PRELIMINARY STATEMENT

Blantyre, Malawi, 23 May 2019

Well-managed, inclusive, transparent and competitive elections, but the campaign was marked by tensions and an unlevel playing field

However, results process is still to be completed and inclusivity and transparency are vital

This preliminary statement of the EU Election Observation Mission (EU EOM) is delivered before the completion of the entire electoral process. Critical stages remain, including tabulation of results and adjudication of petitions. The EU EOM is now only in a position to comment on observation undertaken to date, and will later publish a final report, including full analysis and recommendations for reforms. The EU EOM may also make additional statements on election-related matters as and when it considers it appropriate.

Summary

- On 21 May, Malawians voted for their president, parliament and local councils. The 2019 Tripartite Elections were competitive, with campaign freedoms largely respected and the voting process was assessed positively by EU observers. The campaign was mostly peaceful, but marked by a degree of tension, some incidents and the misuse of handouts. There was not a level playing field, due in part to the misuse of state resources and bias in state media in favour of the ruling party. Women's political participation was low, despite efforts to encourage it. MEC undertook some positive operational reforms, including improving the integrity of the voter register, and was inclusive and transparent in its work, enjoying a high level of confidence among stakeholders

- On the day of the election, EU observers reported positively on the voting process. Materials were delivered in advance of polling in the vast majority of cases and polling stations opened on time or with just minor delays. Election staff worked hard to process voters, and party monitors and national observers were present in virtually all places observed, enhancing transparency. The layout and conditions for the outdoor stations created some challenges and was not always conducive to a secret vote. EU observers reported that the vote count was transparent but the conditions and poor lighting made the task harder. Officials were inconsistent in how they managed the count, there was a lack of adherence to procedures and problems were encountered in completing results sheets. Reports from constituency tally centres indicate that results are being processed but there are challenges due to the poorly completed results sheets. The EU EOM will continue to follow the process.

- There were seven presidential, 1,331 parliamentary and 2,709 local government candidates representing 13 political parties or standing as independents. The campaign was highly contested, with numerous rallies and meetings across the country, and with campaign freedoms generally respected. In addition, debates were organised at the national and local levels, further enhancing public engagement.

- There were reports of some incidents and campaign materials being destroyed and despite the largely peaceful campaign there was heightened political tension, not helped by accusations of "rigging". In addition, the campaign was marked by the misuse of handouts and the abuse of state resources and incumbency. There were concerns about the partisan behaviour of some traditional authorities, and also some candidates and public officials not respecting campaign procedures. Also, the apparent lack of police action in response to some incidents led to accusations of impunity and partisanship in favour of the ruling party. Such practices are consistent with past elections and were raised in previous EU EOM recommendations, though not addressed.

- Fundamental rights and freedoms necessary for the conduct of democratic elections are largely provided for. However, electoral legislation suffers from a number of shortcomings and very few of the necessary legal reforms have been addressed. Regulations on party and campaign financing were amended but do not ensure transparency and accountability. Further, while a prohibition on certain types of handouts in the campaign was introduced, it is quite a narrow prohibition and lacks a clear regulatory framework for enforcement, enabling widespread abuse of handouts during the campaign by all major political parties.

- For these elections MEC instituted a number of positive changes to address past shortcomings, including a new approach to voter registration, a revised election calendar and the creation of constituency tally centres. These changes addressed many of the EU EOM recommendations on election management from 2014. MEC's management of the process was inclusive and transparent. The institution played a positive role and enjoyed a high level of confidence among the public and political contestants alike. MEC overcame the major challenge of securing an adequate number of vehicles for the delivery and retrieval of polling materials, even though funding was only made available at a very late stage. While MEC's public messaging was fairly effective, its internal communication to lower-level election officials did not always ensure a consistent or timely flow of information.

- Voter registration, utilising the new National ID card as the sole form of identification accepted for registration, enhanced the integrity of the voter register and addressed a problem which had plagued previous elections. MEC registered 6,859,570 voters for these polls, which is reportedly some 79.5 per cent of the estimated eligible electorate. However, there are variances between Districts and it is also clear that the number of registered voters per constituency differs quite significantly and equal suffrage is therefore not provided for.

