

## AFRICA RISK CONSULTING

### Kenya Monthly Briefing August 2017

#### Kenya Summary 1 August 2017

*The 8 August presidential election may require a second round run-off after an impressive campaign by opposition National Super Alliance (NASA) candidate Raila Odinga. President Uhuru Kenyatta's (2013-present) campaign, which has focused on his record of delivering infrastructure projects, fails to gain traction with voters more concerned about living costs. Local violence is likely, clustered around polling centres due to likely logistical challenges resulting in delays to voting and transmission of results. Should NASA lose, it is likely to hold protests targeting the Independent Electoral and Boundaries Commission (IEBC) headquarters in Nairobi. Kenya Revenue Authority (KRA) data shows that the government missed its 2016/2017 revenue target by 9%. Central Bank of Kenya (CBK) data shows that inflation decreased from a five-year high of 11.7% in May to 9.21% in June.*

#### Presidential election too close to call

Kenya's presidential election on 8 August is too close to call, with a possible second round required. Opposition candidate **Raila Odinga** appears to have momentum on his side as his **National Super Alliance (NASA)** coalition has proved surprisingly resilient and sophisticated in its campaigning.<sup>1</sup> NASA's campaign has focused on the personalities of its leaders – Odinga, **Moses Wetangula**, **Stephen Kalonzo Musyoka**, **Wycliffe Musalia Mudavadi** and **Isaac Ruto** – and criticism of the ruling **Jubilee Party's** record on corruption and living costs.<sup>2</sup> The first strand of the NASA strategy has mobilised the leaders' respective ethnic bases: the **Luo** for Odinga, **Luhya** for Mudavadi and Wetangula, and **Kamba** for Kalonzo.<sup>3</sup> The second strand has struck a chord with areas outside their core ethnic support. President **Uhuru Kenyatta's** (2013-present) campaign, which has focused on his government's record of delivering largescale development and infrastructure projects, has failed to generate similar momentum as the Kenyan public appears more concerned about the cost of living.<sup>4</sup> Kenyatta's campaign has also proved prone to self-inflicted missteps. On 24 July, Kenyatta failed to turn up for a televised debate with Odinga, giving the opposition candidate 90 minutes to put forward his election platform without challenge.<sup>5</sup>

*"President Kenyatta's snubbing the popularised presidential debate that was estimated to have been watched by 9.6 million viewers has not helped the incumbent in solidifying his base. There has been backlash since he skipped the debate that was aired on all local television, radio stations and streamed live on **YouTube**. Raila Odinga, who participated, used the opportunity to sell his agenda for 90 minutes."<sup>6</sup>*

Odinga has not proved immune to his own blunders, especially on the politically sensitive issue of land. Notably, he called on the **Maasai** not to sell land, which observers perceived as a call not to engage with Kenyatta's **Kikuyu** ethnic group.<sup>7</sup>

<sup>1</sup> Source, journalist, Nairobi.

<sup>2</sup> Source, journalist, Nairobi.

<sup>3</sup> Africa Confidential, 7 Jul 2017.

<sup>4</sup> Africa Confidential, 7 Jul 2017.

<sup>5</sup> Daily Monitor, 24 Jul 2017.

<sup>6</sup> Source, journalist, Nairobi.

<sup>7</sup> Source, journalist, Nairobi.

*“His remarks on rent controls have also not gone down well with property owners who view these comments as inciting tenants to refuse to pay rent.”<sup>8</sup>*

Recent polling is reflective of neither candidate building an insurmountable lead. **Nairobi-based Infotrak Research & Consulting Ltd** published an opinion poll on 24 July giving Odinga a one-point lead over Kenyatta.<sup>9</sup> The Infotrak poll had Odinga at 47% and Kenyatta 46%.<sup>10</sup> The polling indicates that momentum is with Odinga. A previous Infotrak poll at the end of June had Odinga at 43% and Kenyatta 48%.<sup>11</sup> Infotrak said previously undecided voters in the counties that make up the former **Western Province**, an opposition stronghold, had swung behind Odinga.<sup>12</sup> In Western, Odinga’s support has increased from 53% to 66% between the June and July polls.<sup>13</sup> Infotrak also noted that Odinga had made inroads in the counties that make up the former **Rift Valley** and **North Eastern Provinces**.<sup>14</sup> According to the poll, support for Kenyatta has decreased 15% in North Eastern, 13% in Western, 9% in **Eastern**, and 6% in **Coast** between the June and July polls.<sup>15</sup> Infotrak described the presidential election as a “*statistical dead-heat*”.<sup>16</sup> Support for NASA and the ruling **Jubilee Party** is equal at 45% nationwide.<sup>17</sup> Infotrak projects that either Kenyatta or Odinga will win in the first round, avoiding the need for a run-off. To avoid a second round, a candidate must win over 50% of the national vote and 25% of votes in at least 24 counties. Should neither candidate achieve this, the **Independent Electoral and Boundaries Commission (IEBC)** will have 30 days from 8 August (until 7 September) to hold the requisite second round. Results from a second round would be officially announced on 5 October.

