

The Parliamentary and Presidential Elections in Malawi

17 May 1994

**The Report of the
Commonwealth Observer Group**



Commonwealth Secretariat

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Commonwealth Observer Group



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1994

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Marlborough House
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Britain

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**REPORT OF THE COMMONWEALTH OBSERVER GROUP TO THE
PARLIAMENTARY AND PRESIDENTIAL ELECTIONS IN MALAWI**

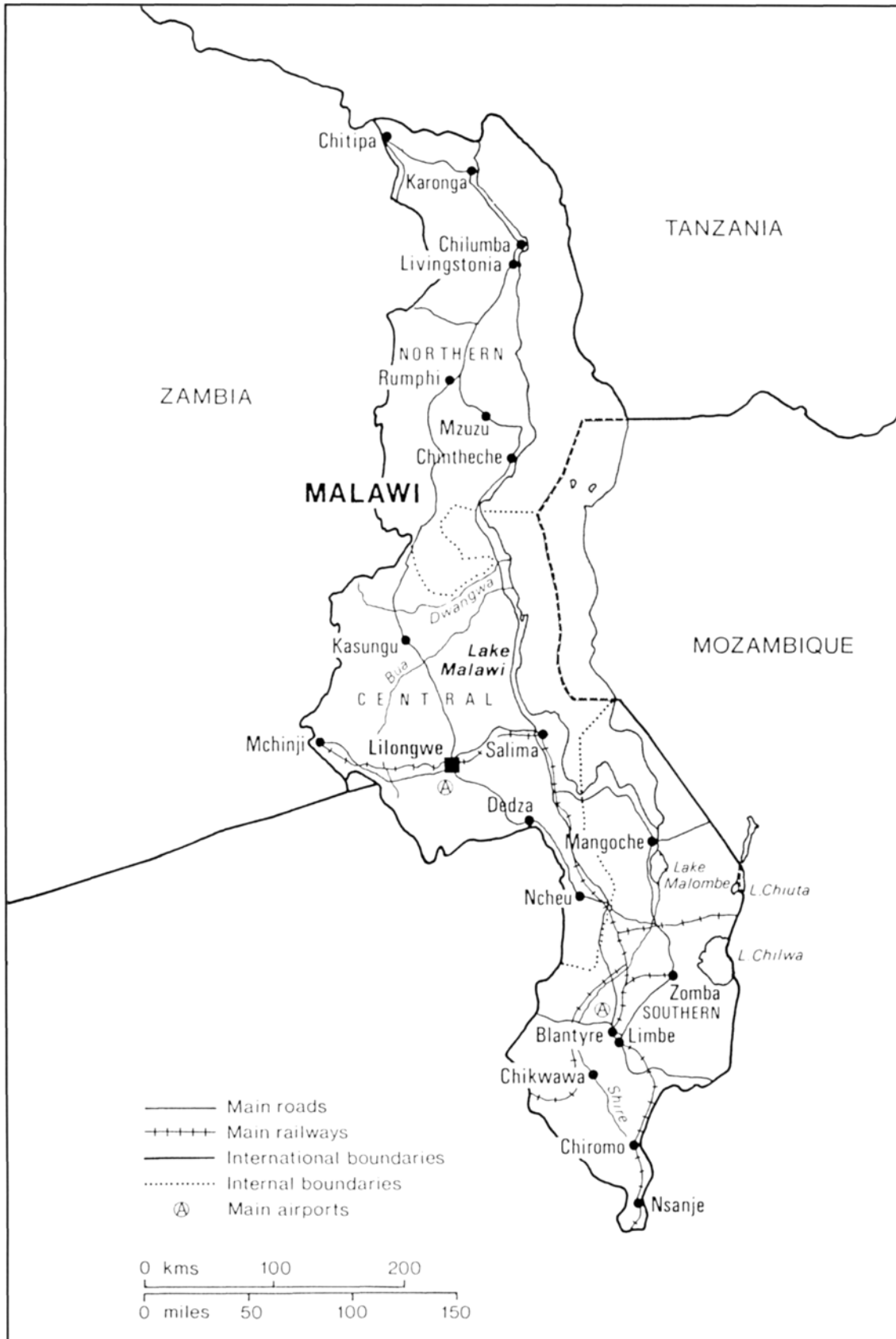
17 MAY 1994

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Map of Malawi



LETTER OF TRANSMITTAL



Parliamentary and Presidential Elections in Malawi

Commonwealth Observer Group

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Capital Hotel
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Lilongwe

21 May 1994

Dear Secretary - General,


Following the request to you from the Electoral Commission of Malawi which was supported by the Government and the political parties, our Group was constituted by you to observe the Parliamentary and Presidential Elections of 17 May 1994. In our Interim Statement issued on 18 May 1994, we expressed our satisfaction that the election was conducted in a manner which provided the people of Malawi with the opportunity to vote freely for the candidates of their choice. We now have pleasure in submitting our full Report.

We have been honoured by your invitation to participate in an event of such vital importance to the people of Malawi and to the Commonwealth. We wish to record our deep appreciation to the Electoral Commission, Government and people of Malawi for their assistance in facilitating our work.

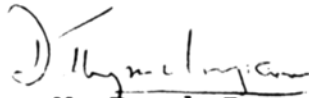
Yours sincerely,

Dato' Musa Hitam
Chairman

His Excellency Chief Emeka Anyaoku
Commonwealth Secretary-General
Marlborough House
London SW1



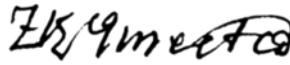
Mr Vic Butler



Mr Derek Ingram



H E Dr T J B Jokonya



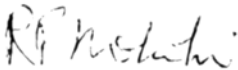
The Hon Zephania Kameeta



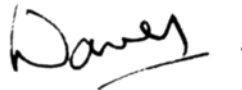
Mr Nicholas Tall



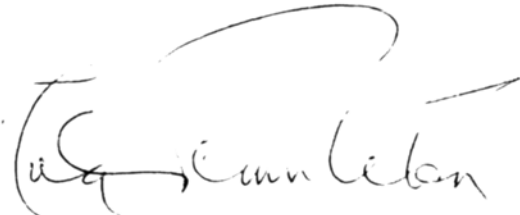
Mr S K Singh



Mrs Ruth Mokobi



Rev Wavel J C Ramkalawan



The Hon Hugh Templeton



Ms Judy Thompson



The Commonwealth Observer Group... (front row from left) Vic Butler, Ruth Mokobi, Dato' Musa Hitam (Chairman), Commonwealth Secretary-General Chief Emeka Anyaoku, Judy Thompson, S K Singh, (back row from left) Hugh Templeton, Nicholas Tall, Rev Dr Zephania Kameeta, Derek Ingram, Dr T J B Jokonya, Rev Wazel Ramkalawan

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*).

Chapter 1

The Political Background

Malawi achieved independence in 1964, its national movement spearheaded by the Malawi Congress Party (MCP), originally known as the Nyasaland African Congress, under the leadership of Dr Hastings Banda. On 6 July 1966, it became a republic, with the MCP as the sole party and Dr Banda as President. In 1971 Dr Banda was voted 'Life President' of the country.* Malawi retained the institution of Parliament during this period, although from independence up to 1979 no parliamentary elections were held and the single party nominated Members of Parliament. In the 1979, 1983, 1987 and 1992 elections a number of individuals (all members of the MCP) were allowed to stand for each constituency, though candidates were not allowed to campaign.

Until the 1990s, open criticism of the Government came from exiled opposition groups, such as the Malawi Freedom Movement, the Socialist League of Malawi and the Malawi Democratic Union. By 1991 however, there was a small but growing opposition within the country. Organisations such as Amnesty International and Africa Watch expressed concern about human rights violations and, with the Cold War over, so did international donors.

The exiled opposition formed new groupings in the early 1990s, such as the Interim Committee for a Democratic Alliance which was formed in March 1992 in Lusaka and led by a prominent trade unionist, Chakufwa Chihana. In mid-1991, the Malawi Freedom Movement, Socialist League of Malawi and Malawi Democratic Union merged to form the Lusaka-based United Front for Multi-Party Democracy (UFMD).

The 1992 Pastoral Letter

An important catalyst of change was the reading, on Sunday 8 March 1992, of a pastoral letter by the Roman Catholic Bishops in which they said that Malawians lived in "a climate of mistrust and fear. This fear of harassment and mutual suspicion generates a society in which the talents of many lie unused and in which there is little room for initiative". The letter listed a number of concerns: "Academic freedom is seriously restricted; exposing injustices can be considered a betrayal; revealing some evils of our society is seen as slandering the country; monopoly of mass media and censorship prevent the expression of dissenting views; some people have paid dearly for their political opinions". The pastoral letter called for accountable government, an end to political detentions and equal opportunities for all Malawians.

The statement was declared seditious, making its possession a criminal offence. The Bishops were summoned by the police and an Irish Bishop, Monsignor Roche, was expelled from the country. Demonstrations in support of the Bishops took place at Chancellor College in Zomba and at Blantyre Polytechnic. Both were closed after clashes between the police and student protesters.

The Government arrested Mr Chihana when he returned to Malawi on 6 April 1992, following his call for a multi-party system in Malawi at a public meeting in Lusaka. His case attracted international media attention. Mr Chihana was eventually tried and convicted on charges of sedition in November 1992 and, following an appeal, served a six-month prison sentence.

Industrial and civil unrest broke out in Blantyre for several days in May 1992 and resulted in the deaths of several people. Shortly afterwards, bilateral aid donors at the World Bank Consultative Group Meeting in May 1992 decided to withhold any new pledges of programme aid until there were clear signs of a fundamental change of approach by the Malawian Government on issues of human rights and political freedoms.

On 25–26 June 1992, the Government conducted single-party elections for Parliament, but both registration and voter turnout were low.

The first responses to donor and church pressure for change came in June and July 1992, when a number of political prisoners were released. Among them were Matchipisa Munthali, jailed for 26 years, and Aleke Banda, detained for 11 years. The Government also agreed to allow representatives of the International Committee for the Red Cross to visit prisons.

* Parliament enacted legislation in December 1993 to withdraw the designation 'Life President'.

In August and September 1992, many people detained earlier in the year were also released.

In August 1992, the Public Affairs Committee (PAC) was formed as an umbrella organisation to press the Government on human rights and social issues. The PAC represented a wide range of Church groups, the Muslim community, lawyers and business associations. In response, the Government established the President's Committee on Dialogue (PCD) to interact with all interest groups.

Two other pressure groups were formed in September 1992: the Alliance for Democracy (AFORD), chaired by Mr Chihana, and the United Democratic Front (UDF), chaired by Bakili Muluzi. Both groups became members of PAC.

June 1993 Referendum

In response to growing opposition and criticism, it was announced in October 1992 that the President had decided to hold a national referendum on whether to retain the one-party system of government or to adopt a multi-party system. UDF and AFORD, both supporters of a multi-party system, negotiated the conduct of the referendum with the PCD under the umbrella of the PAC. The United Nations played an important role in securing agreement on the terms of the referendum.

The referendum was held on 14 June 1993. It was observed by 210 international observers who gathered under the umbrella of the JIOG. Over 3.1 million Malawians voted, representing 78 per cent of the adult population. The multi-party option won convincingly with some 63 per cent of the vote. The JIOG concluded that the vote was "an accurate expression of the wishes of the Malawi people", although concern was expressed that conditions in the pre-referendum period were not always conducive to fair and open debate.

The results were sharply differentiated by region. All districts in the Northern and Southern Regions registered large majorities in favour of multi-party politics. The Central Region, a traditional stronghold of the ruling party, voted to retain the one-party system.

Steps Towards a Multi-Party System

The referendum result gave dramatic impetus to the pace of political change in Malawi. At an extraordinary meeting on 19 June 1993, Parliament amended Section 4 of the Constitution so as to legalise the formation of political parties other than the MCP. Other pieces of legislation passed during the session included the Political Parties (Registration and Regulations) Act 1993 and the General Amnesty Act 1993. The former specified a regulatory framework for the operation of political parties and created the office of Registrar of Political Parties. The General Amnesty Act 1993 ratified the amnesty announced by the President on 23 June 1993 for all Malawians imprisoned or exiled for political activities.

Following consultations between the opposition and the Government, it was agreed to set up a parallel administration for the transition to a multi-party system in the form of a National Consultative Council (NCC), with a National Executive Committee (NEC) as a subsidiary body with control over the Ministries and a monitoring role in the implementation of policies governing the transition. During the transition period, the NCC finalised legislative measures deemed necessary for the transition, including amendments to the Constitution, a new electoral law designed for a multi-party system, and a draft Bill of Rights and draft Constitution for consideration by Parliament (see Chapter 2).

Years of tension between the army and the Malawi Young Pioneers (MYP), a paramilitary youth wing of the MCP, culminated in fighting in the main urban centres following an incident in Mzuzu on 2 December 1993 which left two soldiers dead. The army reacted and attacked MYP bases in Lilongwe, Blantyre and other towns under Operation Bwezani. A number of people were killed and approximately 2,000 Young Pioneers reportedly fled the country and took refuge in Mozambique.

Following strong and repeated demands by the opposition, Parliament repealed the legislation which had established the MYP. In his address to Parliament, President Banda promised pensions for those retiring and that those remaining would be absorbed into the police force.