- The regulatory framework for media remains largely unchanged from 2014 and requires improvement, including the need for a more independent regulatory body and impartial state media. The private media sector has expanded in recent years, leading to a greater diversity of TV and radio coverage. EU EOM monitoring of media coverage of the campaign shows overt bias in state media in favour of the ruling Democratic Progressive Party (DPP), another malpractice consistent with previous elections. Private media was more balanced overall but with some bias in coverage in favour of opposition parties.

- Women are under-represented in political life in Malawi. None of the presidential aspirants was a woman and only 24 per cent of the parliamentary and 31 per cent of local council candidates were female. Despite some measures and programmes to facilitate the participation of women in the elections, many faced hurdles in seeking candidacy, notably during primaries, and in the conduct of their campaigns, including being the targets of demeaning language on occasion.

The EU EOM has been present in Malawi since 4 April 2019, following an invitation from MEC and the Ministry of Foreign Affairs. The Mission is led by Chief Observer, Miroslav Poche, Member of the European Parliament (Czech Republic). The EU EOM deployed 83 observers, from all 28 EU Member States plus Norway, to assess the electoral process against international obligations and commitments for democratic elections as well as the laws of Malawi. On Election day, observers visited 342 polling stations across 120 constituencies in 27 of the 28 Districts of Malawi to observe voting and counting.
The EU EOM remains in country to observe post-election developments and will publish a final report, containing detailed recommendations, within two months of the conclusion of the electoral process.
The EU EOM is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation signed at the United Nations in October 2005.

Findings

I. BACKGROUND

The 21 May 2019 Tripartite Elections in Malawi were the sixth round of general and third local elections in the country since the first multi-party elections in 1994. This was just the second time the polls have been organised as Tripartite Elections, following introduction of this system for the 2014 polls. Malawi has twice experienced a change of power through the ballot box and has a reputation for largely peaceful elections. The 2014 elections were disputed and experienced a level of tension and post-election violence, which resulted in a heightened level of tension and trepidation for these polls, exacerbated by various claims of rigging and political tensions in the wake of a splinter party being formed from the ruling DPP.

This is the fourth time the EU has deployed an EOM for elections in Malawi. In addition, Election Follow-up Missions (EFMs) were deployed in 2013 and in 2017. The 2017 EFM noted that most of the recommendations made by the 2014 EU EOM related to operational aspects of the election were addressed by MEC. However, few of the recommendations relating to the necessary changes to the legal and regulatory framework were addressed by the parliament during the reform process.

II. CAMPAIGN ENVIRONMENT

A competitive election with campaign freedoms largely respected, but marked by a degree of tension, some incidents and the misuse of handouts and state resources.

The campaign was competitive with freedoms of movement, assembly and expression broadly respected. The three strongest political parties, the ruling Democratic Progressive Party (DPP) and the opposition Malawi Congress Party (MCP) and United Transformation Movement (UTM), conducted presidential campaign tours across the country and were able to hold rallies and whistle-stops in the opponents' strongholds. Parliamentary and local government candidates campaigned primarily through small meetings and door-to-door canvassing. EU observers reported the limited presence of opposition campaign materials and activities in some constituencies of Southern Region, the most populated area and the stronghold of the ruling party.[1] The campaign envi-

[1] The suppression of opponents' campaign activities, such as the removal of party flags or the obstruction of some meetings, provoked violence in some instances, such as in Nsanje Central on 15 May and Chikwawa Nkombezi on 16 May. Opposition parties complained that their party flags were systematically removed, also in Blantyre, Mzuzu and Karonga.

ronment was impacted on by the problematic party primaries which resulted in the largest number of independents since 1994, notably in strongholds of the established parties.[2]

The 60-day campaign period started on 19 March,[3] with all major parties launching their manifestos at big rallies in Central Region. The campaign was at times dominated by personal attacks and mutual accusations between the contestants, particularly between President Mutharika and Vice President Chilima. Tensions significantly increased in the wake of the "*rigging*" claims notably by President Mutharika, though these were countered by stakeholders, including MEC and the two cellphone service providers[4]. Other allegations were also raised by MCP and UTM. Political opponents, civil society actors and some religious leaders were increasingly critical of the government, and on various occasions the leadership of the opposition MCP stated the party would not accept the outcome.[5]

President Mutharika did not participate in major election-related events, such as the presidential TV and radio debates.[6] He was also the only presidential candidate, who did not sign the Peace Declaration at the national prayers on 4 May in Lilongwe. Similarly, a significant number of DPP candidates did not attend the public debates at constituency and ward levels. [7]

