



**REPORT OF THE AFRICAN UNION
OBSERVER TEAM ON THE PRESIDENTIAL
AND PARLIAMENTARY ELECTIONS
IN THE REPUBLIC OF MALAWI
HELD ON 20th MAY 2004**

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I.0 INTRODUCTION

- 1.1 In consideration of the principles and objectives of the African Union enshrined in the Constitutive Act of the Union, particularly in its Articles 3 and 4 and on the basis, *inter-alia*, of:
- The Algiers Decision of July 1999 and the Lome Declaration of July 2000 on the Framework for an OAU Response to Unconstitutional Changes of Government, which laid down a set of common values and principles for democratic governance;
 - The CSSDCA Solemn Declaration of Lome, adopted in July 2000, which underpins the OAU's Agenda for promoting democracy and democratic institutions in Africa;
 - The African Charter on Human and Peoples' Rights, adopted in June 1981 which recognized the right of every citizen to participate freely in the government of his/her country whether directly or through democratically elected representatives;
 - The African Charter for Popular Participation in Development, adopted in July 1990, which emphasized the need to involve the people of Africa in the spheres of economic and political governance.
- 1.2 Cognisant of the fact that each Member State has the sovereign right to choose its political system in accordance with the will of its people and in conformity with the Constitutive Act of the Union and the universally accepted principles of democracy, the Organization has continued to play an ever-growing role in the observation/monitoring of elections in the Continent.
- 1.3 Therefore, in pursuance of the foregoing principles and objectives and on the basis of the Declaration on the Principles governing Democratic Elections in Africa, the African Union accepted the invitation of the

Government of the Republic of Malawi, to observe the Presidential and Parliamentary Elections, held on 20 May 2004, under the auspices of the Malawi Electoral Commission (MEC), an independent body entrusted with the organization and conduct of the elections.

1.4 The African Union Observer Team, led by Hon. Dr. William F. Shija, MP, Chairperson of the Parliamentary Committee on Foreign Affairs, United Republic of Tanzania and Member of the Pan African Parliament was composed as follows:

- Hon. Zaddock M. Syongoh, MP Kenya National Assembly,
Member of Pan African Parliament – Vice Team Leader
- Hon. Abd. Mohamed Yahia, MP, Saharawi Arab Republic
Member of Pan African Parliament
- Hon. Mokhele R. Likate
Commissioner, Independent Electoral Commission of Lesotho
- Mrs. Priscilla M. Isaac
Deputy Director, Electoral Commission of Zambia
- Mrs. Chonaka Hlabangane
Management Strategist, Zimbabwe Commission of Elections
- Mrs. Sibongile S. Mohammed
Director, National Elections Office, Swaziland
- Mrs. Domitille Barancira
President, Constitutional Court of Burundi
- Mr. Hassan M. Barrie
National Chairman, Civil Society Movements (SL), Sierra Leone

Support Staff

- Mr. Abdoul R. Kouroma - Coordinator
- Amb. Susan Sikaneta – Executive Secretary
- Mr. Joshua K. Kioko – Finance Officer
- Miss. Dingile S. Jere - Secretary

- 1.5 The Coordinator, Mr Abdoul R. Kouroma, arrived in Lilongwe on 8th May 2004. However, the rest of the group, including the Team Leader, arrived in the country on 10th and 11th May, 2004. The African Union, Southern Africa Regional Office, located on the 9th Floor, Kang'ombe House, Lilongwe City Centre was the Secretariat for the Observer Team and provided the support staff.

2.0 TERMS OF REFERENCE FOR THE OBSERVER TEAM

- 2.1 The objective of the observation of the elections by the Team was to ascertain the fairness, freeness and transparency of the elections and render credibility to the eventual results of the elections to both the national and international community.
- 2.2 The Team also had, as a basis to observation, the following guidelines:
- a) Observing and verifying the impartiality and legality of decisions taken by the Malawi Electoral Commission and its officers;
 - b) Ascertaining people's awareness of the election processes, viz., the participation of the people and the ease of advocacy with which candidates for election access the public;
 - c) Observing and verifying the voting process as provided for by the law, that is;
 - Opening of the polls
 - Voting materials – quantities, timeliness
 - Procedures conduciveness to the polling atmosphere
 - Efficiency of the polling officials
 - Casting of the votes
 - Counting/tallying/verification of the votes
 - Transmission and declaration of the results
 - d) The observers were obliged:
 - To respect and abide by the constitution and laws of the Republic of Malawi;
 - To exercise their role with impartiality, independence and objectivity;

