



# **INTERIM MISSION STATEMENT**

**BY THE**

**SADC PARLIAMENTARY FORUM ELECTION OBSERVATION  
MISSION TO THE 2014 MALAWI TRIPARTITE ELECTIONS**

**HELD ON TUESDAY, 20 MAY 2014**

**DELIVERED BY**

**HONOURABLE DR SITUMBEKO MUSOKOTWANE,  
DEPUTY MISSION LEADER AND MEMBER OF PARLIAMENT  
OF THE NATIONAL ASSEMBLY OF ZAMBIA**

**ON 22 MAY 2014**

**AT PACIFIC HOTEL IN LILONGWE, MALAWI**

## **SALUTATIONS**

- Fellow Honourable Members of the SADC PF Mission;
- The Secretary General of SADC PF;
- The Malawi Electoral Commission(MEC);
- Esteemed Leaders of Political Parties;
- Members of the Diplomatic Corps;
- Members of Civil Society Organisations;
- Esteemed Members of various Election Observation Missions;
- Media Representatives;
- Distinguished Guests;
- Ladies and Gentlemen

It is my honour and privilege to welcome you all to this Press Conference to present the SADC Parliamentary Forum Election Observation Mission Interim Statement on the 2014 Malawi Tripartite Elections.

### **1. INTRODUCTION**

Following an invitation by the Malawi Electoral Commission (MEC), the Southern African Development Community Parliamentary Forum (SADC PF),<sup>1</sup> constituted an Election Observation Mission to observe the 2014 Malawi Tripartite Elections, which were held on 20 May, 2014. SADC PF constituted a 33 Member Mission from eight member States, which has been in Malawi since 9 May to date. The Mission was composed of Members of Parliament and staff from SADC Parliaments as well as officials from SADC PF Secretariat. The Mission was led by Honourable Abdool Razack Mahomed Ameen Peeroo, SC, GOSK, Speaker of the Parliament of Mauritius and President of SADC PF. I was honoured to be the Deputy Mission Leader.

I am presenting this Interim Mission Statement on behalf of the Mission Leader who had to urgently return earlier today to Mauritius to attend to some pressing matters.

The Mission noted that the 2014 Malawi Tripartite Elections were the first such elections to combine Presidential, Parliamentary and Local Government Elections, since Malawi reverted to multipartism in 1994, a development welcomed by stakeholders in Malawi as being cost effective. This was necessitated by an amendment to the Malawi Constitution in 2012. Furthermore, the Mission welcomed the opportunity for Malawians to elect their Local Government representatives given the fact that the last time such opportunity was provided was in the year 2000, notwithstanding the provisions of the Local Government Elections Act, which mandates the holding of Local Government Elections every five years.

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<sup>1</sup> The SADC Parliamentary Forum is a Regional inter-parliamentary forum that was established in 1996 and was approved by the SADC Summit as a consultative and deliberative body in accordance with Article 9 (2) of the SADC Treaty. It is composed of 15 National Parliaments, namely Angola, Botswana, Democratic Republic of Congo (DRC), Lesotho, Malawi, Madagascar, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe

The SADC PF Election Observation Mission to the 2014 Malawi Tripartite Elections marks the 3<sup>rd</sup> time the Forum has observed elections in Malawi and is the 33<sup>rd</sup> observation mission to be deployed by SADC PF since 1999 when the Forum started observing elections in SADC Member States.

The purpose of this Interim Statement, therefore, is to share with the Malawi Electoral Commission and other stakeholders, the Mission's Observations, Findings and Recommendations, which are aimed at strengthening and improving the credibility, professionalism and integrity of the electoral processes in Malawi and the entire SADC Region. Please be assured that a more detailed Final Report shall be compiled and published within 90 days from the date of this Interim Statement, and shall be formally presented to the Malawi Electoral Commission. Stakeholders will also have an opportunity to consider the main report at an all stakeholders workshop, which SADC PF will jointly organise with MEC.