Despite the largely peaceful campaign there was heightened political tension. Cases of physical violence reportedly increased in the lead-up to polling,[8] and vandalism of campaign material by DPP, MCP, and UTM supporters persisted throughout the campaign period, resulting in some violent clashes.[9] EU observers confirmed that procedures for securing venues were not consistently followed by candidates as well as some public and civil officials in charge of approving campaign venues, leading to conflicts.[10] MEC was criticised for not adequately responding to campaign incidents and violations of the Code of Conduct for Political Parties but did play a fairly positive role by speaking out on issues such as the claims of rigging and the involvement of Chiefs in the campaign. Further, the police have been accused of partisan behavior and it is apparent that they intervened in incidents against the opposition but by-and-large not against the ruling party. As such, there was a widespread sense of impunity during the campaign.[11]

The abuse of state resources and incumbency during elections is a recurring problem in Malawi. EU observers reported the extensive use of handouts, such as the distribution of cash and in-kind

[2] Primaries took place from September 2018 to January 2019 and were reported to have had many shortcomings and dominated by wealthy candidates. As a consequence, many unsuccessful candidates decided to stand as an independent.
[3] In reality, campaign activities started much earlier with presidential campaigning overlapping the primaries.
[4] The accusation included a claim that the communication networks could be shut down or hacked.
[5] For instance, on 5 May at a rally in Lilongwe South East.
[6] A DPP statement referred to partisan elements in the organisation of the debates.
[7] The DPP did not participate in more than half of the local debates observed by the EU EOM.
[8] Reports by IFES and MESN.
[9] For instance, on 29 April in Karonga, UTM billboards were vandalised by DPP youth and UTM supporters subsequently destroyed DPP billboards, which escalated into a violent clash on 2 May, when UTM supporters attacked and damaged a DPP vehicle, leaving the driver unconscious. Similar cases were reported in Mzuzu, Nsanje and Chitipa.
[10] Reported to the EU EOM by Malawi Human Rights Commission observer teams. EU Observers in Thyolo reported on UTM complaints that the police blocked at least five of their meetings, falsely claiming that the venue was reserved for other parties. EU Observers reported also about cases of Traditional Authorities being in charge of approving venues instead of District Commissioners and the police.
[11] For instance, the police reacted to DPP reports about the presidential convoy being stoned in Lilongwe on 23 April 2019 with five arrests made swiftly by the next day. This contrasts with complaints from opposition parties against DPP supporters, where it is claimed police were less inclined to respond. The police have also been accused of overreacting by dispersing MCP demonstrators on 10 May in Lilongwe, including causing a serious injury to an MCP supporter.

payments in the campaign.[12] The 2018 Political Parties Act (PPA), which introduced regulations on handouts and party and campaign financing remained unenforced. The Registrar for Political Parties is yet to be appointed and the office of the Registrar General, currently responsible for the implementation of the PPA, reported to the EU EOM to not have the capacity to enforce the new campaign regulations despite having received verbal complaints on handouts.

Traditional leaders signed the Code of Conduct for Chiefs in November 2018, which requires them to stay neutral, yet many openly campaigned for parties and independents. Of 124 rallies and campaign events attended by EU observers, traditional leaders were reported as behaving in a partisan manner in 47 cases. Shortly before the elections, the Government paid approximately K830million (c. EUR 1.1m) in honoraria and arrears to 42,000 chiefs. The Government also directed parastatals to enhance services in politically crucial areas.[13] Four weeks before the elections, the Government also promoted 20,210 primary and secondary school teachers and 8,602 police officers. The Civil Servants Trade Union accused the Government of unfair promotion, benefiting groups directly involved in the elections. Billboard spaces were reportedly reserved for the President in some cities and there were various billboards across the country linking government programmes and the president's campaign. Some internationally funded development projects were launched shortly before the elections and presented as governmental achievements.[14]

III. LEGAL FRAMEWORK (Including Election Dispute Resolution)

Fundamental rights and freedoms for the conduct of democratic elections are largely provided, but reforms are required to enhance the legal framework.

The Tripartite Elections are regulated by the Constitution, the Parliamentary and Presidential Elections Act (PPEA), the Local Government Elections Act (LGEA), the Political Parties Act (PPA) and the Electoral Commission Act. While the legal framework provides an adequate basis for the conduct of democratic elections, guaranteeing fundamental rights and freedoms, a number of problems exist, partly due to the lack of harmonisation of the various laws.