- Not to allow their personal opinions, likes and dislikes to influence their work;
- Not to directly or indirectly propagate or identify themselves with any candidate or party;
- Not to display or wear any partisan symbols, colours or banners;
- To carry identification prescribed by the Malawi Electoral Commission (MEC) at all times and identify themselves to any authority upon request;
- Not to accept any gifts or favours, or promise of gift or favour that might influence them in their official work;
- To refrain from interfering by action, comment or otherwise and in bad faith with the polling exercise and/or the duties of the elections officials, but to cooperate with them;
- To note and report any irregularities observed in the elections process to the MEC or to competent officials of the Commission, who will examine the activities reported as irregular and take corrective measures, as appropriate.

However, observers were free:

- To request for and obtain information on activities related to registration of voters and the polling;
- To submit to the Commission, in writing, complaints and appeals about irregularities in the electoral process;
- To gain access to the Polling Stations, Counting/Results Centres and to occupy the nearest seats or positions to the polling officials so as to be able to observe and monitor all the operations relating to the casting of the votes and/or voting process;
- To inspect and verify the ballot boxes and any other item(s) or material to be used in the polling exercise, before the casting of the votes.

3.0 COUNTRY PROFILE

- 3.1 Malawi is a landlocked country, South of the equator in Sub-Saharan Africa and located in the Southern Africa Region. It is bordered to the North and North East by the United Republic of Tanzania, to the East, South and South West by the Peoples' Republic of Mozambique; and to the West and North West by the Republic of Zambia.
- 3.2 The country is 901 kilometres long and ranges in width from 80 to 161 kilometres. It has a total area of 118,484 square kilometres of which 94,276 square kilometres is land area. The remaining is mostly composed of Lake Malawi, which is about 475 kilometres long and runs down Malawi's eastern boundary with Mozambique and Tanzania.
- 3.3 Malawi's most striking topographic feature is the Rift Valley that runs the entire length of the country, passing Lake Malawi in the Northern and Central Regions to the Shire Valley in the South. The Shire River drains water from the Lake Malawi into the Zambezi River in Mozambique. To the West and South of Lake Malawi lie fertile plains and mountain ranges whose peaks range from 1,700 to 3,000 metres above sea level.
- 3.4 The country is divided into three regions: The Northern, Central and Southern regions. There are twenty-eight districts. Six districts are in the Northern Region; nine are in the Central Region and thirteen in the Southern Region. There are 193 Parliamentary Constituencies, 3,891 Polling Centres and 8,325 Polling Stations. The districts are administered by District Assemblies and are subdivided into Traditional Authorities (TAs), as Area Development Committees presided over by the Chiefs. The traditional leadership goes down to villages, which are the smallest administrative units and these are Village Development Committees, presided over by Village Headmen.
- 3.5 Malawi has a tropical, continental climate with maritime influences. Rainfall and temperatures vary, depending on altitude and proximity to the lake. From May to August, the weather is cool and dry. From September up to April, the weather is warm and wet, and in some areas it is considerably hot.
- 3.6 Malawi was under British rule from 1891 until July 1964 under the name of Nyasaland Protectorate. In 1953, the Federation of Rhodesia and Nyasaland was created, which composed of three countries, namely:

Zimbabwe (then Southern Rhodesia), Zambia (then Northern Rhodesia) and Malawi. The country became independent from British rule in 1964 and gained Republican status in 1966.

- 3.7 Until 1994, the country was under one-party rule and became a multiparty state after democratic elections. Subsequently, a number of programmes were adopted. These include poverty reduction, free primary school education, a free market economy, a bill of rights and a multiparty parliament. The introduction of multiparty politics in Malawi has seen the emergence of many political parties. Presently there are over thirty registered parties in the country.
- 3.8 During the past two General Elections (1994 and 1999) voting was carried out on regional lines. However, Malawians being peace loving as they are, continued to live in harmony as they respected the results of the elections. Indications show that the people of Malawi have gained considerable experience in multiparty politics. This is evidenced by the formation of alliances between several political parties in readiness for the General Elections held on 20th May 2004. This is a very positive development, as it will influence more unity among Malawians. These unions have brought together people of the three regions of the country in their bid for a common course.
- 3.9 The latest Population and Housing Census in Malawi was conducted in 1988. The census enumerated a total population of 9.9 million. The population grew from 8.0 million in 1987 to an estimated 10.4 million currently, representing an increase of 24%, or an annual population growth rate of 2.0%. Along with population growth has come increasing population density from 85 persons per square kilometre in 1987 to 105 persons per square kilometre in 1998. Women make up over 50% of the population and 90% of the population live in rural areas.
- 3.10 With regard to problems associated with rapid population growth, the Malawi Government adopted a National Population Policy in 1994, which was designed to reduce population growth to a level compatible with Malawi's social and economic goals (OPC 1994). The policy's objectives include the following: to improve family planning and health care programmes, to increase school enrolment and to increase employment opportunities particularly in the private sector. Over the period, the country has experienced a considerable increase of rural to urban migration, resulting in congestion in the urban residential areas. Many negative effects resulting from the increase in

