

THE BROOKINGS INSTITUTION  
KENYA DECIDES: THE 2013 PRESIDENTIAL ELECTION

Washington, D.C.  
Wednesday, February 20, 2013

**PARTICIPANTS:**

**Moderator:**

VINCENT MAKORI  
International Broadcaster and Production Specialist  
Voice of America

**Panelists:**

JENDAYI FRAZER  
Distinguished Service Professor, Center for International Politics and Innovation  
Carnegie Mellon University

KARUTI KANYINGA  
Professor, Institute for Development Studies  
University of Nairobi

MWANGI KIMENYI  
Senior Fellow and Director, Africa Growth Initiative  
The Brookings Institution

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## P R O C E E D I N G S

MR. KIMENYI: My name is Mwangi Kimenyi. I'm a senior fellow here at Brookings, and the director of the African Growth Initiative, and I would like to welcome you to this event. And before I begin, this event is being webcast and the hashtag for those of you following us on webcast is #foresightAfrica and #Kenyadecides. #ForesightAfrica and #Kenyadecides.

On behalf of my colleagues at the Africa Growth Initiative and Brookings Institution, I'm very happy to welcome you to this event on the Kenyan elections now less than two weeks away. I'm particularly grateful to my colleagues here, the panelists who -- my good friends we have accepted to participate in this event.

And I was looking through my colleagues to introduce them, this is a very unique panel. They have one thing in common that many of you may not know; Each one of them have passed through the University of Nairobi, including the lady next to me --- at one point or another.

This election is critically important for the Kenyans and will shape the country's development trajectory. It is particularly important because this is the first election after the post-election violence of 2007, and also is one being held under a new constitution. So, this gives Kenya a great opportunity to reclaim its position as a beacon of peace and stability. It is a time for redemption, so to say. But it also has implications that go beyond the country's borders, especially in East Africa and, indeed, the entire Eastern Central Africa. In fact, we can say it has even much wider implications for the wider international community.

I'm therefore very excited that the African Growth Initiative has organized

this event and we are able to host it and we have a great panelists. We are looking forward to a lively conversation.

It is, therefore, my great pleasure to hand over to my good friend, Vincent Makori, who is the host of Africa In Focus, the Voice of America. He is a seasoned and versatile journalist with years of experience in journalism working in Africa, Europe, and the U.S. During his career he has covered a wide range of stories, including the African Union Summit in Uzakazabia, the UN General Assembly, International Trade and Technology Fair in Berlin and Hanover, Germany, the International AIDS Conference in Mexico City, and the G-20 Summit in Pittsburgh. He has interviewed high-ranking officials and presidents, among them former U.S. President George W. Bush, President Bingu wa Mutharika of Malawi, former President of Ghana, John Kufuor, President Pohamba of Namibia, Wangari Maathai, African Development Bank President Donald Kaberuka, Professor (inaudible).

So, I'll hand it over to you, Vincent. Thank you very much.

MR. MAKORI: Thank you very much. That makes me sound like I'm really old. (Laughter) Which is okay, too.

Good afternoon once again. I'm going to introduce the other distinguished panelists here. We have to my extreme right between Professor Kimenyi and Karuti Kanyinga is Jendayi Frazer. Most people know her. She is known worldwide as a policy leader and expert in African affairs. She joined the faculty at Carnegie Mellon University in 2009 as a distinguished public service professor, with joined appointments in the Department of Social and Decision Sciences and in the H. John Hans College School of Public Policy and Management. She's also director of Carnegie Mellon Center

for International Policy and Innovation --- that is CIPI --- where's she's particularly interested in utilizing technology and applying innovative solutions to core issues of development and governance in Africa.

Ms. Frazer was a special assistant to President and Senior Director for African Affairs at the National Security Council from January 2001 until her swearing in as the first woman U.S. ambassador to South Africa. That was 2009. And then, she's widely credited for designing the Bush Administration's policies for ending the war --- or rather, wars --- in Democratic Republic of Congo, Sierra Leone, and Liberia, and Brunei. She was instrumental in resolving the crisis following 2007, presidential election in Kenya. So, welcome to Ms. Jendayi Frazer.

Our other distinguished panelist is Professor Karuti Kanyinga, who is an accomplished development researcher and scholar with extensive national and international experience and exposure. He has carried out many research programs and projects at the Institute of Development Studies, University of Nairobi, for the past 20 years, where he is now an associate director. He has published extensively in development and also in Kenya, of course, and also is renowned for his contributions to scholarship and knowledge in governance and development.

Very well known, also, particularly for his extensive research and publication-run around land rights in Kenya, which is a very critical issue there. Civil society and development, ethnicity and development, and electoral politics and development. We very much welcome to Professor Kanyinga. Welcome to our panel.

So I'm going to say a few words just about this discussion today. Professor Kimenyi has already said quite a bit. We know of the elections that are

coming, just a few weeks --- less than two weeks from now. This will be the first elections since 2007. Very unique elections because while the country has made a lot of progress since the last elections, which were visited by an eruption of violence, these elections are going to be conducted under a new constitution. And also, this is going to be the first time that we have a presidential candidate and the running mate who are facing a case of the ICC, the International Criminal Court, for alleged roles in the violence that followed the 2007 elections. So, rather unique there.

There's a lot of international pressure for free elections in Kenya and countrywide, also, people are calling for peace. So it's an election that everybody is closely, closely watching.

Well, without much ado we're going to give our panelists just a few minutes to talk about our discussion today before we proceed with the questioning from the platform, and then we come to the audience later. You will have an opportunity to field questions to our panelists here.

Now I want to start with Professor Kanyinga. Give us five to seven minutes of this and so forth, what we're talking about today.

MR. KANYINGA: Yeah. We are talking about --- good afternoon, everyone. It's my pleasure to be here.

Let me begin by saying that when you look at Kenya --- and it has been repeatedly said that --- said before that Kenyans generally are looking at the same event or even processes, tend to disagree about what they are seeing at any particular time. And yet, they are looking at the same event and therefore, they end up having different discussions on what is actually happening.

If we were to look at this forthcoming election and ask ourselves what are the factors shaping that election, we shall come to one particular conclusion that's two factors of --- or perhaps, three factors shaping this election and giving it the character it is taking now. One of them is the post-election violence of 2008. That post-election violence was the result of un-concluded presidential election results. And also, the failure to date to prosecute anyone for the perpetration of that particular violence. With that particular violence we have got two of four individuals who have been taken to the International Criminal Court because Kenya itself did not establish a tribunal to investigate and find out what happened with that post-election violence.

As a result of that, we are moving to an election where nothing has been done on post-election violence. Out of 5,000 cases that were known of perpetrators --- both senior, middle, and lower perpetrators --- only 2 or 3 people have been prosecuted. About 25 people have also gone to court and had their cases dismissed because of lack of evidence, implying here that the government does not seem to have capacity to investigate and bring culprits to account for their crimes.

So, when the --- as a result of the failure to prosecute anyone for the post-election violence, the ICC intervened of course in line with what had been agreed by the commission that was formed to investigate what was happening.

The second factor that is influencing this election is the new constitution. The post-election violence itself came with fewer framework --- with a very lean framework of establishing --- coming up with a new constitution. Now, the new constitution is very unique in different ways. One, it has restructured how power is going to be used in Kenya. It has restructured the positions of political power and restructured

governments in general. It has also come with newer values and principles of governance that must guide public servants when they are conducting public business.

