

AMENDMENT NO. _____ Calendar No. _____

Purpose: To amend the preamble.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. Res. 90

Standing with the people of Kenya following their national and local elections on March 4, 2013, and urging a peaceful and credible resolution of electoral disputes in the courts.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. COONS

Viz:

1 Strike the preamble and insert the following:

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