migration to urban areas are evident as one moves in the country towns and cities. Malawi is no exception from other developing countries as regards to problems faced due to rural urban migration.

- 3.11 Although English and Chichewa are widely spoken, the people of Malawi are composed of Chewa, Nyanja, Tumbuka, Yao, Lomwe, Sena, Tonga, Ngoni, Ngonde, Asian and European.
- 3.12 In terms of economic strength and potentials, Malawi mainly relies on agriculture, which accounts for 45% of the Gross National Product (GNP) and more than 61% of the country's export earnings. Tobacco, tea and sugar are the major export commodities. The agriculture sector is not able to boost and sustain the country's economy at present. Among other factors, this is due to high costs of farm inputs, unimproved farming systems/technologies, unpredictable weather conditions and low prices offered to farmers. This state of affairs has dictated the country's high dependence on donor support. The country's average per capita income is US\$200.00. This reflects the fact that Malawi is one of the poorest countries in Africa, and the world. Over 65% of the population lives below the poverty line. Illiteracy levels are upward of 60%. Child and maternal mortality rates are also high and life expectancy was rated at 39 years in 2000. This drop from 43 years in 1996 was mainly attributed to HIV/AIDS. However, the country is presently exploring tourism and mining as feasible areas which can influence economic growth.

4.0 LEGISLATIVE FRAMEWORK

The Constitution and the Legal Framework

- 4.1 The Malawi Electoral Commission was established under Section 75 of the Constitution of the Republic of Malawi. The Malawi Electoral Commission (MEC) became operational in 1998 as an independent institution, following the enactment of the Electoral Commission Act No. 11 of 1998.
- 4.2 The Commission consists of a Chairperson, who is a judge nominated by the Judicial Service Commission and appointed by the President and at least six (6) other members also appointed by the President, in consultation with the leaders of the political parties represented in Parliament (Act of Parliament).

- 4.3 The composition of the current Malawi Electoral Commission appointed in August 2002 for a four-year term of office is as follows:

Chairperson

- Justice James Kalaile, SC (April 1999)

Members

- Commissioner Lillian Kapanda Phiri
Chairperson: Media and Public Relations Committee
- Commissioner Marco Kanjo
Chairperson: Finance and Administrative Committee/National Local Government Committees
- Commissioner Monica Ngwembe
Chairperson: Training Committee
- Commissioner Prof. Kafwe C. Tembo
Chairperson: Civic and Voter Education Committee
- Commissioner Kasigele Nsanja
Chairperson: Logistics and Operations Committee
- Commissioner Lusekelo Mwalughali
Chairperson: Legal Affairs Committee
- Commissioner Arthur V. Nanthuru
Chairperson: Legal Affairs Committee
- Commissioner Rev. Emmanuel Chinkwita Phiri
Chairperson: Campaign Monitoring Committee

- 4.4 In application of Section 76 of the Constitution, the powers and functions of the Commission are as follows:-

- Determine constituency boundaries impartially on the basis of ensuring that constituencies contain approximately equal numbers of voters eligible to register, bearing in mind population density, ease of communication and geographical features and existing administrative areas;