Now, when put together post-election violence cases and the new constitution means a lot for this particular election. A, we have new allowances that are forming. These allowances that have formed are not the traditional ethnic blocks that we have had in Kenya's history before. These allowances are unique. For the first time, we have got permanent enemies becoming partners in these allowances. For instance, Uhuru Kenyatta and William Ruto are some of the people suspected of post-election violence and they are the people protected by the International Criminal Court. During the 2008 period, they were both on different sides of the divide. They allegedly mobilized their different communities to fight each other. Now, one of them is running as president and the other as his deputy. That's unique in a sense.

On the other hand, we have got the prime minister and the vice president. They were both on different sides of the divide in 2008, during the post-election violence. And they have been fighting each other until very recently, until December they were always fighting each other and no one would have ever thought that they would ever be in any particular alliance. Now they are the best buddies together. One of them is running as the president, the other is running as the deputy.

Now the question to ask, then, is, what is the motivation for these particular alliances? And to answer that question we need to ask ourselves whether the state and its institutions in Kenya have ever been accountable. Once you get into that, you realize that these alliances are being formed as an end in itself, rather than a means to an end. We may not be thinking about these alliances as alliances that are interested

in furthering the interests of the new constitution, but A, to protect and defend the interests of our few dividers --- that is the (inaudible) alliance, for instance. William Ruto and Uhuru Kenyatta simply to counter the ICC. And on the other hand, the other alliance also being formed for personal interest for prime minister and the vice president forming an (inaudible) to improve their prospects of winning the election.

Now if we put it that way, then we consider that Kenya is actually at a very complex period in its time because even if any of the alliances were to win the election it would have its own consequences. Any alliance has got its own consequences, especially in terms of promoting reforms and good under a democratic governance.

Let me stop there.

MR. MAKORI: Thank you very much, Professor Kanyinga, for keeping your five- to seven-minute quarter. Now let's listen to Ambassador Frazer. I give you a few minutes and I'll table this topic.

MS. FRAZER: Well, thank you very much.

It's a great pleasure to be here and especially to be on a panel of fellow Kenyans. I feel very much at home. I did spend a lot of time as an undergraduate at the University of Nairobi and then on to graduate school, and even teaching there. So, Kenya is a country that is very close to my heart. It's the place I first went in Africa and was just there last week and have been there at least twice. And I'm extremely excited, frankly about these elections and the holding of these elections under new institutions and a new constitution, in particular.

And so, I was specifically asked to talk about how the 2007 elections



impact today and a perspective from the U.S. So the biggest change, I think, is in the institutions. The new constitution of 2010 that leads to devolution, so that in fact capturing the presidency is not the entire prize, as it was in the past. Rather, now you have governors and bicameral legislations at the county assemblies. And so, that power --- that the prize of the presidency in a zero-sum contest that it often provokes is going to be less, I hope, under this new constitution and with these elections.

Secondly, the judiciary has greater legitimacy and is seen as independent. And so, the rule of law and the ability in the post-election contest in which there are likely to be challenges, there's greater confidence that this judiciary will actually be able to rule on those cases whereas in 2007 with all of the election challenges there was no confidence in Kenya's judiciary, as my co-panelist has just mentioned.

And then also, the independent electoral and boundary commission. We all know that in 2007 the failure of the chairman to be able to make a determination of who actually won that election was part of leading to the 2008 violence. The IEBC is seen as more credible. We have to see how it operates under the pressure of these elections, because just like in 2007 they are very likely to be very close. The two front-runners are really polling almost equally, and so the IEBC and its ability to determine through legitimate transmission of the votes and counting of the votes will be essential.

And then fourthly, I would say that the difference between 2007 and why I feel more confident about the elections in 2013 is the consciousness both of the government around security as well as of civil society and the general population. Kenyans now do not want violence. They do not want a repeat of 2007, 2008, and in some ways the 2002 election, which went relatively well and in which there was a very

clear winner, that being President Kibaki, and a loser, that being Uhuru Kenyatta, who accepted his loss. That led to, I think, some complacency about how the 2007 election would take place.

And instead, because it was so close and the institutions essentially failed, you had the type of violence and politicians of course mobilizing that violence. Well, in 2013, no one is going to allow politicians to mobilize the violence. Or at least, there's a very strong civil society guarding against that type of mobilization, as well as the government being prepared for possible post-election violence and deploying their security officials accordingly.

So, I feel that the chances for Kenya are much better, mainly because of the public attention and the new institutions. Now from a U.S. perspective, these elections have tremendous stake. They have a tremendous stake for our interest.

We have an interest, as President Obama in his video message said to the Kenyan population, we have a stake in free, fair, and peaceful elections in Kenya. Stability of the region --- we saw in 2007 how the violence in Kenya had a direct impact on economic development in Uganda and in Rwanda and Burundi. Basically, in land-locked countries --- and it would have the same effect in South Sudan. We can't afford for Kenya to be destabilized. Obviously, Kenya has joined the fight against Al-Shabaab in Somalia, which is a key interest of the United States in counterterrorism in the Horn of Africa. So, it's a critical player.

Kenya is an economic engine of East Africa. It's our major trading partner of the five countries of East Africa. And it's the hub of all international --- many international organizations in American businesses who are operating throughout the

region.

And so, the stakes are very, very high. Not only to say that many of the social challenges that Kenya faced in 2007 remain unresolved. And so, we can't afford to have another period of post-election violence.

I will end by saying that I don't agree with my friend here on the ICC and the role of the ICC, and even the motivations of the politicians who are running the candidates. I personally believe that the candidates are running because they want to be the president and the vice president of the country. I don't think it's the narrow interest of trying to protect themselves from the ICC, and I say that because they've run before when they weren't ICC-indited. These are professional politicians in Kenya, and I don't also agree that there are somehow new alliances that are permanent. One of the characteristics of Kenya's elections is how easily candidates change parties and change alliances.

Let's take Mudavadi ran with Uhuru Kenyatta in 2002. Kalonzo Musyoka, has been said, ran with Kibaki and against Raila. Ruto ran with Raila against Uhuru. It's been a tradition in Kenya to count communities. It's ethnic counting that partly forms the alliances of who can possibly win. And so, I don't see it as a reaction to the ICC, and in fact I do think that the ICC has become a problematic factor in these next elections and is being used politically not only by candidates but also by Western countries.

And I will conclude my remarks by how troubled I am, frankly, by the statement of the assistant secretary of the State for African Affairs, Johnny Carson, essentially meddling in Kenya's elections. Kenya decides. Kenyans have the right to

determine who is going to be their president, and the United States and Western countries should not be essentially threatening Kenyans about that choice by pointing to an ICC case that's unproven.

You know, we cannot be the judge, the jury, and the executor of the candidates. And so, I'm very pleased that Kenyan institutions can very independently --- i.e. the high court --- made a decision which essentially said innocent until proven guilty. And so, the candidates can run.

And so, it seems to me very reckless and irresponsible, frankly, given that the election is very close and it's not our business anyway to decide for Kenyans --- for us to try to intervene in Kenya's election decision.

MR. MAKORI: Thank you very much, Ambassador Frazer. That makes for an interesting panel here when you have disagreements. That is exactly what creates an interesting discussion.

Professor Kimenyi, I think you said enough at the beginning. I'm now going to give you five minutes to speak.