An independent Electoral Commission, presided over by Mrs Justice Anastasia Msosa, a High Court Judge, was established on 15 December 1993. Each party was allowed to nominate a Commissioner. The Commission was charged with the task of exercising general direction of and supervision over the conduct of the elections (see Chapter 2). In order to perform its functions effectively the Commission appointed subcommittees to oversee civic education, the media, election administration, and control of violence and intimidation.

Over 200 Malawians participated in a debate on a new Constitution at a symposium held in Blantyre from 3–5 February 1994 and sponsored by Vera Chirwa's Legal Resources Centre. Soon thereafter, the NCC convened a constitutional conference from 21–25 February 1994, chaired by Judge Michael Kirby of Australia, and continued its deliberations on a draft Constitution through a subcommittee between February and April. Parliament was dissolved on 5 April 1994 and considerable wrangling continued within the NCC on the new Constitution until the eve of the elections. Parliament specially reconvened on 16 May 1994, the day before the elections, to adopt the new Constitution, which came into effect immediately after the elections, on 18 May 1994.

Political Parties

Under the Political Parties (Registration and Regulations) Act 1993, the following eight political parties were registered:

Name of Political Party	Leader
Malawi Congress Party (MCP)	Dr Hastings Kamuzu Banda
United Democratic Front (UDF)	Bakili Muluzi
Alliance for Democracy (AFORD)	Chakufwa Chihana
Malawi National Democratic Party (MNDP)	Tim Mangwazu
Malawi Democratic Union (MDU)	James Mkumba
Malawi Democratic Party (MDP)	Kamlepo Kalua
United Front for Multi-Party Democracy (UFMD)	Edmond Jika
Congress for the Second Republic (CSR)	Kanyama Chiume

Presidential Candidates

On 26 March 1994, before Mrs Justice Msosa, the following five presidential candidates were officially registered for the 17 May elections:

Name of Political Party	Leader
MCP	Dr Hastings Kamuzu Banda
UDF	Bakili Muluzi
AFORD	Chakufwa Chihana
MDP	Kamlepo Kalua
MNDP	Tim Mangwazu

A total of 613 candidates were nominated for the 177 parliamentary seats. The MCP and UDF each fielded 177 candidates; AFORD contested 162 constituencies, UFMD 35, MDP 30, MNDP 11, CSR 6 and MDU 2. There were 13 Independent candidates.

Common Electoral Group

On the eve of nomination of presidential candidates, the UDF, UFMD, MDU and CSR had resolved to work together in a strategic electoral alliance, which came to be known as the Common Electoral Group (CEG). On 5 May 1994, the MNDP joined the CEG and its leader, Tim Mangwazu, withdrew from the presidential race.

This, then, was the political background against which Malawians went to the polls on 17 May 1994.

Chapter 2

Legal and Administrative Framework

As already indicated, one of the notable features in Malawi was the existence of carefully designed transitional mechanisms intended to facilitate national decision-making in the interregnum between the June 1993 national referendum and the elections of 17 May 1994. The legal structures which governed the organisation and conduct of the elections for the National Assembly and the Office of the President were thus designed to ensure free and fair multi-party elections. These structures were also aimed at neutralising the influence that the one-party system was likely to have had on the electoral process in favour of the ruling party.

The principal new legal instruments enacted during the interregnum were the National Consultative Council Act 1993, the Constitution (Amendment) (No. 3) Act 1993 and the Parliamentary and Presidential Elections Act 1993.

The National Consultative Council

The National Consultative Council (NCC) was established by the National Consultative Council Act 1993 to oversee the transition from the one-party political system to a multi-party one following the June 1993 referendum.

The Council consisted of representatives of all political parties which had registered by 30 November 1993 under the Political Parties (Registration and Regulations) Act 1993. Each political party was entitled to designate not more than seven representatives on the Council.

The functions of the NCC were as follows:

- to participate in the formulation of policies and in the initiation of legislative measures necessary for the transition;
- to initiate such amendments to the Constitution as were necessary to facilitate the transition to the first multi-party general elections;
- to prepare the draft of a new electoral law suitable for a multi-party political system, to be enacted by Parliament;
- to review the law governing the registration of political parties for the attention of Parliament;
- to prepare the draft of a new Constitution suitable for a multi-party political system to become effective immediately after the first multi-party general elections; and
- to prepare the draft Bill of Rights either as part of the new Constitution or as a separate Act of Parliament.

The National Executive Committee

The National Executive Committee (NEC) was also established by the Act which established the NCC. The Committee consisted of two representatives each designated from amongst the seven representatives of each of the political parties on the NCC.

The functions of the Committee were:

- to monitor the implementation of policies governing the transition;
- to receive such information relating to or affecting the transition process as required from the Government;
- to monitor the activities of all public offices which, in the view of both the Committee and the Cabinet, had a bearing on the management of the transition;
- to consult with the Cabinet on any measures relating to the transition warranted in the management of the transition;
- to bring to the attention of the Cabinet for corrective action any abuses of political authority, public finances or property in the Government or in any statutory body for political campaigning or gain;

- to monitor the implementation by the Government of legislation relating to the transition; and
- to monitor the activities of the Malawi Broadcasting Corporation (MBC) to ensure equal and fair access and coverage of the activities of all political parties generally and, in particular, in relation to the campaign for the first multi-party general elections.

A decision of the Council or the Committee requiring legislative or executive action of the Government had to be submitted by the Secretary of the Council (who was also Secretary of the Committee) to the Minister responsible for the matter in question. In turn, the Minister had to refer the matter to the Cabinet with dispatch for necessary action.

If the Cabinet did not agree with the decision of the Council or the Committee on any matter referred to it, the Cabinet had the right to refer the matter back once to the Council or Committee for reconsideration, stating in writing the reasons for doing so. If the Council or the Committee thereafter confirmed or varied its earlier decision, the Cabinet was obliged to take necessary action expeditiously to give legislative or executive effect to the decision in question.

The Council and the Committee were to cease functioning when the new government resulting from the elections assumed office.

Bill of Rights

The Constitution (Amendment) (No. 3) Act 1993 established a regime in the Constitution for the protection of fundamental rights and freedoms. Among the newly created freedoms were those of expression, assembly and association. These were essential to the holding of free and fair multi-party elections.

The Electoral Commission

An independent Electoral Commission was established by the Parliamentary and Presidential Elections Act 1993.

The Members of the Commission were recommended by the NCC for formal appointment by the President. There were eight members, seven of whom were in fact nominees of the seven political parties represented on the Council, the Chairperson being the eighth member. (The eighth political party, the CSR, registered too late to have a nominee on the Commission.)

The Commission was charged with the general responsibility of conducting the general elections. Specifically, the Commission was expected to:

- determine the number of constituencies for the purposes of the general elections and to undertake or supervise the demarcation of boundaries of constituencies;
- organise and direct the registration of voters;
- devise and establish voters' registers and ballot papers;
- print, distribute and take charge of ballot papers;
- approve and procure ballot boxes;
- establish and operate polling stations;
- take measures for ensuring that the elections were conducted under conditions of complete freedom and fairness;
- establish the security conditions necessary for the conduct of the elections;
- promote civic education concerning the elections through the media and other appropriate and effective means; and
- ensure compliance with the Parliamentary and Presidential Elections Act 1993 and generally adopt measures necessary to guarantee that the elections were free and fair.

In discharging its functions, the Commission and every member thereof was required to act and be seen to act independently of any public officer, organ of the Government, political party, candidate, person or organisation.

For the purpose of accountability, the Commission and each of its individual members were answerable and required to report directly to the President on the overall fulfilment of the functions of the Commission.

A member of the Commission held office from the date of his/her appointment until 30 days after the publication in the Gazette of the national results of the general elections.

The Clerk of Parliament and the officers subordinate to him were also required to serve as election officers and to be attached to the Commission and act in its service for the conduct of an election.

The Commission was empowered to request by writing to the Secretary to the President and Cabinet the secondment of such number of other public officers as was required for the conduct of the elections. Any public officer who was so seconded had to perform his duties solely under the direction of the Commission.

Among the other principal features of the Act were highlights of the provisions for registration of voters, nomination of candidates to the National Assembly, campaigning by political parties, the voting process and international observers.

Registration of Voters

The Act conferred the franchise on citizens of Malawi who were 18 years of age and over. Each eligible person was entitled to register once only in the area in which he/she was ordinarily resident, born, employed or carried on business. The Commission was required to establish registration centres in every constituency throughout the country.

The eligibility of a person wishing to register had to be proved to the satisfaction of the Registration Officer. This was done either by:

- (a) producing a passport, driver's licence (even if expired), tax certificate or marriage certificate, employment identity card, employment discharge certificate, birth certificate, or similarly authentic document of identity;
- (b) written, verbal or visual testimony of
 - (i) the Chief or Village Headman or a registered voter of the area; or
 - (ii) the Registration Officer.

When a person was registered, he/she was issued with a voter's registration certificate in the prescribed form. If a registration certificate was destroyed, defaced, torn or otherwise damaged, a duplicate copy was issued upon satisfying the Registration Officer of that fact.



Professional, dedicated and committed... Electoral Commission Chairperson Mrs Justice Anastasia Msosa (centre) and her fellow Commissioners, here with Commonwealth Observer Group Chairman Dato' Musa Hitam (right)

A political party or its representative or any aggrieved person eligible to be registered was entitled to complain or appeal to the Commission, which was empowered to determine such complaint or appeal.

Each voters' register was to be open to inspection by the general public, political parties and international observers.

Nomination of Candidates

The Act stipulated, *inter alia*, that each parliamentary candidate should be a citizen of Malawi, of the minimum age required under the Constitution for election to the National Assembly and able to speak and read the English language well enough to take an active part in the proceedings of the Assembly. He/she was also expected to establish being a registered voter in the constituency. The Commission was expected to appoint a place, date and time for receipt by the Returning Officer of the nominations of candidates for each constituency, which should be not less than 14 days after the order notifying the elections. Nomination was to be made by at least 10 voters registered in the constituency concerned and to be accompanied by a deposit.

Similar provisions were set out for election to the Office of the President.

A notable feature of the nomination process was the right of a person whose nomination was rejected to appeal to the High Court, which was required to hear and rule on the matter at the earliest opportunity.

Campaigning by Political Parties

The Act set out provisions which governed the campaign activities of the political parties. It stipulated that all parties had the right to campaign in an election. It fixed the period of campaign in public at two months – closing 48 hours before the opening of the poll. However, a longer period was specially permitted for the 1994 election campaign.

A political party had to notify the District Commissioner in writing and the Officer-in-Charge of Police of the area in which campaigning in a public place was to be conducted. Permission to conduct any such campaign activity was granted on the basis of the notification received first by the District Commissioner.

The Act guaranteed complete and unhindered freedom of expression and information to every political party representative, member or supporter thereof during the election campaign period. However, the use of language which was inflammatory, defamatory or insulting, or which constituted incitement to public disorder, insurrection, hate, violence or war was prohibited. The Commission had the power to prescribe a Code of Conduct to be observed by every political party in conducting its election campaign.

The Act also conferred the right of every political party to have the substance of its campaign propaganda reported on radio news broadcasts of the MBC and in any newspaper in circulation in Malawi. Where the Commission made arrangements with the MBC to allocate radio time to political parties during the campaign period, equal time had to be allocated to every political party (see Chapter 4).

The Voting Process

Voting was to take place by secret ballot. Ballot papers would carry distinctly identifiable features for each candidate for election as Member of Parliament and for each presidential candidate. These included the name of the candidate printed clearly and legibly, or an abbreviation thereof and his/her election symbol or the election symbol of his/her party and any other particulars which identified the candidate distinctly (see election symbols at *Annex IX*).

Voting hours were prescribed to begin at 6.00 a.m. and close at 6.00 p.m. The first persons required to vote at each station were the Presiding Officer and other polling station staff, representatives of political parties and officers responsible for ensuring order and security at

the polling stations. Other persons were required to vote according to the order of their arrival at the polling stations.

The procedure for voting required a voter to present his/her voter's registration certificate at the polling station. Once the polling staff were satisfied with the identity of the voter, the officer concerned marked the voter's name and registration number. The right index finger of the voter was then dipped in indelible ink. The voter was handed a set of perforated ballot papers for the parliamentary candidates in the constituency and one specially printed envelope (sample ballot at *Annex X*). He/she was next directed to the voting booth for the parliamentary poll and required to tear out the ballot paper indicating his/her preference, place it in the envelope and discard the remaining ballots into a 'discard box' positioned inside the voting booth. The voter then left the booth and placed the envelope in the ballot box provided for the parliamentary elections, which was sited in the open where it could be seen by all polling station officers and others present.

The voter was then ushered to the desk which dealt with the presidential election where the right index finger was first checked to verify that it had been dipped in the indelible ink. Thereafter, the voter's left index finger was dipped in indelible ink and he/she was given a set of perforated ballot papers for the presidential candidates and another specially printed envelope of a different colour. The procedure for balloting for the presidential candidate of the voter's choice was identical to that for Members of Parliament.