- Review existing constituency boundaries at intervals of not more than five years and alter the same in accordance with the above;
 - The registration of all eligible voters and/or review of existing voters registers and the provision of identity documents to each registered voter;
 - The organisation and conduct of the elections, the poll, counting of the votes and declaring the results; and
 - Determine electoral petitions and complaints related to the conduct of any elections.
- 4.5 The Commission exercises its powers, functions and duties, independently of any direction or interference by other authority or any person, although the High Court will have jurisdiction to entertain applications for judicial review of the exercise by the Electoral Commission, of its powers and functions, in order to ensure that such powers and functions were duly exercised in accordance with the Constitution or any Act of Parliament.
- 4.6 The Commission has a Secretariat headed by the Chief Elections Officer (CEO), who is supported by two deputies; the Deputy for Electoral Services and the Deputy for Finance and Administration, who are, in turn, assisted by Heads of Divisions and Sections. It also maintains offices in the three regions of the country. However, the Commission does not have a permanent structure in the District Assemblies. District Commissioners and Chief Executives of Assemblies are appointed Returning Officers, who, in collaboration with District Elections Supervisory Teams (DEST), manage the process on the ground, during election periods.

Parliament/National Assembly

- 4.7 All legislative powers of the Republic of Malawi are vested in the Malawi Parliament, which shall have the powers and responsibilities set out in the Constitution.

The Malawi Parliament consists of:

- the President as the Head of State
- the National Assembly, (currently composed of 193 members)

- 4.8 The proceedings of the National Assembly are presided over by the Speaker, who is elected by a majority vote of the members thereof at the first sitting after every dissolution of the National Assembly. The members of the National Assembly also elect one or more from amongst themselves to be Deputy Speaker(s).
- 4.9 In accordance with Section 67 of the Constitution, the National Assembly is elected for a term of five (5) years. It shall stand dissolved on the 20th of March in the fifth year after its election, and the polling day for the general elections for the next National Assembly shall be Tuesday, in the third week of May that year.
- 4.10 However, where it is not practicable for the polling to be held on the Tuesday in the third week of May, the polling shall be held on a day, within seven days from that Tuesday, appointed by the Electoral Commission.
- 4.11 The first meeting of the National Assembly shall commence on a date to be appointed by the President within 45 days after the polling day or, where polling takes place on more than one day, within 45 days after the last polling day.

President

- 4.12 The provisions of Section 78 of the Constitution provide for a President of the Republic who is the Head of State and Government, and Commander-in-Chief of the Defence Forces. He is assisted in the performance of his/her functions by a First Vice President and/or Second Vice President.
- 4.13 The President is elected for a period of five (5) years from the date his/her oath of office is administered, until his/her successor has been sworn in, but not exceeding two (2) terms of office. The ballot in a Presidential election shall take place concurrently with the general elections for members of the National Assembly. He is elected by a majority of the electorate through direct, universal and equal suffrage of Malawi citizens aged 18 years and above.
- 4.14 The President and Vice President(s) shall be sworn into office within thirty (30) days of being elected or appointed.

Registration of Voters

- 4.15 In terms of Sections 76 and 77 of the Constitution of the Republic of Malawi and Part III (8) of the Electoral Act (24 of 1996), the Commission is mandated, amongst others, to compile and maintain a National Voters' Roll; organise and direct the registration of voters; and to print, distribute and take charge of ballot papers and the Voters Register. The instruments also define the conditions for eligibility to vote in general elections, by-elections, presidential elections, local government elections or referenda.
- 4.16 Consequent upon the foregoing, the Malawi Electoral Commission organised and conducted the Registration of Voters' exercise in January 2004 in preparation for the General Elections, at which the African Union was invited and actively participated alongside other international observer groups, such as the SADC Parliamentary Forum, the Commonwealth, the European Union (EU), and the Electoral Institute of Southern Africa (EISA).
- 4.17 At the conclusion of the exercise, the Electoral Commission established a Voters' Roll of 6.7 million voters who were to participate in the elections. However, following flaws in the process disputed by opposition parties and Civil Society Organisations (CSOs), based on National Statistics Office projections which put the figure at 5.5 million, an independent South African IT Firm was entrusted with the task of reviewing and harmonising the Voters' Roll. The outcome was the downward reduction of eligible voters to 5.7 million; although in the interim, the Commission had already ordered, printed and distributed ballot papers, based on the earlier figure of 6.7 million voters, in preparation for the May 2004 elections.

Complaints/Appeals/Election Petitions (Electoral Court)

- 4.18 The Electoral legislation provides that any complaints submitted in writing alleging any irregularity at any stage, if not satisfactorily resolved at a lower level of authority, shall be examined and decided on by the Commission and where confirmed, it shall take necessary action to correct the irregularity and the effects thereon.

