

## Malawi Human Rights Commission



### INTERIM STATEMENT ON THE 2019 TRIPARTITE ELECTIONS

#### 1.0. INTRODUCTION

Malawi held its second tripartite elections on 21<sup>st</sup> May, 2019. The elections offered yet another opportunity for the people of Malawi to exercise their democratic rights. Section 6 of the Constitution of the Republic of Malawi (the Constitution) states that the authority to govern derives from the people of Malawi as expressed through universal and equal suffrage in elections held in accordance with the law. Further, section 40 of the Constitution provides for political rights in the following terms:

- (1) *Subject to this Constitution, every person shall have the right—*
  - (a) *to form, to join, to participate in the activities of, and to recruit members for, a political party;*
  - (b) *to campaign for a political party or cause;*
  - (c) *to participate in peaceful political activity intended to influence the composition and policies of the Government; and*
  - (d) *freely to make political choices.*
- (2) ...
- (3) *Save as otherwise provided in this Constitution, every person shall have the right to vote, to do so in secret and to stand for election for any elective office.*

Pursuant to its broad constitutional and statutory mandate of promoting and protecting human rights in Malawi, the Human Rights Commission (the Commission) monitored and observed the entire electoral process including the actual voting, counting, tabulation and announcement of results.

On Sunday, 19<sup>th</sup> May, 2019, the Commission released a statement following its monitoring of the pre-election activities including political campaigns. The Commission established that generally the Malawi Electoral Commission (MEC) was prepared and ready to conduct the 21<sup>st</sup> May, 2019 Tripartite Elections and that Malawians were ready and eager to exercise their right to vote and stand for election.

In this present statement, the Commission accounts for its assessment of the electoral process from the time of voting up to the time of tabulation and announcement of results.

## **2.0. VOTER TURN OUT**

As regards voter turn-out, the Commission made the following observations:

1. The voter turn-out was generally high.
2. Generally, more women than men turned out to vote. It was also encouraging to note that the elderly, persons with disabilities, the sick and other vulnerable groups of people turned out to vote in the elections, and MEC made provision for them to given priority on the voting line.

## **3.0. THE VOTING PROCESS**

During the voting process the Commission noted the following

### **Location of Polling Stations**

1. Generally, voting was taking place in polling stations which were located in public schools. On the polling day, the schools were closed to make way for the voting process.
2. Some districts such as Mangochi and Mzimba had satellite polling stations in prisons to enable eligible prisoners to cast their votes.
3. A banner with the following words, “Polling Station” was placed outside all polling stations, except in isolated cases.

### **Opening of Polling Stations**

1. Generally, most polling stations opened on time at 06:00 hours on Tuesday, 21<sup>st</sup> May, 2019. However, a few polling stations delayed in opening. In most cases the delay ranged from 15 to 60 minutes. However, in an exceptional circumstance, Kanyenjere

School Polling Centre at Zambwe 1 Ward in Chitipa District had a four and a half hour delay.

2. There were a number of factors that contributed to the delays in opening polling stations. These factors included:
  - (a) Non-availability of a voters' roll.
  - (b) Late arrival of polling station officers and other polling personnel
  - (c) Limited skills and knowledge in the voting process of the polling station officers despite receiving adequate training
3. Before voting commenced and in the spirit of transparency and accountability, the presiding officer at each polling station was making sure that the ballot boxes were empty. This was being done in the full view of the other polling station staff as well as monitors for political parties and candidates.
4. Further, the necessary voting materials were also inspected in the same spirit of transparency and accountability. The inspection included checking and recording of serial numbers of seals for ballot boxes.
5. In nearly all polling stations monitored, except in isolated cases, the presiding officers also made public announcements declaring the voting process opened.

#### **Availability of Necessary Voting Materials**

1. Generally, polling stations had adequate voting materials that were timely provided by MEC prior to the polling day. However, in some polling stations, some materials were either not available or in short supply. Some materials that were in short supply included ink pads, seals, and voters roll.
2. Every polling station was provided with enough ballot papers to cater for those registered voters at the station as well as those who registered elsewhere but were transferred to vote at that particular station. The ballot papers were also enough to cater for spoilt votes. However, the extra ballots were not in excessive numbers to give room to commit electoral irregularities.

