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Transcript

Kenya Ahead of the Elections

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Dr Gabrielle Lynch

The situation in Kenya is currently unpredictable. The general election could be relatively free and fair, and violence is not inevitable.

However, it is dangerous to be complacent and there are a number of scenarios in which the credibility of the election could be brought into question and in which significant violence could occur.

In terms of the presidential race, if the situation stays the same there will likely be a run-off between Raila Odinga of the Coalition for Reform and Democracy (CORD) and Uhuru Kenyatta of the Jubilee Alliance.

A recent Ipsos Synovate poll found that – when respondents who said that they would not vote for any party are discounted – 46 per cent of the electorate would vote for CORD and 43 per cent for the Jubilee Alliance. This is within the poll's margin of error of +/- 2.5 per cent.

In addition, many in the Kikuyu community are expected to support the Jubilee Alliance, and the Kikuyu have registered to vote in relatively high numbers. People in Central Province represent 15.3 per cent of registered voters despite comprising just 11.4 per cent of the population.

There is a rule for the first round of voting, which states that presidential candidates must secure at least 25 per cent of the vote in over half of the counties. CORD (according to recent opinion polls) seems capable of meeting this rule, while Jubilee may have difficulties. In the second round, this rule does not seem to apply.

As a result, the presidential election in 2013 is – as in 2007 – too close to call. This is despite recent claims by a number of politicians that they are set to win the election in the first round.

The fact that both CORD and Jubilee can cite reasons to suggest that they are 'going to win', together with problems during party nominations, a tight electoral timetable, low levels of civic education, and relaxation of a number of new electoral rules and procedures – could lead people to dispute the final results whichever way it goes.

This could act as a catalyst for violence. Although Kenyans are praying for the best, some seem to be preparing for the worst. This is reflected in reports of an increase in gun ownership in parts of the Rift Valley and of the mass purchase of machetes in Kibera. Gangs also remain a reality in many areas, and there are reports of village defence units being formed in some places.

Unfortunately, reports suggest that the Independent Electoral and Boundaries Commission (IEBC) is yet to effectively start planning for a run-off, while many ordinary citizens report that they have not considered the implications of a second round despite the fact that many will have to decide whether to travel once again to vote.

Recent party primaries have been widely condemned as shambolic. No party emerged from the process with its credibility or reputation improved, and primary ballots were badly organized. There were allegations of intimidation, bribery and outright rigging, and there were a number of violent incidents although all on a relatively small scale.

Party primaries were followed by a spate of defections, and all of the main parties will have to overcome internal tensions. Official party candidates will have to face off against popular local leaders aligned to the same national coalition but standing on the ticket of a minor party (some of whom publicly advertised the price of buying a party nomination on their ticket).

Parties in the CORD alliance recorded the highest number of defections, with Western, Nyanza and Coast Provinces most affected.

The Orange Democratic Movement (ODM) was also severely embarrassed by popular anger over reported attempts to impose members of Prime Minister Raila Odinga's family as candidates. This anger led to violent scenes in Luo parts of Nyanza Province.

Very few women were nominated during the party primaries, and there have been reports of intimidation and violence against female aspirants in many parts of the country.

Political campaigns are gradually picking up. Hate speech and incitement is less of a problem than in 2007, but unfortunately occurrences do seem to be increasing in some areas. At the moment, this appears to be a particular problem among members of county assemblies and parliamentary aspirants in some local areas.

Other general campaign messages may prove ethnically divisive, even if they do not constitute hate speech or incitement.

This includes Prime Minister Raila Odinga's calls for the marking of 50 years of Kenya's independence (known as 'the Jubilee') to mean that all those who have stolen land and public funds should return their ill-gotten spoils. A further example is the Jubilee Alliance's presentation of the intervention of the International Criminal Court as the work of Raila Odinga and his alleged 'Western allies'.

Such campaign messages could heighten anti-Kikuyu and Kalenjin feelings among CORD supporters and anti-Luo feelings among Jubilee Alliance supporters respectively.

This should be considered alongside the reality of more local-level threats in some areas. For example, in parts of the Rift Valley there are reports of threats being made in public spaces and the use of coded language, metaphors and stereotypes against some parts of the Kisii and Luo communities. Members of these communities are the most worried about the possibility of violence.

However, for most people this fear seems to stem largely from the fact that previous elections have been marked by violence, and from the way that alliances are shaping up rather than from direct threats or intimidation.