On the same day as Infotrak published its poll, Nairobi-based market research company **Ipsos Kenya** published a separate poll with Kenyatta at 47% and Odinga at 43%.<sup>18</sup> Ipsos Kenya also projects that the election will be decided in the first round.

*“The polls, which differed on who is leading the race to **State House**, showed that there is a section of undecided voters who, if convinced to take a stand, could tip the scale in favour of either candidate. Though results from pollsters do not take into account whether voters will actually vote on the said date, they are an indicator that this is will be a tight race and the onus will be on Jubilee and NASA to give all towards the home stretch of the campaign season.”<sup>19</sup>*

Even considering the polls, a number of advantageous factors increase the possibility of a Kenyatta victory. The Jubilee Party has more financial resources and has financed sophisticated social media campaigns in its heavily populated heartlands of Nairobi, **Central** and the Rift Valley.<sup>20</sup> Party primaries in April indicated that the Jubilee Party dominates 21 counties and NASA only 19. Voter registration data also indicates a low voter turnout in swing counties including **Kwale, Lamu, Narok, Tana River, Taita-Taveta, Turkana, and Wajir**. NASA had hoped to benefit from new voters in these counties. Kenyatta has also utilised the power of the incumbency, announcing a string of new development projects and funds in both swing counties and opposition strongholds.<sup>21</sup>

<sup>8</sup> Source, journalist, Nairobi.

<sup>9</sup> Daily Nation, 24 Jul 2017.

<sup>10</sup> Daily Nation, 24 Jul 2017.

<sup>11</sup> Daily Nation, 24 Jul 2017.

<sup>12</sup> Daily Nation, 24 Jul 2017.

<sup>13</sup> Daily Nation, 24 Jul 2017.

<sup>14</sup> Daily Nation, 24 Jul 2017.

<sup>15</sup> Daily Nation, 24 Jul 2017.

<sup>16</sup> Daily Nation, 24 Jul 2017.

<sup>17</sup> Daily Nation, 24 Jul 2017.

<sup>18</sup> Daily Nation, 24 Jul 2017.

<sup>19</sup> Source, journalist, Nairobi.

<sup>20</sup> Africa Confidential, 7 Jul 2017.

<sup>21</sup> Daily Nation, 24 Jul 2017.

*“While a runoff may be in the offing, it is a situation that most Kenyans want to avoid as there is a feeling of fatigue as 8 August comes closer. The business community in particular is waiting for the electioneering period to pass so that normal activity can continue.”<sup>22</sup>*

There is no doubt that election uncertainty has impacted business confidence. The treasury announced on 22 July that it has extended the sale of an **M-Akiba** government bond by seven weeks due to low take-up.<sup>23</sup> The bond was due to close on 21 July, but will now close on 11 September.<sup>24</sup> Reportedly, the treasury had only sold 140m Kenya shillings (KSh) (\$1.35m) compared to its target of KSh 1 billion (\$9.63m).<sup>25</sup>

Normality may not return for a while, as a period of political uncertainty is expected to follow the election due to the number of independent candidates standing for parliament and county assemblies. There are 10 times as many independent candidates as during the 2013 general election (*see ARC Briefing Kenya June 2017*).<sup>26</sup> This will negatively impact the next government’s policy agenda as it will need to build parliamentary alliances to pass legislation.<sup>27</sup>

*“The ultimate victor is also poised to have a hard task ahead. Voters may decide to ignore calls by Jubilee and NASA stalwarts to ignore independent candidates as the incidences of cronyism and rigging during party primaries created an atmosphere of disenfranchisement amongst a section of the electorate. The winner should therefore be prepared to engage in pork barrel politics if they do not get a sizeable number of legislators from their respective parties.”<sup>28</sup>*

The general election campaign reflects well on Kenya’s 2010 Constitution which aimed to address the ethnic and political faultlines that fostered the 2007/2008 election violence. Both presidential candidates have for the most part avoided ethnic-baiting rhetoric due to the need to win support across Kenya, not just in their traditional strongholds. Kenyatta is right to draw attention to his record of infrastructure delivery. Odinga is accurate in his criticisms that Kenyatta has failed to curb corruption. 8 August is unlikely to mark the end of political uncertainty. Even if a second round is unnecessary to separate Odinga and Kenyatta, a period of fluid and fractious negotiations between the winning party and independents will follow.