- 4.19 Any appeal thereto, shall lie with the High Court against a decision of the Commission, affirming or rejecting the existence of an irregularity and such appeals shall be made by way of a petition, supported by affidavits of evidence, which shall clearly specify the declaration that the High Court is requested to make by order.
- 4.20 Similarly, a complaint alleging an undue return or undue election of a candidate as a Member of the National Assembly or to the Office of President by reason of irregularity or any other cause whatsoever, shall be presented by way of petition directly to the High Court within forty eight hours of the declaration of the elections (Saturdays, Sundays or Public Holidays) in the name of the person. The High Court shall have power to hold a hearing, direct scrutiny and assess the allegations. It shall have the power to give a final ruling and/or annul the election results.

The Media

- 4.21. The procedures for media coverage of the elections have been provided for under the Parliamentary and Presidential Elections Act No. 31 of 1993, Local Government Elections Act of 1996 and the Communications Act No. 41 of 1998. The guidelines apply to public service electronic media, especially the Malawi Broadcasting Corporation (MBC) and the Television Malawi (TVM) and in specific instances to private media, including independent Radio stations and the print media.
- 4.22 The purpose of the media guidelines is to ensure that full, fair and balanced political coverage is given at all times in news and other broadcast output during the period leading to the elections. It is also intended to ensure that the media provide the public with necessary programmes of civic education and information concerning relevant aspects of the electoral process and citizens' rights.

5.0 POLITICAL PARTIES

- 5.1. There are 33 registered political parties in the country. Although some have not been functional, they have not been deregistered by the Registrar of Political Parties. However, of that number, only 15 parties registered to contest the 2004 General Elections. The 33 registered parties are as follows:-

No.	PARTY
1	Alliance for Democracy (AFORD)
2	United Democratic Front (UDF)
3	The Malawi Democratic Party (MDP)
4	Malawi Congress Party (MCP)
5	Malawi Democratic Union Party
6	The Congress for the Second Republic of Malawi
7	National Patriotic Front Party
8	National Unity Party
9	Malawi Freedom Party
10	People's Democratic Party
11	Labour Party
12	The Forum Party
13	Mass Movement for the Young Generation Party
14	National Solidarity Movement Party
15	National Democratic Alliance
16	New Dawn for Africa
17	Malawi Forum for Unity and Democracy (MAFUNDE)
18	People's Transformation Party (PETRA)
19	Congress for National Unity (CONU)
20	Pamodzi Freedom Party
21	People's Progressive Movement
23	Social Democratic Party
24	Malawi National Democratic Party (MNDP)
25	United Front for Multi Party Democracy (UFMPD)
27	Malawi Labour Party
28	Sapitwa National Democratic Party (SDNP)
29	United Party (UP)
30	National Independence Party (NIP)
31	People's Popular Front
32	Republican Party
33	New Congress for Democracy (NCD)

6.0 PARLIAMENTARY AND PRESIDENTIAL CANDIDATES

- 6.1 One thousand two hundred and fifty seven (1,257) candidates from the 15 political parties contested the parliamentary elections, vying for 193 seats. Out of the 1,257 candidates, 372 were independent candidates but only 150 of the candidates were women.

6.2 With regard to the Presidential elections, the Malawi Electoral Commission declared in February 2004, that only the following six (6) candidates/parties were duly nominated to contest the elections:

1. **Republican Party (RP)**
Presidential Candidate: Mr. Gwanda Chakuamba
Running Mate: Mr. Aleke Banda
2. **Independent Candidate**
Presidential Candidate: Mr. Justin Chimera Malewezi
Running Mate: Mr. Jimmy Hastings Koreia-Mpatsa
3. **National Democratic Alliance (NDA)**
Presidential Candidate: Mr. Brown James Mpinganjira
Running Mate: Mrs. Clara Makungwa
4. **United Democratic Front (UDF)**
Presidential Candidate: Dr. Bingu Wa Mutharika
Running Mate: Dr. Kassim Chilumpha
5. **New Congress for Democracy (NCD)**
Presidential Candidate: Dr. Hetherwick Maurice Ntaba
Running Mate: Mr. Moses John Chikoko
6. **Malawi Congress Party (MCP)**
Presidential Candidate: Mr. John Zenasi Ungapake
Tembo
Running Mate: Dr. Peter Chiwona

6.3 The New Congress for Democracy (NCD) withdrew its candidature and joined the UDF/AFORD Alliance before the elections, leaving only five candidates to compete in the presidential elections.