MR. KIMENYI: Okay, very good. I think I would like to (inaudible) this debate. (Laughter) But, I would also like to probably say just (inaudible).

It looks like ICC is going to influence a lot of what happens. But we also need to not forget that beyond the presidency, we have new institutions that, as the ambassador said, are about new county governments.

To me, as we just focus on these top seats we need to really remember that the big institutions of change is where we are going to establish local governments -- - lower-level governments where we expect better service delivery. That was what is

going to matter for a lot of the Kenyans. So as these guys fight and make a lot of noise, we really need not to forget that Kenya has actually changed by these new institutional structures.

But as --- I think I would like to mention --- to say that the ICC issue --- the whole problem with ICC is that from the beginning it has been seen now as a political process rather than a judicial process. And the movement of a particular process moves from judicial to political. People don't think it's fair.

And what has happened is that the fact that communities --- which is unfortunately victimized --- they are able to come together because they see this as they are actually victims. And I have to say, like the Ambassador said, we have to trust our own institutions. We have a new constitution. We have fighting institutions that have already told these guys, okay, you pass this test, you pass this test, we are going to allow you to run. They have passed the test.

If you are following government, you should criticize the institutions but not the outcome but not the institutions. If you accept the new institution and you want to support us to move ahead you should not come and say, oh, you have this new constitution, it's rubbish, because it's producing bad results. I think it's a very bad trend in foreign policy. This should have come way before the nominations, way before, to say that this is going to happen.

So, I was with the Ambassador Carson a month ago for another discussion and I told him the same. That I thought it would have been good if this was discussed way before, but don't do it when the elections are very close because in the end, you could hurt the candidate --- the other candidate. Because what's happening is

that people are hurting the oppositions.

And Kenyans are notorious by saying --- by the path they would say, oh, you are an agent of the West? We are not going to vote for this guy. So, he is working for some agents. And that can backfire for a candidate who probably has nothing to do with it. So, we have to be very careful how we approach foreign policy at a time when the country is trying to implement a new constitution.

So I'll leave it at that.

MR. MAKORI: Thank you very much, Professor Kimenyi. Just in case I say something, let me just make it clear that I work for the Voice of America. But whatever I say here today, I'm here as an individual. And so whatever I say, I say on my own behalf. Not on behalf of the Voice of America.

Now, let's go to a few questions here. I think I'm going to start here with Professor Kanyinga. You know, as we speak today there are several people in Kenya, thousands, in fact, who have lost --- who lost loved ones in 2007, 2008. We have orphaned children. We have men who lost their wives, wives who lost their husbands, and people who lost all their family. So, 1,300 people. So, nobody up to today has been taken to task over those, even as we talk about the case of the ICC.

Now, recently people have witnessed some eruptions of violence in the Tanner Delta area. Some say it is politically-instigated, and they fear that such a kind of a scenario could actually kind of spread throughout the country during the election. The question is, what has been done since 2007 and 2008 violence to ensure that there will not be a repeat of those horrendous massacres? What has been done?

MR. KANYINGA: Thank you very, very much, Vincent. Of course I think

it began by pointing out that people in Kenya tend to disagree a lot. We have begun with a disagreement. (Laughter) That's exactly what I meant. You look at the same event and you have got different conclusions.

Let me say that from that 2008 period, a lot of course has been done. And one of the many things that has happened in Kenya is to have a new constitution that seeks to address the structural causes of the post-election violence that we had. It tries to establish an evolved system of government that everyone is talking about here. That system of government is meant to address imbalances in development so that communities can take control of their own lives.

The violence that we witnessed in Tanner River, the violence that we have witnessed in Northern Kenya --- these new forms of violence are not necessarily instigated by politicians because they begin with the question of access to local resources, which all of us know spills over now to political issues as different communities seek to control the newly developed system of government. Then, it becomes political. But it's a new form of violence in the sense that it does not have adding from the Center --- from the national politics. It is not linked to national politics as such, but it is rooted in the local dynamics and it doesn't have the potential to spread widely across the country.

Now in some counties what has been happening is that people have been negotiating. If there are several communities in counties, people are negotiating and saying, you will go for this particular position as one community, this other community will go for this particular community --- consociational democracy is taking root in some counties and making it possible for people to have a peaceful preparation

for the elections.

MR. MAKORI: Rather interesting. And just today we got to see this piece of news about the chief justice saying that he was actually threatened by men who claimed to have some allegiance to Mundiki militia group, the gang. And so that also brings to question the fact of whether we have a new constitution or not, is everybody likely to respect it?

Let me go back to Ambassador Frazer. You've been there recently, you've got a feel for the country. Would you say that people feel confident that whatever the outcome there are mechanisms in place that will ensure there will not be that kind of violence?

MS. FRAZER: Well, I think I agree with the professor. It depends on who you talk to and how you see it ---

MR. KANYINGA: For the first time.

MS. FRAZER: (Laughter) You hear some dis-ease, is what I would say. But that dis-ease creates a vigilance, you know. An ownership about ensuring that the public does what's necessary, you know, to prevent the violence.

I think that there's also a shift or at least a necessity for the politicians to at least commit to nonviolence and to accepting the outcome of the elections. There's the codes of conduct, which they've all signed up to. And so, certainly violence is, you know, possible, is likely, especially at the local level. But I do feel that the consciousness and the awareness of the communities themselves will help to arrest any type of national sweeping of violence which took place in 2008.

MR. MAKORI: Professor Kimenyi, do you have anything to add on to



that?

MR. KIMENYI: Yeah. I think the preparedness to deal with any conflict is quite different than last time. But more importantly, I think the type of violence, you know, like the traditional areas of conflict. The conflict areas like in the Rift Valley. You are not going to get any conflict.

You may get some conflict, but it will not be ethnic conflict. In fact, it will be within the same county or within the constituency, people arguing over the results of different candidates from the same area. And the way to testify to that is that during the primaries we had some violence, like in the Kisumu. And that was not ethnic violence, it was because of differences between two groups.

MR. MAKORI: Thank you. I want to come back to Ambassador Frazer. You know, you did mention that this time around the eyes of the international community are squarely on Kenya, and so it's kind of a different dynamic. Last time, the international community kind of just reacted to a situation that nobody expected, and in fact you'd feel that the international community including the U.S. probably didn't know how best to respond because nobody prepared themselves for what was unfolding at that time.

Now, tell me. You were the U.S. envoy who was sent to Kenya at that time. First, just give me a sense of what are your best moments at that time? What are your worst moments? Give us this in the background of what we know happened at that time. What the U.S.'s position was while you were on the way there.

MS. FRAZER: Sure. Well, it's hard to think back but let me try. My best moment was watching Kenyans come together, particularly as reflected in the Save our Beloved Country campaign in which all of the headlines of all of the newspapers had the

exact same words and civil society essentially said you won't do this to our country. You know? And I think that that was a turning point in the crisis. So, that would have to be the best and that's why I have confidence in the Kenyan public itself.

The worst probably was the mirror imaging of the two sides about who won. Whether one talked to Raila or one talked to Kibaki or to their lieutenants, each one felt that the other was trying to deprive them of something and had cheated, and there were no institutions that we could turn to that are national institutions to actually determine that question.