There exist conflicting provisions between the Constitution and the two Election Acts as well as between the PPEA and the LGEA. Discrepancies pertain, among others, to voting rights, election observation and sanctions for election-related criminal offences. In addition, certain provisions on nomination of candidates and revocation of candidatures do not appear to be reasonable or fully in line with international commitments. The requirement to read and speak English may be hindering effective participation to the elections and the legislative bodies. Provisions on disqualification of candidates are imprecise to the point of undermining legal certainty and the right to legal redress.

The PPA introduced elements of party and campaign finance rules, previously absent in the legislation, as well a prohibition on 'handouts.' Disclosure and reporting are only required for donations above a certain amount and publication of the sums and donors is not foreseen, nor is there any requirement for disclosure of campaign expenses. With regard to handouts, the PPA definition is rather narrow and the implementation of the provisions is not fully regulated by law. In the absence of regulations, a lack of clarity on how related complaints should be handled was evident

[12] Some candidates reported to the EU EOM that handouts have accounted for almost half of their campaign expenditures. Government vehicles were seen to be used at several DPP and UTM rallies.
[13] For instance, the electricity connections to a Paramount Chief in Chikwawa (Southern Region) who hailed the government for the service. Also, in Kalonga, Salima an impromptu solar energy electricity programme, which has displaced some families, was launched in Kazembe village attempting to enhance support.
[14] For instance, the K2 billion agricultural project funded by the Japanese Social Development Fund through the World Bank was launched by government officials on 13 May in Ntchisi.

during the campaign and abuse of handouts was rife. Legal provisions do not adequately ensure transparency and accountability of party and campaign finance or help to safeguard a level playing field.

Complaints can be filed with MEC in the first instance and its decisions can be appealed to the High Court. MEC referred pre-election complaints to the Multi-Party Liaison Committees (MPLCs)[15] at District level, which enabled minor disagreements to be addressed through mediation.

There are no deadlines for filing and adjudicating election disputes in election laws, except for challenging results to the High Court. This absence of deadlines could undermine the right to effective legal redress. In a welcome development, the amended High Court Civil Procedure Rules (2017) rectify this lacuna to an extent, by establishing deadlines for election petitions to the High Court. Moreover, the Chief Justice has undertaken initiatives to rationalize the High Court administration with the aim to improve the handling of election petitions and to ensure consistency in jurisprudence.

IV. ELECTION ADMINISTRATION AND ELECTION PREPARATIONS

MEC undertook a number of positive operational reforms and was inclusive and transparent. Despite challenges, MEC's preparations ensured the timely delivery of polling materials.

The conduct of elections is the responsibility of MEC, a constitutionally independent body, currently composed of a Chairperson and eight other Commissioners, who were appointed by the President in consultation with political parties represented in the National Assembly. The November 2018 amendment of the Electoral Commission Act in regards to the mechanism of appointment represents an improvement, as it now obligates the President to appoint nominees from parties represented in the National Assembly,[16] but the *de facto* independence of MEC remains vulnerable due to the political ties of its members. However, under the current MEC leadership, who took office in 2016, the institution performed its duties in an impartial way.

Despite some challenges, MEC has, thus far, organised the elections in a transparent and professional manner. It is perceived by key electoral stakeholders at both national and local level as independent and credible, and has retained the broad support of its staff at district and constituency level even though faced with operational challenges up to a few days before polling. MEC demonstrated competence in planning for significant parts of the electoral process in an effective and timely manner, such as voter registration, candidate nomination, publication of the list of polling stations, training of polling staff, procurement and printing of electoral materials.

MEC adopted measures to promote an inclusive environment for the administration of elections, such as publishing its electoral calendar early, an open public relations policy and the holding of national coordination meetings with stakeholders. MEC introduced various organisational improvements and additional safeguards into the electoral process, most notably with the new voter registration exercise and the results management system. The dismissal by MEC of 14 presiding

[15] MPLCs consist, among others, of District election officials, political party representatives, a District Commissioner, police, civil society and traditional leaders. MPLCs have been part of the electoral architecture since 2000 and function as an informal forum for conflict prevention and resolution and for the coordination of campaign activities.

