

110TH CONGRESS
2^D SESSION

S. RES. 431

Calling for a peaceful resolution to the current electoral crisis in Kenya.

IN THE SENATE OF THE UNITED STATES

JANUARY 25, 2008

Mr. FEINGOLD (for himself, Mr. SUNUNU, Mr. CARDIN, Mr. KERRY, Mr. BROWN, Mr. DODD, Mr. KENNEDY, Mr. MENENDEZ, Mr. DURBIN, Mrs. BOXER, Mr. BIDEN, Mrs. CLINTON, Mr. OBAMA, Mr. HARKIN, Mr. COLEMAN, Mr. HAGEL, Mr. BROWNBACK, and Ms. SNOWE) submitted the following resolution; which was referred to the Committee on Foreign Relations

RESOLUTION

Calling for a peaceful resolution to the current electoral crisis in Kenya.

Whereas on December 27, 2007, Kenyan citizens went peacefully to the polls to elect a new parliament and a new President and signaled their commitment to democracy by turning out in large numbers, and in some instances waiting in long lines to vote;

Whereas election observers reported serious irregularities and a lack of transparency that, combined with the implausibility of the margin of victory, and the swearing in of the Party of National Unity presidential candidate Mwai Kibaki with undue haste, all serve to undermine the credibility of the presidential election results;

Whereas the Government of Kenya imposed a ban on live media broadcasts that day, and shortly after the election results were announced, in contravention of Kenyan law, the Government also announced a blanket ban on public assembly and gave police the authority to use lethal force;

Whereas subsequent to declaring Mr. Kibaki the winner, the head of the Election Commission of Kenya (ECK) stated that he did not know who won the presidential election;

Whereas in the aftermath of the election announcement, significant violence began and continues to flare;

Whereas on January 1, 2008, 4 commissioners on the ECK issued a statement which called for a judicial review and tallying of the vote;

Whereas the head of the European Union Election Observation Mission stated that “[l]ack of transparency, as well as a number of verified irregularities . . . cast doubt on the accuracy of the results of the presidential election as announced by the ECK” and called for an international audit of the results;

Whereas the Attorney General of Kenya has called for an independent investigation of the tallying of votes and for the votes to be retallied;

Whereas observers from the East African Community have called for an investigation into irregularities during the tallying process and for those responsible for such irregularities to be held accountable;

Whereas some estimates indicate that at least 700 people have died and as many as 250,000 have been displaced as a result of this violence, which continues;

Whereas the economic cost to Kenya of the violence and civil unrest in the wake of the disputed polls is estimated at \$1,000,000,000;

Whereas the Assistant Secretary of State for African Affairs traveled to Nairobi in an attempt to mediate between the 2 leading presidential candidates and has stated that “serious flaws in the vote tallying process damaged the credibility of the process” and that the United States should not “conduct business as usual” in Kenya; and

Whereas Kenya has been a valuable strategic, political, diplomatic, and economic partner to those in the subregion, region, and to the United States and has been 1 of the major recipients of United States foreign assistance in sub-Saharan Africa for decades: Now, therefore, be it

1 *Resolved*, That the Senate—

2 (1) commends the Kenyan people for their com-
3 mitment to democracy and respect for the demo-
4 cratic process, as evidenced by the high voter turn-
5 out and peaceful voting on election day;

6 (2) strongly condemns the violence in Kenya;

7 (3) urges all politicians and political parties to
8 immediately desist from the reactivation, support,
9 and use of militia organizations that are ethnic-
10 based or otherwise constituted;

11 (4) calls on the 2 leading presidential can-
12 didates to—

13 (A) engage in an internationally brokered
14 dialogue, which results in a new political dis-

1 pensation that is supported by Kenyan civil so-
2 ciety; and

3 (B) respect the will of the Kenyan people;

4 (5) simultaneously—

5 (A) supports a call for electoral justice in
6 Kenya, including a thorough and credible inde-
7 pendent audit of election results with the possi-
8 bility, depending on what is discovered, of a re-
9 count or retallying of votes, or a rerun of the
10 presidential elections within a specified time pe-
11 riod; and

12 (B) encourages any political settlement to
13 take into account these recommendations;

14 (6) calls on Kenyan security forces to refrain
15 from use of excessive force and respect the human
16 rights of Kenyan citizens;

17 (7) calls for those who are found guilty of com-
18 mitting human rights violations to be held account-
19 able for their actions;

20 (8) calls for an immediate end to the restric-
21 tions on the media, and on the rights of peaceful as-
22 sembly and association;

23 (9) condemns threats to civil society leaders and
24 human rights activists who are working towards a

1 peaceful, just, and equitable political solution to the
2 current electoral crisis;

3 (10) holds all political actors in Kenya respon-
4 sible for the safety and security of civil society lead-
5 ers and human rights advocates;

6 (11) calls on the international community,
7 United Nations aid organizations, and all neigh-
8 boring countries to provide assistance to Kenyan ref-
9 ugees who have fled in search of greater security;

10 (12) encourages others in the international
11 community to work together and use all diplomatic
12 means at their disposal to persuade relevant political
13 actors to commit to a peaceful resolution to the cur-
14 rent crisis; and

15 (13) urges the President of the United States
16 to—

17 (A) support diplomatic efforts to facilitate
18 a dialogue between leaders of the Party of Na-
19 tional Unity, the Orange Democratic Movement,
20 and other relevant actors;

21 (B) consider the imposition of personal
22 sanctions, including a travel ban and asset
23 freeze on leaders in the Party of National
24 Unity, the Orange Democratic Movement, and
25 other relevant actors who refuse to engage in

1 meaningful dialogue to end the current crisis;
2 and

3 (C) conduct a review of current United
4 States aid to Kenya for the purpose of restrict-
5 ing all nonessential assistance to Kenya, unless
6 all parties are able to establish a peaceful, polit-
7 ical resolution to the current crisis, which is
8 credible with the Kenyan people.

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