Nevertheless, as a result of these fears many Luo continue to move their belongings and families to Nyanza Province. Some plan to move to other areas for the election.

Many Kisii fear that they may be attacked because their support is seen to be divided between ODM and the Jubilee Alliance. They often feel particularly vulnerable because of their residence in the interior areas of large settlement farms.

In terms of Kalenjin-Kikuyu relations, the Jubilee Alliance is currently holding. However, tense relations in many areas will be further challenged in places where candidates from the National Alliance (TNA) party and the United Republican party (URP) are vying against each other in the Rift Valley, such as in Kuresoi North and Rongai.

This will test the Jubilee Alliance, and will place heavy strain on national leaders. They must ensure that local competition does not damage the coalition and the peaceful relations between Kalenjin and Kikuyu communities which leaders have promised.

Beyond the campaigns, a legal challenge of the integrity of Raila Odinga, Vice President Kalonzo Musyoka and Deputy Prime Minister Musalia Mudavadi has been thrown out of court on technical grounds. However, a similar challenge which seeks to prevent Jubilee Alliance leaders Uhuru Kenyatta and William Ruto from contesting in the elections will now be heard in early February. This puts the electoral timetable under considerable strain, but could also raise tensions within the country especially in the Rift Valley, in Central Province and in parts of Nairobi.

There are also other reasons for concern, including the slow pace of security reforms, and tensions that could arise in Western Province following the exit of Mudavadi and Justice Minister Eugene Wamalwa from the Jubilee Alliance.

Mudavadi and the Amani Coalition reportedly command about 40 per cent of the Luhya vote with the majority of Luhya still supporting CORD. This division could lead to tension between CORD and Amani supporters in the area.

There is also the possibility of tension and violence between Luhya and their Kalenjin neighbours in Mount Elgon and the Rift Valley. The situation in Mount Elgon is further complicated as the area's current MP, Fred Kapondi, is vying on a URP ticket against the independent candidate and former MP John Serut. Both politicians have allegedly used violence in the past, and there have been reports that Sabaot Land Defence Force (SLDF), a Mount Elgon militia, is regrouping with factions allied to both Kapondi and Serut

To conclude, I would reiterate that violence is not inevitable but the threat remains and needs to be taken seriously.

Dr Nic Cheeseaman

I am going to talk specifically about the electoral commission. Much of the blame for the failed election in 2007 was placed on the electoral commission. This is especially true of the Kriegler and Waki report, which states that the Electoral Commission of Kenya (ECK) got it wrong. Many of us at the time thought that was an oversimplification of events, but it did lead to the complete reformation of the ECK which has been reincarnated as the Independent Elections and Boundary Commission (IEBC).

The IEBC is under new leadership but there are many things currently happening which could potentially lead to violence. The question of whether or not there will be violence depends on the attitudes of political leaders, the capacity of people to exercise restraint and the ability of the electoral commission to deliver credible elections that people can agree on.

The electoral commission has a critical role to play, as this is going to be one of the most difficult elections to manage in Kenyan history. Not only will there be the usual logistical problems and issues of organizing voting and counting ballots, but – because of the new constitution – Kenyans will be casting six ballots, including for county representatives, governors and senators.

This creates a number of problems. For example, it will take twice as long for someone to vote, and twice as long for the votes to be counted. How the electoral commission will be able to manage the process has not necessarily been thought through.

Based on my observations, I think that there is genuine will at the top of the electoral commission to deliver a free and fair election. Nobody within that organization benefits from an election that is not credible, or an election that might trigger violence. But it is important to not be complacent as there is still potential cause for concern.

What are the reasons we have to believe that the elections will go smoothly, and how is the IEBC's capacity an improvement on the electoral commission of Kenya in 2007?

The referendum was by and large seen as credible, and most people agreed that the result accurately reflected the wishes of the Kenyan people. The electoral commission was largely seen as effective. It even tried new mechanisms, such as allowing polling stations to text in voting numbers.

The introduction of a biometric mechanism for voter registration has increased confidence among voters. Despite the fact that much of the procurement process was problematic, Kenyans on the ground seem to have gained more confidence as a result of the use of biometric techniques and

therefore the list of registered voters is likely to be the cleanest Kenya has ever had. There has been a real gain both in electoral confidence and in the electoral register.

Together, these two factors have created high confidence in the IEBC. Support for the IEBC is between 80 and 90 per cent, depending on which party you support. That is incredibly high, and so there are high levels of public confidence right now.