[16] Commissioners will be appointed by the President following submission of a maximum of three nominees by each political party represented in the Assembly that has secured more than one-tenth of the national votes cast in the previous elections. The President shall appoint members of the Commission from the nominees in proportion to the nominating political party representation in the National Assembly as determined by the previous elections.

and assistant presiding officers two weeks before polling for compromising their neutrality[17] and the replacement of a Constituency Returning Officer (CRO) for inviting an MCP candidate into a meeting with presiding officers, as well as its instruction to traditional authorities and faith groups to desist from candidate endorsement,[18] demonstrated a proactive effort to ensure the integrity of the process.

EU Observers reported that the general flow of information from MEC HQ to district and constituency levels was at times weak and compartmentalised, and some CROs and District Election Coordinators lacked consistent, detailed, regular or timely knowledge of the immediate next steps of the process.[19] However, notwithstanding persistent operational challenges, mainly in regards to a shortfall of vehicles for the deployment of electoral materials and the very late release of funds by the government, the dispatch of sensitive materials nationwide was carried out successfully.

The operation of MPLCs as an alternative dispute mechanism at District level was supported by stakeholders, who expressed satisfaction with their role in addressing localised concerns, minimising risks of violence and resolving disputes. Nevertheless, their operation was not consistent across the country. Some met on a regular basis while others only convened when a complaint was filed.[20] EU Observers also reported that a lack of funding limited the role of MPLCs in some areas, such as Machinga, Karonga, Chitipa, Thyolo, Mangochi, Mulanje, Kasungu and Phalombe. Moreover, as MPLCs remain an informal mechanism, it is questionable whether procedural safeguards ensuring due process are in place [21] and whether a timely resolution of complaints was always achieved.

MEC allowed internally displaced persons (IDPs) in the Districts where the electoral infrastructure was damaged due to flooding[22] to exercise their right to vote even if they had lost their voter registration certificates, as long as their name is included in the Voter Register. Satellite polling stations were created where required, mainly in the largest IDP camp in Chikwawa, with some 2,400 voters, though the EOM was informed that many IDPs apparently returned home for voting. Information to the lower-level officials on how this was to be organised was poorly communicated.

MEC broadcast its public service announcements in Chichewa, used sign language, and carried out a comprehensive voter education campaign, which included engagement with traditional authorities, religious groups and civil society organisations. Voter education programmes were also conducted by the National Initiative for Civic and Voter Education (NICE), including public debates with parliamentary and local government candidates. Despite all these programmes, some interlocutors claimed there was still a need for more voter education, notably during voter registration.

[17] Following investigations, MEC established that a DPP candidate for Chiradzulu East Constituency was distributing DPP branded bicycles to MEC polling staff, so that they would act favourably towards him.
[18] In a letter addressed to the Local Government and Rural Development Ministry in March over the conduct of traditional authorities who were endorsing candidates, MEC emphasised to the traditional leaders that this was a violation of the Chiefs' Code of Conduct.
[19] For instance, some LTO teams reported that several CROs were not informed by MEC about the first results transmission tests until the day before.
[20] For instance, the MPLC in Nkhata Bay held a meeting in the first week of May but it was the first one since March. The MPLC in Mchinji did not have a session since the start of the campaign, and the MPLC in Chikwawa held its first meeting only in the second week of May. Some though, like the MPLC in Zomba, were very active.
[21] For example, in the Districts of Thyolo and Chiradzulu, EU Observers reported opposition parties claim they were not invited to MPLC coordination meetings.
[22] These are the southern Districts of Thyolo, Chikwawa and Nsanje; about 215.000 people have been affected.

V. VOTER REGISTRATION

The integrity of the voter register has been enhanced, but there are notable variances in the rate of registration between some districts and in the number of voters per constituency.

Following the introduction of a mandatory national identification system for all citizens over 16 years of age in 2017 and the issuing of a free-of-charge biometric National Identity card (NID), a new voter registration exercise was carried out by MEC in eight phases between July and December 2018. A public inspection process, including an SMS verification system, took place between December 2018 and January 2019. Registration turnout was high, with the final number of registered voters amounting to 6,859,570 or 79.5 per cent of the estimated eligible electorate.

The PPEA accepts as a proof for eligibility different identification documents, such as a passport, driving licence, tax or marriage certificate, an employment identity card or a birth certificate. However, MEC decided to accept only the new NID cards, in an effort to increase the integrity of the voter register, which had consistently been criticised in past elections. This was a major shift from previous voter registration exercises and praised by all EU EOM interlocutors, as it significantly contributed to the reliability of the new register.

