



Electoral Commissions Forum of SADC countries

# Observer Mission report: Presidential & Parliamentary Elections- Malawi

19<sup>th</sup> May 2009

Prepared  
7/30/2009

## **TABLE OF CONTENTS**

<b>ACKNOWLEDGEMENT</b> .....	<b>3</b>
<b>CHAPTER ONE</b>	
<b>INTRODUCTION</b> .....	<b>4-6</b>
<ul style="list-style-type: none"><li>• About the ECF-SADC</li><li>• General Terms of Reference</li><li>• About the Mission</li></ul>	
<b>CHAPTER TWO</b>	
The Historical & Political Background of Malawi Elections .....	<b>7-10</b>
<b>CHAPTER THREE</b>	
The Constitution and Legal Framework .....	<b>11-13</b>
<ul style="list-style-type: none"><li>• The Electoral Commission</li><li>• The Electoral System</li></ul>	
<b>CHAPTER FOUR</b>	
The Media and Elections .....	<b>14-15</b>
<b>CHAPTER FIVE</b>	
Pre-Election Phase .....	<b>16-19</b>
<ul style="list-style-type: none"><li>• Delimitation of Constituencies</li><li>• Voter Education</li><li>• Voter Registration</li><li>• Electoral Campaigns</li><li>• Recruitment and Training</li><li>• Accreditation</li><li>• Stakeholder Engagement</li></ul>	

## **CHAPTER SIX**

Polling Day .....	<b>20-21</b>
-------------------	--------------

## **CHAPTER SEVEN**

Conclusion and Recommendations .....	<b>22</b>
--------------------------------------	-----------

## **APPENDICES.....23-30**

Preliminary Statement

List of Delegates

Deployment Plan

Election Results

C/O IEC – Botswana  
7<sup>th</sup> Floor- Block 8  
Government Enclave  
P/Bag 00284  
Gaborone, Botswana



Tel (+267) 3180012  
(+267) 3612400  
Fax (+267) 3900581  
(+267) 3905205  
URL- [www.sadc-ecf.org](http://www.sadc-ecf.org)

## ELECTORAL COMMISSIONS FORUM OF SADC COUNTRIES

Ref: ECF

30<sup>th</sup> July 2009

The Chairperson,  
Malawi Electoral Commission  
Blantyre  
Malawi

Hon Justice Msosa,

The Electoral Commissions Forum of SADC Countries (ECF-SADC) has honored the invitation to observe the Presidential and Parliamentary Elections in Malawi held on the 22<sup>nd</sup> May 2009.

The Observer Mission hereby forwards its Report to the host Commission, the Malawi Electoral Commission. The Mission believes that this Report will assist your Commission in addressing areas requiring improvement and that other sister Commissions in the SADC region will also learn some lessons from the Malawi electoral processes.

The Mission is grateful to all stakeholders in Malawi for ably sharing their perspectives on Malawi electoral process.

Thank you.

Yours faithfully,

Lazarus Shatipamba  
Mission Leader

ECF-SADC Observer Mission to Malawi Presidential and Parliamentary Elections, May 2009.

cc. *ECF President*  
*ECF Chairperson*  
*All SADC Electoral Commissions*

---

**Forum Presidency:** Rev A. Malumalu - President (DRC), Justice A. Msosa -Vice President (Malawi)  
**EXCO: Chairperson:** Justice I. Mambilima (Zambia), - **Vice Chairperson:** Chief S.G Dlamini (Swaziland), Justice A.C P C. de Sousa ( Angola)Justice S. Gaongalelwe (Botswana) Mr A Rahman (Mauritius) M.K. Mwinyichande ( Zanzibar) Justice G. Chiweshe ( Zimbabwe)

## **CHAPTER ONE**

### **Introduction**

#### **About the ECF-SADC**

The Electoral Commissions Forum of SADC Countries (ECF-SADC) was launched in Cape Town in July 1998 and is governed by a Constitution which mandates it to perform the following:

- Strengthen co-operation amongst Electoral Commissions in the Southern African Development Community,
- Promote conditions conducive to free, fair and transparent elections in countries in the Southern African Development Community, and

The Principles of Electoral Management, Monitoring and Observation (PEMMO) are the major observation tool used by ECF missions. PEMMO is a joint project between ECF and Electoral Institute of Southern Africa (EISA). These guidelines continue to be resourceful to ECF missions whenever observers are deployed to SADC countries. Through election observation, the Electoral Commissions members are able to identify potential areas of support for one another.

#### **General Terms of Reference**

The general terms of reference for the Mission were to observe the pre-election environment, the conditions in which the election would take place, the conduct of election and whether the results reflect the participation of the people and the conditions observed in the electoral process, evaluate and assess these processes, reflect on them and make recommendations that will contribute to the improvement of the electoral process in Malawi.

#### **About the Mission**

The Electoral Commissions Forum (ECF) of the Southern African Development Community (SADC) countries was invited by the Malawi Electoral Commission through a letter dated 15<sup>th</sup> June 2008 to observe the 2009 Presidential and Parliamentary Elections scheduled for the 19<sup>th</sup> May 2009. In response to this invitation, the ECF duly deployed a 22 member Observer Mission.

The Electoral Commissions represented in the ECF-SADC Observer Mission were from the following countries:

- Angola
- Botswana
- Lesotho
- Mozambique
- Namibia

- South Africa
- Swaziland
- Zambia and
- Zimbabwe.

The first delegates arrived in Blantyre on the 11<sup>th</sup> May 2009. Mr. Lazarus Shatipamba, a Commissioner at the Electoral Commission of Namibia, was elected to lead the Mission.

