

113TH CONGRESS
1ST SESSION

S. RES. 90

Congratulating the people of Kenya on their commitment to peaceful elections, as demonstrated on March 4, 2013, and calling on Kenyans to come together to continue to implement political, institutional, and accountability reforms envisioned in the Kenyan constitution.

IN THE SENATE OF THE UNITED STATES

MARCH 22, 2013

Mr. COONS (for himself, Mr. CARDIN, Mr. FLAKE, and Ms. MIKULSKI) submitted the following resolution; which was referred to the Committee on Foreign Relations

APRIL 17, 2013

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

APRIL 22, 2013

Considered, amended, and agreed to with an amended preamble and an amendment to the title

RESOLUTION

Congratulating the people of Kenya on their commitment to peaceful elections, as demonstrated on March 4, 2013, and calling on Kenyans to come together to continue to implement political, institutional, and accountability reforms envisioned in the Kenyan constitution.

Whereas the Governments of the United States and Kenya have long shared a strong bilateral partnership, and Kenya plays a critically important role as a cornerstone

of stability in East Africa and as a valued ally of the United States;

Whereas Kenya's disputed 2007 presidential election threatened the country's stability and its democratic trajectory, triggering an explosion of violence that resulted in the deaths of some 1,140 civilians and displaced nearly 600,000, some of whom have still not returned home;

Whereas a mediation effort by former United Nations Secretary-General Kofi Annan and an African Union Panel of Eminent African Personalities, supported by the United States, led to the signing of the National Accord on February 28, 2008, which led to a series of constitutional, electoral, and institutional reforms to address underlying causes of the crisis;

Whereas as part of that reform process, the citizens of Kenya participated in a national referendum in August 2010, approving a new constitution that mandated significant institutional and structural changes to the government;

Whereas those constitutional changes have led to important reforms in the judicial sector and the electoral system in Kenya that aim to build greater public confidence in government institutions, and which demonstrate meaningful progress;

Whereas Kenya's Independent Commission of Inquiry into the Post-Election Violence (the "Waki Commission") concluded from its investigation in 2008 that there had been "no serious effort by any government" to punish perpetrators of previous incidents of ethnic and political violence, leading to a culture of impunity that contributed to the crisis that followed the 2007 elections, and, since then, despite laudable judicial reforms, few perpetrators

or organizers of that violence have been held accountable for their crimes in Kenyan courts;

Whereas based on the findings of the Waki Commission, mediator Kofi Annan submitted a list of key suspects to the Office of the Prosecutor of the International Criminal Court (ICC) in 2009, and several have been subsequently charged at the ICC with crimes against humanity;

Whereas the Department of State's 2011 Human Rights Report on Kenya notes, "Widespread impunity at all levels of government continued to be a serious problem. The government took only limited action against security forces suspected of unlawful killings, and impunity in cases of corruption was common. Although the government took action in some cases to prosecute officials who committed abuses, impunity . . . was pervasive";

Whereas President Barack Obama's Strategy on Sub-Saharan Africa, released in June 2012, states that the United States will not stand by while actors ". . . manipulate the fairness and integrity of democratic processes, and we will stand in steady partnership with those who are committed to the principles of equality, justice and the rule of law";

Whereas, in a February 2013 message to the people of Kenya, President Obama highlighted the power Kenyan communities have to reject intimidation and violence surrounding the upcoming election, resolve disputes in the courts as opposed to the streets, and "move forward towards prosperity and opportunity that unleashes the extraordinary talents of your people";

Whereas five years after Kenya's post-election crisis, the country held its first general elections under the new constitution on March 4, 2013, which were largely peaceful;

Whereas Kenya's presidential candidates and their political parties committed themselves to a peaceful electoral process, and to resolving any resulting disputes through the judicial process;

Whereas the Kenyan Supreme Court ruled on March 30, 2013, that Uhuru Kenyatta was validly elected, and his opponents pledged to respect and honor the decision of the Court;

Whereas the White House issued a statement on March 30, 2013, stating, "The electoral process and the peaceful adjudication of disputes in the Kenyan legal system are testaments to the progress Kenya has made in strengthening its democratic institutions, and the desire of the Kenyan people to move their country forward. Now is the time for Kenyans to come together to fully implement the political, institutional, and accountability reforms envisioned in the Kenyan constitution. . . . We welcome and wish to underscore the importance of Kenya's commitment to uphold its international obligations, including those with respect to international justice."; and

Whereas in his inauguration speech on April 9, 2013, President Kenyatta said, "I will lead all Kenyans – those who voted for me – and those who voted for our competitors – towards a national prosperity that is firmly rooted in a rich and abiding peace in which unity can ultimately be realized. . . . Indeed, national unity will only be possible if we deal decisively with some of the issues that continue to hinder our progress. Achieving peace and strengthening unity will be the goal of my Government. This work

begins now. We welcome all Kenyans to hold us to account.”: Now, therefore, be it

1 *Resolved*, That the Senate—

2 (1) congratulates the people of Kenya on their
3 commitment to peaceful elections, as demonstrated
4 on March 4, 2013;

5 (2) calls on Kenyans to come together to fully
6 implement political, institutional, and accountability
7 reforms envisioned in the Kenyan constitution;

8 (3) calls on the people of Kenya to continue
9 their efforts to end intimidation, impunity, and vio-
10 lence;

11 (4) notes that many of the underlying griev-
12 ances that have underpinned ethnic divisions and
13 fueled the 2007–2008 violence remain largely
14 unaddressed;

15 (5) affirms that accountability for the 2007–
16 2008 post-election violence is a critical element to
17 ensure Kenya’s democracy, peace, and long-term sta-
18 bility;

19 (6) calls on the Government of Kenya to respect
20 commitments to seek justice for the victims of polit-
21 ical violence, including by honoring its obligations
22 under the Rome Statute to cooperate fully with the
23 International Criminal Court with regard to the

1 three cases that remain before the Court slated to
2 go to trial in 2013;

3 (7) calls on the Government of Kenya to ensure
4 the International Criminal Court witnesses are fully
5 protected and not subject to interference but af-
6 farded the protections they deserve to ensure justice
7 is served;

8 (8) recognizes that, while the Government of
9 Kenya has made important progress since the 2007
10 election, aspects of the Kenyan reform agenda speci-
11 fied in the National Accord and 2010 constitution
12 remain unfinished, particularly with regard to police
13 reform, devolution, land reform, and security;

14 (9) encourages the people and Government of
15 Kenya to support ongoing implementation of con-
16 stitutional reforms, rule of law, the establishment of
17 county level government and efforts to strengthen
18 governance, security, and judicial institutions that
19 respect the dignity and rights of all the people of
20 Kenya and ensure protection for judges;

21 (10) supports the devolution process in order to
22 enable constitutional reform to be fully implemented;

23 (11) encourages the Government of Kenya to
24 respect and protect the freedom of civil society orga-

1 nizations and activists which have historically led the
2 process of political reform in Kenya;

3 (12) expresses hope that newly elected members
4 of government will herald a new generation of re-
5 sponsible leadership in Kenya; and

6 (13) reaffirms that the people of the United
7 States will continue to stand with the people of
8 Kenya in support of democracy, partnership, and
9 peace.

○