International Observers

The Act provided for international observers to verify the various stages of the elections. The terms of reference of international observers were defined as follows:

- to verify and monitor the impartiality and the functioning of the Commission and its officers in conformity with the Act;
- to verify and monitor the impartiality and legality of decisions taken by the Commission and its officers in settling disputes;
- to verify and monitor the registration of voters;
- to observe the campaign;
- to verify and monitor the voting process;
- to verify and monitor the determination of the results of the elections at all stages; and
- to observe access to and use of the media.

International observers were required to report any irregularities observed to the Commission or to its competent officers. A wide range of rights were conferred on international observers, the principal ones being:

- unimpeded access to all election events and to observe all aspects of the civic education programmes, the registration of voters, the nomination of candidates, the campaign, the voting and the counting of votes at all stages;
- freedom of circulation throughout Malawi;
- freedom to communicate with any political party and any organisation or person;
- access to information transmitted by or to the Commission and its officers; and
- access to complaints and responses about any occurrence on matters related to the conduct of elections.

Chapter 3

Preparations for the Poll

The Electoral Commission which was established in December 1993 had to initiate preparations for the elections immediately after it was constituted.

Delimitation of Constituencies

The Commission's first major task was the review of constituency boundaries. Early in February 1994, members of the Commission toured the country to examine the existing boundaries and numbers of constituencies. In undertaking their examination, the Commissioners weighed the importance of population distribution, geographical features, means of communication and administrative boundaries, etc. Taking all these factors into account, the Commission created 36 more constituencies, increasing the total number from 141 to 177.

The constituencies were distributed within the 24 districts, in each of which the District Commissioner was designated to perform the function of Returning Officer for all constituencies in the district. The distribution of constituencies by district is shown at *Annex XI*. The delimitation exercise was accepted by the political parties.

Registration of Voters

The electoral system of Malawi required that voters' registers be compiled for each constituency. The registration process for the parliamentary and presidential elections started on 21 February 1994 and was scheduled to be completed on 12 March 1994. The initial response was extremely poor, however, and by the end of the stipulated period, no more than 30 per cent of eligible voters had registered. The operation was therefore extended until 26 March 1994.

The reasons for the poor initial response were said to include an inadequate civic education programme and apathy on the part of eligible voters. Many voters were apparently convinced that their democratic duty had culminated in their support for multi-partyism at the June 1993 referendum. Others pointed out that they had already elected their President at their respective party conventions earlier in the year. As the Interim Report of the Electoral Commission stated, intimidation in some parts of the country may also have contributed to the low initial turnout.

During the extended period, with the help of political parties and NGOs, the Commission redoubled its efforts to have qualified persons registered. These efforts succeeded in bringing about a considerable increase in the total number of persons registered, which finally totalled 3,762,239, estimated by the JIOG to be about 80 per cent of the actual eligible electorate.

Complaints about the Registration Process

The security forces were not allowed to register at the outset, but in the case of soldiers, the reservations of the Ministry of Defence were withdrawn following a ruling by the Commission. The police authorities, however, persisted in their resistance to allow numbers of that force to register and relented only after the registration process had concluded. The register had to be re-opened to enable members of that force to register. In the event, only a few hundred police personnel appeared to have registered.

We heard charges and countercharges by the largest political parties that each had been buying voters' registration certificates. Each of these parties told us that its complaints had been lodged with the Electoral Commission but that the Commission had taken no action. The Commission, on its part, said that it had brought the complaints to the attention of the

police and expressed dismay at the lack of expeditious action in this regard by the police and the Attorney-General. Where voters' registration certificates were lost or where the holder was improperly deprived of his/her certificate, provision existed for a duplicate certificate to be obtained by application. We were unable to get any reliable estimates of the number of registration certificates that may have changed hands in this manner but our impression was that it was not significant.

We also received reports that in some areas of the country, Chiefs and Headmen held registration certificates for 'safe keeping'. Despite the seriousness of these complaints, none of the political parties felt that the voters' registers were unsatisfactory or would adversely affect the outcome of the elections.

Nominations

The procedure for nomination of candidates for the parliamentary elections attracted criticism from the smaller political parties. Some pointed out, for instance, that the nomination fee of 250 Kwacha (£25) was too high for a country where per capita incomes are still very low. The Electoral Commission expressed the view that the fee was not unreasonable since too low a fee could tempt persons with little or no support to clog the electoral process.

Some political parties complained that nomination forms had not been available until two days before nomination day and that there was no arrangement for party representatives or candidates to obtain the papers from the District Commissioner with dispatch. Some candidates did not have the means of private transport to collect the forms and obtain the requisite number of signatures within the time available.

The Electoral Commission explained that the delay in printing the nomination forms had resulted from a request by the NCC for amendment of the provisions in the electoral law relating to nominations. The NCC had apparently not indicated to the Commission that the amendment would apply only to the nomination of presidential candidates and would not affect the nominations for Parliament. The Commission had appreciated the difficulty caused to some parties and candidates as a result and had taken remedial action where possible. The Commission also indicated to us that the possibility of changing the election date had been contemplated but the NCC had not viewed this idea with favour.

Some parties expressed dissatisfaction with the English language test which prospective candidates had to pass as a condition for successful nomination. A large number of prospective candidates was reported to have failed the test and the parties concerned had to find new persons at the last minute.

The Commission on its part complained that some parties and their prospective candidates had been too preoccupied with campaigning and did not devote enough attention to the nomination requirements until it was too late. It also pointed out to us that the larger parties which contested all or most of the parliamentary seats apparently had little problem in putting up candidates in all constituencies.

Civic Education

The Electoral Commission mounted an imaginative civic education programme during the registration exercise and subsequent preparations for polling day. During the registration exercise, the programme was aimed at encouraging qualified persons to register. Several media were used, including radio messages, video films, drama, songs, and poems. The programme was ably supported by church groups and NGOs.

In preparing voters, the Commission produced hand-outs explaining the importance of voting and the general concept of democracy. A major drive, designed to urge voters to go to the polls, was launched. Car stickers, personal stickers, special franking stamps with messages on payment bills for water and electricity were used to encourage people to cast their vote. One poster read: 'Cast Your Vote – Every Vote Has Value' (see *Annex XII*). Three buses were painted with the same message.

Voter education... posters illustrating party symbols and explaining the voting system

The Commission also prepared and distributed posters explaining the voting procedures in 17 steps, which were distributed throughout the country (*Annex XIII*). All political parties contesting the elections were requested to help in the distribution of the posters to their supporters.

Considerable use was made of the radio, the primary medium of mass communication in Malawi, to reach voters throughout the country. Besides programmes in Chichewa (the main local language) and English, the Commission used the languages of the Sena, Lomwe, Yao, Tonga, Tumbuka and Nkhonde to deliver messages to the electorate. The print media was also extensively used to get across the message that people should vote.

Despite the strenuous efforts of the Commission, there were complaints that the civic education programme had been deficient. As has already been pointed out, inadequacies in the civic education programme were part of the reasons cited for the low turnout of eligible persons for registration. Some of the political parties pointed out that many voters in the rural areas were either without radios or could not afford batteries for radios and so could not listen to the voter education messages. In the ultimate analysis, the time available for civic education was probably too short against the background of an electorate accustomed to three decades of one-party rule.

Electoral Officials

The Electoral Commission called on a host of civil servants, teachers and others to assist in the electoral process. As mentioned earlier, District Commissioners were appointed as Returning Officers. Presiding Officers and other polling staff were selected from among functionaries in various government departments as well as teachers. Since polling stations were to be located mainly at schools, the Headmasters were in many instances recruited as Presiding Officers. In cases of Polling Centres with multiple polling stations, Supervisory Presiding Officers were appointed. Considerable time and effort were invested in briefing polling staff and the United Nations Electoral Assistance Secretariat (UNEAS) assisted the Electoral Commission in producing an excellent manual for use by these officials.

It should be mentioned, in this context, that four experts provided through the Commonwealth Fund for Technical Co-operation greatly assisted the Commission in its preparations for the elections. Three of them – Joycelyn Lucas of Trinidad and Tobago, Clover Thompson of Jamaica and Albert Arhin of Ghana – helped train trainers of electoral officials. Jennifer Cash, a British electoral expert, assisted with the voter education effort. The Commission expressed gratitude to us for the valuable role played by these Commonwealth experts.



Chapter 4

The Role of the Media

The Malawi media is slowly emerging from three decades of being rigidly confined to promoting the views of the Government of Malawi and the ruling MCP. During that time, the government-owned and controlled Malawi Broadcasting Corporation (MBC), through its radio service, developed into a powerful propaganda vehicle for the one-party state on which alternative political opinion rarely found voice. There was no television service, save, more recently, for global satellite TV which only major hotels and the rich could afford. Two newspapers, *The Daily Times* and *The Malawi News*, were published during these years and they and the government-owned Malawi News Agency (MANA) offered only pro-government and pro-MCP news and views.

The role of such tightly controlled media in a one-party state cannot be overemphasised and public distrust of the MBC ran deep. As control of the media was relaxed in the last two years, there was a virtual outbreak of journalistic fervour in the print media. Up to 20 newspapers were being published at one point reflecting all shades of political opinion, vigorously and sometimes recklessly expressed. Radio remained firmly in MBC hands.

The Electoral Commission explained to us that, given the past bias, it was clear to them from very early on that some form of regulations for the conduct of the media, especially radio, during the election period was necessary to enable all participating parties to obtain fair and equal access to the media. It was also felt that the media was a means of promoting awareness and knowledge of the elections among the public. Particular attention was to be paid to the MBC.

Regulations for the Conduct of the Media

The Electoral Commission gave one of its members responsibility for media and information matters. It also requested the Commonwealth Secretariat for a Media Adviser to assist it, among other matters, with the drafting of guidelines for the media. The Commonwealth was happy to provide the services of such a person in the form of Tim Neale of Britain whose valuable contribution was warmly commended by the Electoral Commission. We noted the observation made by the Commonwealth Media Adviser in his report that the Commission had succeeded in securing a "large measure" of editorial independence for the MBC "by using the power of the Commission to dictate the entire pattern of election broadcasting". This power was given the Election Commission under the Parliamentary and Presidential Elections Act 1993.

The Electoral Commission issued guidelines for media coverage (see *Annex XIV*) whose purpose was "to ensure that full and fair coverage is given, without censorship, to the campaigns of all registered political parties during the period of campaigning and up to the close of the poll in the parliamentary and presidential elections". The Electoral Commission told us that control of all radio political broadcasts was in its hands.

The guidelines required the MBC to provide fair and balanced reporting of campaigns and political events of all registered parties. The MBC was also to arrange with the parties special election programmes, including public debates and interviews with party leaders. The guidelines spelt out in detail the format the debates should take. All parties were to be given equal treatment and the same editorial balance and fair dealing were to apply as in news bulletins and news reports. The Commission made the Head of News at MBC responsible to it for maintaining balanced and equal coverage.

In addition, the Electoral Commission ruled that the political parties could not buy airtime from the MBC for political advertisements. Instead, the MBC was to provide a specified number of time-slots for free party political broadcasts (PPBs) "of an equal number, frequency, maximum duration and equitable time placement" for each party. The parties

were to record the PPBs free from MBC or any other editorial control and subject only to the Electoral Commission's scrutiny for breach of the law or the Code of Conduct.

The MBC was also required to undertake voter education programmes, monitor itself to ensure balance and maintain full records of news bulletins, PPBs as well as recordings of all other programmes related to the elections.

The print media, which by its new-found diversity already offered a variety of political opinion, was required under the Electoral Commission's guidelines to undertake to inform and educate readers about the elections in a way that did not "further the electoral prospects of any party". Both broadcast and print media were urged to use the results of opinion polls only if there was reason to believe they were statistically sound. The organisation which conducted or commissioned the poll had also to be identified. No opinion polls were to be published in the 48 hours between the time campaigning ended and the polls closed.

The Role of Radio

Under the prompting of the Electoral Commission, the MBC transformed its news and current affairs programmes into a form few Malawians could recognise. One media observer told us that after 30 years of functioning as a tool of the governing party, it came as a shock to the MBC to find itself presenting rival political ideas. Radio listeners must have been equally surprised. In addition to the pre-election debates and PPBs, the MBC organised, at the prompting of the Electoral Commission, phone-in programmes on which Commissioners could explain the electoral process to members of the public. Parties were also invited to send information to a *Campaign News* programme. A *Know Your Candidate* programme featured people from all the contesting parties. Some Independent candidates complained to us, however, that they had not been provided any airtime. We noted that the MBC's regulations under the new arrangements did not provide for airtime being granted to Independent candidates.

The Commonwealth Media Adviser reported that by the end of the campaign period, the MBC would have broadcast 2,500 PPBs of one to four minutes duration, six public political debates, eight in-depth interviews with political leaders, two phone-ins and many voter education programmes. This intensive schedule, he added, had created an atmosphere of free speech unprecedented in recent years. We were pleased to note the Media Adviser's observation that the public debates were recorded all over the country with invited audiences of party supporters and members of local church and community groups. "It has been an eye-opener to people to see rival politicians sitting alongside each other on the same platform," he stated. "The debates are much discussed after each broadcast."