The Mission was briefed by the Malawi Electoral Commission, on the level of its preparedness for the election and it was able to gather adequate information on key issues that are central to the conduct of the forthcoming election.

The Mission also consulted with a number of stakeholders through organising a seminar at which some of them were invited. The following information was gathered;

- The level of impartiality of the media in the coverage of the election;
- The historical and political background of Malawi elections , the current electoral system, and
- Perspectives of Civil Society and Non-governmental Organisations on the forthcoming election.
- The views by contesting political parties.

## **Deployment**

The Mission covered two of the three Regions and the deployment was in the following manner: Four teams covered the Southern Region: Blantyre, Chikwawa, Mwanza, Neno, Balaka, Zomba, Chiradzulu, Thyolo and Mulanje.

Three teams covered the Central Region: Lilongwe, Mchinji, Dowa and Salima. The teams were in the field for five days and they made pre-poll visits in their assigned districts to familiarize themselves with the location of the polling stations, assess infrastructure and observe the pre- election activities.

## **Observations**

The stakeholders generally expressed satisfaction with the level of their involvement at all stages and interaction with MEC. However, the Mission noted the concerns raised by stakeholders on the voter registration exercise and the status of the voters' roll which they believed could affect the outcome of the elections.

There was also a concern about media coverage of election campaigns by various media houses. Most importantly there was a general view that Malawi's State Broadcaster did not treat the contesting political parties equitably.

The Mission also observed that the public electronic media did not cover the contesting parties equally. The Mission commends MEC for bringing this to the attention of the public media.

### **Observations on Polling**

- Most polling stations opened on time except a few which were delayed by the late delivery of voters' rolls like Dowa District Chambers and the Village Polytechnic Centre in Dowa District which started around 6:30 am.
- Lack of transport contributed to the delays and delivery of polling materials.
- The correct procedures of SADC guidelines on elections were followed on the opening of the poll.
- There was a high turnout of voters during the early hours of the polling. Some even came around 4 am.
- Voting went smoothly despite long queues at some polling centres. The smoothness was a result of several streams of voters where the numbers of registered voters were high.
- The polling stations were adequately staffed and most personnel were trained.
- The voting process was done smoothly without many difficulties.
- The secrecy of the ballot was safeguarded.
- There was no adequate communication system between the district offices and the polling stations.
- The campaigning materials were not visible near the polling stations.
- Political party monitors were present and participated during the whole voting process.
- The voters' rolls did not present many problems at the polling stations except at a few polling stations where the voters' rolls arrived after 6am which delayed the start of the voting process.
- Verification of registered voters whose names did not appear in the voters' roll somewhat delayed the process.
- The signage regarding voting stations was not *visibly* displayed.
- The security officials tended to go beyond their prescribed duties as some assisted the voters in casting their votes as well as in the counting of the votes. Yet the pervasive presence of these officers could be intimidating to some voters.
- On the whole the conduct of elections was orderly and peaceful.

*Other observations are reflected in the preliminary statement attached to this Report.*

## CHAPTER TWO

### Historical and Political Background of Malawi Elections

Malawi has about 13, 9 million people. It is divided into three main regions namely: south-central and northern regions. It is composed of several ethnic groups.

- Malawi was once under a colonial rule for seventy years; after which there was thirty years of dictatorship under the rule of Kamuzu Banda.
- Initially Malawians were animal hunters moving from one place to another. Their unity was maintained through the establishment of chiefdoms for easy administration.
- The British missionaries arrived in 1876 and hence colonial rule came into place. Furthermore, the agricultural sector was dominated by white people, mostly growing tea, tobacco and cotton until the 1930 when blacks joined their counterparts.
- After 30 years of a single-party rule under the late Dr Kamuzu Banda's Malawi Congress Party (MCP) pressure from domestic opposition groups, compounded by the changing regional and global geopolitical landscape, led to the advent of multiparty democracy in 1994.
- In 1993 a referendum was conducted on the introduction of multiparty democracy, resulting in overwhelming majority (63%) voting in favour of a multiparty democracy.
- In preparation for the elections, a national consultative council comprising representatives of all political parties was set up to steer the transitional process forward. This transitional arrangement came to an end with 1994 elections.
- Bakili Mulusi won the 1994 presidential elections with 47.16% of votes while his party, the United Democratic Front (UDF) received 85 of the parliamentary seats. Even though the UDF won the elections, it fell short of an outright majority. In order to govern, the UDF formed a coalition with AFORD and AFORD leader Chafukwa Chihana was made second vice-president. The coalition did not survive the full term of office due to disagreements between the two parties. AFORD decided to leave government but the UDF-led survived as some AFORD cabinet ministers defied the party's decision to leave the coalition. Subsequently AFORD formed an alliance with the MCP, the official opposition. The MCP-AFORD alliance remained in place until the 1999 elections.
- The second multi-party elections were held on 15 June 1999. Five candidates contested the presidential elections: Dr Bakili Mulusi from the UDF; Gwanda Chakwamba from MCP-AFORD; Kampelo Kalua from the Malawi Democratic Party (MDP); Bishop Daniel Mkhumbwe from the Congress for the National Unity (CONU) and Bingu wa Mutharika from the United Party (UP).
- A total of 630 candidates contested the 193 parliamentary seats. These candidates were fielded by a total of eight parties and there were 118 independent candidates.



Dr Bakili Mulusi was declared the winner of the 1999 presidential elections with 51.37% of the presidential poll against the 44.3% of his immediate rival, Gwanda Chakwamba. As for the parliamentary elections, the ruling party (UDF) won 94 seats falling short of an outright majority in parliament, while the MCP-AFORD alliance received 95 seats. Four constituencies elected independent candidates.