At the time, of course, President Kibaki was arguing for going to the courts, according to the constitution of Kenya at that time, which said that election disputes should be settled in the Kenyan courts. And Raila Odinga was saying those courts are already stacked by President Kibaki and his party, and therefore we don't trust our courts. And so, that was really the worst, which was trying to devise a solution through essentially political negotiation and mitigation, rather than we see in countries like Nigeria and others which have also had hot contests in which there are disputed results but they go to the courts. And so, that's the worst.

MR. MAKORI: Okay. Just if I may stay with you for a minute, now that I actually did take issue with Ambassador Carson's position. You know, people do remember that at that time the U.S. seemed to have taken sides initially and then kind of changed position. How was that challenging to you?

MS. FRAZER: I appreciate your asking the question, because it's a misperception. But it's a misperception that I've come to realize was based on a mistake within the U.S. government.

At the time, I actually blamed others but I've come to, you know, look at that record. And what happened is in the wee hours of the morning --- because remember the election was decided, I think, very late. And the American State Department, we put out a press release which said --- the written press release was that we --- you know, we --- what was the word? I think it was something to the effect that we want to commend the people of Kenya for their vote, right? For their --- because they basically voted very peacefully. The actual election was very peaceful. It was the counting and the transmission where the problem started. But the spokesperson --- not the big spokesperson. I'm not talking about the main spokesperson but the person late at night not understanding the situation in Kenya, interpreted the statement --- the written statement of commending the people as commending the election. And so essentially, came out and said what was seen as we, you know, congratulations not to the people but to the country on, you know --- which looked like congratulate President Kibaki. That was never said.

It wasn't ever said, congratulate President Kibaki. But because he put himself into office very late, he basically got himself sworn in very late. That statement of congratulations to the people was interpreted as congratulations to Kibaki. And so, it was never the case that the U.S. position was that either side had won, because we maintained throughout that we didn't know, and frankly that was for Kenyan institutions to tell us. And there was a failure of the one institution that was to arbitrate that, and that was the electoral commission.

And so, I appreciate your asking so that I can correct the record that the U.S. government took a side.

MR. MAKORI: Thank you for your response. I hope it satisfies others, too.

Let's get to Professor Kanyinga, unless you have something to add on to that. But the other question that many are asking is, this election is happening --- people are focusing on the presidential candidates or presidential election. But there are so many other levels of election. There are many other people being elected. Governors, county governors --- which is a new development --- and the new constitution. And of course, we have other civic leaders.

The question is, is it enough that one day --- is it sufficient to hold these elections smoothly, in your assessment?

MR. KANYINGA: In my assessment, I think it is very possible to hold the election --- these five elections the same day, the same booth, depending on the number of polling stations that we have in the country.

The electoral --- the IMBC has already come in public and done a lot of demonstrations, did a lot of testing of the systems to find out whether it's going to be possible. And they have found out that each person will be taking close to 10 minutes to vote, maximum number of minutes that are required.

Now, it depends also on the logistics that the IMBC has laid out in terms of laying the infrastructure for the voting in place. All said and done, I think that one can say that logistically, IMBC is likely to pull it off. But it also depends on the infrastructure in different places and how you take ballot papers to different places. Each polling station will be having close to about 450 people, and that's manageable.

MR. MAKORI: Yes. Professor Kimenyi, you have something to add on

to that particular issue?

MR. KIMENYI: No, I think we have a very different system now.

Although we keep --- we still get bad news from Kenya, the country has changed a lot, as you look at it even in terms of economic growth and the economic reforms. And the elective institutions are actually very different.

I passed through Kenya from Rwanda one day on a Sunday afternoon and it took me like five minutes to register to vote, and the stations were open. IMBC was very efficient. So, we have a lot of new changes.

I think it will be an efficient electoral process.

MR. MAKORI: Professor Kanyinga.

MR. KANYINGA: Yeah, I would say that IMBC seems to be prepared. I had better mention that we have noticed a weakness with the IMBC and their registration parties. Enforcement of the existing laws. They are becoming lax, they are not enforcing their elections act, and they are not enforcing the political parties act, and therefore some politicians may be taking it as business as usual.

If they take it as business as usual and begin undermining the law during the electoral campaigns, then that's likely to affect the organization that will be put in place.

MR. MAKORI: Yes.

MR. KANYINGA: They need to start acting on disciplined political parties and disciplined political actors, in general.

MR. MAKORI: Ambassador Frazer, despite your position on the ICCM, what people think about what that court stands for and how Kenyans perceive things, in

the event, for example, that Mr. Uhuru Kenyatta is elected president and his vice president --- both of them being guests of the ICCM. What do you see as the likely scenario in the way the international community will deal with this gentleman? And how would this impact the country, despite what you may personally think about it?

MS. FRAZER: Well, I can only give my personal view, but how I personally think the case is going forward? Clearly in the ICC, they will have to, you know, go through a trial and let the evidence decide whether, in fact, you know, Uhuru is guilty and Ruto is guilty or not.

I think that the ICC is a very manipulated institution, politically, particularly by the West. I think it has very selected and targeted individuals who are indicted. So, I for one don't find the legitimacy of that institution as --- I find it a not legitimate institution, is what I should say. But the case is a case.

One of the problems of the ICC is how long it takes for a case to come. But hopefully, this one will start early and end early so that the Kenyan people will know.

MR. MAKORI: Yes. But as a person who has been an official of the U.S. government, just hypothetically. If you run the government today and these gentlemen become leaders of the Kenyan government, how does the U.S. relate with them?

MS. FRAZER: If I was an official of the U.S. government --- I, me, myself. (Laughter) I would not be very much bothered by the ICC. I would be very pragmatic. I would recognize that the United States is not a signatory to the ICC. Would never allow the ICC to try any of our officials, and I would work with the candidates. If they were then convicted by the ICC it would be a different matter. But as long as they're

simply accused, then let their case go forward and the United States government, I believe, should work with them just like we are currently.

You know, one is a deputy prime minister. We deal with them. Right? I think that we should continue to work with the Kenyan government, whatever the ICC's position is, until that point in which somebody is then held as, you know, as tried and convicted. And then, obviously, they'll be taken away and the Kenyan people will decide how they want to deal. But I, for one, think that the ICC case, particularly against Uhuru Kenyatta, is a very weak one and based on hearsay. And I think the institution is very --- I think the institution is very much a manipulated institution of the West.

MR. MAKORI: I hear groans in the crowd.

MS. FRAZER: It is what it is.

MR. MAKORI: I'll have you ask your questions. Professor Kanyinga wanted to make a point.

MR. KANYINGA: Just to make a point and say that ICC is the best thing for helping Kenya. It may not be the best thing to evolve elsewhere, but in Kenya --- Kenya is the only country where senior official people are never held to account for anything whatsoever. And therefore, the fact that people are being dragged to the courts to account for suspected --- even suspicions involving committing a crime. In Kenya it's a good thing only because it relies on a very important foundation for the senior people to be told, no matter how far you run, no matter where you go, you'll be treated like an ordinary person. And therefore, bringing these people to answer for those particular crimes. Whether weak or strong, it's an important step forward for holding Kenyan politicians accountable. The cases may be weak, the cases may be strong, let them be

decided the next day. Kenya will have made a point. Ordinary leaders need to behave and respect the rule of law.

We wish and even carried over 20 of them. That should have made a difference, because it is going to teach politicians a lesson that the rule of law is important and there are systems to be obeyed.

MS. FRAZER: We agree on that.

MR. KANYINGA: We don't disagree on that.