We noted the reported disappointment of the people of Malawi when they learnt that the eagerly awaited debate between the presidential candidates of the parties in Blantyre had to be called off because only two candidates, Mr Chihana of AFORD and Mr Kalua of the MDP, turned up. Attempts by the Electoral Commission to reschedule the debate for the MBC to record were unsuccessful. We were more heartened to learn that the earlier Presidential Nomination Ceremony had attracted a large audience and that the Commonwealth Media Adviser had commended MBC for its professionalism in handling coverage of that event.

Despite the watchful eye of the Electoral Commission, there were occasions on which the MBC was not always even-handed in its coverage. On Kamuzu Day, the annual national celebration of the President's birthday which fell on 14 May, much airtime was given to the celebrations in Blantyre, which many saw to be a MCP rally. The UDF complained that a much bigger political rally organised by them the same day in Blantyre was given no coverage. Many felt that the MBC's coverage of election issues and activities was patchy.

We noted, however, that a report from the International Centre Against Censorship, an organisation monitoring the media in Malawi, said issues pertaining to the elections were discussed in many MBC programmes as well. The Centre also reported that civic and voter education was carried out through special programmes. In considering these programmes as well as the special political broadcasts and reports, we were aware that the reach of radio was limited.

The MBC broke new ground by providing continuous coverage of the count and announcing results as they were released by the Electoral Commission. When these results were slow in coming, it broadcast results as picked up by its reporters on the ground. Malawians were glued to their sets by this innovative approach, although many would have wished that the MBC had offered its listeners more frequent and clearer updates of the tally of votes.

The Print Media

The proliferation of newspapers in the run-up to and after the June 1993 referendum had allowed the public to sample an astonishing array of political opinion, much of it built around personal attacks of the most scurrilous type on one candidate or another. There was only one daily newspaper, while some published two or three times a week and others weekly. Many columns were filled with accusations and descriptions that would prompt lawsuits elsewhere. In some cases, there was an attempt at more thoughtful analysis. One paper carried the text of the media analysis of the International Centre Against Censorship.

With the illiteracy rate estimated at about 70 per cent, it was doubtful that the newspaper readership reached more than a handful of the population, confined primarily to urban areas. The circulation of *The Daily Times* and *The Malawi News* had been estimated, perhaps generously, at about 25,000 when they were the only newspapers publishing. We were told, however, that newspaper readership had not grown but had simply been redistributed among the new papers. *The Daily Times* and *The Malawi News* lost circulation and the new newspapers rarely sold more than a few thousand copies each.

The Electoral Commission received a number of complaints about newspaper coverage, most relating to personal attacks and accusations which were claimed as false, and one accusing a newspaper of trying to whip up anti-Muslim sentiment.

We were left in no doubt that the major political parties had access to one newspaper or another to get their message across. Although we fully understood the journalistic enthusiasm that followed the relaxation of media controls, we regretted only that a more serious examination of the personalities and the issues was not possible.

Commentary

We believe that the Electoral Commission's guidelines for media coverage were effectively implemented. There was a clear improvement in the balance of coverage of campaign activities by the radio and all political parties participating in the elections were able to express their views on the air.

The proliferation of newspapers and the range of political opinion they offered were a further demonstration of the beginnings of press freedom in Malawi.

We firmly believe that the action taken by the Electoral Commission to ensure fair and equal access for all political parties to the media, particularly the broadcast media, contributed greatly towards the success of the elections and enhanced public confidence in the entire electoral process.

Chapter 5

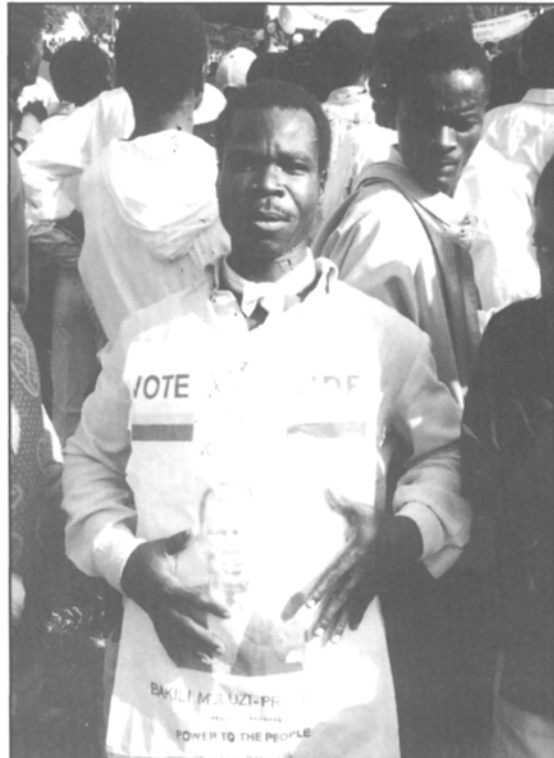
The Campaign

Given the background and nature of 30 years of Malawi politics, small wonder that the electoral campaign should have focused almost completely on the overriding question of change versus continuity. It was also a campaign based distinctly on personalities, rather than on issues. Notwithstanding the major victory won by democratic forces in June 1993, the Opposition was primarily driven by the conviction that a new Malawi could emerge only when the MCP and President Banda were removed from office. There therefore seemed little interest in the issues that have traditionally concerned voters in most democracies – employment, inflation, education, health and the like – even though all the major parties addressed such issues in their respective manifestoes.

We were present at several election rallies organised by each of the three major parties in different parts of the country. And even though much of the campaigning had already taken place by the time our teams were deployed, we were able to catch the full flavour of the campaign in its final days. It could be said that, on the whole, political campaigning in Malawi was rather restrained by international standards, perhaps not surprising in a country in which public demonstrations of any kind had long been confined to the ruling party. However, the major parties put up a robust show particularly in areas of respective strength – AFORD in the North, MCP in the Central Region and UDF in the South, with MCP and UDF also prominent in the regions not considered to be their strengths. Our teams attended UDF rallies in Mzuzu, Nkhota Kota and Zomba, and a mammoth one on the final day of the campaign in Blantyre. They were also present at MCP rallies in Zomba and Salima and an AFORD rally in Mzuzu.



From the beginning, supporters of various parties showed their colours... here an MCP supporter awaits the arrival of then President Banda in Blantyre



A UDF supporter proudly wears the party colours at a rally in Blantyre

Party flags, T-shirts and caps were common sights around the country and indeed became the ubiquitous symbols of the elections. The three major parties invested considerably in them and they literally added colour to the electoral environment. Each of the major parties became identified with specific colours – yellow for the UDF, red for the MCP and blue for AFORD. It was also remarkable how the T-shirts and caps vanished from public view in most areas on 15 May when the campaign officially ended! Where the attire and flags were not available, well known hand gestures sufficed – the clasped hands for the UDF, the ‘thumbs-up’ for the MCP and the ‘V for victory’ sign of AFORD.

We were deeply impressed by the atmosphere of congeniality and tolerance which marked the campaign. All parties observed the Code of Conduct issued by the Electoral Commission (*Annex XV*). While instances of violence were not unknown (see later in this chapter), these were clearly the exceptions to the rule. Familiar indeed was the sight of supporters of major parties lined up on the roadside shoulder to shoulder, wooing motorists, in an atmosphere completely free of tension or violence and indeed marked by remarkably good humour. Great tribute is due to the people of Malawi who, notwithstanding the strong feelings generated by three decades of one-party rule, remained true to their pacific nature and eschewed public displays of rancour. In doing so, they demonstrated a political culture that many electorates elsewhere would do well to emulate.

There was little to distinguish the manifestoes of the three major parties. The MCP sought to make capital of the fact that it had heeded the message from the referendum and genuinely embraced change; it also sought to point to socio-economic development which had taken place in Malawi since independence, promising that this would receive further impetus under a new government. UDF and AFORD laid particular emphasis on political and constitutional reform, and also advocated economic and social development, including a greater role for market forces and foreign investment.

There were a number of issues outside the various manifestoes which exercised the parties and the electorate in the weeks leading up to the elections, as they impinged on their perception of a level playing field. Some of these are discussed below.

Use of Government Resources

It is invariably a feature of all elections which mark a transition from one-party or military rule to multi-party politics, and indeed of elections in many mature democracies, that the Opposition accuses the incumbents of abuse of government resources. So it was in Malawi, and not without reason. While the advantages of incumbency constitute one of the immutable realities of electoral politics everywhere, no line could have been finer than that which had existed in Malawi since independence between ruling party and government. The Executive Committee of the MCP ranked higher in government protocol than the Cabinet. It was not unusual for party vehicles to be used by government officials, or vice versa. Junior local functionaries of the MCP wielded enormous power over civil servants. The MBC remained a powerful medium for the public projection of the Government and the ruling party.

However, the transitional mechanisms put in place in the wake of the referendum did much to undermine the MCP's ability to use the paraphernalia of state to its own advantage. For one thing, national decision-making passed into the hands of the NCC, with responsibility for monitoring implementation being vested in the NEC. For another, the Electoral Commission amply demonstrated its independence by coming down heavily on unfair practices by parties, ostensibly directed at the MCP in particular. Likewise, the MBC was significantly transformed in the pre-election period into a relatively neutral and objective instrument of publicity and civic education. The mushrooming of the print media added to the new-found restraints on the Government.

It should be added that notwithstanding the MCP's access to government resources, other major parties like the UDF matched the MCP for organisation, including at grassroots level, as well as for resources, banking on the support of the prosperous business community.



Nyau cult masked dancer... here used by the MCP for entertainment purposes

Intimidation, Harassment and Violence

On 17 April 1994, the Electoral Commission had issued an Interim Report (*Annex XVI*) in which, *inter alia*, it was alleged that MCP functionaries had been responsible for seizing and buying voter registration certificates in various districts in the Southern and Central Regions. While isolated incidents of similar malpractices on the part of other parties were also mentioned in the report, the finger of culpability pointed clearly at the MCP, with traditional leaders and MCP functionaries identified as the perpetrators. The Commission also cited instances of intimidation of Chiefs by the ruling party in order to make it difficult for Opposition parties to campaign in particular areas, as well as of intimidation by pro-MCP Chiefs of persons in their areas of influence. These reports had also found mention in the Interim Report of the JIOG of 18 April 1994 (*Annex XVII*).

In our conversations with its representatives, the MCP stoutly denied these charges and accused the Electoral Commission of bias. It claimed that very similar complaints made to the Commission by the MCP had been ignored. We sought to assess the veracity of the charges in the field. District Commissioners and the police gave us the impression that, by and large, Chiefs and Village Headmen had behaved in an unexceptionable and non-partisan manner. In some cases, they acknowledged that incidents had taken place but that their scale was small. We also gathered that the MCP was not the only party responsible for such misdemeanours.

Even incidents involving seizure of voter registration certificates were not devoid of their amusing aspects. In one instance related to us, allegedly in order to prove that it was possible to procure registration certificates, members of one of the Opposition parties disguised themselves as ruling party functionaries and persuaded a Branch Chairman of the MCP to part with his certificate. When the facts came to light, the registration certificate was restored to its rightful owner.

We also investigated allegations that the MCP was making objectionable use of the so-called Nyau cult, traditional masked dancers normally considered to be a cultural group but purported to be able to perform sorcery, strike fear in people's hearts, and even kill. We were told that the Nyau were largely confined to the Central Region, the MCP's strongest base, and used to intimidate Opposition supporters and disrupt Opposition rallies. The MCP strongly

denied the charge, which they said had not been proven. We saw the Nyau in action in Salima district, where their appearance at the end of an MCP rally was evidently for entertainment purposes. We are, however, unable to comment as to whether they were employed on other occasions with more sinister motives in mind.

Notwithstanding the peaceful nature of Malawians in general and of the campaign and poll in particular, there were instances of violence, including beatings, stoning of vehicles, attempts to disrupt meetings, and occasional assaults on individuals, etc. Such incidents were fortunately uncommon and, when they occurred, were not the monopoly of any one party; all major parties must accept their share of the blame.

The Malawi Young Pioneers

The violent disarming by the army in December 1993 of the MYP had seen the bulk of the Pioneers neutralised but remnants were said to have fled to Mozambique. Estimates of their number varied from less than 50 to about 2,500. The existence of these Pioneers at large was perceived by many as a Sword of Damocles through the early part of the campaign, the fear being that the Pioneers would return on or before polling day to create disruption and intimidate voters in areas controlled by the Opposition. By and large, this issue had diminished in importance by the eve of the elections. Some ex-MYP officers announced at a press conference that they were law-abiding people who wished to join hands with all Malawians in building a new society. In the event, the fears regarding the MYP did not materialise.

Refugees

Another concern voiced early in the campaign by the Opposition was the possibility of the large number of Mozambican refugees in Malawi – nearly one million in number – being used to cast votes illegally for the ruling party. This was yet another example of how minor apprehensions, based on misjudgment or misinformation, can often be transformed into obsessions. Some of us visited refugee concentrations (such as Chifunga Refugee Camp in Mwanza district) and saw no evidence of any desire on the part of the refugees to be involved with Malawian politics. As it happens, the repatriation of these refugees by UNHCR had already made significant headway when we arrived in Malawi. In the Nkhata Bay and Dedza areas we saw houses said to have been vacated by refugees recently returned to Mozambique.