This citation only changed after the UDF enlisted the support of four independent MPs and subsequently won three seats in by-elections.

- The political landscape after the 1999 elections came to be characterised by two main aspects, namely the frequent formation and splitting of party coalitions across the whole political spectrum and President Muluzi's third term campaign.
- In early 2001 disagreements within the ruling United Democratic Front over the open term bill resulted in a leading member of the party, Brown Mpinganjira, forming a pressure group to campaign against the bill. After his expulsion from the party, the pressure group became the National Democratic Alliance (NDA). Desertions continued through the 1999-2004 UDF term of government
- In the run up to the 2004 elections, several members of the ruling party left the party to contest the elections as Independent Candidates, including Dr. Muluzi's Vice President Justin Malewezi. In fighting between top Malawi Congress Party, John Tembo, Gwanda Chakwamba and Dr Hetherwick Nataba led to the split in 2003 which saw Chakwamba forming the Republic Party (RP) and Nataba the New Congress of Democracy (NCD). The third largest party AFFORD also experienced internal squabbles. Chihana's decision to support the open term bill brought the party to the brink of a break-up and led to the formation of the splintered movement for the Genuine Democracy (MGODE). The internal squabbles within political parties and the formation of the splinter are complemented by the formation of party coalitions.
- In 1999 elections, AFFORD entered into a coalition with MCP. This coalition came to an end during the open term controversy where the AFORDS supported the bill while the MCP opposed it. AFFORD then signed an agreement with the UDF which provided for a coalition in the 2004 elections. The bill was rejected by parliament. Bingu wa Mutharika was elected president in 2004.

- The following parties were formed after the 2004 elections.

<b>Party</b>	<b>Leader</b>	<b>Founded</b>
DPP	Dr Bingu wa Muthariak	February 2005
UDP	Kennedy Solomon Kalambo	February 2005
NRP	Gwanda Chakuwamba	October 2005
MPP	Uladi Mussa	June 2007
NARC	Beatrice Mwale	March 2008

The following parties won seats in the 2004 National Assembly;

UDF (formerly DP),

MCP (formerly AC)

RP

AFFORD

PPM

MGONDE

PETRA

CONU

Parties represented for the 19 May 2009 Presidential elections.

DPP	Bingu wa Mutharika
PETRA	Chibambo Kamuzu Walter
NARC	Loveness Gondwe
RP	Stanley Edington Masalu

AFFORD

Gowa Dindi  
Nyasulu

Independent  
Candidate

James Mbowa  
Nyondo

MCP

John Tembo

## CHAPTER THREE

### The Constitution and Legal Framework

#### Constitution and Electoral Legal Framework

#### The Constitution of *the Republic of Malawi* and the Parliamentary and Presidential Elections Act

##### Constitutional Provisions and Electoral System

The Constitution of the Republic of Malawi, 1994 and the Parliamentary and Presidential Elections Act No.31 of 1993 as amended provide the electoral framework for Presidential and Parliamentary elections in Malawi.

The elections are conducted under the First Past the Post (FPTP) electoral system and the Malawi Electoral Commission is the body that is mandated to *manage the country's elections*. *The Constitution of the Republic of Malawi states that:*

Save as otherwise provided in the Constitution, the authority to govern derives from the people of Malawi as expressed through universal and equal suffrage in elections held in accordance with this Constitution and in a manner prescribed by an act of parliament. *Act X of 1994, Section 1(6)*

The President is head of state *and Section 83(3) of the Constitution limits the President's term of office to two terms*. Presidential and Parliamentary elections are held simultaneously and Members of Parliament are elected according to the single member plurality electoral system for a five-year term. Section 64(1) of the Constitution and provides that:

Parliament stands dissolved on 20 March in the fifth year after its election and general election for the next National Assembly must take place on the Tuesday of the third week of May that year.

##### The Franchise

All persons registered as voters shall be entitled to vote in Presidential and Parliamentary elections. The *conditions* for registration as a voter are *set out in* Section 77 of the Constitution and state that, such person:

- is a citizen of Malawi or, if not a citizen, has been ordinarily resident in the Republic for seven years;
- has attained 18 years of age; and
- is ordinarily resident in that constituency or was born there or is employed or carries on *not out?* a business there.

Section 77(3) (b) of the Constitution *states* that a prisoner is not excluded from registration unless he/she is *serving a death sentence* imposed by a court having jurisdiction in the Republic.

### **The Malawi Electoral Commission**

The Malawi Electoral Commission (MEC) was established under Section 75 of the Constitution of the Republic of Malawi. The Commission executes its mandate under the following legislation:-

- *The Constitution of the Republic of Malawi (the Constitution);*
- *The Electoral Commission Act No. 11 of 1998 (ECA);*
- *The Parliamentary and Presidential Elections Act No. 31 of 1993 as amended (PPEA); and*
- *The Local Government Elections Act No. 24 of 1996 (LGEA); and*

Other related legislation includes:

- The Communications Act; and
- Political Parties (Registration and Regulation) Act, 1993 (as amended).

### **Powers and functions**

The *Commission has the following powers and carries out the related functions:*

- to determine the number of constituencies for purposes of elections;
- to undertake or supervise the demarcation of boundaries of constituencies;
- to undertake or supervise the demarcation of wards for purposes of local government elections and to determine the number of such wards;
- to organize and direct the registration of voters;
- to conduct Presidential, Parliamentary and Local Government elections;
- to print, distribute and take charge of ballot papers and voters' registers;
- to establish and operate polling stations;
- to ensure security conditions necessary for the conduct of elections;
- to determine electoral petitions and complaints related to the conduct of any election; and
- to promote public awareness of electoral matters through the media and other appropriate and effective means and conduct civic and voter education on such matters.