Voter registration data show significant variances in the capture rate between Districts. For instance, while the national capture rate is 79.5 per cent, the registration rate (using census data from 2018) in some Districts is significantly lower, such as Ntcheu at 70 per cent, while in others the registration rate is significantly higher, such as Chikwawa at 94 per cent and Nkhotakota at 95 per cent. Numerous interlocutors raised concerns that people in rural areas,[23] may not have understood that registration was necessary even if they had an NID.[24] In an inclusive effort, MEC also registered some 8,000 inmates from penitentiary institutions in all Districts.

The number of registered voters per parliamentary constituency varies significantly. Given that the electoral system is based on single-member constituencies this is important for equal suffrage. For example, Chitipa Wenya has10,058 voters, Nkhatabay West 10,742 and Rumphi East 11,648 while Lilongwe City Centre has 124,510 voters, Lilongwe City West 100,589 and Mzuzu City 88,576. Thus, equal suffrage is not provided for.

VI. MEDIA

Legal framework for media requires improvement, to ensure a more independent regulatory body and impartial state media.

The Constitution provides for freedoms of opinion, expression and the press as well as access to information. Despite the prevailing constitutional provisions, a series of laws, such as the Protected Flag, Emblems and Names Act, can be used to limit these freedoms. The Access to Information Act has been assented to by the President but is yet to become operational. It remains politically contentious not least because some fear it could be used to increase transparency relating to political party financing and the misuse of state resources.

[23] During 2017-2018 four countrywide activities requiring registration were conducted, i.e. the Population and Housing Census, the SIM card registration, the NID registration and the voter registration.
[24] This was reported to EU Observers in Karonga, Nkhata Bay, Kasungu, Salima, Lilongwe, Dedza, Mangochi, Zomba, Blantyre, Thyolo and Mulanje.

The scope of private news providers has increased in recent years, diversifying the media environment in the country. National daily newspapers introduced digital versions and, despite an overall low level of internet penetration, online and social media platforms were used by both traditional media and political contestants in the run-up to the elections. Presidential debates were broadcast by both state[25] and private media, albeit with the absence of the incumbent president.

There is a persistent lack of trust in the impartiality of the Malawi Broadcasting Corporation (MBC) and opposition parties increasingly rely on private broadcasters for the distribution of their messages. Obligations on the provision of balanced or equitable coverage of the elections by MBC are set out in the PPEA and further elaborated in the Communications Act. The PPEA states that MEC has the duty to ensure MBC is neutral in its reporting on the election campaign. MEC facilitated the provision of airtime for all political parties, but pre-recorded campaign messages for transmission via MBC were only submitted by a few parties. MBC contends it has difficulties in providing balanced coverage when parties boycott the broadcaster.

The 2014 EU EOM recommended changing the appointment mechanisms for the boards of both MBC and the Malawi Communications Regulatory Authority (MACRA)[26], to ensure a leading role in selecting candidatures for board members by the National Assembly rather than the president, in order to increase their independence and impartiality. However, despite some amendments to the Communications Act (2016), no such changes have been made.

The majority of space in the media was dedicated to the presidential and parliamentary elections rather than the local elections, and focused predominantly on DPP, MCP, UTM an d to a lesser extent UDF. EU EOM media monitoring[27] shows that MBC TV and MBC Radio 1 were overtly biased in favour of the ruling party in their primetime election-related coverage. For example, MBC TV dedicated 87.6 per cent of its primetime political party content to DPP and just 6.6per cent to MCP. On MBC Radio 1, the time allocated to DPP was 86.8per cent compared to 6.2 per cent for MCP, while other parties and candidates received an insignificant amount of airtime. Bias in MBC's talk shows, and a lack of a critical and pluralistic approach generally, were evident.

Times TV and Radio attributed most time to MCP and Zodiak BS to MCP and UTM across their primetime programming, but showed more balance overall. Smaller parties received negligible coverage. Capital Radio provided airtime to a variety of parties but attributed most time to MCP, whereas Galaxy Radio showed bias towards DPP in its election-related coverage.

The Nation and *The Daily Times* newspapers gave more space[28] to the ruling party (54.7 per cent and 42.9 per cent respectively), but attributed space to a wide variety of parties in general. It was noted that newspapers on occasion used sensationalist and even provocative front-page headlines.