Voting by the Security Forces

Reference has already been made in Chapter 3 to another issue which caused some controversy, namely the apparent reluctance by the authorities to allow the army and police to exercise their franchise. As pointed out, it required a ruling by the Electoral Commission to persuade the Minister of Defence and Inspector General of Police respectively to change their minds and even then, the Inspector General held out for a long time before agreeing to allow police personnel to vote “if they wished to do so”. The Government argued that voting by the uniformed forces on polling day would disrupt security arrangements. But the real reason may have been found in the reluctance of the authorities to allow what they perceived as politicisation of the armed forces. We also heard Opposition claims that the sympathies of these forces lay squarely with them. In the event, many in the army exercised their franchise. Most police personnel, however, appeared not to have registered despite being specially allowed to do so after the registration exercise had concluded.

Chapter 6

Events on Polling Day

Opening of the Poll

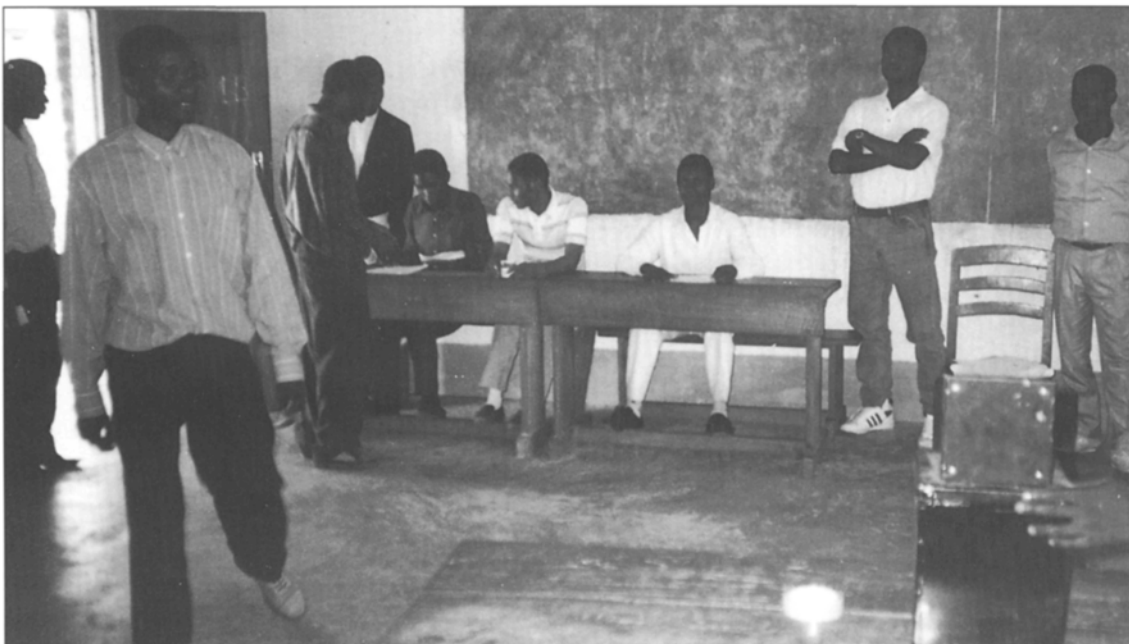
It was in the bright sunshine of a Tuesday morning that Malawi held its first multi-party elections since independence. Well before sunrise, long queues of voters had formed outside polling stations. Hundreds, in some cases thousands, of voters had gathered in long, orderly lines. Our teams which were deployed throughout the country to observe the opening of the poll at various centres almost invariably found that even before dawn their arrival had been preceded by a significant proportion of voters. We were told by some voters that they had arrived as early as midnight.

Polling staff often stayed overnight at their polling stations to make final preparations and ensure that materials were properly distributed. Most polling centres opened punctually at 6.00 a.m. or within a few minutes of that time. The procedures for the opening of the poll were followed substantially at all the stations visited. The ballot boxes were opened, held high and shown to the polling officers, party monitors and others present. The polling officers and party monitors voted first and then the other registered voters were allowed to vote.

The early arrival of so many voters at polling stations across the country testified to a widespread enthusiasm to exercise the democratic franchise. So significant a proportion of early voters also suggested that turnout would be high, a fact which was later confirmed in the parliamentary election with a recorded participation of 80.39 per cent of registered voters (3,034,800 voters) and a similar high figure in the presidential election where the turnout was 80.54 per cent of registered voters (3,040,665 voters).

Layout and Facilities

Voting centres were set up in schools, public buildings or in the open air. In the case of the open air stations, there was the advantage that adequate space was available for a station to



Preparing for the polls... polling officials 'rehearse' the system on the eve of polling day



Commonwealth Observers Hugh Templeton and S K Singh (centre) watch election materials arrive at a station in Mzuzu

be properly laid out. The open air arrangement provided transparency in procedures and protection of secrecy. Even when the stations were in enclosed spaces the layout was generally good. The facilities were on the whole satisfactory – adequate tables and chairs were provided for polling staff and party monitors. In a few cases, however, some of the polling centres in public buildings and schools were overcrowded.

We welcomed the enterprise often shown by polling staff in making sure that the siting of the parliamentary and presidential ballot boxes contributed to the smooth processing of voters, avoiding the confusion that could have arisen if the boxes were not physically well apart.

Even before the poll, it was clear that Returning Officers sought to ensure that polling stations were adequately staffed and equipped, that transport was mobilised and necessary liaison maintained with political parties in constituencies. We were satisfied that adequate arrangements were made not only to provide sufficient polling staff but to deliver the necessary equipment and materials to the stations even in remote areas. We were able to see the assistance given by a military helicopter which took off from the Northern Region to supply Likoma and Chizumulu islands.

There appeared to be an impressive degree of integrated working arrangements between those in the field and those at the headquarters of the Electoral Commission. Indeed, on the eve of the poll, the compounds of the offices of the Returning Officers had become veritable hives of activity as officials and volunteers gathered together to undertake the complex tasks inherent in an election, from overseeing the distribution of materials to the construction of polling booths.

Performance of Electoral Officials

Any account of the events of polling day would be inadequate without acknowledging the managerial and logistical skills of electoral officials at all levels. These events represent a remarkable effort by polling staff, monitors and voters alike to breathe vitality and a renascent spirit of democracy into the national life of Malawi.



Orderly lines of voters began forming, sometimes from well before dawn

We found that polling staff undertook their duties with confidence, displaying a high degree of competence and professionalism. The spirit of impartiality and dedication among the polling staff helped to promote a favourable atmosphere in polling stations where any problems that arose were fully discussed and, where possible, resolved. Polling staff were courteous and helpful to voters, party monitors and observers. They performed a critical role in educating voters on the spot, making patient efforts to explain the voting process to each voter. It was usual to find that at least two poll clerks could speak the local language.

The polling officials made serious efforts to see that the electoral law and procedures were observed. As many had served as electoral officials in the June 1993 Referendum, the experience was still fresh in their minds and they were able to use it to good effect.

There were discrepancies in the way polling staff interpreted rules and procedures, a feature common enough in elections. What was commendable was that where problems did arise there was often open discussion and consultation with monitors in seeking solutions to these problems. The spontaneity of such interchanges bodes well for deepening a culture of consultation. Where there were lapses at polling stations, this was the result of human error rather than the product of corrupt intent.

As noted earlier in this Report, many of the polling staff were teachers and civil servants holding positions of trust in the local community. This factor helped to bolster public confidence in the electoral process.

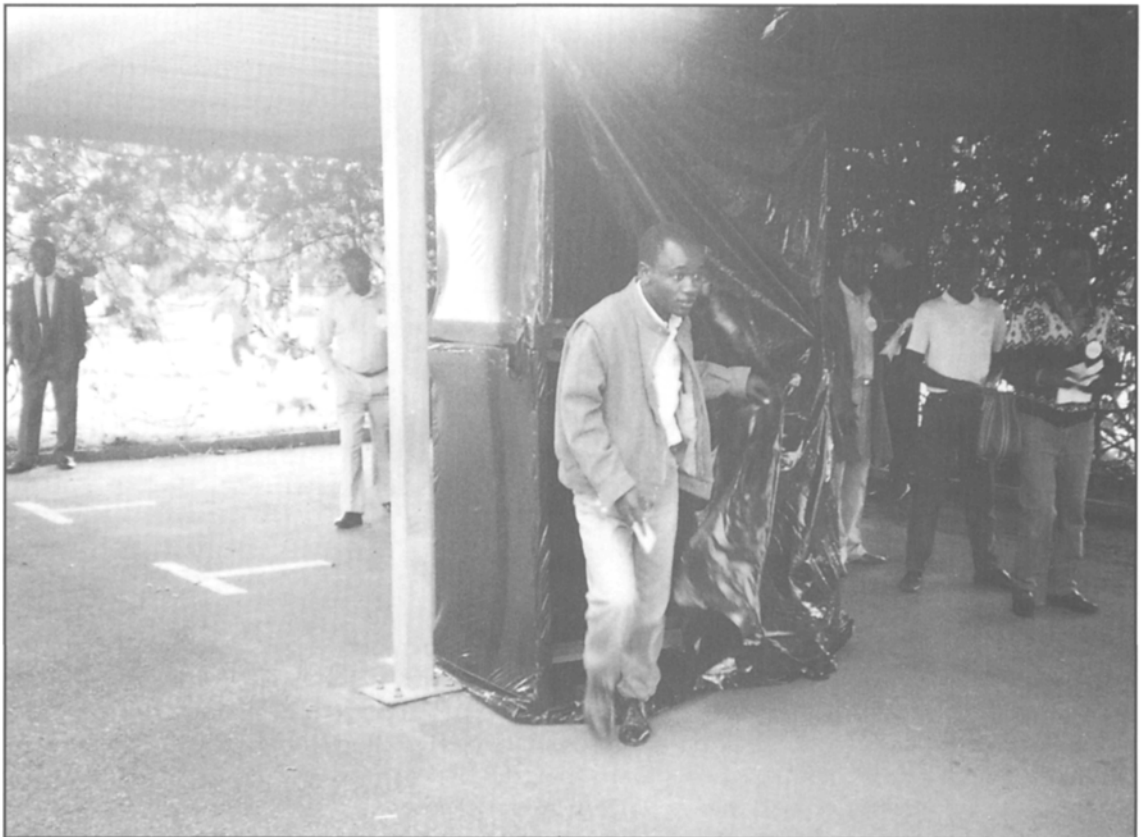
Party Monitors

The party monitors, particularly those representing the three big parties, namely MCP, UDF and AFORD, were always present at the polling stations visited. They were quiet, but appeared purposeful in their task of observing the procedures and looking out for any irregularities. It has been said that party representatives at polling stations are the 'front line' of democracy. Their vigilance is crucial to the integrity of the process.

A significant illustration was the way in which party representatives, regardless of political affiliation, often consulted together before raising any concern with a Presiding Officer. They adopted a constructive approach to problems, avoiding raising unwarranted queries, and



Before polling began, polling officials showed the empty ballot boxes to party agents, observers and voters. The boxes were then sealed



Voting booths were sometimes wooden frames covered with plastic



Polling officials explain the voting process... they were very conscientious about their responsibilities

were quick to admit to Observers that the polling had been conducted smoothly and there was no cause for complaint. They were assisted in their task by the efficiency of the polling staff and the apparently good quality of the register which resulted in few complaints being raised. The monitors were clearly identified by special badges provided by the Electoral Commission. Very few complaints were made by party monitors to us.

The absence of antipathy between party representatives at the local level was an encouraging sign that a culture of mutual tolerance has already taken root in Malawi society, a matter of some significance in developing democratic processes. By and large, parties also respected the prohibition on campaigning 48 hours before the elections.

Voters

The voters did Malawi proud. Barring very few exceptions, they displayed the best qualities of orderliness, patience and good humour that could be expected in the circumstances. Despite the relatively complex voting procedure, the voters coped with quiet dignity even when assistance was requested from polling officers. However, the inability of some voters to understand the voting procedure, probably because of the relatively short period for the implementation of the voter education programme, resulted in a few ballot papers being placed in the discard boxes rather than in the appropriate ballot boxes. Nevertheless, despite deficiencies in the voter education programme and instances of incorrect voting procedures being followed, the voters of Malawi demonstrated a clear awareness of their democratic duties and knowledge of voting procedures.

Security Presence

The deployment of members of the security forces won the admiration of many of our Observers. The police presence at polling stations was visible but discreet. There was scarcely any hint of intrusiveness by the police or other security personnel. The police were courteous and helpful in the main to voters and also played a useful role in maintaining queues in situations where overcrowding might have led to confusion at some polling stations. Given the good mood and trust that prevailed, nobody felt intimidated by the security presence.

Security of the Ballot

The voting procedure, layout and facilities all served to ensure the security of the ballot. We received no complaints of potential or actual breach of secrecy at any polling station. The voting booths had wooden frames covered with fabric or plastic and were quite adequate for polling purposes, providing adequate protection to preserve the secrecy of the ballot. The siting of the booths was particularly important given the fact that two balloting procedures had to be accommodated in fairly confined spaces, but again practical measures were applied by polling staff to ensure secrecy.

There was no evidence of any organised irregularities on polling day; nor were there any complaints of voter intimidation, fraud or deliberate disenfranchisement.