### **Composition of the Commission**

The composition of the Commission is provided for under Section 75 of the Constitution. The Commissioners are appointed by the President of the Republic in consultation with leaders of political parties represented in Parliament, and there shall be not less than six Commissioners at any time.

The Chairperson, who should be a Judge, is also appointed by the President of the Republic on the recommendation of the Judicial Service Commission.

Members may be removed by the President on the advice of the Public Appointments Committee for incompetence or incapacity. The tenure of office for the Chairperson and Commissioners is four years from their respective dates of appointment. The *current* members of the Malawi Electoral Commission are:

- Justice Anastasia Msosa, SC Chairperson
- Professor Brown Chimphamba
- Commissioner Dick Mzumara
- Commissioner Georgina Chikoko
- Commissioner Jane Nankwenya
- Commissioner Mary Manyusa
- Commissioner Oliver Mwenifumbo
- Commissioner Ronald Nkomba.

The independence of the Malawi Electoral Commission is provided for Section 76(4) of the Constitution of the country which states that:

The Electoral Commission shall exercise its powers, functions, and duties under this section independent of any direction or interference by other authority or any person.

In terms of the Electoral Commission Act (Section 12), policy matters are implemented by a management team headed by the Chief Electoral Officer *who* is appointed by the Commission and is directly answerable to it.

## **CHAPTER FOUR**

### **The Media and Elections**

Malawi has no less than 27 media outlets, both print and electronic. The country has two main print media companies, the Nation and the Daily Times which are both privately owned. With regard to electronic media, Malawi has several radio stations that broadcast nationwide (and a few faith based stations which - for the purpose of this report - have not been taken into account) and one state-controlled TV channel which broadcasts across the country. There are as yet no independent and/or privately owned television stations broadcasting countrywide in Malawi. The main radio stations are Zodiak Broadcasting station, Capital FM, MIJ FM, Star Radio, JOY Radio are all privately owned while MBC 1 and 2 are state owned. The rest of the media houses have had no measurable impact on the election coverage since they had studiously avoided being involved in electioneering process or carrying reports pertaining to the election.

As with most countries in the region, the public media is a sector of development that is largely in its infancy. However, its state of development has less to do with a lack of resources than with the political will to empower citizens with the knowledge that would help them to make better choices in their quest to create a better life for themselves and their families, through individual and collective action in their own communities. To be able to exercise such choices, people have to have access to a wide variety of media that educates, informs and entertains. This combination of aims is at the heart of community empowerment and is what public media has tried over the ages to do, with community radio playing a supportive role in specific community contexts.

In terms of the regulatory environment for media, Malawi has made some progress in that there is some degree of media freedom. The media has operated freely, especially in the period leading up to the elections. No serious incidents of media repression have been reported in recent years in Malawi and the country's problems in the sector are attributable largely to the lack of investment in the infrastructure necessary for the creation of a healthy and vibrant media. There has been little invested in the training of media practitioners and this is reflected in the oft cited lack of professionalism in media. To its credit though, the media in Malawi has signed up to a Media Code of Conduct for the 2009 Parliamentary and Presidential Elections that in theory is meant to level the playing field for all the players. The Malawi Electoral Commission spearheaded the drafting and adoption of the code in order to provide the people of Malawi with the knowledge necessary for them to exercise their choice freely, armed with a fuller understanding of the issues in this election. Despite this laudable effort though, it is evident that the conduct of certain media houses did not accord with the letter and spirit of the code.

Malawi has a Media Council that sits at the apex of self-regulation and sets down guidelines for the professionalization of the media. However, self-regulation only

works where there is tacit recognition and unequivocal support of the imperative of self-regulation by government authorities and the donor sector, the former through legislation and the latter through financial support for sustainability. NGO's such as the Media Institute of Southern Africa – Malawi chapter (MISA-Malawi) and the Public Affairs Committee (PAC) an inter-faith action group, are united in their view that the media in Malawi have let down voters by not focusing on election issues but rather allowing contesting candidates to centre their campaigns on negative character depiction. Instead of countering this negativity, the media were seen to kowtow to this destructive tendency. In its media monitoring report No.7 published by the Media Monitoring Unit of the MEC, the Commission has roundly criticised media outlets (including state media) that "...have chosen to operate on the assumption that ownership or control of the airwaves gives them the right to use the resources virtually exclusively for the benefit of one or other political party..." The Malawi Communications Regulatory Authority (MACRA) has set down guidelines which it expects media houses to abide by, but it has no teeth to enforce the guidelines, hence the routine violation of these guidelines by Malawi Broadcasting Corporation in particular.

## **Recommendations**

- Malawi should review its Media Code of Conduct for Elections, especially enforcement provisions. Even though the Code is voluntary, there should be built into it provisions that will ensure that all players are in compliance, including state media.
- More resources should be made available for strengthening media through training of media personnel at tertiary level in all media related disciplines.
- MACRA's regulatory role should be strengthened by including provisions in the law for punitive measures to deal with recalcitrant media houses with respect to violations of broadcasting guidelines.
- The Media Council of Malawi should be afforded legal status with the power to enforce regulatory provisions relating to the media profession. Crucially, it should be empowered to regulate entry into the profession and set standards for the practice.