## **2. TERMS OF REFERENCE**

In undertaking its Election observation work, the SADC PF's Election Observation Mission was guided by the following terms of reference which are premised on the Forum's two documents, that is, the *Norms and Standards for Elections in the SADC Region* and the *Benchmarks for Assessing Elections in Southern Africa* as well as the *SADC Principles and Guidelines for Democratic Elections*:

- i. The historical, socio-economic and political context and environment within which elections took place;
- ii. The extent to which the elections were conducted in line with the constitutional and legal framework of Malawi and in relation to the documents earlier alluded to.
- iii. The gender trends and voter turnout in comparison to previous elections;
- iv. The organisational arrangements of the electoral process by examining the following:
  - a) Independence, impartiality and accountability of electoral institutions, including stakeholders' confidence in the election authorities;
  - b) Secrecy of the ballot and the transparency and legitimacy of the electoral process;
  - c) Voter registration and the state of the voters roll, paying special attention to the inclusiveness and availability of voters roll to stakeholders;
  - d) The campaign process and the conduct of political parties;
  - e) Publication of the election calendar, preparation and distribution of voting materials;
  - f) Civic and voter education including the quality of the education, the role of the MEC, political parties and civil society organisations;
  - g) Role of security forces;
  - h) Gender mainstreaming in political activities and manifestos, electoral systems, practices and processes, including the management and administration of elections;
  - i) Role of the media with respect to fair and balanced media reporting and coverage on election activities;

- j) Polling stations with reference to adequacy, location and voters' access to information on polling stations;
- k) Polling arrangements with reference to opening of polling stations, availability of voting materials, secrecy of the ballot, and related administrative arrangements;
- l) Counting, reconciliation, verification, tabulation and announcement of results as well as the legitimacy of results in the views of stakeholders;
- m) Conflict resolution mechanisms in place with reference to the working relationship between MEC, Government, political parties and other stakeholders;
- n) Complaints and Appeals Procedures; and
- o) Overall assessment of the electoral process, drawing some good practices, conclusions and recommendations on the elections in line with principles of election observation.

### **3. DEPLOYMENT PLAN**

The Mission observed the elections in all the three Regions of Malawi, namely Northern, Central, and Southern Region. The SADC PF teams were in the field from 13 to 21 May 2014.

### **4. OBSERVATION METHODOLOGY**

The Mission Teams used an assortment of information gathering methods, which included review of the constitutional and legal framework governing elections in Malawi, consultations with key electoral stakeholders such as MEC, political candidates, faith based organisations, civil society organisations, media, academia and the general electorate. The Mission also observed political campaign meetings, witnessed door-to-door campaigns, and whistle stop tours by political parties and candidates and monitored the mass media.

Furthermore, the Mission interacted with other Election Observation Missions including the SADC Election Observation Mission, the African Union, the European Union, and Electoral Commissions Forum of SADC, in order to exchange information and observations.

The above methods enabled the Mission to gather comprehensive information and to critically assess the manner in which the 2014 Malawi Tripartite Elections were conducted.

During their deployment in the country's Regions, the Mission's Teams visited 18 Districts as well as 123 polling stations prior to polling and during the polling day.

### **5. GUIDING PRINCIPLES FOR THE SADC PF MISSION**

In carrying out its observation work, the Mission was guided by the following principles: impartiality, neutrality, comprehensiveness, transparency, inclusiveness, and objectivity.

### **6. MISSION FINDINGS**

#### **6.1 Political Background**

The SADC PF Mission took note of the political landscape that has characterised Malawi from colonialism, independence in 1964, one party rule through to the referendum in 1992,

in which the people of Malawi resoundingly rejected the one party state, paving the way for multi-party politics with presidential two-term limit of five years each.

## **6.2 The Constitutional and Legal Framework**

The Mission took note of the constitutional and legal framework governing elections in Malawi, in particular the following legal instruments:

- i) The Constitution of The Republic of Malawi;
- ii) The Electoral Commission Act Number 11 of 1998;
- iii) The Parliamentary and Presidential Act Number 31 of 1993;
- iv) The Local Government Elections Act Number 24 of 1996;
- v) The Communications Act; and
- vi) The Local Government Act.