Female parliamentary candidates received a reasonable amount of media coverage. Monitoring showed that 16.9 per cent of election-related coverage on radio and television and 35.4 per cent in newspapers was dedicated to female candidates.

[25] This was the second time such debates have been held, but the first time that they have been also broadcast by state media.
[26] MACRA is established as an independent regulator under the Communications Act.
[27] Primetime hours monitored on a daily basis, from 17:00 to 21:00, from 17 April to 18 May 2019.
[28] Starting from 18 April until 18 May 2019.

VII. PARTICIPATION OF WOMEN

Women's political participation remains low and women faced a number of obstacles during party primaries and during the election campaign.

The Constitution provides for gender equality through full participation of women in all spheres of society on the basis of equal opportunities and non-discrimination. However, there are no enabling mechanisms established to increase women's representation in parliament, local councils or in the electoral process. For instance, the 2018 PPA only stipulates that political parties should comply with the principle of gender equality in appointments "*in so far as it is practicable"* and to *"endeavour to achieve fair gender representation"* in candidate nominations, but there is no obligation.

The Gender Equality Act (2013), adopted to strengthen the implementation of the Convention on Elimination of all forms of Discrimination against Women (CEDAW) through domestic legislation, sets quotas in appointments to Public Service under certain conditions, but, given the lack of any enabling mechanisms, the aspiration of women's representation remains unfulfilled.

Despite the introduction of a 50-50 campaign in 2009, the number of women elected in parliament has been declining.[29] In the outgoing Parliament and Local Councils, women comprised 16per cent and 11per cent respectively. For the 2019 elections, MEC reduced the nomination fees for women, but there were no female presidential aspirants and women constituted just 24per cent of the parliamentary candidates and 31per cent of the candidates for local government elections.

The gap between the participation of women and men in Malawi's political life can be attributed to traditional, patriarchal, cultural and socio-economic barriers. An additional factor impeding women's political participation is undemocratic procedures during primaries.[30] EU observers also reported on the lack of financial resources as an obstacle to women's participation in the elections. Especially, female candidates in the Northern Region complained that the support from the 50-50 Campaign was late, starting as late as 27 April in some parts.

Since the start of the official campaign period on 19 March, there were reports of threats[31] and demeaning language used against women in the campaign.[32] Positively, the issue of women in the elections has been increasingly highlighted in the campaign, with political parties and candidates addressing female voters "*as a key constituency.*"[33]

[29] There were 43 MP women elected in 2009 and only 32 in 2014. The 50-50 campaign, targeting "*improved participation and representation of women in leadership and decision*," has been implemented by the NGO Gender Coalition Network in liaison with the Ministry of Gender, Children, Disability and Social Welfare.

[30] For instance, EU Observers noted that female candidates have been more successful in primaries in areas where they do not have a good prospect to win. The Districts with the lowest numbers of female contestants (and highest numbers of constituencies without any female candidates) are Mangochi, Machinga, Mzimba, Ntcheu and Chiradzulu, where primaries were reportedly marred by interference from party leadership to impose preferred candidates. Out of 28 Districts, only in Nsanje, Neno, Mwanza, Ntchisi and Likoma women are contesting in all parliamentary constituencies.

[31] The MESN report on Violence against Women identifies mainly cases of psychological intimidation.

[32] For instance, the case of the DPP Director for Elections, Ben Phiri, who used defamatory language against former first lady and UTM founding member, Shanil Patricia Dzimbiri-Muluzi.

[33] Stakeholders agreed that the public reaction to the Mangochi incident in January 2019, when a female supporter of UTM was stripped by DPP cadets, and the subsequent *"women's marches"* against such violence significantly contributed to a decline in electoral violence generally.

VIII. PARTICIPATION OF PERSONS WITH DISABILITIES AND OTHER VULNERABLE GROUPS

Special measures were put in place to facilitate participation of persons with disabilities and persons with Albinism, but levels of political participation among both groups is low.

Malawi ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) in 2009. According to the 2008 Population and Housing Census Report, the rate of persons with disabilities (PWD) in the country is just 3.9per cent, or some 498,000, which may be an underestimation given that the global disability figure is 15per cent per country. Several factors are hindering the participation of PWD as voters or candidates, such as lack of resources for transportation to polling centres, discrimination when running as candidates, lack of funds for campaigning, and the inaccessibility of public spaces. Under Section 17 of the Disability Act (2012), the government is obliged to create a conducive environment for PWD to effectively exercise their political rights, by ensuring that voting procedures, facilities and materials are appropriate and easy-to-use. In accordance with the CRPD, the Parliamentary and Presidential Elections Act foresees that a voter with a disability may be "accompanied by another registered voter of his (*sic*) own choice", or by a polling station officer who shall assist him/her to vote.