MS. FRAZER: We agree on that.

MR. KANYINGA: At the same time, I doubt whether the issue was in position in government where actually you will be dealing with them. I doubt, I doubt.

MR. MAKORI: I'm sure some people think about Omar al-Bashir and wondering about the U.S. relationship with this guy.

MR. KANYINGA: Yes.

MS. FRAZER: And when Bashir was indicted we dealt with him. We talked to him. We worked with him. Yes, we do.

MR. MAKORI: Okay.

MS. FRAZER: Yes, we do. We do to this day.

MR. KIMENYI: I --- okay. Well, this side of the issue is actually quite tough for Kenya. And I have written quite a lot about ICC, even before those envelopes were opened. And I said, this is a very bad idea. And the way the investigations were done, they random way from an envelope with 20 people, with NGO input, and all that, I think the issue of how justice is carried out is very important. And to me, I would have liked that we get the strong institutions and deal with our own people.



In the end, ICC is going to make us --- is really dividing us more. We are lost in terms of a country because of ICC, and I don't see it solving any problems. And by the way, I also --- I may disagree with him, my friend, Professor Kanyinga. I think one case is already flopped, by the way. They are trying to create the case, but it's already flopped. So, they are trying to create new witnesses and it's really giving ICC a headache.

MR. MAKORI: Okay. I'm going to ask you just one question and then we'll go to the audience. Last week, the first presidential debate which was ever nationally televised was held in Kenya. First, do you think that it makes a difference? There's another one on Monday and Candidate Uhuru Kenyatta says he's not going to participate in it. Professor Kanyinga, do you think it does make a difference?

MR. KANYINGA: The presidential debate makes an important difference in the sense that it cools down temperatures across the country, and people start looking at these politicians as very sober individuals because in political rallies, they're the kind of statements that they make are not the statements they were making during the debate. And therefore, it has over the country reduced the mood to a mood of accommodation and tolerance. I would say that as much as possible, it makes a difference.

But, it may not necessarily affect the voting patterns in any significant way. We have seen, of course, some changes from the opinion polls. People like Peter Kennedy getting a lot of support for the presidential debate, which he did not have. So, it may make some difference in terms of cooling temperatures and also making people accommodate each other. But in terms of voting patterns and making --- affecting the desired voters could be one thing, but I doubt it will make a lot of changes.

MR. MAKORI: Okay. Any quick remarks before we go to the audience?

MR. KIMENYI: I think it was significant because they are talking issues, and that's important. Hopefully, you know, it's unfortunate Uhuru will not go to the next debate but I think it was important for people to talk about issues. The next one was economic issues, and so on. So, I think it was a good step.

MS. FRAZER: Yeah, I actually was there in Kenya during the last one and I was traveling through the country. And everybody was watching their screens, you know, in every station of life. And so, I think it's important for the candidates to put themselves through that scrutiny, to stand on the stage together and have to answer each other and the persons who are questioning them. So I actually think it was a very good thing, and I think it would be a huge mistake for Uhuru Kenyatta to not participate in the second one.

I think that the Kenyan population was both proud to hold the debate but also learned a lot about the candidates.

MR. MAKORI: Yes. In fact, they said in the statement that he does not want to participate in a skewed, shambolic, and farcical debate. I don't know how that would sound to the Kenyans. Some are speculating that he doesn't want to discuss the issue of land. We don't know what else.

But you know, let's take this opportunity now to turn to the audience. Thank you for your patience. You've been listening very closely. Just going to ask you -- you put up your hand and let's take, I think, like two --- three questions in a row. Identify yourself and make your questions very brief.

The first person, let's start with the one --- okay, let's start with you

because you're looking at me right in the eye. (Laughter)

MR. SIMON: First of all, I'd like to thank the panelists. This is --- in some ways I don't want to interrupt their discussion for our questions. I thought it was an excellent discussion among themselves.

There is one issue that wasn't referenced, which was the role of the private sector --- the for-profit private sector. Prior to 2007, *The Economist* had this famous article that with this election the Kenyan private sector was ready to take off. And in fact, the election not only was politically disappointing but it really interrupted growth for a period of time.

But since then, the private sector in Kenya has actually become quite robust. There's been tremendous growth. There's been the Safari Com IPO. Does the private sector have a role to play in keeping the peace in the next election? Or has the private sector basically moved beyond and said, look. Politics is not an issue for us, we will do our business outside of politics?

MR. MAKORI: Quickly, your name please?

MR. SIMON: John Simon with Total Impact Advisors.

MR. MAKORI: Thank you. Next question, right here where the mic is.

MR. HARBORSON: John Harborson, SAIS for (inaudible). I want to give you a chance to talk about how land issues might affect this election? The Waki Commission was very clear that land issues were at the core of violence last time. As you well know, there's a new policy and a new commission, which has done nothing so far.

So, how is this going to affect the election?

MR. MAKORI: Thank you. That one, right back next to you there.

Okay.

MR. MORGAN: Good afternoon. My name is Scott Morgan, I run the Red Eagle Enterprises. I had one question is concerning Somalia. You know, with the piracy, with all the money flowing into Mombasa, the new TFG government, and the military operations by Kenya in Somalia. How will that come back and play a role in this? Because this just --- it's almost like it's an issue that no one has been willing to talk about. What impact will Somalia have on this election?

MR. MAKORI: Thank you very much. Let's have responses to these questions. Who wants to take on the first one on private sector rule?

Professor Kanyinga.

MR. KANYINGA: Let me begin by saying that actually from 2008 to date, the private sector woke up and that's been playing a very active role in talking about peace and in talking about politics and engaging with all political actors.

They have formed a very robust infrastructure for engagement on governance issues through KEPSA, and they have worked the (inaudible) money Kenya, a coalition of private sector groups that is at the forefront of debating various issues of governance and talking about the various candidates to ensure that the elections are peaceful. And also, to ensure that there is democratic governance and the rule of law in general. We can say that they are becoming more politicized in what they do, and in a very active manner.

Regarding land issues and what their role is, I would say the land issue is becoming a very important issue in the whole debate as we see it today. There is no

single campaign issue, there is no campaign rally where the land question is not being referred to. However, that land question seems to be meaning different things to different people and it's, of course, having different types of traction, depending on the areas visited. Of the Coast, for instance, you'll not talk about local politics without talking about the question of land, and this is where both the alliances are really trying to (inaudible) each other. Who is more credible in terms of addressing land problems? But no one sees what kind of land problems you want to address.

But as we all know, in agrarian societies the structure of land ownership is equivalent to the structure of political power. And if you want to see our countries governed, whether democratic or not, look at the structure of land ownership and whether it's democratic or not.

MR. MAKORI: Thank you. Professor Kimenyi.

MR. KIMENYI: Yeah. I think the private sector has the greatest stake in this election in terms of loss. The private sector is doing very well. As John mentioned we have sort of a digital revolution of some sort. You know, it has been doing well --- we were --- the country was able to actually survive the financial crisis without a major impact. It was very limited, and it's going well. But there have been a lot of economic reforms. There is a clear direction, particularly within the vision of 2010 framework. So, the private sector is involved.

In fact, you know, I was involved in establishing KEPSA when I was at KIPRA. We established a private sector group that would actually be involved in terms of advocating for private sector issue because we knew that the private sector was sitting back waiting for results. Whatever comes out, they move on. But now, the private sector

is a real actor because it really has a real stake. So I think --- and they are very interested in peace, which is very important.