The Constitution of the Republic of Malawi provides for the protection of citizens' fundamental rights and liberties which include freedom of expression, freedom of assembly and association, freedom of movement, freedom of conscience and religious belief, as well as freedom of the press. Section 37 of the Malawian Constitution provides for the Right of Access to information by citizens. Section 40 guarantees the right to form, join or participate in the activities of, and to recruit members for a political party. It further guarantees the right to campaign for a political party, or participate in peaceful political activity intended to influence the composition and policies of the government and to freely make political choices. The Mission was generally satisfied that these rights were enjoyed without restrictions.

The Mission noted that the Malawi Constitution prescribes the date for elections, which is ascertainable by all electoral stakeholders. However, the election date in the just ended Tripartite Elections was not gazetted as a public holiday to enable as many Malawians as possible to exercise their right to vote.

Further, the Mission noted with satisfaction the existence of the various pieces of legislation governing the different aspects of the electoral process which ensured harmony and predictability. In particular, the Mission commended MEC, the Parliament of Malawi and other stakeholders for ensuring that various electoral laws were reviewed in order to be aligned with the holding of the inaugural tripartite elections.

## **6.3 The Malawi Electoral Commission (MEC) and Election Administration**

The Mission took note of the legal framework on the establishment, organisation, functions and responsibilities of the Malawi Electoral Commission, as the sole authority responsible for the conduct of elections at all levels in Malawi. In particular, the SADC PF Mission welcomed the provisions in the law, with regard to the appointment of Commissioners, which is done in consultation with political parties represented in Parliament, subject to terms and conditions determined by a committee of Parliament. The involvement of political parties and a committee of Parliament are vital as it ensures inclusivity in the membership of Commissioners and forestalls its credibility. The Mission also took note of

the fact that in order to ensure independence of the Electoral Commission, the constitution of Malawi mandates the Judicial Service Commission to nominate the Chairperson of MEC.

Overall, the Mission is satisfied that the legal framework within which the MEC is established and operates, generally augurs well for the independence and autonomous functioning of the Commission in line with the *Norms and Standards for Elections in the SADC Region*, the *Benchmarks for Assessing Democratic Elections in Southern Africa* and the *SADC Principles and Guidelines for Democratic Elections*.

On the preparedness of the MEC for the 2014 Malawi Tripartite Elections, the Mission observed that the MEC was manifestly prepared as evidenced by the printing of ballot papers and procurement of election materials in time. The MEC also carried out voter education programmes and distributed both sensitive and non-sensitive voting materials to the 3 Regions of Malawi in accordance with the electoral calendar, although in a few places visited by our mission teams, electoral materials were not distributed according to schedule, thereby arousing some anxiety in some electoral stakeholders especially the electorate.

From our observation, it was evident that the MEC trained electoral staff in time and was consulting and communicating with electoral stakeholders, including civil society, political parties and candidates as well as the media throughout the process. The SADC PF Mission's Observation Teams, however, encountered cases where some members of the public complained of not having received adequate voter education.

On the whole, the Mission commends the MEC for the professional and efficient manner in which it prepared for and conducted the 2014 Malawi Tripartite Elections in compliance with the country's electoral laws. This was also unequivocally confirmed by all stakeholders including the political parties.

#### **6.4 The Role of Security Forces**

The Mission noted the role played by the Malawi Police and the Malawi Defence Forces in providing security to the electoral process prior, during and after the Election Day. The Mission is of the view that the security forces carried out their election related duties without interfering with the electoral processes. The Mission further observed that the Security forces were prepared to perform their duties during the Elections as evidenced by the presence of Security officers at all the polling stations visited by the Mission's Election Observation Teams. The Mission further noted the arrangements put in place by MEC to use Army trucks to ferry election material to different destinations across the country.

The Mission also observed with some notable exceptions in some instances, the openness and accessibility with which the police interacted and communicated with stakeholders including Observation Missions during the voting process. This contributed to the general calm and peaceful environment that existed in the country during the Elections.

#### **6.5 Voter Registration**

In terms of the Malawi Electoral Laws, every citizen resident in Malawi, who on or before the polling day, shall have attained the age of eighteen is eligible to register as a voter.

Malawi does not have a national identity system, as a result those wishing to register have to prove their eligibility by producing an array of documents including a written or verbal testimony from a chief, village headman or registered voter.

Furthermore, the Mission noted that the electoral laws of Malawi do not provide for the registration and subsequent voting of Malawians living or working in the Diaspora.