A new method that will be used in this election is that polling station clerks will be asked to text in the numbers of votes at their station. These numbers will go online through an automated system and will then, provided they add up, be posted as a provisional result. This removes some of the capacity for tampering, as there will be no human mediation before numbers go online. The forms on the mobile phones used to test in will be automated, meaning that voting figures cannot add up to more than 100 per cent.

The final new introduction is the parallel vote tabulation (PVT), which will involve certain donors and civil society groups. Like recent PVTs in places like Ghana and Zambia, these will hopefully provide an alternative credible account of the result which can be checked against the final result given by the electoral commission itself.

Why might we think that there are also reasons to be really concerned?

There are reportedly internal tensions within the IEBC. Much of this is rumour and conjecture, as very little is actually known. In Kenya, it is frequently alleged that there are partisan divisions within the IEBC, yet there is no concrete evidence of this. In some ways, the lack of evidence does not matter. The public perception of partisan divisions within the IEBC may be more important than the reality of them. What is true is that, like many commissions and organizations in Kenya, the IEBC was set up to mirror the power-sharing deal in government. Many believe that there is tension between the CEO and the chair of the IEBC, and that the two individuals align to different political parties. Irrespective of whether this is true, it is a general public perception and therefore does matter.

Effectively, the IEBC abdicated responsibility for managing the party primary process. We know there were some abuses, including vote buying and cases of candidate abduction, and yet there have been very few cases brought against political parties by the registrar parties or by the IEBC. There is a real concern that a culture of impunity exists around the party primaries which may be carried over into the general elections.

The timetable is a real worry. Effectively the IEBC is now in a position where it cannot follow its own internal rules in terms of the gaps that should exist between different parts of the process and deliver an election on 4 March. Given the pressure on the IEBC, it is likely that instead of the election date being moved from 4 March, corners will increasingly be cut in order to deliver on time. One thing to keep in mind here is that 70 million ballot papers are being printed six times for each different race. That is an incredibly complex process as from the presidential down to the local polls, each of the candidates are different.

The other major issue is voter education. Voter education has been worryingly slow to get going. Eighty per cent of Kenyans think that they will vote electronically, but this is not the case. Voting in this election will be by paper ballot – the same as in the last election. It is only the registration process that is electronic, not the vote itself. This raises a real problem. If many Kenyans have trust and faith in the IEBC because of the technology and the process of biometric registration, and think they will be voting electronically, when they get to the polling station and are presented with paper ballots this could impact on confidence in the IEBC itself on polling day.

The faith in technology is important, but it is also slightly misplaced. Technology never removes human beings completely from the process. Someone needs to push buttons at some point and therefore someone can get into the system. One important point here is that in the referendum, although some results were texted in, 25 per cent of polling stations did not text in. This was because they did not have phone signal, or did not have the capability to do it. This means that there are a good number of polling stations which may be susceptible to similar behaviour as took place in 2007, and evade the new systems that have been put in place. Similarly, electronic poll booths which are supposed to be used to check if people have registered properly and stop multiple voting have not yet actually been procured. They have also not been tested in Kenya in the specific form that the IEBC wants to buy them.

So, my overall point here is that there are many reasons to be positive, but there are also a number of reasons to be negative. I think that this can be turned round, but it requires urgent action. If not then we could be in a situation where many Kenyans are very disappointed by the voting experience in March 2013.

Dr Justin Willis

My presentation will focus on Coast Province.

Last October, much attention on the Coast Province was focused on the Mombasa Republican Council (MRC) and the issue of oppression in the region. It has to be said that over the last couple of months, the MRC has been much less of an issue than I think many people had anticipated a few months ago.

In retrospect, this is not very surprising. The MRC was and is an incoherent organization. While it had many sympathizers, these tended to be divided along religious and ethnic lines, and so it is not very surprising that the MRC is proving to be less of a coherent organizational force than one might have expected. While registration figures in the Coast were lower than the IEBC had hoped, and in some counties this reflected the result of the MRC's call for a boycott, it is important to remember that historically registration and participation rates in the Coast have been low anyway. So this does not represent much of a change from previous voting patterns. It is also important to note that in terms of primaries and participation in the campaigns, the last few weeks have suggested that there is no real evidence of continued calls for a boycott by some people who claim to represent the MRC having an effect in deterring popular participation in the more public manifestations of electoral activity.