The Discard Box

The employment of a discard box placed in the voting booths for discarded ballots caused a degree of confusion, with some voters putting their sealed envelopes into the discard box instead of the proper ballot box. Part of the problem arose from the fact that the discard box had two apertures which apparently led some voters to think that one was meant for the

envelope containing the ballot paper. Some polling officials anticipated or reacted to this problem by sealing one of the apertures of the discard box.

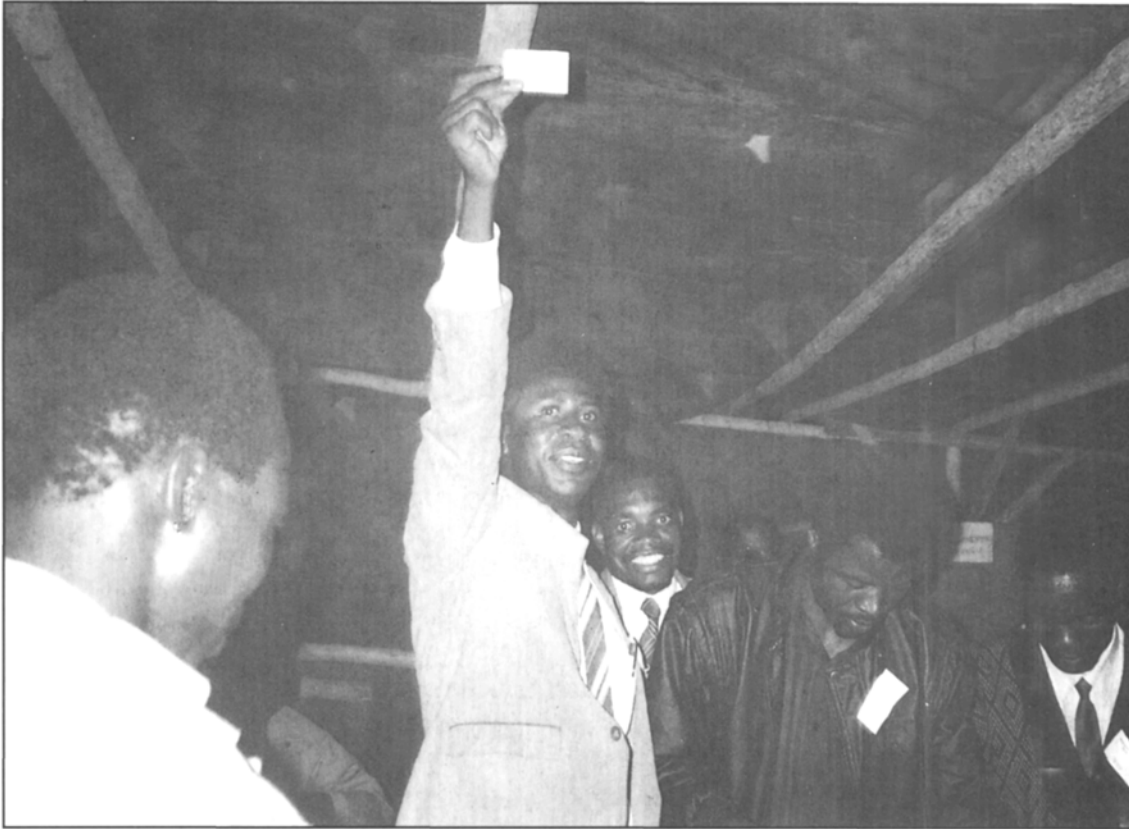


Discard papers were burnt with some ceremony in Mbayani

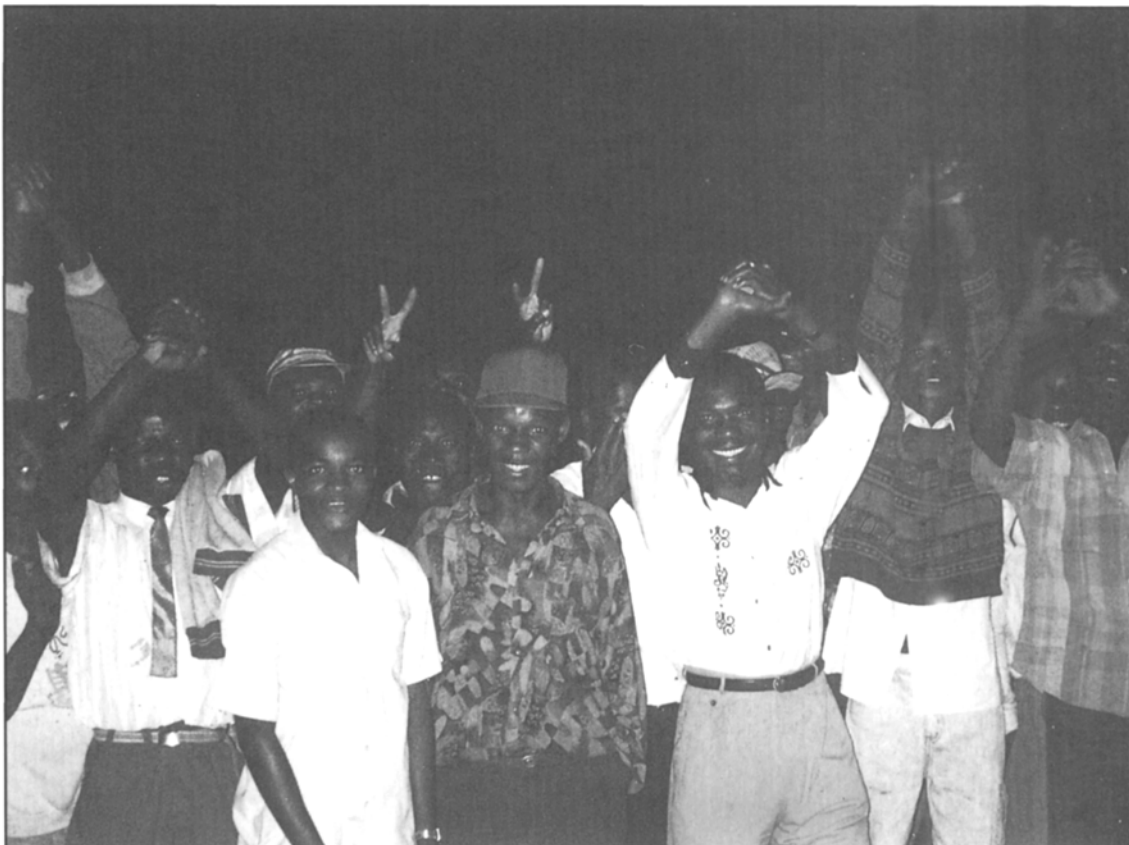
The Count

In most areas the poll closed promptly at 6.00 p.m. Counting was conducted with procedural care being exercised, the *Polling Station Officers' Manual* being consulted at successive steps. The counting environment was generally peaceful, orderly and calm. Parliamentary votes were counted first and counting of the presidential ballots followed immediately thereafter. Polling staff also counted the number of unused, spoilt and null and void ballots in order to provide a final reconciliation. Presiding Officers were scrupulous in showing party agents every ballot opened and placing them in the right pile.

The degree of illumination at counting centres varied and in some cases was inadequate. The Presiding Officer supervised destruction of the contents of the discard box before the count commenced. Counting at stations was conducted in slightly different ways. The



Counting the votes in Mbayani



Supporters gathered outside the counting stations cheered as the results were announced... note the 'V' signs for AFORD and the 'clasped hands' for the UDF

contents of the discard box were examined prior to burning and we noticed in some instances that ballots which had been wrongly placed in the discard box had been counted. Despite the problem of the discard box, the number of null and void ballots was insignificant at less than 2 per cent nationally.

There were difficulties in the process of the consolidation of results following the poll. This resulted from a mix of factors including problems in transportation of boxes from Polling Centre to Returning Officer, and exhaustion of polling officials.

An Illustration

A striking example of the atmosphere on polling day was provided by the Polling Centre at Mbayani Ground, in Blantyre City West, which was an example of the determination and enterprise shown in so many areas to make the elections a success. Mbayani is a densely populated area without a building suitable for use as a polling station. When we visited the chosen ground the day before polling a few stakes and some tarpaulin lay on the grass and the Supervisory Presiding Officer and some of his staff were beginning to build a seven-station centre for 7,000 voters. No materials had arrived.

Yet when polling opened just 43 minutes late the next day, the stations were properly manned and equipped, with thousands of voters forming seven orderly queues. When the polls closed promptly at 6.00 p.m. all voting had been completed and boxes secured. Soon the discarded ballots were being burned in front of a wildly excited crowd. Counting began in each station by the light of hurricane lamps, portable battery lamps, one or two candles and a solitary electric bulb supplied by a long lead trailed across the field from a well-wisher's house.

The crowd yelled as each vote was held high before being dropped into the appropriate cardboard tray. The party monitors crowded round to watch that every vote was correctly sorted. One station was particularly badly lit and at one point members of the crowd protested to us that the vote counting was not transparent. The Supervisory Presiding Officer quickly rearranged the lighting and everyone was satisfied.

One by one each station announced the results of the parliamentary and then of the presidential polls and by 9.00 p.m. the work on Mbayani Ground was completed to the persistent cheers and dancing of the crowd. Throughout the noisy and sometimes confused proceedings, the Supervisory Presiding Officer remained calm, firm and on top of his task.

Conclusions

Based on our extensive pre-election discussions with a wide cross-section of Malawians as well as our observation around the country both of the campaign and of the voting and counting process, our conclusions can be summarised as follows:

- For the people of Malawi, 17 May 1994 marked an exuberant national celebration of their new-found right to make choices within a framework of multi-party democracy. The high turnout recorded and the patience and enthusiasm displayed by voters reflect a firm commitment to a multi-party system of politics which has already taken root;
- The Malawian people were able to exercise their will in an open and transparent manner;
- The results of the elections reflected the expressed wishes of the people of Malawi;
- Notwithstanding deficiencies in the civic education exercise and instances of incorrect voting procedures being followed, the electorate demonstrated a clear awareness of their democratic duties and knowledge of voting procedures;
- The Electoral Commission and all electoral officials generally displayed professionalism, dedication and commitment to their task, as well as honesty and transparency, all of which substantially enhanced the conduct of the poll;
- Voting took place in an atmosphere marked by orderliness and good humour among voters and party monitors, mirroring, by and large, the spirit of the campaign;
- There was no evidence of any organised irregularities on polling day; nor were there any complaints of voter intimidation, fraud or deliberate disenfranchisement;
- There were obvious difficulties in the process of consolidation of results following the poll. This was the result of a mix of factors, including exhaustion of counting officials after a laborious counting process and difficulties of transport between Polling Centres and District Commissioners' offices.

We were impressed by the dignity with which the incumbent President, His Excellency Dr Hastings Kamuzu Banda, accepted the verdict of the people and conceded to the winning candidate, Mr Bakili Muluzi.

We congratulate the people of Malawi for the admirable manner in which they have espoused pluralism in their political system. It has been a pleasure and honour for us to share with them this momentous experience. We wish them well. We hope that they will continue to look to the future with a sense of vision and a resolve for national reconciliation. We trust that the historic achievements of the past twelve months will be successfully consolidated.

Acknowledgements

We wish to express our profound appreciation to the people of Malawi for the warm and hospitable reception afforded to us at a unique moment in their history.

We would like to thank His Excellency President Hastings Kamuzu Banda who found time to welcome us personally.

We extend warm tribute to the Chairperson of the Electoral Commission, Mrs Justice Anastasia Msosa, her colleagues on the Commission, District Commissioners and all others who worked tirelessly to fulfil the demanding duties of the elections with admirable professionalism.

We would like to record our gratitude for the opportunity of meeting with representatives of the National Executive Committee, which greatly assisted our work.

Our warm thanks go collectively to all the political leaders in Malawi and their colleagues, as well as groups and individuals, many of whom found time in the most demanding circumstances to meet with us and share their opinions and concerns.

We wish to express our satisfaction with the level of co-operation achieved with the Joint International Observer Group whose work was co-ordinated by the United Nations Electoral Assistance Secretariat.

We would like to convey special appreciation to the Commonwealth Secretary-General, Chief Emeka Anyaoku, whose counsel we greatly valued.

Annexes

ANNEX I

Composition of the Commonwealth Observer Group

Dato' Musa Hitam (Malaysia – Chairman)

Dato' Musa Hitam is currently Malaysia's Chief Representative to the UN Commission on Human Rights. He is a former Deputy Prime Minister (1990–91), Minister of Home Affairs (1981–86), and Special Envoy to the UN (1990–91). His distinguished political career also includes service as Minister of Education (1978–81), Primary Industries (1974–78) and Trade and Industries (1971–74). He has represented his country at senior level at a number of international fora including UNCTAD/GATT, ECOSOC, ESCAP and UNESCO. He was Chairman of the Commonwealth Parliamentary Association 1976–79. He was educated at universities in Malaysia and Britain and has been a Fellow at Harvard University.

Mr Vic Butler (Britain)

Mr Vic Butler is a former Town Clerk and Chief Executive whose long public service career began with appointments in local government in Britain. He has held posts in training, staff development, senior management and election administration in Britain, Zambia, Papua New Guinea, Malawi and Kiribati. He was a UN-appointed International Polling Station Officer in Cambodia; a member of the European Community election monitoring group to Pakistan in 1993; and a member of the Commonwealth electoral experts to South Africa recently. He is a member of the Chartered Institute of Secretaries and the Association of Electoral Administrators.