The Mission observed that voter registration for the 2014 Malawi Tripartite Elections was carried out in nine phases. Each phase lasted 14 days because the MEC's photographic equipment could not cover all the registration centres at once. A total of 7,537,548 voters were captured against a projection of about 8,009,734. Of the total registered voters 3,481,365 were men, representing 46.19 % while 4,056,183 were women, representing 53.81 %.

The Mission noted that the Electoral Laws of Malawi do not specifically provide for continuous voter registration during and outside election periods. Registration of voters in the case of the 2014 elections started too close to the election date and posed its own challenges. It was, however, gratifying to note that the MEC had put in place administrative arrangements to allow registered voters who were working with International and Local observers to vote wherever they would be found on Election Day. Arrangements were also made to allow security personnel and election management officials to vote at their places of deployment.

#### **6.6 Voters' Roll**

On 24 March, 2014 the MEC produced an interim Voters' roll for inspection by voters and other electoral stakeholders. The voters' roll was produced amidst scanning and data extraction challenges, which inevitably led to an abortive verification exercise. The MEC then employed quality control teams to physically check and endorse each voter register. This brought some acceptability to the Voters' Register and verification resumed in a three phased approach. The first phase was planned from April 9 to 11, the second from April 21 to 25 and the third from 1 to 5 May, 2014. Voters inspected the roll in person by presenting themselves to the designated centres and by short message service (sms) as well as through the MEC website. Verification through sms and the web continued until 15 May, 2014. This innovation is highly commendable.

#### **6.7 Voter Education**

The Mission noted that the MEC is legally mandated to oversee voter education in Malawi. The Mission commends the MEC for having been the first institution to commence the voter education process. The Mission also noted that some civil society organisations especially the National Initiative for Civic Education (NICE) played a very important part in the civic and voter education process, although they did not commence as early as they could have wished because funding from development partners was availed late. In view of this, voter education did not spread as fast and as wide as it would have been desired by all the relevant stakeholders.

## **6.8 Election Campaign**

The Mission noted that campaigns for the 2014 Malawi Tripartite Elections stretched for fifty-eight days from 21 March, 2014 to 18 May, 2014 in line with the official electoral calendar published by MEC. The campaign period closed forty-eight hours before the opening of the poll on the first polling day. This was in accordance with section 57 of the Parliamentary and Presidential Act and section 41 of the Local Government Elections Act. The campaigns manifested themselves in a variety of forms including rallies, road shows, door-to-door campaigns, advertisements in the mass media, TV debates, as well as the posting of campaign posters in various places accessible to the public. MEC also provided airtime to run campaign messages on private radio stations and candidates were free to campaign anywhere as long as they followed procedures. The Mission was, however, saddened at incidences of political players from both the ruling and opposition political parties engaging in vote buying by way of distribution of maize, fertilizer, alcohol, cash and other items.

On the whole, the Mission commends the people of Malawi for the calm and tolerant manner in which they conducted themselves during the electoral process. This created an electorally conducive atmosphere that enabled most citizens to freely express themselves in campaigning and voting for candidates of their choice without undue hindrance. The Mission, furthermore, welcomed the exemplary public expression of tolerance and reconciliation exhibited by most of the candidates during campaigns, in particular the four main Presidential contenders from the Democratic Progressive Party (DPP), Malawi Congress Party (MCP), People's Party (PP), and United Democratic Front (UDF).

## **6.9 Political Party Funding and Campaign Funding**

The Mission noted that there is no provision for public funding of political parties in Malawi. The Mission further noted that the law does not regulate campaign expenditure and sources of campaign funding.

## **6.10 Media Coverage of the Elections**

The Mission noted the role played by the media in enhancing awareness on the election process including voter registration, voter education and candidate nominations. This went a long way in promoting public interest and encouraging public participation in the elections. The Mission also noted and welcomed efforts by MEC to ensure equitable access to public media by all candidates who contested the elections. The Mission also commends MEC for contracting a private media station with wide national coverage, to be the official announcer of results of the 2014 Elections.

