

Introduction

The Commonwealth's role in observing the electoral process in Malawi stemmed from the invitation received in February 1994 from the Chairperson of Malawi's Electoral Commission to the Commonwealth Secretary-General to send observers to the Parliamentary and Presidential Elections scheduled for 17 May 1994. These elections had been called following a referendum held in June 1993 in which Malawians voted decisively to abandon the prevailing one-party system and embrace multi-party democracy. The Electoral Commission invited the Commonwealth to observe the registration of voters scheduled to take place from 21 February to 12 March 1994 as well as the 17 May elections; it also conveyed the relevant provisions of the Parliamentary and Presidential Elections Act 1993 pertaining to international observation of the elections.

In his response the Commonwealth Secretary-General confirmed that the Commonwealth would give positive consideration to the request. He pointed out that, in accordance with established custom, he wished to send a Commonwealth Secretariat Planning Mission to Malawi to meet with representatives of the major political parties and other interested groups to confirm their broad agreement to a Commonwealth presence and to assess the logistical and other implications of deploying a Commonwealth Observer Group.

The Secretary-General's positive response in principle was to be seen in the context of the high priority to the promotion of fundamental political values accorded by Commonwealth Heads of Government at their 1989 Meeting in Kuala Lumpur, formally enshrined in their 1991 Harare Declaration and reaffirmed most recently at their Cyprus meeting in 1993. Democracy, democratic processes and institutions which reflect national circumstances, fundamental human rights, the rule of law and just and honest government were among these values. In pursuit of this commitment, Commonwealth groups had in recent years observed elections in Malaysia, Bangladesh, Zambia, Seychelles, Guyana, Ghana, Kenya, Lesotho and Pakistan, as well as South Africa's momentous transition to a non-racial democracy. Also towards that end, the Commonwealth had extended technical assistance to a number of countries to help establish or reinforce the institutions of representative governance.

A two-member Planning Mission from the Commonwealth Secretariat, consisting of Carl Dundas and Amitav Banerji, had visited Malawi from 8–12 March 1994. The team had held consultations with the Electoral Commission, the National Consultative Council, the Government, all political parties and other important interest groups. The Mission had been warmly received by all the political parties, which had confirmed their support for prospective Commonwealth observation of the elections.

Composition and Terms of Reference of the Observer Group

It was against this background that the Commonwealth Secretary-General invited our Group of 11 Observers, supported by seven support staff from the Commonwealth Secretariat, to observe the elections on behalf of the Commonwealth. The composition of the Group is set out at *Annex I*.

In his letter to the Observers, the Secretary-General set out the terms of reference of the Group as follows:

The Group is established by the Commonwealth Secretary-General at the request of the Electoral Commission of Malawi and supported by the Government and all the major political parties. It is to observe relevant aspects of the organisation and conduct of the elections in accordance with the law of Malawi. It is to consider the various factors impinging on the credibility of the electoral process as a whole and determine in its own judgment whether the conditions exist for a free expression of will by the electors and if the result of the elections reflects the wishes of the people.

The Group is to act impartially and independently. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgment accordingly. It would also be free to propose to the authorities concerned such action on institutional, procedural and other matters as would assist the holding of the elections.

The Group is to submit its report to the Commonwealth Secretary-General, who will forward it to the Government of Malawi, to the leadership of the political parties taking part in the elections and thereafter to Commonwealth governments.

Within the above terms of reference, the Group was asked to form an independent judgment which would in no way represent either the views of any government or of the office of the Secretary-General.

A Press Release was issued in London on 4 May 1994 announcing our mission (*Annex II*).

Modus Operandi

We assembled in Johannesburg in South Africa to be briefed by the Commonwealth Secretary-General on 7 May 1994, the venue of the meeting having been determined by the Secretary-General's presence in South Africa for the historic inauguration of that country's new President and Government of National Unity.

We arrived in Lilongwe from Johannesburg on 8 May 1994 and issued the Arrival Statement at *Annex III*. Four support staff had preceded us to Malawi to put in place logistical arrangements and set up appointments with the widest possible cross-section of Malawi's political community before the Group dispersed to the regions. During the three days which the Group spent together in the capital after arrival, many useful meetings were held with all eight registered political parties, with the Electoral Commission, the National Executive Committee, the Co-ordinator of the Joint International Observer Group (JIOG) and the Public Affairs Committee. We also paid a courtesy call on His Excellency the President of Malawi. Our Schedule of Engagements during the period of our stay in Malawi is at *Annex IV*.

On 12 May 1994, our Group was divided into sub-groups to be deployed at seven centres around the country; apart from our headquarters in Lilongwe, the national capital and headquarters of the Central Region, we established field bases at Mzuzu and Karonga in the Northern Region, Kasungu in the Central Region and Blantyre, Mangochi and Zomba in the Southern Region (see *Annex V*). The arrival at these field bases of teams of two (in the case of Blantyre, three) allowed us the opportunity to familiarise ourselves with each of the regions and local conditions throughout the country. Collectively, we travelled to 68 constituencies in 23 districts, meeting political party functionaries and other interested groups, consulting electoral officials, assessing the degree of technical preparedness for the poll, witnessing the last days of the campaign and generally gauging the prevailing atmosphere, paying particular attention to issues and concerns highlighted in the course of our earlier consultations in Lilongwe. Those in the field sent daily situation reports to headquarters in Lilongwe. The guidelines shown at *Annex VI* assisted us in our task.

We worked in co-operation with other international observer groups which operated under the umbrella of the JIOG. Apart from our consultations with the JIOG Co-ordinator in Lilongwe, all our teams liaised closely with JIOG teams in the field.

Our Chairman paid special visits to the regional headquarters of Mzuzu on 13 May and Blantyre on 15 May to obtain first-hand impressions of regional perspectives on salient issues. At Blantyre, he addressed an extremely well-attended press conference.

We were on the road from the early hours of the morning on 17 May. Each of us witnessed the opening of polling stations at 6.00 a.m. as well as the close of polling, which in a few cases took place well after the scheduled time of 6.00 p.m. In between, we moved around our respective areas of coverage in a random and unannounced manner, inspecting polling arrangements, interacting with Presiding Officers and other polling staff, voters and party agents, and noting shortcomings where there were any. Collectively, we covered 174 Polling Centres, many with multiple polling stations, in the 68 constituencies. Following the end of polling, each of us witnessed the count at selected polling stations.

At the end of a long day, our colleagues in the field reported their findings to our headquarters in Lilongwe, enabling us to issue an Interim Statement at a well-attended press conference, broadcast live on radio through the Chairman from Lilongwe at 12.15 a.m. on Wednesday 18 May (*Annex VII*). Before leaving Malawi, having finalised the text of this Report, we issued our Conclusions to the Press in the form of a Departure Statement on 20 May 1994 (*Annex VIII*).