Mr Derek Ingram (Britain)

Mr Derek Ingram has been a journalist from 1942, and was Editor of Gemini News Service from its inception in 1967 until 1993. He served in the Royal Navy from 1943–46 and started his journalistic career on the *Daily Sketch* and *Daily Express*. He also worked for the *Daily Mail* from 1949–66 and was the Deputy Editor before founding Gemini News Service. He was the President of the Commonwealth Journalists Association from 1973–90. He is a Governor of the Commonwealth Trust and Vice-President, Royal Commonwealth Society; Member, Board of Governors, Commonwealth Institute from 1969–88; Member of the Executive Committee, Commonwealth Press Union; Fellow of the Royal Society of Arts and President of the Diplomatic and Commonwealth Writers Association of Britain from 1972–73. Mr Ingram was Media Adviser to the Commonwealth Observer Group in Zimbabwe in 1980 and a member of the Commonwealth Observer Group to Pakistan in 1993. More recently, he was Media Adviser to the European Election Unit Observer Group in South Africa. He is the author of *The Commonwealth Challenge*, *Commonwealth for a Colour-Blind World*, *The Commonwealth at Work* and *The Imperfect Commonwealth*.

HE Dr T J B Jokonya (Zimbabwe)

HE Dr T J B Jokonya is Zimbabwe's Ambassador and Permanent Representative to the United Nations in Geneva. Concurrently accredited to a number of other international organisations including GATT, UNCTAD and the IAEA, he served as Ambassador to Ethiopia (1983–88) and Permanent Representative to the OAU; and as Senior Permanent Secretary in the Ministry of Foreign Affairs (1988–90). Prior to his diplomatic career, he was a University Lecturer in Zimbabwe (1978–80) after graduating with a Doctorate in History at the University of Sussex in 1972. Dr Jokonya is also the Personal Representative of HE The President of the Republic of Zimbabwe to the Group of Fifteen (G15) Developing Countries.

The Hon Zephania Kameeta (Namibia)

The Hon Zephania Kameeta has been the Deputy Speaker of Parliament since 1990 when Namibia gained its independence. He was first elected to the Constituent Assembly in 1989 before winning a seat in Parliament the following year. He was a teacher in the Theological

Seminary from 1978–81 and from 1982–89 was a church leader. He is a member of the SWAPO Central Committee and is also Vice-President of the Commonwealth Parliamentary Association, Namibia branch. He graduated with a PhD in Divinity from Wartburg Theological Seminary, USA. He was a member of the Commonwealth Observer Group to Kenya in 1993.

Mrs Ruth Mokobi (Botswana)

Mrs Ruth Mokobi is a member of the Central Committee of the Botswana Democratic Party (BDP) and General Secretary of its Women's Wing. She is also a Regional Co-ordinator of the Botswana YWCA. In the past she has *inter alia* served as a BDP Councillor in Gaborone (1983–84), after beginning her career in 1967 as a schoolteacher. She has studied in Botswana, Lesotho and Britain. She has travelled widely in Africa, North and South America.

Rev Wavel J C Ramkalawan (Seychelles)

Rev Wavel Ramkalawan has been leader of the Parti Seselwa, in the Seychelles since 1991, and a Member of the Seychelles National Assembly since 1993. Ordained Deacon in 1984 and Priest in 1985, he served as a Member of the Seychelles Board of Church Commissioners 1985–94 and as Provincial Ecclesiastical Secretary 1986–94. He was educated at St Paul's Theological College, Mauritius, and undertook postgraduate studies at Birmingham University, Britain.

Mr S K Singh (India)

Mr S K Singh was in the Indian Diplomatic Service from 1954 to 1990. He retired as the Foreign Secretary of India. Before that he has served as Ambassador to Lebanon, Jordan, Cyprus, Afghanistan, Austria, and Pakistan. He was also India's Permanent Representative to the United Nations in Vienna and Governor for India on the Board of Governors of the International Atomic Energy Agency from 1982–85. He studied History at the Agra University and Trinity College, Cambridge. He was also a Visiting Professor at the Jawaharlal Nehru University. He was a member of the Commonwealth Observer Group to Kenya in 1992, to Lesotho in 1993, and of the Commonwealth Observer Group to South Africa in 1994.

Mr Nicholas Tall (Australia)

Mr Nicholas Tall is Electoral Officer for Tasmania in Australia and has worked for the Australian Electoral Commission for the past thirty-three years, during which time he has been involved in electoral administration and conduct of elections at the National, State and Local government levels. He participated in the mission to observe elections in Namibia in 1989 and, most recently, was a member of the United Nations Observer Group in South Africa.

The Hon Hugh Templeton (New Zealand)

The Hon Hugh Templeton is a former Minister of Trade and Industry, having held the post from 1981–84. He was a Cabinet member from 1975–84, holding posts with responsibility for Posts, Broadcasting, Customs and Inland Revenue, as well as being Deputy Finance Minister. A Rhodes Scholar, he initially joined the New Zealand Foreign Service, serving in London, South East Asia, Western Samoa and New York. In 1992 he was the New Zealand Prime Minister's Special Representative to Russia and the CIS. Now a business consultant, amongst other public appointments he is a Director of the Institute of Social Research and Development, Chairman of the Pacific Development and Conservation Trust, and honorary Vice-President of the Institute of International Affairs. Most recently he was a member of the Commonwealth Observer Group to South Africa. He has degrees in history from the Universities of Otago and Oxford.

Ms Judy Thompson (Canada)

Ms Judy Thompson is an election administrator from Canada who was with Elections Manitoba for several years. She chaired a National Committee to develop education initiatives for first-time voters and was instrumental in developing information materials and programmes for the illiterate, the homeless, native Canadians, the disabled and new Canadians. She served with the United Nations in Cambodia as Deputy Chief Electoral Officer for Education and Training. She has just completed a four-month assignment in South Africa where she worked on training programmes with the Independent Electoral Commission.

SECRETARIAT SUPPORT STAFF

Mr Carl Dundas, Team Leader

Mr Amitav Banerji, Deputy Team Leader

Ms Cheryl Dorall, Media Adviser

Mr Dominic Sankey, Assistant to Observers

Mr John Saddington, Assistant to Observers

Mr Larry Mbazima, Administration Officer

Ms Zippy Ojago, Deputy Administration Officer/Secretary

ANNEX II**Press Release of 4 May 1994**

Parliamentary and Presidential Elections in Malawi

Commonwealth Observer Group*News Release*

94/18

4 May 1994

**COMMONWEALTH TO OBSERVE MALAWI PRESIDENTIAL AND
PARLIAMENTARY ELECTIONS**

A team of eleven Commonwealth Observers, together with support staff from the Commonwealth Secretariat, will be present in Malawi for the forthcoming Presidential and Parliamentary Elections scheduled for 17 May 1994.

In making the announcement today, the Commonwealth Secretary-General, Emeka Anyaoku, recalled that in January this year, the Electoral Commission in Malawi had issued an invitation for a Commonwealth Observer Group to monitor the Presidential and Parliamentary elections in that country. A Planning Mission, which visited Malawi in March 1994 established that there was broad support across the political spectrum in Malawi for a Commonwealth presence at the elections. During recent months, the Commonwealth has also arranged five experts to assist with preparations for various aspects of the electoral process.

The Commonwealth Observer Group for Malawi will be led by **Dato' Musa Hitam**, a former Deputy Prime Minister of Malaysia. The other members of the Group are:

Mr Vic Butler
Electoral Official, Britain

Mr Derek Ingram
Commonwealth Journalist, Britain

H.E. Dr T J B Jokonya
Permanent Representative to the United Nations in Geneva,
Zimbabwe

The Hon Rev Dr Zephania Kameeta
Deputy Speaker of Parliament, Namibia

Ms Ruth Mokobi

Member, Central Committee, Botswana Democratic Party,
Botswana

Rev Wavel Ramkalawan

Leader, Parti Seselwa, Seychelles

Mr S K Singh

Former Foreign Secretary, India

Mr Nicholas Tall

Electoral Official, Australia

The Hon Hugh Templeton

Former Cabinet Minister, New Zealand

Ms Judith Thompson

Electoral Expert, Canada

The Group will be supported by a seven-member team from the Commonwealth Secretariat led by Mr Carl Dundas, Special Adviser in the Economic and Legal Advisory Services Division, who is a former Director of Elections of Jamaica.

Note to Editors: The Mission to Malawi will represent the thirteenth election observed by the Commonwealth since October 1990. These include elections in Malaysia, Bangladesh, Zambia, Seychelles, Guyana, Ghana, Kenya, Lesotho, Pakistan and most recently South Africa. These are to be seen in the context of a decision taken at the level of Commonwealth Heads of Government to support the promotion of democracy in a number of ways, including through observation, on request, of elections in member states.

ANNEX III**Arrival Statement of 8 May 1994**

The Presidential and Parliamentary Elections in Malawi
The Commonwealth Observer Group

*News Release***ARRIVAL STATEMENT IN MALAWI BY COMMONWEALTH OBSERVER GROUP**

We are here in Malawi to observe the 17 May 1994 Presidential and Parliamentary Elections at the request of the Commonwealth Secretary-General, Chief Emeka Anyaoku, and in response to an invitation to the Commonwealth by the Electoral Commission of Malawi. All political parties in Malawi have expressed support for a Commonwealth role.

We will serve as Observers in our individual capacities and not as representatives of governments or organisations to which we may belong. Our broad task here is to observe relevant aspects of the organisation and conduct of the elections in accordance with the law of Malawi. We will consider the various factors impinging on the credibility of the electoral process as a whole and determine whether conditions exist for a free expression of will by the electors.

We have no executive role. Our function is to observe the process as a whole and form an impartial judgment on the credibility of the exercise as a whole. We may, however, make proposals designed to assist the holding of the elections, should we deem this necessary. On completion of our task, we will present a report to the Secretary-General who will make it available to the Malawi Government and the political parties taking part in the elections, and thereafter to all Commonwealth governments.

We look forward to our mission with keen anticipation. Over the next few days, we will be in touch with the Electoral Commission, the political parties, the Government and other interested groups. We will also be travelling to all parts of the country before and on polling day. We are honoured to be here to witness this historic stage in Malawi's transition to multi-party democracy.

Lilongwe
8 May 1994

ANNEX IV**Schedule of Engagements****Sunday 8 May 1994**

1600 hours Arrival of Commonwealth Observer Group

2000 hours Chairman's Reception
Venue: Kankhande Room

Monday 9 May 1994

0830 hours Breakfast Meeting with
Mr Michael Meadowcroft, Co-ordinator,
Joint International Observer Group

1000 - 1200 hours Meeting with Electoral Commission
Venue: Kankhande Room

1300 hours Accreditation Session at Electoral
Commission

1500 hours Meeting with the Executive of the
National Consultative Council
Venue: NCC Headquarters

1800 hours Public Affairs Committee
Venue: Kankhande Room

2000 hours Commonwealth High Commissioners
Venue: Kankhande Room

Tuesday 10 May 1994

1000 hours Alliance for Democracy (AFORD)
Leader of Delegation: Dr Mekki Mtewa
(Secretary-General)
Venue: Chairman's Suite

1000 hours Meeting with the Malawi Democratic
Party (MDP)
Leader of Delegation: Mr Shyley
Khondowe
(Secretary-General)
Venue: Kankhande Room

1500 hours Malawi National Democratic Party
(MNDP)
Leader of Delegation: Mr Alex Chikumbi
Venue: Kankhande Room

- 1630 hours Mrs Vera Chirwa
Venue: Kankhande Room
- 1700 hours United Front for Multi-Party Democracy (UFMD)
Leader of Delegation: Mr Kapote Mkwakasungura
(Secretary-General)
Venue: Kankhande Room
- 1830 hours Courtesy Call on HE Dr Hastings K Banda, President of Malawi
Venue: New State House
- 2030 hours United Democratic Front (UDF)
Leader of Delegation: Mr Aleke Banda (First Vice-President)
Venue: Kankhande Room

Wednesday 11 May 1994

- 0730 hours Meeting with Malawi Congress Party (MCP)
Leader of Delegation: Prof Mkandawire (Secretary-General)
Venue: Conference Room, Office of the President and Cabinet
- 1400 hours Malawi Democratic Union (MDU)
Leader of Delegation: Mr Davis Stambuli (Secretary-General)
Venue: Kankhande Room
- 1800 hours Internal Briefing Session for Observers
- 1930 hours Reception by High Commissioners

Thursday 12 May 1994

Observers deploy to various Regions

ANNEX V**Deployment of Observers in the Regions****CENTRAL REGION****Lilongwe****Capital Hotel**

Dato' Musa Hitam, Chairman
Mr Carl Dundas
Ms Cheryl Dorall

Kasungu**Kasungu Inn**

Dr T Jokonya
Mr John Saddington

NORTHERN REGION**Karonga****Club Marina**

Mr Vic Butler
Mr Dominic Sankey

Mzuzu**Mzuzu Hotel**

Mr S K Singh
Mr Hugh Templeton

SOUTHERN REGION**Blantyre****Mt Soche Hotel**

Mr Derek Ingram
Rev Z Kameeta
Mr Amitav Banerji

Zomba**Ku Chawe Inn**

Rev W Ramkalawan
Ms Judy Thompson

Mangochi**Nkopola Beach Club**

Ms Ruth Mokobi
Mr Nicholas Tall

ANNEX VI**Guidelines for Election Observation****COMMONWEALTH OBSERVER GROUP****Observation Notes for Poll and Count****PART A**

The Observers may focus particular attention on the following aspects of the conduct of the election:

REGISTRATION

1. Unqualified voters on the list.
2. Likely percentage of potential voters denied registration through early closure of rolls.
3. Procedures for voters to challenge their exclusion from the rolls.