The Coast is now seen as a potential 'vote-bag' by the two main contending coalitions. The opinion polls have informed both the main coalitions that the Coast is one of two areas in the country where there are substantial numbers of undecided voters. Voters in the Coast may be crucial in deciding whether there is a first round victory, and even more so in deciding the second round poll.

Each of the coalitions comes to the polls with distinct advantages and disadvantages in terms of the coastal vote. From the Jubilee Alliance's point of view, the mutinous murmurs which prompted much sympathy for the MRC at the Coast probably represent a significant disadvantage. Many of those murmurs represent fears over allegations of land-grabbing. I should emphasize that people are consistently unable to produce evidence of this but, fairly or not, the Kenyatta name is historically associated with accusations of land-grabbing, and one result of this is that it is easy for some people to associate Uhuru Kenyatta with some sort of representation of historic injustices. I emphasize that I have not seen clear evidence of this, but in popular discussion on the ground this is one way in which Jubilee Alliance is

characterised – certainly presenting a potential vote disadvantage for the Jubilee Alliance at the Coast.

On the other hand, it is also important to note that the demographics of the Coast have change significantly in the last decade. There are now many Kenyans living along the coast whose grandparents were born elsewhere in Kenya. There is anecdotal evidence that these groups have been more likely to register, and are more likely to be mobilized as voters in the Coast Province than other communities. In some places, the advantage this would give to Jubilee would be significant. So Jubilee has advantages and disadvantages at the coast.

CORD also comes into the vote at the Coast with advantages and disadvantages. In 2007 it was clear that Raila took the majority of the popular vote at the Coast. One might think that Raila's association with the new constitution, which offers some measure of a kind devolution (which one might expect to be popular at the Coast given the nature of popular disaffection there), would advantage him in the popular vote at the Coast. On the other hand, popular trust in both Raila and the possibilities of the new constitution is not especially high at the Coast, and CORD is also undoubtedly disadvantaged by rivalries within its coalition. This is especially apparent in the southern Coast, where in particular the influence and role of Hassan Joho, the charismatic and powerful figure who is head of ODM in Mombasa, has led to some divisions in ODM locally. This is due to allegations of cronyism against Joho, and also of persistent and entirely unsubstantiated rumours about the nature of his wealth.

These divisions within the CORD Alliance on the southern Coast, means that CORD is going into the election nominally committed to a single presidential candidate, but with multiple competing candidates at every other level within all of the three southern counties of the Coast Province. This is unlikely to help in the mobilization of the presidential vote for CORD at the Coast, and will certainly be a disadvantage.

The coastal contests are therefore likely to be fierce, and also a little unpredictable and not entirely running along coalition lines. There is plenty of intra-coalition rivalry, especially within CORD, and also to some smaller degree within Jubilee.

For the Jubilee Alliance, it is important to get a good number of votes at the Coast, particularly in Kilifi and Kwale counties, to make sure that the Alliance clears the 25 per cent minimum necessary to help them to a first round victory. On the other hand, CORD will be looking to maximize its voter turnout, and if possible to keep the Jubilee vote below 25 per cent in as many

coastal counties as possible. This would maximize CORD's chances of a first round victory and minimize those of a Jubilee victory.

Because of the nature of popular disaffection in the Coast, and in particular because of the longstanding tensions over land, it is regrettably likely that there will be mobilization along ethnic lines in this vote. People will attempt to instrumentalize the rumours and tensions over land-grabbing and possession of land affecting many parts of the Coast, especially around Mombasa. This is very likely to lead to localized outbreaks of violence. I think these will probably remain localized and relatively small, but they will be problematic for those involved.

There is of course a possibility that the violence will become more widespread. I would go back to what Dr Cheeseman has said about the possibility of knock-on effects from the process of the election itself. That is, if there are difficulties on election day and in the tallying of votes; if people are confused and do not know what is going on; if there are difficulties in the process which suggest malpractice – even if none has actually taken place – then it is likely that people will react badly to whatever results are announced because there will be strong tensions and a lot of stakes will be high over these results so the likelihood of accusations of malpractice over these results will be there; any difficulties in process will lead to popular suspicions and a heightening of those tensions. So that is something we have to watch very carefully particularly because of this ability to mobilise along tensions over land and ethnicity are very much there at the Coast regrettably.

