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**POST-ELECTION KENYA:  
SHOULD IT BE SUSPENDED  
FROM THE COMMONWEALTH?**

by  
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Kenya should be flattered, rather than insulted, by the amount of international attention it has received from the African Union, the European Union, the United States, other African Leaders and the indefatigable Archbishop Desmond Tutu. If the crisis in the Democratic Republic of the Congo had received half the attention Kenya has got since the election, two million Congolese lives might have been saved. If the Congo has been the most internationally neglected African crisis of this 21<sup>st</sup> century, the Kenya crisis since the last week of December 2007 has been the most responded to internationally.

One of the major reasons is that until the last week of December 2007 Kenya had been one of the beacons of hope in sub-Saharan Africa. In 2002 a political party which had been in power since independence in 1963 was thrown out of office by the electorate. Mwai Kibaki peacefully became the new President of Kenya, in alliance with Raila Odinga.

Although interparty relations in Kenya deteriorated, the Kibaki regime created a more open society. The Press became much freer, both printed and electronic, in spite of periodic harassment by the police. Preventive detention of political opponents became more and more rare, though Muslims were targeted more often. The government encouraged an annual accountability of performance in human rights, including the equivalent of National Ombudsman in Kenya. The Kibaki regime attempted to deal with judicial corruption by sacking certain judges. President Kibaki vetoed parliamentary legislation which would have forced reporters and journalists to disclose their sources for stories about corruption. This particular veto by President Kibaki put Kenya ahead of the

United States in the protection of the sources of journalists and reporters. In the United States in 2007 a high profile New York Times reporter went to prison for refusing to disclose her sources. All the evidence before the December elections indicated that the legacy of Mwai Kibaki as President would be a celebration of a more open society in Kenya.

And then came the elections of December 2007. The parliamentary part of the elections would have vindicated a Kibaki legacy of “the open society.” One powerful Kenyan after another was voted out of his or her parliamentary seat. Half of the members of Kibaki’s cabinet were angrily thrown out of power by the electorate. The stage was set for a probable electoral defeat of the Kibaki regime.

Kenya seemed to be on the verge of a great democratic milestone – the defeat of an incumbent president and his gracious acceptance of the verdict of the electorate. The defeat of an incumbent president had previously happened in Zambia, Malawi, Senegal, Mauritius and elsewhere. A version of it had also happened in Ghana when Jerry Rawling’s party was electorally defeated.

But the tables were turned on the Kenya presidential elections in circumstances which cast doubt on the fairness of the outcome. None of the external observers were prepared to confirm President Mwai Kibaki as a fairly and democratically elected president. There were no open congratulations from even the White House and No 10 Downing Street. There was a serious risk that the Kibaki legacy would change from the architect of “the Open Society in Kenya” to the architect of “the Broken State”.

A major reason of the international concern was to avert the prospect of Kenya becoming another failed state in a region which already had too many failed states

(Somalia, Rwanda, Congo-Kinshasa, Burundi, and the semi-flawed States of Ethiopia, Uganda and Sudan). In the past Kenya was the asylum state for the refugees from Uganda, Somalia, Ethiopia and elsewhere. The Kenya elections of December 2007 has reversed the flow of refugees. There are now thousands of Kenya refugees in Uganda, instead of the other way around.

While international statesmen have come to Nairobi to try to persuade the two sides to compromise, none of the international actors came with the threat of real sanctions if the two sides did not seek reconciliation. If there is to be an ultimatum to Kenyans to end the crisis or be ostracized, the ultimatum has to be specific and unequivocal.

The African Union talks loosely about “PEER REVIEW”. Should the African Union suspend Kenya’s membership if there is no effort to solve the stalemate? The African Union has tried to deny legitimacy to a government produced by a military coup. Is there such a thing as a civilian coup? If the Kenyan presidency was stolen, should Kenya lose its seat at the meetings of the African Union until the problem is resolved? The African Union has often been more an apologist for Robert Mugabe than a correction officer. But the Commonwealth has been reedier to reprimand and ostracize Zimbabwe.

Pakistan has been suspended from the Commonwealth more than once before!! Its Commonwealth Status was at stake when President Musharraf suspended the Pakistani Constitution even recently in 2007. Pakistan’s membership in the Commonwealth was at stake much earlier in the clash with East Pakistan (today’s Bangladesh).

Are the Luo of Kenya in 2008 the equivalent of the Bengalis of East Pakistan in the early 1970s? The Luos are far less separatist in orientation in 2008 than the Bengalis were in the early 1970s. But the Luo are now leaning towards federalism (majimbo) in Kenya.

If Kenya does not want to be suspended from either the African Union, the Commonwealth, or lose friendship with the wider Western World, we need to engage these alienated groups into a new global order of democratization. Our reputation internationally is tarnished. Our stability at home has been seriously compromised.