of the presidential election, which was widely seen as an attempt to delay elections to allow President Kabila to remain in power;

(2) by failing to pass timely election laws or release authorized election funding to the Independent National Elections Commission;

(3) by declaring that it will take the Government of DRC between 16 and 18 months to revise the voter rolls; and

(4) by enforcing nondemocratic and nonparticipatory restrictions that limit the ability of the political opposition to participate in the political process and the role of civil society in DRC;

Whereas mass popular demonstrations convinced President Kabila to drop efforts to pass a law requiring a census in January 2015, but not before security forces had killed at least 36 protesters and jailed hundreds more;

Whereas Congolese security and intelligence officials have arrested, harassed, and detained peaceful activists, members of civil society, political leaders, and others who oppose President Kabila's effort to unconstitutionally remain in power after the expiration of his current term;

Whereas President Obama spoke with President Kabila on March 15, 2015, and "emphasized the importance of timely, credible, and peaceful elections that respect the Constitution of DRC and protect the rights of all DRC citizens";

Whereas observers view President Kabila's renewed call for a National Dialogue as another attempt to delay the elections and distract from the constitutional requirement for a democratic succession of the presidency later this year;

Whereas international and domestic human rights groups have consistently reported on the worsening of the human rights situation in DRC, including—

- (1) the use of excessive force by security forces against peaceful demonstrators; and
- (2) an increase in politically motivated trials;

Whereas the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo has registered more than 312 human rights violations committed by officials of the Government of DRC between January 2015 and January 2016, most of which targeted political opponents, civil society, and journalists;

Whereas the Government of DRC issued an arrest warrant for what appear to be politically motivated charges against a leading opposition figure the week after he declared his intent to run for President, and other political activists remain in jail;

Whereas, on March 30, 2016, the United Nations Security Council unanimously adopted Resolution 2277, which—

(1) expresses deep concern with—

(A) “the delays in the preparation of the presidential elections” in DRC; and

(B) “increased restrictions of the political space in the DRC”; and

(2) calls for ensuring “the successful and timely holding of elections, in particular presidential and legislative elections on November 2016, in accordance with the Constitution”; and

Whereas President Kabila’s refusal to publicly affirm that he will step down when his constitutional mandate expires has caused growing political tension, unrest, and violence across DRC: Now, therefore, be it

1 *Resolved*, That the Senate—

2 (1) condemns—

3 (A) actions by the Government of DRC to
4 subvert the Constitution of DRC and under-
5 mine democracy, including the arrest and de-
6 tention of civil society activists (such as Fred
7 Bauma and Yves Makwambala), the harass-
8 ment of political opponents, and its efforts to
9 close political space and punish peaceful dis-
10 sent;

11 (B) the failure of the Government of DRC
12 to take timely necessary measures to organize
13 free and fair national elections; and

1 (C) violations of human rights and inter-
2 national humanitarian law committed by secu-
3 rity forces of the Government of DRC;

4 (2) reaffirms its support for democracy and
5 good-governance in sub-Saharan Africa that are free
6 from political repression and abuses of human
7 rights;

8 (3) calls on President Kabila's government—

9 (A) to publicly and unequivocally commit
10 to complete a peaceful transfer of presidential
11 power upon the expiration of his mandate on
12 December 19, 2016; and

13 (B) to adhere to the Constitution of DRC
14 and relinquish power at the end of his term on
15 December 19, 2016;

16 (4) calls on the President of the United
17 States—

18 (A) in coordination with regional and
19 international partners and the United Nations,
20 to impose targeted sanctions on those officials
21 of the Government of DRC who are responsible
22 for violence and human rights violations and
23 undermining the democratic processes or insti-
24 tutions in DRC, including visa bans and asset
25 freezes under Executive Order 13671 (79 Fed.

1 Reg. 39947), based on actions that “undermine
2 democratic processes or institutions,” or that
3 “threaten the peace, security, or stability” of
4 DRC; and

5 (B) to consider lifting the sanctions de-
6 scribed in subparagraph (A) when the President
7 determines that—

8 (i) President Kabila—

9 (I) has publicly and unequivocally
10 stated that he will complete a peaceful
11 transfer of presidential power upon
12 the expiration of his mandate on De-
13 cember 19, 2016;

14 (II) has made verified progress
15 toward organizing and holding timely
16 free and fair national elections in ac-
17 cordance with the Constitution of
18 DRC; and

19 (III) is respecting human and po-
20 litical rights for the opposition and
21 civil society; or

22 (ii) a free and fair presidential elec-
23 tion has been held in DRC, in accordance
24 with the Constitution of DRC, and a new

1 President has been sworn into office in
2 DRC;

3 (5) calls on the Secretary of State, the Sec-
4 retary of Defense, and the Administrator of the
5 United States Agency for International Development
6 to review all United States assistance to DRC, in-
7 cluding security and economic assistance, to ensure
8 that such assistance is not being used to support
9 President Kabila's efforts to remain in power; and

10 (6) calls on the Secretary of State and the Ad-
11 ministrators of the United States Agency for Inter-
12 national Development—

13 (A) to continue providing financial and
14 technical assistance to support the organizing of
15 free, fair, and peaceful national elections, and
16 support the inclusion and civic education of
17 youth, women, and rural populations; and

18 (B) to ensure the continuance of United
19 States assistance that is delivered through na-
20 tional and international nongovernmental orga-
21 nizations, particularly assistance in support of
22 improved democracy and governance and hu-
23 manitarian needs.

○