The SADC PF Mission, however, noted complaints from some candidates and other stakeholders against some media houses which were evidently biased in their coverage of the election campaigns. It was noted that the public media, namely the Malawi Broadcasting Corporation, was biased towards the Peoples Party and its Presidential candidate. The MEC intervened and the public broadcaster eventually opened up to the opposition. On the other hand, some of the private media were biased towards the opposition political parties, two

of which had personal Radio Stations to cover them almost exclusively. The Mission learnt, however, that there was balanced coverage from some other quarters of private media.

The Mission reiterates the obligation for equal and equitable coverage by both public and private media. The public media is funded from public resources, therefore the need to be fair in its coverage of political parties cannot be over emphasised, irrespective of which side of the political divide they come from.

#### **6.11 Participation of Women in the 2014 Malawi Tripartite Elections**

The Mission noted that in an effort to encourage women candidates to file their nominations, the MEC made a provision for Women candidates to pay only 5% of the prescribed nomination fees for the respective election categories. However, out of the 12 Presidential Candidates and their running mates who participated in the Presidential Elections, only two Presidential Candidates and two running mates were women. The Mission was also informed that out of the 1,293 Parliamentary candidates who contested the Elections, only 259 were women, and out of 2,378 Local Government Election candidates, only 415 were women.

In view of the above, the Mission notes with concern that the outcome of Malawi Elections is set to fall short of the Regional target of 50 percent representation of women in political and decision making positions by 2015 as set forth in the SADC Protocol on Gender and Development.

#### **6.12 Conflict Resolution Mechanisms in Place**

The Mission noted that the electoral laws mandate the MEC to resolve election-related disputes among stakeholders. In this regard, MEC establish multi-party liaison committees in all councils to handle disputes at the local level. The MEC also established a Complaints Handling Unit which was announced on 15 May, 2014 five days before the elections. However, aggrieved parties were free to appeal to the High Court in the event that they were not satisfied with the decision of the Commission.

The Mission noted the existence of an Electoral Code of Conduct for political parties and candidates, which was duly signed by several political parties on 29 August 2013 in Blantyre. However, the Code of Conduct is not annexed to the law and is, therefore, not legally binding or lacks the force of law.

The Mission was gratified, however, to note the existence of the National Elections Consultative Forum (NECOF), an organisation with the mandate to address any differences among political players and promote peaceful co-existence between MEC and its key stakeholders, who include political parties, CSOs, the media, etc.

### **6.13 Election Day and Voting**

The Mission observed that most polling stations opened and closed at legislated times of 06:00 hours and 18:00 hours, respectively. At polling stations visited by the Mission's Teams, voting materials including ballot papers, copies of the voters' roll and indelible ink were available in adequate quantities and this allowed voting to proceed smoothly throughout the day. But as already alluded to, a few polling stations did not receive electoral materials in time and it disturbed the voting process.

The Mission also observed that all polling stations visited by Mission's Teams were generally located within a radius of about 5 Kilometres and in places which were readily accessible to the public. The aged, sick, pregnant, blind persons and the physically challenged were fast tracked in the voting process.

The Mission learnt that based on the preliminary registration figures, MEC came up with 4,445 polling stations across the country, with a total of 11,624 polling streams. The size of each polling stream was determined to be 800 voters.

At the close of voting, the Returning Officers at polling stations transparently showed the completed polling station returns to fellow polling staff, political party candidates and or their agents as well as observers present at the polling stations. The Returning Officers also allowed party agents to append their signatures to the polling station returns before posting copies of the returns on the outside of the respective polling stations.

## **7. GOOD PRACTICES FROM THE 2014 MALAWI TRIPARTITE ELECTIONS**

The Mission observed the following as good practices from the 2014 Malawi Tripartite Elections:

1. High degree of tolerance which contributed to peaceful and orderly campaigns and generally amicable atmosphere during the entire electoral process;
2. The inclusive mechanism for appointing Commissioners to the MEC and the nomination of the MEC Chairperson by the Judicial Service Commission, which helped to enhance the credibility and independence of the electoral body;
3. Introduction of short messaging services and the web as means of voter registration verification;
4. Introduction of polling streams at polling stations catering for about 800 voters per stream;
5. Engagement of the public media to promote equal and balanced coverage to all political players;
6. Establishment of the MEC Complaints Handling Unit, albeit late;
7. Use of transparent ballot boxes;
8. Use of indelible ink which minimizes double voting;