## **CHAPTER FIVE**

### **Pre- Election Phase**

The section covers the Pre-Election Phase *of the 2009 Presidential and National Assembly Elections in Malawi.*

#### **Voter Education**

*The Malawi Electoral Commission (MEC) provided voter education to potential voters throughout the pre-election period. For the electorate to participate in significant numbers in the elections and to make their mark efficiently so as to minimise spoiled ballots there was a deliberate move to equip them with necessary and relevant information.*

#### **Civic and Voter Education Strategy**

In order to ensure that the public get the right information at the right time, the MEC developed a Civic and Voter Education Strategy which provided direction for the delivery of credible civic and voter education for the 19th May, 2009 General Elections. *This strategy culminated in a booklet published by the MEC.*

#### **District Civic and Voter Education Coordinating Committees (DC and VECCS)**

*The MEC established District Civic and Voter Education Coordinating Committees (DC and VECCs) in all districts to monitor the delivery of civic and voter education. This arrangement was meant to ensure the provision of voter education reaches most if not all citizens of Malawi.*

#### **Civic and Voter Education during registration through to polling**

During registration, the Commission used electronic media to mobilize people to go and register. There were also a number of Civil Society Organisations (CSOs) and Faith Based Organisations (FBOs) that complemented the effort of the Commission. Since the CSOs got funding from *the United Nations Development Program* Basket Fund, the Commission *relied* on the CSOs to educate the public. *In addition*, the Commission developed a number of literature materials for distribution to the public by the CSOs. *Further, it monitored* the delivery of civic and voter education through *noun in full before acronym* (IFES). However, the Commission received reports that the civic and voter education had not been intensified as *was intended therefore this was cause for concern.*

## Voter Registration

The MEC had resolved, following a number of consultative meetings with stakeholders that this 2009 registration of voters should start afresh so as to come up with a new voters register. The previous voters register had irreparable problems. Following this decision, a new field data capture system was procured to support the new initiative.

## Registration Equipment

There were 3,897 registration centres in the country but the Commission bought 870 sets of registration equipment (*Please state the actual equipment that was bought, scanners?*). The photographic equipment was expensive as a result it was not possible to procure 3,897 (one for each centre). Following this, a *once-off* registration exercise was not possible. The registration drive was, therefore, staggered and initially it was planned over a six phase period with each of the three regions registering simultaneously at each phase.

The Commission projected a planning figure of 6.5 million eligible voters. Mid-way through the registration drive, the National Statistical Office released preliminary results which indicated that there were 6.2 million eligible voters in the country. By the time registration was completed, the Commission had captured 5.9 million against the 6.2 million NSO figures which was 94% of eligible voters that were registered.

The actual registration started on 18<sup>th</sup> August 2008 and was expected to end on 29<sup>th</sup> November, 2008 after six staggered phases of 14 days each. However, as a result of the constraints brought by the shortage of photographic equipment, there were extensions in almost each and every phase. This subsequently moved the last day of registration to 31<sup>st</sup> January, 2009 and there were eight phases instead of six as originally planned. The major challenges faced during registration was that most photographic equipment broke down during the registration exercise.

Alternative means were brought about to sustain the registration activities to the end, these included:-

- Procurement of more equipment to increase the initial stock.
- Training of technicians to repair damaged equipment in the field so that registration was not hindered.
- Scaling down of operations in some cases in order to operate with the limited equipment available which was still functional. This is what had extended the completion period from the original plan.

**The Commission would be encouraged to continue reviewing this aspect of registration even after the elections so that there is sustainability on the upgrading of the voters roll.**

## Inspection of the Voters Register

Electoral Laws *in Malawi* require that once the preliminary Voters Register has been produced, it has to be taken back to all the *polling* centres for people to verify that their details have been recorded correctly.

This exercise took place from 1<sup>st</sup> April to 5<sup>th</sup> April, 2009 *and* enabled the *registered voters* to, among others:-

- (i) Update their details in the register
- (ii) Effect transfers
- (iii) Report deaths of *registered “would be” voters in order to remove such voters from the voters register.*

The result of the inspection (verification) exercise revealed that there were some gaps in the register which required to be worked on and appropriate update forms were completed in order to update the register accordingly. The Commission also mounted an in-house verification *process* where every form in Part ‘A’ register was being physically matched against the corresponding details in the voters register.

**Up to the eve of the elections the Voters roll was still being printed, this was not appropriate as the situation ended up delaying the distribution of materials and the training of the election staff.**

## Electoral Campaign

*The Electoral Laws in Malawi make provision for* political parties to campaign for a period of two (2) months and ending forty eight hours before polling commences. However, before campaigning started, nomination court procedures had taken place and that had determined whether *or not* there was going to be an election. Apart from rallies and other methods of campaigning used by political parties, the MEC arranged for *an* equal opportunity for all political parties to be *given* *airtime* on television and *public radio stations*.

**There was no violence reported during these campaigns according to the MEC. However, there was concern regarding the lack of coverage of other political parties by state media and the state broadcaster.**

## Recruitment and Training of Registration Staff

*The training of supervisors and presiding officers was to be completed on 17<sup>th</sup> May 2009 while the training of polling clerks took place on 18<sup>th</sup> May 2009 at the polling stations. While the training of took place on the 18<sup>th</sup> may 2009, many of the centres only started training (who, election staff or polling clerks?) in the afternoon. The delay in starting training was caused mainly by the late delivery of materials which were to be used for training.*

**Other centres failed to train on the aspect of the voters roll as it only arrived late in the evening of 18<sup>th</sup> May 2009.**

### **Dispatch of Election material**

There was a delay in the deployment of election materials *and* the main reason was inadequate *provision* of transport. The MEC needs to seriously look *into transportation logistics* since this area plays a *very significant* aspect of the election logistics.