MR. KANYINGA: And the presidential debate was organized, as well, by the private sector. They contributed to it and they're part of it.

MR. MAKORI: Thank you. Now the question of Somalia.

MR. KIMENYI: Difficult.

MS. FRAZER: Well let me just take up the first question and then move into the second --- or the third. The private sector, I agree with my colleagues, has played a key role in ending the post-election violence in 2008 and continues to do so today. Obviously many of the candidates are businessmen, lawyers, or professors. And so, they have that in common, particularly the major candidates. They have a business very much in common, and I think hopefully that will also act as a break along with the civil society.

I only can answer in an impressionistic way about Somalia and the role of piracy. And really when I was in Kenya --- I've been there now twice this year. There's a lot of discussion about campaign finance and there's a lot of money flowing around Kenya. And you know, I think that more research --- and probably IDS would be a place to do that research on where's money coming from and how is it influencing the candidates would be very important.

The other thing, I was on the Coast and there was a lot of discussion about that Somalia money buying land and quite a lot of land, especially from poor people because there's a lot of money flowing into Kenya right now from Somalia. But that's just impressionistic.

MR. MAKORI: Very quickly, Professor Kanyinga?

MR. KANYINGA: Yeah. On the question of Somalia, perhaps the issue that is --- we are being paying attention to is the question of Al-Shabaab and the conflict in Northern Kenya and in security in Northern Kenya in general, and also some parts of urban areas. That has got consequences on xenophobia, in particular. Again, it's the Somali population but not really linked to politics in a very clear, direct way.

It could be having an impact on Somali politics in a Northeastern province, but not across the country.

MS. FRAZER: Yeah, but the money coming from --- you know, the piracy specifically. Not the terrorism, but the piracy. There is a lot of money coming into Kenya.

MR. KANYINGA: Yes, and they are affecting property prices for the last two years.

MS. FRAZER: Yes.

MR. MAKORI: Just before we get the next round of questions, I just wanted you to expound a little bit on the land question. The land question has been really the issue, the permanent issue, in Kenya. There have been all these reports, including the working report. But do you see that commitment to implement these recommendations and to really resolve the land issue in Kenya? Or can it actually be resolved?

MR. KANYINGA: I think no one will run away from the land question because the National Commission on Land has been --- is a constitutional commission and the constitution Chapter 5 very clearly says how land issues are going to be looked

at. So no one is likely to run away from the National Land question.

The only problem with that has been left to the National Land Commission, and therefore it will require a lot of political support and political goodwill to make it work.

MR. MAKORI: Okay, right.

MS. FRAZER: But let me just say, though, that that point is very much a concern about the politicization of the land question, which some people are saying why are politicians now bringing this into the election when clearly there's an institution that has the authority to address? You know, the land issue is going to be addressed by the land commission. And so, that has also led to a great concern about whether land is being used to spark communities against each other in this election.

MR. MAKORI: Yeah. And perhaps it's a question of whether there is sufficient education on the ground so that those who own land understand the circumstances under which they own that land and the circumstances under which their neighbors who come from a different community live where they live, so that when they are told to kick these people out they don't sharpen their machetes and drive them out of town.

I mean, is there any process that goes on to kind of help the people to come to that understanding where they can co-exist?

MR. KANYINGA: Well, let me say that it actually depends on the local politics that we have. For instance, in Rift Valley now you don't expect any violence on land because of the alliances that have formed.

So in terms of reconstitution, in terms of healing, one might say that the



country has yet to heal from the post-election violence properly --- it has yet to heal properly. But again, because of the ICC, no single politician is likely to mobilize violence or administer thus. The beauty of ICC, huh?

MS. FRAZER: I don't agree, but we'll agree to disagree, as they say in South Africa. (Laughter)

MR. MAKORI: Let's get the next round of questions. Let's start from right at the back, the very rear of the room. Okay? Tell us your name and your affiliation, if possible.

MS. KLUSTEN: Hi, I'm Rose Klusten from PAI. My understanding is that the new constitution requires the president to receive a minimum threshold of the vote from each county? What impact are you seeing that have on the electoral campaign? And do you expect that to have on the election response?

MR. MAKORI: Okay, one. The next, let's go to the wall there on the left side of the room.

MS. BEAR: Hi, good afternoon. I'm Cheryl Bear with the U.S. Department of Commerce.

I'm interested in the panelists' analysis of the role of the East African Community secretariat on these elections, and then how you see the future of regional integration efforts in the context of the outcome of the elections.

MR. MAKORI: Okay, those are three, I guess.

MR. KIMENYI: No, two.

MR. MAKORI: Okay, right. Okay.

MR. WESTBURG: Hi, my name is Drew Westburg, I'm with the

Brookings Institution. And it seems like everybody agrees that there's likely to be a runoff in this election and I'm wondering how the panelists think that will change the dynamics and whether tensions may escalate in that period?

MR. MAKORI: Thank you very much. So, let's start with Professor Kimenyi.

MR. KIMENYI: Yeah, so these are very good. The provision in the constitution about the minimum number of --- receiving 25 percent in 24 counties. That also actually is not a very stringent requirement. It's just about half of the counties, but the presidential candidate is supposed to receive at least just 25 percent of the votes.

Even before, we had a requirement that there was a constituency requirement of a certain proportion, also. Now, I think what has happened in terms of the 25 percent requirement, again, is that the candidates have obviously --- first of all, they have control of particular areas. Right now, you know, each candidate has a particular area where they know they are going to get 8, 9 percent or above. And then, they have also identified several areas where they are going to receive at least that minimum.

And I think at least the leading candidates already have assured --- are assured that they are going to get those votes. So anyway, it provides for a national --- you need to get a national approach, but it's also difficult to do that.

I think in terms of the East Africa community, I think it's important to remember that Kenya in the East African area is like the anchor, like the ambassador said. It's like an anchor country, it's the strongest economy. And whatever happens in Kenya will have actually a lot of impact in the region.

So, the East African community has --- the presidents of the other East

African countries have actually come together and they are very interested in terms of how the elections turn out. In fact, they made a statement telling the West to slow it, to shut up, in other words and let the Kenyans decide. (Laughter) That's because they didn't want the Kenyans to decide and make out, because the community --- the East African community has moved very fast. And you know, we are now very well-integrated. So, they are very concerned. If something happens in Kenya, it will happen in the other countries.

There are no --- what will happen. I don't see any other way at this point, although the leading candidates are tied at this point. It's unlikely one of them is going to get the 50 prize.

It's going to change the dynamics, and this is where I think things could get interesting in a way, or ugly. In the sense that people who go to vote for the land will be different, in a way, from those who vote in the fast race. You are going to get a very high turnout in the first round, but you are not likely to get the same intensity in the next round. It is the people with the strongest preferences that are going to show up. So, you may end up actually getting numbers now who matter at that point a lot. Your crowd will matter --- not the crowd, but where you come from and where the preferences are very intense. That's one likely outcome.

The other one is that we could get one of --- that candidate switching, you know. They'll be brokering, someone will try and be bought and be promised something, and that candidate could actually switch and support one of the other candidates. And that would have new alignments, but that could be the king-maker.

MR. MAKORI: Okay. Any other reactions on that?