### Local violence more likely than broader civil unrest

There is a risk of civil unrest at both county and national level, with the difficulty in predicting the location of violence meaning local security forces may be initially overwhelmed. There are a number of factors that will increase the risk of localised violence, which is most likely to be concentrated in the political strongholds of the respective presidential candidates. There may be localised violence in the case of logistical challenges at voting centres including the delayed receipt of electoral materials; long queues of voters; incomplete or incorrect voter registers; or issues with the biometric systems.<sup>29</sup> A number of legal cases involving the IEBC (*see below*) have proved a significant distraction from its efforts to address discrepancies between its electronic and manual voting registers.<sup>30</sup> This will increase the risk of errors in voter identification and the tallying of results on election day. During the 2013 general election, approximately half of all electronic voter identification kits malfunctioned.<sup>31</sup> These logistical challenges may result in isolated security incidents clustered around polling centres, though liable to disrupt business activities or damage commercial property. Concerns over vote

<sup>22</sup> Source, journalist, Nairobi.

<sup>23</sup> Reuters, 22 Jul 2017.

<sup>24</sup> Reuters, 22 Jul 2017.

<sup>25</sup> Reuters, 22 Jul 2017.

<sup>26</sup> The Standard, 22 May 2017.

<sup>27</sup> East African, 22 May 2017.

<sup>28</sup> Source, journalist, Nairobi.

<sup>29</sup> Source, election expert, East Africa.

<sup>30</sup> Source, election expert, East Africa.

<sup>31</sup> Source, election expert, East Africa.

counting and result transmission may result in litigation further delaying results and increasing local tensions.

There is a risk of larger-scale civil unrest. However, a recurrence of the 2007/2008 post-election violence that resulted in the death of over 1,500 people and displacement of over 300,000 is unlikely.<sup>32</sup> Nevertheless, there is a risk of broader violence, with candidates of both parties at county and local level increasingly engaging in aggressive ethnic-based rhetoric. The **Kenya Police Service (KPS)** identified 20 counties as prone to politically-motivated violence during the election: Nairobi, **Kisumu, Mombasa, Nakuru, Uasin Gishu, Narok, Kisii, Homa Bay, Isiolo, Turkana, Bungoma, Kiambu, Kilifi, Migori, Baringo, West Pokot, Elgeyo Marakwet and Meru.**<sup>33</sup> Security analysts have also named **Kwale County (Ukunda and Tiwi), Kilifi County (Malindi and Kaloleni), Tana River (Hola and Garsen), Lamu County (Kiunga and Mpeketoni), and Taita Taveta County (Voi)** as vulnerable to violence.<sup>34</sup>

In Nairobi County, the majority of informal settlements and parts of **Central Business District** are especially vulnerable to political violence, including **Landhies Road, Umoja, Kariobangi, Ziwani, Dandora, Kayole, Kiambui, Githogoro, Kibera, Mathare, Mukuru, Dagoretti, Ruaraka, Kawangware, Buruburu, Globe Cinema, Kangemi, Ngara, Marurui and Korogocho.**<sup>35</sup> Of the coastal region, Mombasa is especially vulnerable to political violence with specific areas including **Kisauni, Likoni (Bomani, Ujamaa), Changamwe (Port Reitz, Magongo, Mikindani) and Mvita.**<sup>36</sup>

Should the opposition NASA lose, it is likely to allege perceived IEBC partiality towards the Jubilee Party contributed to its defeat. Kenyan courts rejected three NASA cases on 20 and 21 July that threatened to disrupt or even delay the election.<sup>37</sup> The **Court of Appeal** overturned a previous **High Court** ruling that nullified the IEBC's KSh 2.5 billion (\$24m) contract with **Dubai-based Al Ghurair Print and Publishing Co Ltd** to supply and print ballot papers (see *ARC Briefing Kenya July 2017*). The NASA accepted the Court of Appeal ruling, but months of criticising the IEBC has damaged its authority in the eyes of the coalition's support base.<sup>38</sup> This increases the risk that NASA supporters will reject the election result or see logistical challenges as evidence of electoral fraud. Odinga said during the 24 July televised presidential debate that *"there would be no violence in Kenya as long as elections are free and fair."*<sup>39</sup> Odinga has designed a comprehensive strategy to mitigate the risk of election fraud: the 'Adopt a Polling Station' initiative to encourage opposition supporters to remain at polling centres after voting to act as unofficial observers; use of smart-phones to capture polling centre and constituency results; and a parallel vote-tallying centre in Nairobi.<sup>40</sup> However, it is unclear whether Odinga has successfully recruited sufficient numbers of supporters to act as observers, especially in opposition strongholds, to mitigate NASA concerns about electoral fraud.<sup>41</sup>