7.0 PRE-ELECTION ACTIVITIES OF AU THE OBSERVER TEAM

Consultative Meetings and Briefings

7.1. The Observer Team attended a series of consultative meetings and briefings with stakeholders prior to the elections.

- 7.2. The Team met with the African Ambassadors accredited to Malawi, the United Nations Development Programme (UNDP) Resident Representative and United Nations (UN) Coordinator, the Executive Secretary for the Council of Non Governmental Organisations (CONGOMA), the SADC Parliamentary Forum Observer Team and the Leader of the European Union (EU) Observer Team.
- 7.3. The Team was also scheduled to attend a debate by the five presidential candidates organised by the Economic Association of Malawi, which was unfortunately cancelled.
- 7.4. The Observer Team attended a briefing by the Malawi Electoral Commission for international observers at which the postponement of the elections was announced, in compliance with the ruling of the High Court of Malawi, following a petition by the opposition parties, the Mgwirizano Coalition. The Coalition had petitioned the authenticity of the Voters' Roll, the need for an extended verification of the Voters' Roll, the withdrawal of the 1.3 million excess ballot papers and the misuse of public resources by the ruling party.

The Campaigns

- 7.5. The Team was privileged to attend seven political rallies and was thereby able to observe and assess the nature of the political campaigns and the general mood of the people.
- 7.6. The nature of the campaigns was of great concern. The campaigns did not focus on issues as such but on personalities and character assassination. The use of language was often intimidating, provocative, and insulting. The practice of handouts was a disturbing feature. The Observer Team will be happy to see a culture emerging in Malawi of clean and dignified campaigns that address issues and help the voters make informed decisions as they exercise their right to vote.
- 7.7. It was observed by the Team that the campaign content in the public broadcast media was predominantly of the ruling party. Apart from the political rallies, the low visibility of campaign materials did not give an indication that there were elections in the offing.

Media Coverage

- 7.8 Initially, the public media were notably biased towards the ruling party and did not provide a level playing field. However, closer to election day, the balance of the coverage improved, particularly in the print media. This was after political parties, international observers and civil society organisations had pointed out the anomaly.

Deployment of Members of the Team

- 7.9 The members of the African Union Observer Team were deployed on Sunday, 16th May 2004 to the three (03) Regional Constituencies of the Republic of Malawi. These were **NORTHERN REGION**, covering Mzuzu, Nkhata Bay, Karonga, and Rumphi; the **CENTRAL REGION**, covering Lilongwe, Mchinji, Kasungu and Salima; and the **SOUTHERN REGION**, covering Blantyre, Zomba, Mangochi, Thyolo and Mulanje.

Pre-elections Observations

Voter Registration

- 7.10 The voter registration process was deficient in that the final Voters' Roll was not perceived to be a true reflection of the number of registered voters. As a result, the stakeholders had no confidence in the Voters' Roll.
- 7.11 It was observed that at most polling stations the number of registered voters in the 2004 roll was inconsistent with the actual number of voters that had been registered during the registration period. At some polling stations, the difference was attributed to the omission of the 2004 registrants and transferees from the Voters' Roll.
- 7.12 It was also noted that the electorate did not respond positively to the extended verification period, and thus, the intended purpose of ensuring that as many voters as possible were verified was not achieved.

Voter and Civic Education

- 7.13 It was evident that the Malawi Electoral Commission (MEC), political parties, and civil society organisations had not carried out an effective

voter and civic education programme. This was especially reflected in the poor response to the extended verification period.

Training of Polling Staff

- 7.14 The Team noted that the training of polling staff was left to a day before polling. The quality of training should guarantee the effective management and conduct of elections. Adequate time should therefore have been given for the training of the polling staff.

Logistics

- 7.15 Generally, election logistics were in place before polling day although the delivery of non-security items to some polling centres was still in progress a day before the polls.

Security

- 7.16 Safety and security during the election process is intended to create and maintain an atmosphere of internal peace and stability within the country that is conducive to the delivery and management of free, fair and transparent elections, in which every voter is able to record his or her informed choice unhindered/unfettered.
- 7.17 In Malawi, the necessity of having an atmosphere of peace and stability during elections is provided for in the Constitution, the Parliamentary, the Presidential and the Local Government Elections Laws. In response to this need, a handbook was prepared by the MEC to give the security forces an insight on the rights and freedom of the citizens of Malawi, as well as offences relating to the conduct of elections. The booklet was also intended to enable the Police discharge their duties effectively and professionally in enforcing the electoral laws, thereby contributing to the peaceful conduct of the elections in the country.
- 7.18 Additionally, the security forces were adequately briefed on their role in handling campaign rallies and protection and security measures to be taken in order to promote the integrity of the elections, especially with regard to the voters, voting stations, storage facilities and warehouses, MEC offices, logistical and distribution networks, result centres, etc.

