



Commonwealth Observer Group
Malawi Parliamentary and Presidential Elections
19 May 2009

INTERIM STATEMENT

H.E. John Kufuor, Chair of the Commonwealth Observer Group
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A peaceful election day and a well-managed voting process, but some key benchmarks for democratic elections not met

The 19 May 2009 elections are Malawi's 4th post-independence multi-party elections. The Commonwealth was pleased to be invited by the Malawi Electoral Commission (MEC) to observe the elections, and I am honoured to have been asked by the Secretary-General of the Commonwealth to lead its Observer Group.

The Commonwealth team has been present in the country since 8 May, and will remain for a further period, to continue to follow the culmination of the process. During our time here we have met with a range of stakeholders, including the Chair and members of the Electoral Commission, political parties, civil society, media, other observer groups and Commonwealth High Commissions present in Malawi.

For the voting and counting processes Commonwealth Observers were present in all three regions of the country and we have co-ordinated closely with other regional and international observers, building up a comprehensive picture of the conduct of the process. This is our Interim Statement, and represents an overview of our key findings up to this point. We will continue to closely follow outstanding aspects of the process, and will issue a final detailed report in June, containing conclusions and recommendations.

Key Interim Findings

- It took a major effort by MEC to ensure the 19 May elections were held as scheduled, and the generally peaceful nature of the campaign and conduct of the voting on the day of the election are a credit to the people of Malawi and, to an extent, the Electoral Commission as well. While aspects of the process have been encouraging, there have, unfortunately, also been shortcomings, such as the belated release of the Voter Register and evident bias of state media, which mean some key benchmarks for democratic elections have not been fully met.
- The election campaign was generally peaceful, with basic freedoms provided, and voters were offered a choice between political alternatives. Given the tensions which existed in the lead up to the election, it is a credit to political parties that the campaign was conducted in a largely peaceful manner.
- However, the overwhelming impact of the exploitation of the incumbency advantage, especially the unashamed bias of the state TV and radio, created a markedly unlevel playing field, tarnishing the otherwise democratic character of the campaign.
- The Malawi Electoral Commission is independent and expended great effort to conduct the election on schedule. But, there was concern among stakeholders regarding its appointment by the President without due consultation with the other parties; its often poor communications with parties on aspects of its management process, such as the highly problematic voter registration; and its failure to supply parties with copies of the register in good time prior to election day. The parties nevertheless accepted the leadership of MEC
- On election day voters turned out in large numbers and were peaceful and patient. Their conduct was exemplary and impressed all observers. The process was well managed, as polling officials worked hard to process the voters and security officers played a positive role. Shortcomings in the certified voter register were apparent but were mostly overcome through the use of pragmatic back-up measures.
- Overall, observers reported that voters were free to express their will through a secret ballot. The count at the polling station was generally well conducted. At District and Central levels the results process has proven a lengthy undertaking and the receipt of final results by MEC in Blantyre has been extremely slow. It is of course imperative that final results are tabulated fully and transparently with official results issued as soon as available in order to maintain confidence.

- While we have identified a number of very positive aspects of the 2009 electoral process and the elections are a step forward for Malawi, it is a concern that some of the shortcomings identified – such as media bias, exploitation of incumbency and problems with the process of voter registration - reflect some of the problems highlighted in 2004. In order to fully meet benchmarks for democratic elections Malawi needs to address these issues ahead of the next elections, through capacity-building and legislative reform if necessary, before they become entrenched in the Malawi electoral process. We are sure that the Commonwealth stands ready to assist as required.
- Following the final confirmed results there is a period for complaints, and only at the resolution of this stage is the electoral process complete. We will continue to follow events and issue a final detailed report of conclusions and recommendations at a later stage.

The Campaign Environment

The 2009 elections have been competitive, offering a degree of choice between political alternatives, with 1,184 candidates contesting the parliamentary elections across the 193 constituencies and seven candidates contesting the presidential election. We were encouraged that there were 232 women candidates contesting the parliamentary elections as well as one for the presidential election. It is hoped that this can be further built upon, with increased participation of women in political life.

The basic freedoms of association, movement and assembly were provided for, as was freedom of expression. The election campaign was largely peaceful, though there was a tragic traffic accident at the end of the campaign reportedly killing some DPP party supporters. Otherwise only isolated incidents were reported, which is encouraging given the fractious political environment prevalent in the lead-up to the poll.