There is also a risk of sporadic protests that may turn violent following the election. The period of highest tension will be between 8 August (polling day) and 14 August (official declaration of results). If either party wins by a narrow majority, the defeated party is more likely to lodge a petition with the **Supreme Court** to challenge the result. The defeated party could look to mobilise supporters to put pressure on the Supreme Court and the IEBC. Protests outside the Supreme Court and the IEBC headquarters in **Anniversary Towers** in Nairobi would therefore be more likely. The **Kenya Police Service (KPS)** is likely to respond with teargas, water cannons and batons. A second-round run-off would be likely to involve protests targeting the IEBC ahead of the polls. Protests would probably

<sup>32</sup> Source, election expert, East Africa

<sup>33</sup> Constellis Confidential, 21 Jul 2017.

<sup>34</sup> Constellis Confidential, 21 Jul 2017.

<sup>35</sup> Constellis Confidential, 21 Jul 2017.

<sup>36</sup> Constellis Confidential, 21 Jul 2017.

<sup>37</sup> Standard, 21 Jul 2017.

<sup>38</sup> Source, election expert, East Africa.

<sup>39</sup> NTV, 24 Jul 2017.

<sup>40</sup> Africa Confidential, 21 Jul 2017.

<sup>41</sup> Africa Confidential, 21 Jul 2017.

continue before the second round and before the publication of final results but diminish in scale and frequency. There is also concern that civil unrest or protests may distract the KPS from its regular policing duties resulting in an increased risk of terrorist incidents, criminal activities and gang-related violence.<sup>42</sup>

Foreign nationals are advised to closely monitor the political situation, receive in-country security briefings, and amend their security procedures and protocols accordingly. Cross-country travel should be limited starting from 6 August until the announcement of the election outcome when a reassessment of the security environment should take place.

### Macro-economic data highlights Kenyatta's mixed record

The **Kenya Revenue Authority (KRA)** published data on 21 July showing that the government missed its 2016/2017 revenue target by 9%.<sup>43</sup> The deficit will increase debate about the government's economic record before the election. The KRA collected KSh1.365 (\$13.15 billion) in the financial year.<sup>44</sup> This was a 13.8% increase on the previous financial year, and the highest ever for the KRA.<sup>45</sup> Revenue increased across all tax segments.<sup>46</sup> However, it fell short of the government's target of KSh1.5 trillion (\$14.46 billion).<sup>47</sup> According to the KRA, revenue collection has increased by an average of 14.3% over the past five years.<sup>48</sup>

However, living costs, another politically sensitive issue around the election, have eased. The **Central Bank of Kenya (CBK)** monetary policy committee (MPC) noted that inflation decreased from a five-year high of 11.7% in May to 9.21% in June when holding its benchmark lending rate at 10% on 17 July.<sup>49</sup> The MPC cited improved rainfalls which increased food supplies.<sup>50</sup> The MPC expects inflation to continue to decrease over the next few months due to lower food and fuel prices.<sup>51</sup> The MPC described the foreign exchange rate as relatively stable, even though the current account deficit increased from 6% of GDP in March to 6.2% in May due to increased cereal imports.<sup>52</sup> The MPC expects the current account deficit to narrow during the second half of 2017 due to strong tea and horticulture exports, increased diaspora remittances, and a recovery in tourism.

The Kenyatta administration's record of public financial management has been mixed. Growth has averaged 5.44% since Kenyatta assumed office. Some of the reasons growth was not higher are beyond Kenyatta's control, especially the 2015-2017 **East Africa** drought. However, others are his responsibility, including the misguided **Banking Act (Amendment) 2015** and its commercial interest rate cap. Public financial mismanagement has persisted under Kenyatta with a series of high-profile corruption scandals involving the misallocation of government funds. Kenya's debt obligations have also increased. Whether Kenyatta or Odinga wins, they may struggle to deliver the financing pledges they have made during the election campaign without resorting to additional borrowing, further putting pressure on government finances and jeopardising longer-term economic planning.

<sup>42</sup> Constellis Confidential, 21 Jul 2017.

<sup>43</sup> Reuters, 21 Jul 2017.

<sup>44</sup> Reuters, 21 Jul 2017.

<sup>45</sup> Reuters, 21 Jul 2017.

<sup>46</sup> Reuters, 21 Jul 2017.

<sup>47</sup> Reuters, 21 Jul 2017.

<sup>48</sup> Reuters, 21 Jul 2017.

<sup>49</sup> Standard, 17 Jul 2017.

<sup>50</sup> Standard, 17 Jul 2017.

<sup>51</sup> Standard, 17 Jul 2017.

<sup>52</sup> Standard, 17 Jul 2017.