MS. FRAZER: Yeah. I just want to say on the East Africa community. I think that the integration project will go forward as long as Kenya doesn't descend into violence, no matter who wins. The two front-runners, Prime Minister Raila Odinga and Deputy Prime Minister Uhuru Kenyatta both are very robust about the integration, you know, efforts of the East Africa community. And Kenyans, after all, having such a dynamic economy and, you know, the level of capital --- especially human capital --- really benefit even more than the other four countries of the East Africa community from integration. So, I don't see any change of policy in terms of Kenya being forward-leaning, no matter who is elected.

MR. MAKORI: Any reaction?

MR. KANYINGA: Yeah. On East African integration, I would say that all the candidates actually in Kenya seem to be in full support of the East African integration, particularly because of markets and given that Kenya has got the largest economy in the region. It needs the East African re-integration more than other countries do.

Come to run-off, there is something peculiar that is happening on the question of run-off across Africa today. The results are usually razor-thin in size. In Ghana, the difference one time was 20,000 votes or 19,000 votes. It think in 2008? The same in different other places, and run-off really tried to cause a lot of anxieties because of the money --- because it's not two blocks that are usually contesting. And in most instances, party identities are dissolved so that what we have in competition are ethnic blocks under the new regional blocks. We don't see that not happening in Kenya if there is a run-off. It will be fought on the basis of ethnicity more than anything else.

Therefore, what will matter most is who is the king-maker. Where are

the swing votes coming from? And as my colleague has said, perhaps the most popular candidate may provide the support to one of the blocks and that will lead to one block winning. It will then be legitimized, the results will be seen as legitimate or not. I think Kenyans are really ready not to accept violence and they are ready not to accept anyone will be (inaudible). The results --- as long as the results are credible, the results are free, and the results are fair.

And then tied in to that is, of course, the electoral system, the changes in the electoral system and the threshold for the presidential candidate. That was meant, actually, to ensure that a winning presidential candidate has got support from as many communities in the country as possible. Because there is no single community that has got more than, let's say, nine counties to itself --- whether you're talking about the Kikuyu, the Kalenjin, or the Kamba, none of them has got more than 10 counties and therefore, if you are requiring them to have 4 counties it means you must look for alliances from a broad group of counties and, therefore, ethnic communities. So at least you are a president who is respecting, who has got legitimate support from quite a number of people in the country.

MR. MAKORI: And on the issue of a run-off, actually, Kenyans are going to have a first on many things. This is going to be possibly the first time Kenyans would do a run-off, go into a run-off. Do you get the sense that the voters themselves are being prepared? Are being prepared right now for that possibility? Or is it something that is going to come to them as a surprise?

Any of you could take that one?

MR. KIMENYI: I think that when I listen to the candidates and the

communities, they are trying to convince their people that they can actually win the first round. So make sure you go and vote, we can win this thing first round.

But that's unlikely. Statistically, it doesn't look like it's going to happen. Although I must say, I'm surprised by the performance of the other candidates. It's terrible. I mean, you're talking about with 1 percent, 2 percent. So I expected some of them to do much better, but they are doing terrible. So, yeah.

MR. MAKORI: Okay.

MR. KANYINGA: There is very limited civic education and voter education on the question of run-off. In the ICC itself is not raising it as an issue, but people should be aware about. That's a limitation so far.

MR. MAKORI: The obvious things being left to chance.

Let's have the next round of questions. First, the gentleman in the white shirt right there.

MR. DIJO: Thank you. My name is Paul Dijo. I'm an independent reporter and I cover Africa very closely, and Kenya is one of the countries that I am interested in.

I wanted to follow up with what you said, Ambassador. You said that --- you attributed some of the remarks made by Ambassador Carson as reckless and irresponsible. But I'm just curious to know, when you are saving the same road, some of your critics say that it was because of your policies --- because of some of the sentiments that you made that really brought this whole chaos.

I'm just curious to know whether you are willing to take personal responsibility. Because if you had not called for the election, other countries --- other

Western countries would not have followed suit. A lot of your critics say it's because the United States was one of the first countries to call on Kipaki, congratulating, that the rest of the Western media followed and everybody was congratulating Kipaki. And therefore, the chaos.

So, I'm just wondering if you in that role would take personal responsibility for --- you just admitted not too long ago that that statement wasn't the correct statement. So, would you take personal responsibility and say maybe it was a mistake but you didn't correct the record?

MS. FRAZER: No.

MR. MAKORI: Thank you.

MS. FRAZER: But I'll expound.

MR. MAKORI: Yeah. Let's get the gentleman right here, then the lady.

MR. THROUP: David Throup for the Center for Strategic and International Studies.

If Raila wins or if Uhuru wins, what do you see as the likely consequences in terms of the implementation of devolution and in terms of economic --- the performance of the Kenyan economy? Will there be major differences in terms of the strategies and the likely successes?

And also, in terms of relations with the United States. Do you see there have been fundamental differences between a Raila presidency and an Uhuru presidency?

MR. MAKORI: Thank you. Then let's have the final one from the lady.

MS. MASFEN: Lileet Masfen with (inaudible) for Democracy in Ethiopia.

This question is for Ms. Carson --- I'm sorry. (Laughter)

MR. MAKORI: That's okay.

MS. FRAZER: No problem.

MS. MASFEN: I'm shocked to hear you say Ambassador Carson is reckless and he's meddling in Kenyan affairs ---

MS. FRAZER: His statement ---

MS. MASFEN: --- and he's irresponsible, when you did the exact same thing ---

MS. FRAZER: His statement.

MS. MASFEN: --- in Ethiopia in the 2005 election. In 2005 you were accusing the opposition of trying to overthrow the regime of your friend, Meles Zenawi, after he stopped the election on May 15<sup>th</sup>, okay? It was a free and fair election in Ethiopian history for the first time. He declared a state of emergency, he massacred 193 people, including 14-year old boy, a 75-year old man. He imprisoned the entire opposition and he arrested masses and masses of Ethiopians and actually put them in concentration camps. And you were there, defending him. And I don't know how you can, you know, say Mr. Carson is meddling when you did the exact same thing.

Is there a change of mind now after seven years?

MS. FRAZER: I can answer that.

MR. MAKORI: Okay, thank you. We will take that final question. Let's start with Ambassador Frazer. (Laughter)

MS. FRAZER: Please. I love these speeches.

On the first question about do I take responsibility for chaos? Absolutely



not. I did not organize a single person in Kenya to kill another person. Let me finish. I listened to you, let me finish.

The U.S. government, I said that the State Department --- a person within the State Department, not myself, misinterpreted the congratulation of the Kenyan people --- which is a statement that I had a part in writing --- for congratulations of Kenya. Other Western countries did not follow suit, as a matter of fact. So, the connection that you're suggesting is not true. It's simply not true.

And I explained that at the very beginning. I did take responsibility. I said that a mistake happened within State Department, which I denied initially because I didn't believe that was the case. But on investigation I found out, indeed, that the statement that was written congratulating the people when spoken was interpreted as congratulating the country. And therefore, not a congratulation of Kabaki, by the way. That's not what was said, but was interpreted, then, by the press is us supporting his election and his inauguration.

So, no. I don't take responsibility for chaos. I'm very clear about the mistake that was made by State Department that was not, as you said, followed by other Western countries and did not, by the way, lead to the violence which had already started at that point.