### **Stakeholder Accreditation**

Accreditation was issued by the Malawi Electoral Commission to all International and Local observers. Application forms *were* filled, accompanied by a passport size photo and a fee of \$100.00 *per applicant*. The *(In full before the acronym)* SADC-ECF was the only observer mission that was exempted from paying the \$100.00. A laminated ID card bearing name, mission and photograph is than issued to the applicant.

### **Observation**

The Accreditation **ID** card for political party agents had neither the names of the party representatives not the party they represented. The cards only bore the word "Monitor" and such a card could easily be printed from a home based computer system.

## CHAPTER SIX

### Polling Day

#### Polling

- Most polling stations opened on time except a few which were delayed by the late delivery of voters' rolls like Dowa District Chambers and the Village Polytechnic Centre in Dowa District which started around 6:30 am.
- Lack of transport contributed to the delays and delivery of polling materials.
- The correct procedures of SADC guidelines on elections were followed on the opening of the poll.
- There was a high turnout of voters during the early hours of the polling. Some even came around 4 am.
- Voting went smoothly despite long queues at some polling centres. The smoothness was a result of several streams of voters where the numbers of registered voters were high.
- The polling stations were adequately staffed and most personnel were trained.
- The voting process was done smoothly without many difficulties.
  - The secrecy of the ballot was safeguarded.
  - There was no adequate communication system between the district offices and the polling stations.
  - The campaigning materials were not visible near the polling stations.
  - Political party monitors were present and participated during the whole voting process.
- The voters' rolls did not present many problems at the polling stations except at a few polling stations where the voters' rolls arrived after 6am which delayed the start of the voting process.
- Verification of registered voters whose names did not appear in the voters' roll somewhat delayed the process.
- The signage regarding voting stations was not *visibly* displayed.
- The security officials tended to go beyond their prescribed duties as some assisted the voters in casting their votes as well as in the counting of the votes. Yet the pervasive presence of these officers could be intimidating to some voters.
- On the whole the conduct of elections was orderly and peaceful.

## Counting

- In general the boxes were locked after the completion of the voting process.
- The Presiding Officers did permit party agents to affix their seals to the opening of the ballot boxes.
- In some cases the counting centres were attended by the persons who were not duly authorized to do so.
- The counting process was slow due to inadequate lighting. At some polling stations, generators were reported faulty and some ran out of fuel and also the lamp batteries were inadequate. However the counting process was transparent because even the party agents were involved and there was consensus in the entire process.
- The tallying and reconciling of used and unused ballot papers was accurate in most cases.
- The results sheets were signed by the party agents who were present.
- Due to lack lighting at some stations the results were only announced but could not be posted outside.

Overall the polling and counting process was done in a free, fair and transparent manner.

## **CHAPTER SEVEN**

### **Conclusion and Recommendations**

The Mission observed that the preparation for the elections was on schedule and this assisted the people of Malawi to exercise their Constitutional Right to vote. Furthermore, the process of elections was generally in compliance with the recommended Principles for Election Management, Monitoring and Observation in the SADC region cited in PEMMO (2003).

In relation to the observations reflected in this report, the Mission wishes to submit the following recommendations to the Malawi Electoral Commission for consideration:

#### ***Polling***

- That ballot boxes should be marked accordingly, i.e., Presidential and Parliamentary boxes.
- The signage to polling stations should be visibly displayed.
- Early and timely dispatch of election material to the polling stations.
- Priority should be given to the management of the voters roll.
- Training of polling staff should be accorded more time.
- The training of counting staff needs to be intensified.
- The role of Security Forces during elections should be clearly defined.
- Voting should take place indoors where possible .
- Adequate transport be made available on time to enable prompt delivery of polling materials at polling stations.
- Sufficient security seals be provided to cater for unforeseen situations.

#### ***Media***

- Malawi should review its Media Code of Conduct for Elections, especially enforcement provisions. Even though the Code is voluntary, there should be built into it provisions that will ensure that all players are in compliance, including state media.
- More resources should be made available for strengthening media through training of media personnel at tertiary level in all media related disciplines.
- MACRA's regulatory role should be strengthened by including provisions in the law for punitive measures to deal with recalcitrant media houses with respect to violations of broadcasting guidelines.
- The Media Council of Malawi should be afforded legal status with the power to enforce regulatory provisions relating to the media profession. Crucially, it should be empowered to regulate entry into the profession and set standards for the practice.

C/O IEC –Botswana  
7<sup>th</sup> Floor- Block 8  
Government Enclave  
P/Bag 00284  
Gaborone, Botswana



Tel (+267) 3180012  
(+267) 3612400  
Fax (+267) 3180016  
(+267) 3905205  
[www.sadc-ecf.org](http://www.sadc-ecf.org)

## ELECTORAL COMMISSIONS FORUM OF SADC COUNTRIES

### THE OBSERVATION STATEMENT SUBMITTED TO THE MALAWI ELECTORAL COMMISSION

#### Introduction

The Electoral Commissions Forum (ECF) of the SADC countries, in response to the invitation from the Malawi Electoral Commission on 25<sup>th</sup> June 2008, observed the Presidential and the Parliamentary elections which were held on 19<sup>th</sup> May 2009.

The ECF duly deployed a 22 Member Mission to observe the elections from 10<sup>th</sup> to 22<sup>nd</sup> May 2009.

The purpose of this Statement is to present a brief overview of the ECF Observation of the 2009 elections in Malawi. A full report will be submitted at a later stage.

#### The ECF Mandate

The ECF, comprising all 14 SADC member states' Electoral Commissions, was launched in July 1998 and is governed by a Constitution. Among its various functions and activities, the ECF's mandate includes the following:

- To strengthen co-operation amongst Electoral Commissions in the SADC region; and
- To promote conditions conducive to free, fair and transparent elections in the SADC region.