#### **Availability of Security Personnel**

1. All polling stations were provided with adequate security personnel. The security personnel comprised a mixture of officers from the Malawi Police Services, Malawi Defense Force (MDF), Department of Immigration Services and Malawi Prison

Services. In nearly all stations, the number of police officers was greater than those from the other three agencies.

2. The security officers, especially from MDF, were deployed in large numbers especially to constituencies identified as hot-spots of violence. These extra security personnel were seen in several areas including Chikwewo in Machinga and Ndirande in Blantyre.
3. The security personnel deployed to polling stations efficiently and effectively ensured that the voting process was free from disturbances and violence. For instance, security personnel at CI in Blantyre City South prevented some Democratic Progressive Party cadets from influencing voters' choices. Further, security officers at Katambasula School in Machinga Central Constituency temporarily held an independent aspiring member of parliament, Mr. Shaibu Kaliati and his monitor, Jackson Robert who were causing disturbances at and near the polling station.
4. In one isolated incident, the Commission found one security officer in a drunken state.
5. The presence of MDF officers did not cause any fear among voters instead, their presence was more helpful in ensuring discipline. There is no reported incident that the presence of MDF caused fear.
6. In almost all stations, the positioning of security personnel did not interfere with the voting process.

### **Adequacy of Polling Station Officers and Monitors**

1. Save for exceptional instances, all polling stations visited had adequate polling station officers led by presiding officers. The officers were adequately available in all the available streams and generally they were effective in their respective roles. Some were ushering and directing voters while others were taking them through the voting process. The effectiveness of these officers could be seen in the orderliness of the stations.
2. The polling station officers were assisting the elderly, persons with disability and other vulnerable groups who had not come with their trusted assistants to cast their votes.
3. Polling station officers in some polling centers were providing on-spot civil and voter education to voters when they had come to vote.
4. All polling stations had party and candidate representatives that monitored the voting process. The monitors were stationed at strategic positions to ensure that they observe

the voting presence. The monitors were also consulted by the polling station officers whenever there was an issue to be resolved.

5. Apart from party and candidate monitors, the voting process was also being monitored and observed by monitors and observers from other institutions such as NICE Trust and MESN.
6. NICE monitors were present in all the polling stations that the Commission visited.
7. Some polling stations were being visited by roving international observers including SADC and Commonwealth observers. These monitors ensured that the voting process was transparent.

### **Actual Voting**

1. Most voters participated in the voting process during the morning and evening hours.
2. In isolated cases, some voters were not allowed to vote. Those that were not allowed to vote included:
  - (a) People that had not registered to vote. These were disqualified even if they had presented their National Identity Card.
  - (b) People that had registered elsewhere but had not been transferred
  - (c) People that had actually registered but their names were neither found in the voters roll nor the reference register.

Generally, those that were disqualified were not in large numbers.

3. There were adequate mechanisms that ensured that one person voted once and in secret. However, in an isolated instance, a party monitor was arrested for voting more than once.
4. Voting booths adequately prevented choices of voters from being seen by the public.
5. Ballot boxes were positioned at places where they could be seen by everyone including the polling station officers and monitors.
6. There has been a few instances where political parties and candidates seen campaigning within 100 metres radius of the polling stations. This included donning of party colours and dishing out of handouts.

### **Closing of Polling Stations**

1. Generally, all polling stations closed at around 18:00 hours. However, those polling stations that opened late closed late commensurate with the lost time.

2. Voters that were already on a queue before the closing time were allowed to vote. The presiding officers placed one polling station officer behind the last person on the queue to mark closure of the stations.
3. The polling stations closed following laid down closing procedures which included reconciliation of necessary voting materials and signing of documents by polling station officials and monitors.
4. Prior to closure, the presiding officers made public announcement declaring closure of the station.