8.0 OBSERVATION OF THE ELECTIONS

Opening of the Polls

- 8.1. The late opening of some polling stations, was compensated with the extension of the polling period.

Voting Materials – Quantities, Timeliness

- 8.2 The polling stations observed had adequate supplies of election material.

Procedures and Conduciveness of the Polling Atmosphere

- 8.3 The Team was also happy to note that the spread of polling stations was adequate and widely spread out throughout the country, thereby facilitating the participation of the people through reduced distances they had to cover to the polling stations.

Efficiency of the Polling Officials

- 8.4 It was apparent to the African Union Observer Team that there was inadequate training of polling officers and that this, to a large extent, affected the quality and conduct of the polls. There is room for improvement if quality and confidence in the system is to be assured in future elections.

Casting of the Votes

- 8.5 The voting procedures were followed in the polling stations observed. Although outdoor polling stations are acceptable, the Team noted that the secrecy of the vote could be compromised in some polling stations due to the limited space at the polling centres. It was observed that there was no standard procedure followed in marking the Voters' Roll to indicate the voters that had voted.

Tallying, Counting and Verification of the Votes

- 8.6 The delays in counting and tallying the votes, adversely affected the timely release of the results.

Transmission and declaration of the results

- 8.7 The delayed transmission of results from the districts and the sending back and forth of some of the results for verification and signatures by the Commission, delayed the announcement of the final results.

Gender Issues

- 8.8 The Observer Team noted that out of 1,258 candidates contesting the elections, only 154 were women candidates. This means that for the next five years the number of women Members of Parliament will be very low. This is against the spirit of the SADC decision that SADC Parliaments should have at least 30% women Members of Parliament. The Team also observed that a large number of the polling officials were women, and that the turn out of women voters on polling day was also high.

9.0 CONCLUSIONS

The Team, on the basis of the observations detailed in this Report, makes the following conclusions:

- 9.1 The Team was happy to note that the legal framework and the administration and respect for the judicial process in respect to the conduct of elections in Malawi, is one of the best in Africa. The date for holding elections is provided for in the Constitution and strictly observed.
- 9.2 The conduct of the elections was free and peaceful. In this respect, the Team highly commends the establishment of the Multi-party Liaison Committee as a mechanism for consultative dialogue and conflict resolution, especially at the district level,
- 9.3 The number of the polling stations was adequate and widely spread out throughout the country to facilitate participation of the people through easy access to polling stations.
- 9.4 Voters turned out in reasonably high numbers and remained patient in the queues to elect leaders of their choice.
- 9.5 The counting of the ballots was transparent and peaceful in spite of the limitation of poor lighting.

- 9.6 The Commission prepared and made available various manuals with sufficient information for various stakeholders and participants.
- 9.7 The overall performance of the Malawi Electoral Commission did not meet the expectations of stakeholders in respect to the management of the Voters' Roll, media coverage, voter and civic education and the use of public resources by the ruling party.
- 9.8 The nature of the campaigns was of great concern. The campaigns did not focus on issues as such but on personalities and character assassination. The use of language was often intimidating, provocative, and insulting. The practice of handouts was a disturbing feature. The Observer Team will be happy to see a culture emerging in Malawi of clean and dignified campaigns that address issues and help the voters make informed decisions as they exercise their right to vote.
- 9.9 The Team observed the excessive use of public media and other public resources by the ruling party. The fact that this did not provide a level-playing field for all political parties was a matter of concern.
- 9.10 The Observer Team noted that out of 1,258 candidates contesting the elections, only 154 were women candidates. This means that for the next five years the number of women members of Parliament will be very low. This is against the spirit of the SADC decision that SADC Parliaments should have at least 30% women members of Parliament.
- 9.11 The controversy surrounding the Voters' Roll not only exposed the weaknesses of the Malawi Electoral Commission in the management of the elections, but affected the morale and conduct of the elections. The Voters' Register is a very important document that determines who may vote in an election. The very fact that there were problems in reconciling the figures of eligible voters, that the Voters' Roll had not been finalised early enough to allow for proper verification and resulting in court action and court order to change the election date, pointed to insufficient capacity of the Malawi Electoral Commission to adequately prepare for the elections. This one area calls for much improvement in the management of future elections.
- 9.12 It was apparent to the African Union Observer Team that there was inadequate training of polling officers and that this to a large extent affected the quality and conduct of the polls. The late opening of some polling stations, the delays in counting and tallying the votes, the

sending back and forth of some of the results for verification and signatures, all of which ultimately affected the timely release of the final results attest to the inadequacy of the training given. There is room for improvement if quality and confidence in the system is to be assured in future elections.