The ECF views election observation as an important component of promoting democratic elections and consolidating democracy in the SADC Region. The aim of the Forum observing elections, therefore, is to assist Election Management Bodies in the SADC region to identify areas of improvement in election administration so as to deliver credible elections.



## **Mission Composition and Structure**

The Electoral Commissions represented in the Observer Mission were Angola (3) Botswana (2), Lesotho (3), Mozambique (2), Namibia (3), South Africa (2), Swaziland (1), Zambia (2) and Zimbabwe (3), with the first delegates arriving in Blantyre on 10<sup>th</sup> May 2009 (*See Annex A for list of Mission Members*).

The Mission was led by Mr Lazarus Shatipamba, a Commissioner of the Electoral Commission of Namibia and the Deputy Mission Leader was Mr. Omphemetse Motumise, a Commissioner at the Independent Electoral Commission of Botswana.

## **Pre-Poll Mission activities**

The Mission met with the following stakeholders:

- The Malawi Electoral Commission which provided the Mission with a brief on its election readiness.
- The SADC Secretariat which briefed the ECF on the purpose of their Mission including their activities.
- The Commonwealth which organized a meeting for Heads of Missions and facilitated note sharing by the missions.
- The political parties' representatives, media institutions, civil society organizations and non governmental organizations who briefed the Mission on how the preparations regarding elections were conducted. The seminar with stakeholders provided information and insight into the 2009 elections.

The stakeholders generally expressed satisfaction with the level of their involvement at all stages and interaction with MEC. However, the Mission noted the concerns raised by stakeholders on the voter registration exercise and the status of the voters' roll which they believed could affect the outcome of the elections.

There was also a concern about media coverage of election campaigns by various media houses. Most importantly there was a general view that Malawi's State Broadcaster did not treat the contesting political parties equitably.

The Mission also observed that the public electronic media did not cover the contesting parties equally. The Mission commends MEC for bringing this to the attention of the public media.

## **Deployment**

The Mission covered two of the three Regions and the deployment was in the following manner: Four teams covered the Southern Region: Blantyre, Chikwawa, Mwanza, Neno, Balaka, Zomba, Chiradzulu, Thyolo and Mulanje. Three teams covered the Central Region: Lilongwe, Mchinji, Dowa and Salima. The teams were in the field for five days and they made pre-poll visits in their assigned districts to familiarize themselves with the location of the polling stations, assess infrastructure and observe the pre- election activities.

## **Overview on the Poll**

The Mission observed the following on polling day:

- Most polling stations opened on time. However, a number of polling stations visited started at a very slow rate.
- Voting went smoothly despite long queues at some polling stations.
- The polling stations were adequately staffed with trained personnel.
- The voters were able to cast their ballots without difficulty.
- Generally, the secrecy of the ballot was safe guarded.
- The campaign materials were not visible at the polling stations.
- In most polling stations visited, International observers were present when voting started at 0600hrs.
- Party Agents were present at the polling stations visited.
- There was a high turn-out of voters during the early hours of the polling.
- There was adequate media coverage of the polling day, including a number of press reports by the MEC.
- The voter's rolls did not present many problems at the polling stations. However, verification of registered voters who's names did not appear in the voters roll delayed the process in some polling stations.
- The conduct of the elections was orderly and peaceful.

- The signage for polling stations was not visibly displayed
- The pervasive presence of the police and the armed military (security forces) could be intimidating to some voters.
- The counting process was slow largely due to inadequate lighting. In some polling stations, generators were reported faulty and the battery lamps inadequate. The counting process was however transparent.
- The tallying of results at constituency level was slow due to the delay in receiving results from polling stations.
- Lack of reconciliation of ballot paper accounts by some Presiding Officers delayed the totaling of results at some tallying centres.
- The transmission of results from the constituencies to the national tally centre was slower than expected.
- Lack of adequate transport contributed to the delays in the delivery of polling materials to some polling stations.
- The use of open grounds for voting subjected the polling staff to the vagaries of the weather.
- In some instances, there was inadequate communication system between the district offices and the polling stations.
- There was too much voter education at the point of ballot paper issuing by some polling staff which could be mistaken for electioneering.

In relation to the above observations, the Mission wishes to submit the following recommendations to the Malawi Electoral Commission for consideration:

- That ballot boxes should be marked accordingly, i.e., Presidential and Parliamentary boxes.
- The signage to polling stations should be visibly displayed.
- Early and timely dispatch of election material to the polling stations.
- Priority should be given to the management of the voters roll.
- Training of polling staff should be accorded more time.
- The training of counting staff needs to be intensified.
- The role of Security Forces during elections should be clearly defined.
- Voting should take place indoors where possible .
- Adequate transport be made available on time to enable prompt delivery of polling materials at polling stations.
- Sufficient security seals be provided to cater for unforeseen situations.