Although there are no provisions in the electoral law mandating MEC to put in place special measures to promote the participation of PWD, and MEC did not keep any statistical data regarding PWDs during voter registration, it still demonstrated a proactive and inclusive approach by lowering the candidate nomination fees for PWD, developing voter education activities and materials to address their needs, providing tactile ballots in polling stations and underlining during the training of polling staff, the priority for people with disabilities in the queue on Election Day.

Persons with Albinism in Malawi face grave security concerns and have been victims of a number of targeted killings. Only a few persons with Albinism contested the elections, and the EU EOM was informed that persons with Albinism feel marginalised and allege discrimination during the party primaries. Following requests from associations of persons with Albinism, MEC issued instructions that they be given priority in the voting queue on election day in order to accommodate vulnerabilities and to alleviate security concerns.

IX. ELECTION OBSERVATION & ROLE OF CIVIL SOCIETY

Many thousands of domestic observers participated, enhancing transparency and accountability.

The elections were observed by numerous national organisations, including the Malawi Electoral Support Network (MESN) and NICE, both of which undertook large-scale election observation activities through their networks of grass-roots organisations. MESN deployed 57 long-term observers and conducted a parallel vote tabulation (PVT) exercise of presidential election results with 907 PVT observers, while NICE deployed 462 roving observers and 5,002 short-term observers. On Election Day, EU Observers reported domestic observers were present in over 80per cent of polling stations visit.

Criticism was voiced by some groups over MEC's request for them to disclose their deployment plans when submitting their requests for accreditation, which could have potentially compromised

the PVT methodology. In addition, the decision of MEC to make a distinction during accreditation of citizen observers and political party monitors, contrary to the practice during previous elections, led to NICE and other civil society organisations challenging the decision as diminishing their role and being, in their view, contrary to the law.

X. POLLING & COUNTING

A well-managed voting process overall. Counting at polling stations was transparent but challenged by poor conditions and poor adherence to procedures.

Polling material was dispatched to the 5.002 polling stations and 11.095 streams two days prior to election for checking; no major problems were reported by the EU observers, apart from non-delivery of some items that were identified and scheduled to be later dispatched. EU observers reported that most polling stations opened on time or with a relatively short delay.

EU observers reported the presence of party and candidate monitors in 99 per cent of polling stations visited and of citizen observers in 81per cent of them. In 14per cent of polling stations visited, voters were turned away because their names were not on the voter register, and in many such cases the prospective voters believed that their NID card was sufficient to cast their ballots. MEC's decision on the eve of the polling to change the rule on transfer of voting for students, observers and monitors on duty on election day was very late in the process and possibly ill-advised, as some presiding and assistant presiding officers were not aware of the announcement, creating inconsistency in practice.

Voting proceeded throughout the day in a calm and orderly manner. Procedural problems were noted in 4 per cent of polling stations visited, such as not properly checking for ink, party monitors not given a copy of the voter register and serial numbers of seals not registered due to non-delivered record logbooks; this however did not adversely affect the overall integrity of the polling. The secrecy of voting was compromised in 12 per cent of polling stations visited, mainly due to poor layout. EU observers reported that polling stations were accessible for PWD in 94 per cent of places observed and that in most cases PWD and others requiring assistance were provided appropriate support, including queue priority, for voting. EU EOM observers assessed the overall environment for polling as very good or good in 98 per cent of polling stations visited.

The vote count was transparent, with party monitors present in all polling stations observed, while citizen observers were present in 25 out of 32 polling stations. Closing was assessed as bad to very bad in 12 out of 32 polling stations observed, mostly due to inconsistency in following procedures and problems with reconciliation and completing the results sheets. Counting continued across the country throughout most of the night, in difficult conditions such as poor light and inadequate premises. Problems with ballot reconciliation and in completing the results forms were noted in 19 and 16 respectively out of 32 polling stations observed. The proper procedures were not followed in 15 out of 32 polling stations where EU EOM teams observed.

Preliminary reports indicate that the problems with the results sheets are impacting on the tallying process in some areas.

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