#### **4.0. COUNTING OF RESULTS**

1. The process of counting votes commenced immediately after the polling station closed right there at polling stations.
2. The counting in all the streams at a polling station generally took place concurrently.
3. The Commission noted that stations were provided with gas lamps for lighting during counting. However, in some instances the lighting was not adequate, thereby making it difficult for efficient counting.
4. The required counting procedure was followed in most of the polling stations. The ballot boxes were being opened in the presence of monitors and other polling station officials. A ballot paper was being taken from the ballot boxes, displayed to all officials present, and then announced aloud the classification of the vote - whether or not it belonged to a particular candidate or it was null and void. The results were then summarized and copies given to political parties and candidates.
5. There were several instances of result sheets marked with painting, erasing and use of erasing fluid (Tippex). This might have brought stakeholder misunderstanding of the credibility of the electoral results.
6. MEC deployed electoral auditors understandably in 100 tally centres leaving out some centres without such auditors. The role of these auditors was to double check the accuracy of numeracy of results sheets.

#### **Handling of Electoral Complaints**

1. All electoral related complaints were being reported and handled at three levels: polling station level, constituency level and national level.
2. At the polling station level, complaints were being resolved in consultation with monitors. However, complicated cases were being handled at higher levels. For

instance, the incident that occurred at Katambasula School in Machinga Central Constituency, where an independent aspiring member of parliament, Mr. Shaibu Kaliati and his monitor, Jackson Robert were causing disturbances, was resolved by MEC officials and the Police from Machinga District.

3. The following are some of the electoral irregularities identified during voting:
  - already marked ballot papers
  - missing of registered voters in the voters roll
  - missing voters roll/tactile
  - campaigning on the polling day
  - donning of party colors
  - giving out of handouts
  - Unwanted persons within 100 meters radius
4. Prior to announcement of particular results affected by complaints, MEC ensured that complaints were resolved. This was a source of stakeholder confidence in the management of results.

## **5.0. ANNOUNCEMENT OF RESULTS**

1. The announcement of results was done in 3 phases, namely, at the polling station, level, at constituency level, and at national level.
2. At all levels, there existed comprehensive accountability mechanisms which ensured that the electoral results were quality assured and error free. However, there have been situations where delays occurred due to some statistical errors emerging from failure by polling station staff to properly reconcile ballot papers on the tally sheets.
3. Tally sheets that did not tally were automatically rejected by the computer system and results could only be relayed to the national tally center after such anomalies had been rectified.
4. The process of rectifying errors on the tally sheets was not without its own challenges. There was wide speculation that the process was prone to abuse as some candidates and supporters felt that that the process was actually altering the results, an assertion that was denied by MEC.
5. At the national tally centre, the results were not progressively released and not publicly displayed on the screen to enable stakeholders examine the posted results. This resulted in speculation and resort to social media reports which eventually was a source of stakeholder tension.

6. In view of the foregoing MEC regularly conducted press briefings. In addition all political parties were given result sheets to scrutinize. This in a way diffused social media speculations and tensions.

## **6.0. RECOMMENDATIONS**

The Commission therefore makes the following recommendations:

1. MEC should clean up the electoral results before declaring them officially.
2. MEC should deal with any single electoral complainant and investigate each one of them with responsibility and seriousness before releasing official results
3. All political parties and candidates should become responsible and exercise responsibility as they wait for MEC to finalize all the processes that will lead to the announcement of official results.

## **7.0. CONCLUSION**

It is the considered view of the Commission that the voting process was well managed, inclusive, peaceful and transparent. However, the management of the results has been marred with several irregularities. The Commission has noted the assurances by MEC to address all electoral irregularities before announcing results. It is the view of the Commission that this is a necessary step and that the Commission will dutifully monitor such assurances.

Meanwhile, the Commission withholds its verdict on whether the 21<sup>st</sup> May, 2019 Tripartite Elections have been free, fair and credible. This will be addressed in the comprehensive report that the Commission will issue in the next few weeks.

Finally, the Commission is calling upon all the people of Malawi to remain calm, peaceful and patient as they await MEC to finalize these elections. In particular, the Commission is calling upon MEC and political parties and or candidates to observe and respect the right to peace in all their actions even beyond post-elections.



David V.K. Nungu

**EXECUTIVE SECRETARY**

**25<sup>th</sup> May, 2019**