## Conclusion

Generally, the Mission observed that the preparation for the elections was on schedule and this assisted the people of Malawi to exercise their Constitutional Right to vote. Furthermore, the process of elections was generally in compliance with the recommended Principles for Election Management, Monitoring and Observation in the SADC region cited in PEMMO (2003)



.....  
**Mr Lazarus Shatipamba, Mission Leader**

**21<sup>st</sup> May 2009, Blantyre, Malawi**

.....  
**Forum Presidency:** Rev A. Malumalu - President (DRC), Justice A. Msosa -Vice President (Malawi)  
**EXCO: Chairperson:** Justice F. Mumba (Zambia), - **Vice Chairperson:** Chief S.G Dlamini (Swaziland), Justice A.C P C. de Sousa ( Angola) Justice S. Gaongalelwe (Botswana) Mr A Rahman (Mauritius) M.K. Mwinyichande ( Zanzibar) Justice G. Chiweshe( Zimbabwe)

## Annex 2: List of ECF-SADC Delegates

Country/ Electoral Commission	Delegate	Designation
<b>Angola</b>	Joaquim Camuimba	Chairperson – Province
	Miguel Estavao Ndala	Chairperson- Province
	Paulo Kuzunguluca	Chairperson- Province
<b>Botswana</b>	Omphemetse Motumise	Commissioner
	Doreen L. Serumola	Chief State Counsel
<b>Lesotho</b>	Malefetsane Nkhahle	Commissioner
	Lehlomela Makume	Data Administrator
	Alice Moshoeshoe	Senior Electoral Officer
<b>Mozambique</b>	Artemisa Jose Franco	Commissioner
	Zauria Amisse A. Abdula	Commissioner
<b>Namibia</b>	L.N Shatimpamba	Commissioner
	A. Awali	Chief Clerk
	E. Gawanas	Officer Assistant
<b>Swaziland</b>	Glory Mamba	Commissioner
<b>South Africa</b>	Dr Tumelontle Thiba	Provincial Electoral Officer
	Elizabeth Pholoha	Senior Admin Officer- Outreach Division
<b>Zambia</b>	Priscilla M.Isaac	Deputy Director- Elections & Voter Education
	Christopher Munachuka	Data Entry Supervisor
<b>Zimbabwe</b>	Sarah Kachingwe	Commissioner
	N. Mutemasango	Deputy Chief Election Officer- Admin & Finance
	Catherine Mamire	Executive Assistant
<b>ECF Secretariat</b>	Hilda Modisane	Programme Officer

### Annex 3 ECF SADC DEPLOYMENT

Name	DESIGNATION	CONTACT NUMBERS	Lodging	CAR
				DETAILS
<b>Artemisa Jose Franco</b>	<b>Team Leader</b>	<b>995514432</b>	<b>Hotel Victoria - Blantyre</b>	<b>CZ 1139</b>
Doreen L. Seruluma		995433189		Toyota L/Cruiser
Lehlomela Makume		995433222		
<b>Omphemetse Motumise</b>	<b>Team Leader</b>	<b>995507243</b>	<b>Hotel Victoria - Blantyre</b>	<b>SA 135</b>
Priscilla M. Isaac		995514404		Toyota
Paulo Kuzunguluka		9958368041		L/Cruiser
<b>Dr. Tumelontle Thiba</b>	<b>Team Leader</b>	<b>995507371</b>	<b>Hotel Victoria - Blantyre</b>	<b>BN 928</b>
Joaquim Camuimba		995505736		Mitsubishi
E. Gawanas		995414819		Colt
<b>Malefetsane Nkhahle</b>	<b>Team Leader</b>	<b>995507358</b>	<b>Hotel Victoria - Blantyre</b>	<b>BP 120</b>
Zauria Amisse Agy Amisse Abdula				Mitsubishi
Miguel Estavao Ndala		9955055552		
<b>N. Mutemasango</b>	<b>Team Leader</b>	<b>995433216</b>	<b>Pacific Hotels</b>	<b>BN 9118</b>
Alice Moshoeshoe		995433160		Mitsubishi
<b>Gloria Mamba</b>	<b>Team Leader</b>	<b>995414301</b>	<b>Pacific Hotels</b>	<b>BN 4002</b>
C. Mamire		995414301		Toyota
				L/Cruiser
<b>S. Kachingwe</b>	<b>Team Leader</b>	<b>995414703</b>	<b>Pacific Hotels</b>	<b>BN 7765</b>
				Toyota
Chrisopher Munachuka		<b>9905514438</b>		L/Cruiser
Hilda Modisane		999977369		<b>BC 9437 / BP 5754</b>
Elizabeth Pholoha		995507291		Toyota Corolla
<b>L.N Shatimpamba</b>	<b>Misssion Leader</b>	<b>995414901</b>		<b>SA 6204</b>
A. Awala		995460843		Toyota

ote: Lilongwe teams depart 15 May 2009, returning to Blantyre on 20 May 2009.

#### Annex 4: Presidential and Parliamentary results: 2009

Source: Report by Malawi Electoral Commission, 11<sup>th</sup> ECF-SADC AGC, Kinshasa, DRC-16<sup>th</sup> July 2009

**Table 1: Results of the 2009 Presidential Election**

Serial No.	Name of Candidate	Affiliation	Votes Polled	Position
1	Bingu	DPP	2,946,103	1
2	Kamuzu Walter Chibambo	PETRA	35,167	3
3	Loveness Gondwe	NARC	32,160	5
4	Stanley Eddington Masauli	RP	33,887	4
5	Dindi Gowa Nyasulu	AFORD	20,151	7
6	James Mbowe Nyondo	Independent	27,328	6
7	John Zenas Ungapake Tembo	MCP	1,370,044	2

**Table 2 : Results of the 2009 Parliamentary Elections**

SERIAL NO.	SPONSOR	GENDER		TOTAL
		Male	Female	
1	Alliance for Democracy (AFORD)	1	0	1
2	Democratic Progressive Party (DPP)	82	31	113
3	Malawi Congress Party (MCP)	24	3	27
4	Malawi Forum for Unity and Development (MAFUNDE)	1	0	1
5	Maravi People's Party (MPP)	1	0	1
6	United Democratic Front (UDF)	16	1	17
7	Independent candidates	27	5	32
	<b>TOTAL</b>	<b>152</b>	<b>40</b>	<b>192</b>