The MRC, while incoherent, lurks in the background as a possible means to at least provide a cover or to provide a possible way to instrumentalize popular feeling for anyone who for any reason does want to create violence or for any reason wants to try and disrupt the vote either in advance or in the immediate aftermath of the election itself. It would not be very difficult given recent events for people to get together, either groups or gangs of individuals and make trouble with them. Again this could be done by anyone and any party and I would not like to point fingers, except to say that the possibility is clearly there and one hopes that the security services will be alive to the possibility that this may happen, and will react both effectively and proportionately in dealing with it.

Lastly I should say something about the recent violence in Tana River. I have no idea over whether this is electorally connected, but in light of what has just been said, it is important to understand that there are rumours circulating in Kenya; some people believe that this is connected to electoral manipulation. Whether or not it is, is impossible to say as far as I can see because there are

many reasons why there are tensions in Tana River. But the fact that people are so willing to believe that that is electorally driven violence is a worrying sign of how willing people are to believe in other forms of electoral malpractice, should circumstances incline them to see events as evidence of malpractice.

So the Coast is an area that we must watch very carefully there is evidence to hope that elections will pass off relatively peacefully there, but they will be tense and there is a clear possibility for tensions and violence which we must be very much aware of.

QUESTIONS AND ANSWERS

Question:

Could you elaborate on the leadership of the security sector and in particular whether it follows the power-sharing leadership that was mentioned with the electoral commission or whether it is partisan, seeing as much of the violence that occurred in 2007 was a result of that?

Question:

Could you please elaborate further on the preparedness of the security forces and the implications of the ICC trial, especially on the second round?

Question:

There has been a lot of coverage recently including by the International Crisis Group highlighting the role the media played in 2007. There was a government press release yesterday warning the international media. What is the role of the media to ensure that there are peaceful polls in Kenya?

Dr Cheeseman:

On the ICC and the trials; in one sense media is shaping the whole election. Referring to the media this week, there were newspaper reports that Kenyatta stated that a vote for him was a vote against the ICC. Although we heard talk initially about not turning this into a referendum on the ICC, it seems to be moving that way. One of the complaints we have heard against Odinga by the Jubilee supporters is that they are alleging that he was involved in supporting the ICC process. So they are trying to link him to that process and then stand and mobilise people against him.

Regarding the second round; the dates have just been released by the IEBC and it looks as though if we do not see a petition to appeal during the first round, then it leads to an election run-off that will be around the same dates as the ICC process is due to reconvene. If we get an electoral petition, the run-off will start three weeks after the ICC date. In other words CORD will effectively have three weeks of election campaigning during which Jubilee leaders will supposedly be at the ICC defending themselves.

There are many unknowns here: we do not know whether the leaders need to physically be present, or whether they can send a representative to The

Hague in order for them to remain in Kenya. The second point is whether this works against them or for them. If people are using the ICC as a way of mobilizing support, then maybe the ICC prosecutions at the beginning of the case will make it easier to rally support.

The concern is that on the one hand you get a run-off on which attentions are focused on the Odinga/Kenyatta cleavage and the stakes are high. On the other hand the ICC process has already begun: Jubilee leaders are hoping to win power, partly in order to protect themselves against the possible ICC outcome, and that sets the scene for heightened ethnic tensions moving towards the electoral run-off.

One major concern is that there does not seem to be much attention paid to what the implications of a run-off might be, either amongst the parties, the electorate or those running the electoral process.

Dr Lynch:

A few points on security sector reform. One of the important things is this issue of leadership. There have been recent appointments such as the deputy inspector general in charge of the administration of the police and a number of others. Odinga has come out to oppose these appointments. These appointments are likely to remain in place, but what it means is that we might enter into an election where one of the front runners has publicly declared his lack of faith in certain elements of the leadership of state security forces.

Another issue with the security sector is that while there have been reforms, these have been slow and there are still a number of reforms outstanding. Questions remain over the early warning and reporting mechanisms and also in the ability of the security forces to respond effectively. A lot of emphasis is placed on the role of the new District Peace Committee structure as part of the government early warning response mechanisms. However across much of the country, these DPCs are now effectively defunct.

Recent events of the past year in places like Tana River and Baragoi do raise questions about the ability to respond effectively. More importantly these feed into perceptions about the ability of the security services to monitor the local context and respond effectively. Here again perceptions are of critical importance.