I think that the U.S. government can be very, very proud of the role that we played in getting to Kenya first or early --- not first, because the African leaders were actually there before --- and playing a role to say to President Kabaki, you can't just take this. And to say to candidate, at that time, Raila, you can't just grab this. You're going to have to either rely on your institutions or find a negotiated solution. So, yes. I'm very

proud of that.

Then on the question of Ethiopia. In 2005 I was ambassador to South Africa during Ethiopia's elections. So, that you should be very clear of.

MS. MASFEN: It doesn't matter, you were Secretary of State.

MS. FRAZER: 2009 I was leaving --- I was Secretary of State for 21 days of 2009. January 2009 I left when President Obama came into office. You know, so, no. No, I don't --- I did not have anything to do with Prime Minister Meles Zenawi's election.

MS. MASFEN: But you were defending him.

MS. FRAZER: I was not defending anything. I was not defending anything. I work with the Ethiopian government, just like I worked with most African governments, whether we like or dislike. I worked with the Ethiopian government, but I was the U.S. Ambassador to South Africa. I had no say. I was talking about South Africa. I had no say over Ethiopia's elections.

MR. MAKORI: Well, thank you.

Now let's take on the other questions. The other question was on the likely ---

MR. KIMENYI: Winner ---

MR. MAKORI: --- the consequence of any --- the presidents of any of the two.

MR. KIMENYI: Okay. Difference is a very strong movement now in Kenya, and no president is going to reverse the implementation of the constitution. I don't see anyone of them coming to change anything in the provisions of the constitution.

So, that's going to proceed and the people are actually very keen to see the establishment of the county governments. So, neither or Uhuru, it's not going to affect this.

In terms of economic growth, I see that all we need is peace. The institutions that we have are very good. I have rooted the manifestos for these candidates, and that 80 percent of them are lies. They are not achievable. So just throw away the --- they are not achievable, they are not good with that. So we will forget about the manifestos. They are just political statements.

In fact, we should rely more on what is already on the ground by the current Kenyan government on the vision 2013, which is being implemented. But these other things that they are talking about, where would the money come from to do all the things that they are proposing?

But their implementation of the constitution will continue, and Kenya in terms of economic take-off will actually make major progress if, and only if, we have peaceful elections. Nothing else.

MR. MAKORI: And indeed, none of the candidates has come up with any strategy on how to change things in Kenya, and that makes them all the same. They're kind of --- it's the same in every way.

MR. KIMENYI: Yeah.

MR. MAKORI: Any remarks you want to make in regards to the question?

MR. KANYINGA: Yes. To begin with, I think the rural presidency and the regular presidency will approach devolution from a very different point of view. To

begin with, I think Raila --- if you look at Raila's track history with regard to issues of de-centralization, he came from ODM and even LDP from the olden days. They were demanding (inaudible) but they left that one on the side, and they have been --- the people are very central in trying to articulate a full devaluation during the negotiations.

Uhuru Ruto leadership, I think --- beneath Ruto is the --- it comes from Rift Valley will be tempered with the old question of how do you address the question of devaluation in a way that is not Magembo. One may want to say that although there is pressure from below, although there is a lot of pressure from below, the form it will take will depend on the leadership that will take over finally.

In terms of performance, economic performance, one needs to note that our economic and growth declines during every election year. We have only 3-1/2 years of economic growth from 1992, and then growth declines and rises up again after the elections, 6 months after the elections. That has been the trend. Sometimes to negative 1 percent. Agriculture growth declines to about negative 6 percent every election year without exception and then rises up again. So, I don't think this is going to be an exception, although we have seen some good signs ---

MR. KIMENYI: It's not true. The change in 2002 was followed by a major change in growth.

MR. KANYINGA: But when did the growth pick up? The growth picked up from 2003, please.

MR. KIMENYI: Yeah, but it never dropped.

MR. KANYINGA: It never dropped but it was about 1 percent, 2 percent.

MR. KIMENYI: It indicates it was zero before.

MR. KANYINGA: Yeah, it was very low before. (Laughter) It has never gone ---

MR. MAKORI: Alright.

MR. KANYINGA: It has never gone --- during an election year it has never been above 2 percent.

MR. MAKORI: Maybe we need to get those reports --- economic facts, you can't dispute.

MR. KANYINGA: I have them with me, yes. (Laughter)

MS. FRAZER: Let me just --- on the question about the role of the presidency and U.S. policy. Whether it's a Raila or Uhuru, I think there won't be much difference, frankly. Both Raila and Uhuru on foreign policy would align themselves with the U.S. foreign policy, both in the region and internationally, for the most part. There's no major difference between them.

The only issue will come up if the ICC continues to hang over Uhuru's head. And that's really an issue about how quickly will the trial happen. But even if the Kenyan people vote for Uhuru to be president, I'm positive that the U.S. administration will be dealing with him, particularly under a Secretary Kerry, who also when he was Senator was dealing with the Sudanese for President Obama in a very pragmatic way, given our interests.

MR. MAKORI: Okay. We're kind of about done with the time, but one question, just one question, I think, and then we have a quick response and we end it.

Let's go with the lady right there. Right here. Okay. In my business, we keep time.

MS. DUUR: Hi, thank you. My name is Athena Duur and I wanted to ask in looking at the post-election period, assuming that there's a peaceful transfer of power, what do you think will be Kibaki's legacy on governance in Kenya, in general? Do you think that will be significant, or not?

MR. MAKORI: Okay, thank you very much. Let's have a quick round of responses to that. Let's start with Professor Kimenyi.

MR. KIMENYI: It will be mixed, but overall positive. And I would say on the positive side is the economic front. But even though there have been a lot of setbacks, if you think about the referendum that was conducted in his regime, the implementation of the constitution has started under his leadership. So, I think it will be positive although there are also some eight years which are lagging behind.

But for me, I think one of the things that will remain for President Kibaki is that he actually somehow had managed to change the infrastructure of the country. That is quite different now, and that is a major driver for the economy.

So, I have a very positive view for the president. In fact, I think if we had not changed this constitution and he ran again, he could have won.

MR. MAKORI: Thank you. Any quick remarks.

MS. FRAZER: Yeah, sure. I think it's mixed as well and I would put in the positive column his role in the economy. I would put education, particularly primary education, free education.

I would --- I guess I would add foreign policy. Kenya has been a really stable partner to its neighbors, and constructive to the region. The negative side is the result --- a government of national unity. In some ways, it's good that they negotiated but

in many ways it's a failure on the part of that entire leadership, I believe, to have gotten to there.

And the fact --- what the professor said at the beginning, which is what is really hurtful is that there's so many internally-displaced people still to this day. And I would put that in the negative column.

MR. MAKORI: Quick remarks.

MR. KANYINGA: His legacy, of course, in terms of economic growth is on record and in terms of infrastructure, improved living standards, if one could set that. Poverty levels have declined in the last 10 years from 56 percent to close to 40-something percent. But his major failure is the failure to manage politics and political development in that country. As a nation, Kenyans are no more dependent than ever before, including more than they were doing the other period. This is actually blamed on Kibaki leaving Kenya a very divided, a very deeply divided society along ethnic lines.

MR. MAKORI: Again, on that note, I want to thank our distinguished panelists. Ambassador Frazer, Professor Kanyinga, and Professor Kimenyi. It was very interesting discussion and debate, and agreements and disagreements.

I want to thank all those of you in the audience for your rapt attention and you did not heckle or throw stones or anything at us. And for your great questions.

Thank you very much, and the panel is over now.

(Applause)

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