However, there has been an unlevel playing field for the elections, which has unfortunately tarnished the democratic character of the campaign. There has been an inordinate exploitation of the incumbency advantage, relating to the use of state institutions and resources, as well as state media.

We are extremely concerned at the conduct of state-owned media in its coverage of these elections. The Election Law provides that every political party shall have the right to have its “campaign propaganda” broadcast on radio by the Malawi Broadcasting Corporation. In addition, major media had

all signed a Code of Conduct highlighting the need for balanced and fair reporting. However, reporting and coverage of the President and DPP's campaign by state radio and TV was unashamedly partisan.

Monitoring by MEC concluded that in the weeks leading up to the day of the election the President and his party were afforded over 97% of airtime. At the same time, the same media refused to provide virtually any access to other candidates and parties or to abide by agreements to air party political broadcasts. Conversely, it was reported that Joy FM, a private radio station which offered extensive coverage to the opposition, was closed down on the eve of the election by police for allegedly breaking the campaign silence.

We were pleased that more balanced coverage of the election was provided by some private radio stations, such as Zodiac and Capital, which is an encouraging development. While some opposition parties did have access to coverage in newspapers and private radio stations, this in no way compensates for the blanket coverage afforded to the President and the governing party by the state-owned media.

Management of the Electoral Process

The MEC is independent and it is clear that its Chair, Justice Msosa, enjoys widespread respect. However, while it is acknowledged that MEC remains under-resourced for its task and was racing against time, there does appear to be a concern regarding its overall capacity and its management of the process, particularly by opposition parties.

Some of the discontent focused initially on MEC's appointment by the President without due consultation with other parties, but later also on delays and shortcomings in the procurement process, allegations of financial impropriety against some MEC staff, confusion over the timing of the nomination process, claims by parties that MEC was not as open and forthcoming with them as they should have been and problems in the registration of voters. MEC also lacked the time to undertake the overdue demarcation of constituencies. Equal suffrage may not therefore have been fully provided for.

The voter registration process was a major undertaking by MEC and represented a significant challenge. Initial delays in the process were exacerbated by the realisation after the public verification exercise in April, that the list contained numerous errors, including, but not limited to double entries, missing names and mis-allocation of voters to centres. In addition it

then became apparent that the paper work for the registration had in many instances not been completed to the requisite standard or was even absent.

Given the strong criticism of the voter register during the 2004 elections it was encouraging that an attempt was made to create a brand new list of voters. It is to its credit that MEC made a major effort to respond to these shortcomings and hold the elections as scheduled on 19 May. But such a late effort was always going to be difficult and possibly distracted the organisation from other key tasks so close to the election. Such a late production of the final register also meant that it was not possible for a final public verification or for parties to have timely access to the list.

Voting, Counting and Results

The turnout at the polling stations across the country seemed very high, and in all three regions the vote appeared to be well managed and peaceful, with voters waiting patiently. There had been a concern that problems with the voter register may cause problems on election day, and whilst the certified voter register clearly still contained errors, the problem was averted by the use of the numeric register to help identify voters from their Voted ID number, as well as allowing voters who may not have appeared on either list but whose voter ID number fell within the polling station range, to vote.

Polling materials generally arrived on time and Observers were extremely impressed by the organization of the poll and the dedication of the staff to their duties as well as the positive role played by security officers. There was also a prominent role for women poll officials. Overall Observers found that voters were free to express their will and cast a secret ballot.

The count at the polling stations was often undertaken in quite difficult circumstances, but it was carefully conducted and was fully transparent under the close scrutiny of party representatives. The tabulation and results processes have been lengthy, and it has taken an extended time for results to come through to district and central levels. It seems that inadequate access to transportation may have been a problem in some areas to get the results to the district, but thereafter it has also been slow. While aspects of this process are still on-going, the MEC appears to be doing its utmost to be transparent and maintain confidence in the eventual outcome and it is hoped that transparency is maintained throughout ensuring confidence in the final outcome. Political party representatives were present in the polling stations and had the right to a copy of the certified result, so parties have a check on the final tabulation process and recourse to legal mechanisms in the event they find any discrepancies.

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