Dr Willis:

On the security sector; reforms were delayed and Raila's veto suggests a certain lack of confidence. I think nationally the whole Waiganjo affair has highlighted the need for security sector reform. Irrespective of whether one goes for the conspiracy or the cock-up theory for this, it does not leave one with a sense of confidence in the overall effectiveness of security sector reform so far. Clearly there have been some effective measures: Kimaiyo's appointment can be seen as a good thing, but evidently there is widespread public concern over the pace and effectiveness of the process.

Media is an important question. On the one hand, it is important that the media act responsibly. The danger that events may be misconstrued or misreported in ways that can further set off violent events is clear. On the other hand, the media has a responsibility to report on what happens, in a realistic and clear way, and they shouldn't be frightened away. The media should try and report responsibly, but this must not be allowed to restrict their freedom at all.

Dr Lynch:

Following on from that, another thing that will be very important in this election is social media. There have been comments on reports of Raila's family members being given nomination tickets in parts of Nyanza; these allegations were spread over initially social media and this may have fed into some of the violence seen at local levels.

Dr Cheeseman:

The best functioning part of the IEBC is its Facebook site; if you want any information on the IEBC do not go to the website, go to the Facebook site.

Question:

What if Jubilee wins the run-off, and is found guilty by the ICC? Does Kenya face financial sanctions?

Question:

We have not mentioned Kibaki and his influence. Is that because you consider his impact to be negligible? What is the impact of prolonged or sustained disruption on the region?

Question:

My question is focused on the judicial reforms and constitutional dispensation. There was a different culture regarding the new constitution, because it was written to address historical injustices such as land grabs. Kenyans have confidence in the new judiciary. What is your opinion on the new constitution?

Question:

Are we overcautious about these elections? We had independence, decolonization, multi-party and we moved on. Now we have companies such as Google, Samsung and more investing billions; would we allow an election to come and go without influence of these Western companies?

Dr Willis:

Kibaki's influence is clearly not negligible, but events have shown that his influence is by no means dominant. He has an influence, but clearly he is not dominating anyone's politics at the moment.

Prolonged disruption would have a profound impact on the region. There is a great deal at stake; that is one of the reasons that one hopes that this will all go peacefully and why there is a strong reason for most people involved to make sure things do go peacefully. Prolonged disruption in Kenya would have an effect on everywhere in the region from eastern DRC, South Sudan, Somalia; there is an extraordinary range of activities which are coordinated from Kenya because of its historical role as an effective regional base for all kinds of organizations. The region as a whole is dependent on Kenya; logistically, financially and politically in a way that is true of no other regional country. This is part of the reason why this will be a high stakes election; it would harm Kenya and the region's economy as a whole if things go wrong.

Dr Lynch:

With regards to the ICC, there is debate about whether the international community would impose sanctions if we reached a position where we had a leadership who either refused to go to the ICC, or was convicted by the ICC, or whether Kenya is too important to the international community and therefore sanctions would not be introduced. I would not want to second-guess the outcome of the ICC, or the response of the international community on this. In terms of judicial reforms; there has been significant reform of the judiciary and the judiciary now enjoy some of the highest levels of public face

of any of the major institutions in Kenya. This is obviously a positive thing, especially when you consider the last election, when one of the factors that led people to go out on the street when they felt the election had been rigged, was because of a lack of faith in the judiciary. However the judiciary may face some difficult times ahead. There may be a number of electoral petitions. Things like the integrity case around Uhuru and Rutu could place them in a position where some Kenyans start to question the role of the judiciary, especially if they are seen to be interfering in politics too much.

Dr Cheeseman:

The judiciary is not a united entity, and in recent judgements, for example the advisory ruling made on hearing petitions and also on the gender rule in the constitution, which they decided to postpone until the next election – there were splits. The chief justice of the Supreme Court wrote a contrary ruling disagreeing with his colleagues. So there is also a question about the interrelation between people within the court and exactly what decision they will make at different points. This is critical, because they sign off the results. They have the right to declare the first election invalid and order a fresh election. None of us knows enough about how that body operates to know exactly how these processes will play out.

On the ICC; one of the key things to keep in mind is that the trial won't end in this parliamentary term. Whoever is elected on 4 March is not going to be found guilty, whatever else happens, that term. They have got a whole presidential term: the ICC said it will take two or three years just to present the evidence for one side. The question for the international community is not going to be what do you do with someone who's been found guilty at the ICC; it is what do you do with someone who may be on trial, but is complying. This will be difficult because the person who's complying may well say: I should be innocent until proven guilty, I am complying; on what grounds do you want to expel me. While I think it is clear that everyone would prefer not to face this issue, there is not necessarily a straight-forward answer. A lot will depend on how the election goes; if it is seen to be credible, it will be very difficult for international donors to move against those democratically elected leaders if they are participating fully in the case. If the elections are not credible, that creates another reason to be cynical and not want to engage with those leaders.