9. Fast-tracking of persons who are physically challenged, the elderly, the pregnant and mothers carrying babies on their backs during voting in order to reduce the time they spend in the queues;
10. Arrangements to enable voters working with Observer Missions and security personnel to exercise their right to vote in their areas of operation;
11. The reduction of nomination fees paid by women candidates;
12. The adequate number of polling stations provided by the MEC which were conveniently accessible to voters in terms of distance and location;
13. Professionalism and commitment to duty demonstrated by the electoral staff who worked under pressure for long hours prior to and on Election Day;
14. The enshrining of the date of elections in the Malawi Constitution making it ascertainable for all stakeholders;
15. MEC's general logistical preparedness and openness to engage stakeholders prior, during and after the elections;
16. The existence of NICOFA as a body to help resolve disputes among electoral stakeholders;
17. The invitations extended to various local and foreign observers by the MEC which enhances the transparency of the elections;
18. Counting of votes at respective polling stations in the presence of party agents, candidates and observers in line with good and transparent electoral practice; and
19. Organisation of public debates during the campaign period which exposed the electorate to different campaign messages.

## **8. AREAS FOR IMPROVEMENT**

1. The need to make provisions for continuous voter registration and updating of the Voters Roll;
2. The need to sort out all technical problems in advance to avoid producing a voters register with a myriad of mistakes, which may arouse suspicion among political players;
3. The need to introduce a single National Identity Document as the current practice of using multiple identification documents (hospital birth reports, Chief's statement, driver's licence etc.) to register voters is a potential source of problems;
4. The need to consider making provision to allow Malawian citizens based abroad, to register as voters and exercise their right to vote;
5. The need to distribute all electoral materials in time to avoid delayed voting as the case was in some polling stations;
6. The need for the public media not to be biased towards the party in power, in view of the fact that the media is funded from public funds;
7. The need for political party candidates to desist from distributing maize, cash and other items to the electorate;
8. The need to annex a legally binding electoral code of conduct to the electoral laws in order to effectively deal with breaches such as vote buying;
9. The need to develop strong legal and administrative provisions to ensure gender parity in political and decision making positions in line with the SADC Protocol on Gender and Development;
10. The need for political parties to deliberately put in place measures aimed at adopting women and youth as their candidates;

11. The need to declare final results of elections earlier than within eight days as is currently provided for by law so as to avoid suspicions which may lead to conflict; and
12. The need to introduce legislation governing access to and application of funding by political parties and candidates in order to promote transparency and accountability in the mobilisation and application of political campaign funds by parties and candidates.
13. The need to produce a qualitative voters' roll with clear picture resolution of all the registered voters;
14. The need for voters to deep their finger in the indelible ink after they have voted and not before to avoid people voting more than once; and
15. The need by the police to always be in uniform when they police political rallies for both the ruling and opposition political parties.

## **9. MISSION'S OVERALL ASSESSMENT OF THE 2014 MALAWI TRIPARTITE ELECTIONS**

Based on its overall findings, the Mission is of the view that there existed a conducive and peaceful environment in which the elections were conducted. Notwithstanding the observed shortcomings mentioned in this Interim Statement, the people of Malawi were accorded the opportunity to freely express their will in voting for political parties and candidates of their choice.

The SADC PF Election Observation Mission to the 2014 Malawi Tripartite Elections is, therefore, of the view that the Malawi Tripartite Elections of May, 2014 were, on the whole, a credible reflection of the will of the majority of the people who voted during the elections and declares them as having been free, fair and credible.

In Conclusion, the SADC PF Election Observation Mission to the 2014 Malawi Tripartite Elections commends the people, the electorate, the candidates and all electoral stakeholders in the Republic of Malawi for the tolerant manner in which they conducted themselves prior, during and after the 20 May 2014 Malawi Tripartite Elections.

The Mission also extends its gratitude to the SADC National Parliaments that sent MPs and Parliamentary Staff to participate in the SADC PF Election Observation Mission to the 2014 Malawi Tripartite Elections.

Finally, but not least the SADC PF Mission extends its deep appreciation to the Royal Norwegian Embassy in Malawi that provided the funding that made this Mission possible.

-End-