- 9.13 There was inadequate supply of voter education materials, specimen ballot papers and conspicuous sign posts to identify polling stations.
- 9.14 The slow transmission of results from districts and the delay in the announcements of the same by the Commission agitated stakeholders who became suspicious of the results when they were eventually announced. The flow of information was intermittent and irregular, leading to increased anxiety and tension among the electorate.
- 9.15 The election monitors and agents of various political parties and candidates were passive and generally unaware of their roles and the rights of those they represented at both polling and tallying centres at the electoral district headquarters.
- 9.16 Communication between polling centres, electoral district headquarters and the Commission, regional and national centres was poor and uncoordinated. This was evidenced by the disjointed release of poll results and the difficulties experienced in mobilising polling officers and security personnel to their respective polling centres.
- 9.17 The Commission did not have in place adequate mechanism for consultation and dialogue with stakeholders, especially at the national level.

10.0 RECOMMENDATIONS

The African Union Observer Team, in view of its observations and conclusions detailed in this Report, do make the following recommendations:

- 10.1 That the Malawi government take steps to provide adequate resources and create an enabling environment for institutional capacity building of the Malawi Electoral Commission and other state institutions involved in the management and the conduct of Presidential, Parliamentary and Local Government Elections in the country.

- 10.2 That the Malawi Electoral Commission take stock of the positive aspects of the electoral process and rectify the various anomalies in the same in order to ensure that future elections are conducted effectively and efficiently to the satisfaction of all the stakeholders.
- 10.3 That participative stakeholders in general elections, particularly political parties, NGOs, civil society organisations and political candidates make concerted efforts to effectively play their rightful roles in order to ensure that the citizens of Malawi fully participate in the country's general elections and make informed choices in electing their leaders.

11.0 CONCLUDING REMARKS

- 11.1 The African Union Observer Team wishes to express its appreciation to the African Union and the Government of Malawi for the opportunity and challenge offered to the Members to come to Malawi to observe and report on the conduct of the 2004 Presidential and Parliamentary Elections which were held on 20th May 2004.
- 11.2 The Team wishes to congratulate the people Malawi for the violence – free elections. Our overall assessment is that the elections were conducted in a free and peaceful atmosphere. The Team therefore prays that all parties will accept the results and that there will be a smooth transfer of power and a spirit of reconciliation in the interest of progress for the nation of Malawi.

Lilongwe, Malawi

NAMES/SIGNATURES OF MEMBERS OF THE OBSERVER TEAM

No.	NAME	SIGNATURE
1	Hon. Dr. William F. Shija, MP Team Leader Chairperson – Foreign Affairs Committee Parliament of the United Republic of Tanzania Member of the Pan African Parliament Tanzania	
2	Hon. Zaddock M. Syongoh, MP Vice Team Leader Member of Parliament Kenya National Assembly Member of Pan African Parliament Kenya	
3	Hon. Mokhele R. Likate Commissioner – Independent Electoral Commission Lesotho	
4	Hon. Abd Mohammed Yahia, MP Member of Parliament Saharawi Arab Democratic Republic Member of Pan African Parliament Saharawi	
5	Mrs. Priscilla M. Isaac Deputy Director, Electoral Commission Zambia	
6	Mrs. Chonaka Hlabangane Management Strategist, Zimbabwe Commission of Elections Zimbabwe	
7	Mrs. Sibongile S. Mohammed Director, National Elections Office Swaziland	
8	Mr. Hassan M. Barrie National Chairman Civil Society Sierra Leone	
9	Mrs. Domitille Barancira President of the Constitutional Court Burundi	

ANNEXES

Annex I List of members of the AU Observer Mission to the Presidential and Parliamentary Elections to the Republic of Malawi

Annex II Arrival Statement

Annex III Final Statement

Annex IV Detailed Results sheets of the Presidential and Parliamentary Elections