Coming back to the question about investments, there were also a lot of investments in 2005 and 2006, and we had a lot of faith among the Kikuyu middle classes and the business community around that election, saying the

most important thing was stability and we know what happened then. There has not been a significant step this time to guarantee the elections will go fine and we can't afford to be complacent.

Question:

What if Jubilee wins the run-off, and is found guilty by the ICC? Does Kenya face financial sanctions?

Question:

When we first heard of this Ruto-Kenyatta alliance, this prompted widespread astonishment given the violence in the Rift Valley in the last elections. It is one thing to be traditionally voting tribally; do you have any sense of what proportion of voters will now reject this?

Question:

Given that opinion polls in Africa have a poor record in terms of their accuracy, I wondered how much trust the panel has in these polls?

Question:

With the emerging oil and gas sector, and it is clear the government will do a lot driving reforms and policies to regulate that sector, is that increasing the stakes and expectations among voters at all?

Question:

I want to expand on the regional issues you mentioned; given the trade balance risk of negative and prolonged post election violence; are you seeing any formal delegations from the Ugandan or Tanzanian governments discussing outcomes with the relevant parties?

Dr Cheeseman:

We do not just have one opinion poll; we have many and some are more independent than other. The reason that we have some faith in the Ipsos Synovate poll is because Ipsos Synovate includes the Steadman Group who polled in 2007, who got the election results and the referendum result pretty much right. It covered all 47 counties. I share your scepticism about polls but

that one was good; the best we will get in terms of where things are going. If you look at the response of Kenyan leaders; they are now commissioning their own polls to get a sense of where they stand. That sort of calculation will drive decisions on where you may do electoral manipulation or use violence; you can use opinion polls for information.

Dr Lynch:

In terms of the Jubilee Alliance and its ability to bring together the Kikuyu and Kalenjin communities in the Rift Valley; the Alliance does seem to be holding in the Valley, and people are planning to vote for the Jubilee Alliance. In part this is due to local narratives around the troubles they face at the ICC, whereby many Kalenjin feel that the case that was put together by Ocampo and the idea of a Kalenjin network does not meet with their understanding of the post election violence of 2007 and 2008, which makes many people feel that this process has been politicized.

Among the Kikuyu community, many people think that even if Uhuru was involved in organizing and funding violence, that there was a war and that the Kikuyu were being targeted, that actually Uhuru was doing a difficult thing and helped bring the violence to an end. There is an idea that first of all Ruto's fate at the ICC is an indictment on the whole Kalenjin community and that people need to support him to show that the Kalenjin are not perpetrators, and many Kikuyu are willing to vote for because he actually defended the community.

There is also a lot of anti Raila narratives that have built up. This Alliance will be placed under strain. Going into the election, in areas where there will be candidates vying against each other; this will be diff for the Alliance at the national level. At the local level in some places, there is still high tension between members of the Kikuyu and Kalenjin communities. There is still strong ethnic stereotyping, fear and suspicion. Nevertheless, people are reporting that they will vote for the Alliance. At the moment the Alliance looks like it will hold going into the election, and it is a different question about how long the Alliance will last after the elections.

Dr Willis:

About regional politics – surely there must be some kind of discussions whether at a political level or among senior civil servants, but I know nothing about them. I would be surprised if people were not planning ahead. On oil and gas contracts; there is probably not much involvement with politics. On a

local level, there may be political discussion about who will offer to be the best advocate for local communities in dealings over oil and gas contracts. Nationally I haven't heard any real suggestion about whether people are factoring that into voting calculations.

Dr Cheeseman:

The only thing to flag would be that it may not be working at that level, but it is working at the elite level. The stakes at the election have been further increasing, so in that sense it has been factored in there, but not necessarily at the grassroots.

A final point on the region: Relations between for example Kenya and Tanzania have not always been particularly smooth and the Kenyan government may not take kindly to the intimation by the Tanzanians that they do not know how manage the elections. There is no doubt lots of diplomacy going on behind the scenes, but neither Tanzania nor Uganda would want to wade into Kenya suggesting that the Kenyan government cannot do its job, so I imagine they will be done in private.