THE CAMPAIGN

1. The extent of access to the electronic media available to all parties.
2. The procedure (if any) for the allocation of time for political broadcasts and advertisements on radio and television.
3. The extent of access enjoyed by the political parties to the print media.
4. The tone and content of political broadcasts, advertisement and posters put out by the political parties.
5. The conduct of political meetings.
6. The conduct of house to house canvassing of voters.
7. The voter education programme on radio and television conducted by the Election Commission.
8. Permits for public meetings.
9. Access to printing facilities
10. Access to funds and sources of funds.
11. Access to state services.

THE POLL

1. The location of polling stations.
2. The accuracy of the Voters' List at the polling stations.
3. Distances travelled by voters to polling stations, particularly in rural areas.
4. The length of time voters wait to cast their votes.
5. The steps taken to ensure that the secrecy of the ballot is assured.
6. The performance of electoral officials at the polling station visited.
7. The procedure followed at the opening of the poll.
8. The adequacy or otherwise of facilities at polling stations and their state of readiness.
9. The incidence of loss of registration certificates.
10. The number (if any) of persons with voter registration certificates but whose names are not on the Voters' List.
11. The procedures in place to ensure proper security of ballot papers, ballot boxes and official seals.
12. The general atmosphere at the polling stations visited.
13. Availability of adequate supplies, e.g. ballot papers, Voters' List, official stamps and pads, indelible ink, etc.
14. Security of ballot papers prior to election.
15. Access of party agents to polling stations.

THE COUNT

1. Inspection of seals.
2. The process of reconciling the number of people who voted with the number of ballots cast.
3. The determination of invalid ballots which are stamped "Rejected".
4. The conduct of the returning officers and their assistants.
5. The preparation for the Declaration of the Result of the Poll.
6. The facilities for candidates and their representatives to witness and verify the count.

PART B

Questions that may be put:

Before Polling Day

1. Is Voters' List full and correct? People missed out? Are there names included of dead people/people who have moved away?
2. Are electoral officials confident about arrangements? Are political parties and local notables satisfied?
3. Who are the electoral officials? How were they chosen? Are voters confident they will be impartial?
4. Is the person in the street satisfied with arrangements? Will he/she vote? If not, is he/she afraid to do so?
5. Have all parties been able to campaign freely? Has the campaign been free of intimidation, etc? Have all parties had full access to the mass media?
6. Is there freedom to advertise and distribute (posters, leaflets, etc)?
7. How will voters' IDs be checked? Will it be possible to vote twice?
8. How will those away from home or ill in bed be able to vote?

On the day

1. Before polling starts, are the ballot boxes empty? Are they properly sealed?
2. Are all procedures being adhered to?
3. Are all parties represented at polling stations? Are they satisfied with the process?
4. Are IDs being properly checked?
5. Are voters apparently voting freely? Are they enthusiastic? Do they talk freely? Do they exhibit signs of fear or intimidation?
6. Do voters understand procedures properly? If not, are they being explained fully and impartially? Are attempts being made to suggest how they should vote?
7. Is only one person at a time allowed into the voting booth? Does the ballot paper go straight into the sealed box?
8. How long are voters waiting to vote? If a long time, are some being put off?
9. Will all parties be represented at polling stations throughout voting and count? Are party polling agents adequately trained and vigilant?

10. Will foreign observers have free access to all stages of the process?
11. Are voters being asked suspicious questions after leaving the polling station?
12. Is the security presence oppressive?

After Voting

1. Are the boxes kept safe until opened? Are all parties/observers present at opening?
2. Does the number of used ballot papers tally with the record of those who have voted?
3. Are the papers counted properly? Are any valid ones being spoiled during counting, intentionally or not?

ANNEX VII**Interim Statement of 17 May 1994**

Parliamentary and Presidential Elections in Malawi

Commonwealth Observer Group*News Release***INTERIM STATEMENT BY THE CHAIRMAN, DATO' MUSA HITAM**

Commonwealth Observers were present at different locations in all three regions throughout Malawi before and during polling day in the Presidential and Parliamentary elections, and observed the electoral process at a large number of polling stations.

The interim conclusion reached by the Commonwealth Observer Group is that up to the close of polls, the election was conducted in a manner which provided the people of Malawi with the opportunity to vote freely for the candidates of their choice. We were impressed by their orderliness, patience and good humour despite having to queue for long hours. And in our view, the conduct of the people of Malawi on polling day demonstrated their firm commitment to a multiparty political system.

Our assessment is based not only on our observations on polling day itself but also on our careful study of the election arrangements and our random inspection, in the run-up to the election, of polling sites in many constituencies in all the regions. In examining these arrangements, we met the Electoral Commission and electoral officials, leading representatives of all political parties contesting the elections, the security services and other groups.

On polling day, we were on the scene before the opening of the poll at 6.00 a.m. in order to satisfy ourselves that the proper procedures for the opening of the poll were being applied. We spent the day making unscheduled visits to polling stations to see whether the proper procedures were being followed, observing the conduct of the poll, examining the registers, and talking to independent observers, party agents and voters. We saw no evidence of organised irregularities and received no complaints of voter intimidation on polling day. We note, however, that the complicated voting procedure slowed down the process in some areas and might have led to a number of ballots being rejected or discarded, perhaps more so in outlying areas.

In our observation, election officers acted in a professional, fair, open and transparent manner which substantially enhanced the conduct of the polls.

We wish to express our appreciation of the great efforts made by the Electoral Commission to create the conditions in which the election could genuinely reflect the democratic choice of the people of Malawi.

17 May 1994

ANNEX VIII**Departure Statement of 20 May 1994**

Parliamentary and Presidential Elections in Malawi

Commonwealth Observer Group*News Release*

20 May 1994

**DEPARTURE STATEMENT BY DATO' MUSA HITAM,
CHAIRMAN OF COMMONWEALTH OBSERVER GROUP TO MALAWI**

The Commonwealth Observer Group has now concluded its mission and our members today begin leaving the country for their respective homes. Two days ago, shortly after the closing of the polls and before any results were known, we issued an Interim Statement on our assessment of the conduct of the polls. We have since deliberated upon our final report, which we will submit shortly to the Commonwealth Secretary-General, who will make it available to the Government of Malawi and the political parties here, as well as to all Commonwealth governments. However, we thought we should share at this stage with the people of Malawi the conclusions we have reached. These are as follows:

Based on our extensive pre-election discussions with a wide cross-section of Malawi society as well as our observation around the country both of the campaign and of the voting and counting process, our conclusions can be summarised as follows:

- For the people of Malawi, 17 May 1994 marked an exuberant national celebration of their new-found right to make choices within a framework of multi-party democracy. The high turnout recorded and the patience and enthusiasm displayed by voters reflects a firm commitment to a multi-party system of politics which has already taken root;
- The Malawian people were able to exercise their will in an open and transparent manner;
- The results of the elections reflected the expressed wishes of the people of Malawi.
- Notwithstanding deficiencies in the civic education exercise and instances of incorrect voting procedures being followed, the electorate demonstrated a clear awareness of their democratic duties and knowledge of voting procedures;

- The Electoral Commission and all electoral officials generally displayed professionalism, dedication and commitment to their task, as well as honesty and transparency, all of which substantially enhanced the conduct of the polls;
- Voting took place in an atmosphere marked by orderliness and good humour among voters and party agents, mirroring, by and large, the spirit of the campaign;
- There was no evidence of any organised irregularities on polling day; nor were there any complaints of voter intimidation, fraud or deliberate disenfranchisement;
- There were obvious difficulties in the process of consolidation of results following the poll. This was the result of a mix of factors, including exhaustion of counting officials after a laborious counting process and difficulties of transport between Polling Centres and District Commissioners' offices;

We were impressed by the dignity with which the incumbent President, His Excellency Dr Hastings Kamuzu Banda, accepted the verdict of the people and conceded to the winning candidate, Mr Bakili Muluzi.

We congratulate the people of Malawi for the admirable manner in which they have espoused pluralism in their political system. It has been a pleasure and honour for us to share with them this momentous experience. We wish them well. We hope that they will continue to look to the future with a sense of vision and a resolve for national reconciliation. We trust that the historic achievements of the past twelve months will be successfully consolidated.

Finally, we wish to extend warm congratulations to the President designate, Mr Bakili Muluzi, and convey to him our best wishes as he prepares to embark upon his new responsibilities.

ANNEX IX

Party Symbols



**CHISANKHO CHA
APHUNGU A NYUMBA
YA MALAMULO NDI
CHA PULEZIDENTI**

ZIZINDIKIRO ZA ZIPANI

ALLIANCE FOR DEMOCRACY



AFORD

CONGRESS FOR THE SECOND
REPUBLIC OF MALAWI



CSR

MALAWI
CONGRESS PARTY



MCP

MALAWI
DEMOCRATIC PARTY



MDP

19

MALAWI DEMOCRATIC UNION



MDU

94

MALAWI NATIONAL
DEMOCRATIC PARTY



MNDP

UNITED DEMOCRATIC FRONT



UDF

UNITED FRONT for
MULTIPARTY DEMOCRACY



UFMD

ANNEX X

Sample Ballot Paper

Parliamentary Election 1994

Candidate Name



AFORD

Constituency Name

Parliamentary Election 1994

Candidate Name



CSR

Constituency Name

Parliamentary Election 1994

Candidate Name



MCP

Constituency Name

Parliamentary Election 1994

Candidate Name

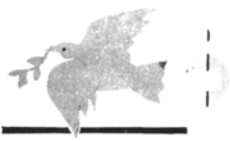


MDP

Constituency Name

Parliamentary Election 1994

Candidate Name



MDU

Constituency Name

Parliamentary Election 1994

Candidate Name



MNDP

Constituency Name

Parliamentary Election 1994

Candidate Name



UDF

Constituency Name

Parliamentary Election 1994

Candidate Name



UFMD

Constituency Name

ANNEX XI

Distribution of Constituencies by District

NAME OF DISTRICT	NUMBER OF CONSTITUENCIES	NUMBER OF CENTERS	REGISTERED VOTERS	POPULATION 18 & OVER	% OF REG. VOTERS	TOTAL POPULATION	REFERENDUM VOTERS
BLANTYRE	10	120	265738	364407	72.92	729189	230408
CHIKWAWA	6	81	121237	184778	65.61	391770	106873
CHIRADZULU	5	54	98718	126243	78.20	260879	82572
CHITIPA	5	73	53455	52397	102.02	119725	41073
DEDZA	8	129	182705	236869	77.13	509343	139440
DOWA	7	86	147790	189099	78.15	398819	139732
KARONGA	5	77	84428	85938	98.24	183080	65376
KASUNGU	9	109	180293	200791	89.79	400082	179542
LILONGWE	17	250	457097	577241	79.19	1207999	384790
MACHINGA	10	142	258630	306838	84.29	637336	201239
MANGOCHI	10	118	256037	306328	83.58	614222	201319
MCHINJI	6	77	124738	147990	84.29	309033	116425
MULANJE	11	138	256983	371869	69.11	789225	191366
MWANZA	4	59	49141	68787	71.44	150301	41525
MZIMBA	12	254	272807	257543	105.93	536443	134362
NKHATABAY	7	66	72050	82579	87.25	171165	60211
NKHOTAKOTA	5	80	87725	95967	91.41	195486	79336
NSANJE	5	67	71275	119906	59.44	252792	58853
NTCHEU	7	108	129915	205218	63.31	443762	100971
NTCHISI	4	65	56837	69642	81.61	149493	52053
RUMPHI	4	65	62267	59662	104.37	117385	51542
SALIMA	5	51	92885	115420	80.48	233990	76592
THYOLO	7	90	174309	253491	68.76	534539	153485
ZOMBA	8	124	215495	270139	79.77	546238	170731
WHOLE MALAWI	177	2483	3772555	4749142	79.44	9882296	3061816
NORTHERN	33	535	545007	538119	101.28	1127798	352564
CENTRAL	68	955	1459985	1838237	79.42	3848007	1270881
SOUTHERN	76	993	1767563	2372786	74.49	4906491	1438371


ANNEX XII

Civic Education Poster



ANNEX XIII


Poster on Voting Procedure




**17th MAY
1994**

**PARLIAMENTARY
AND
PRESIDENTIAL
ELECTIONS**


7 COME OUT WITH YOUR SEALED ENVELOPE




8 CAST YOUR VOTE INTO THE BALLOT BOX




9 AT THIS POINT YOU HAVE VOTED FOR YOUR MEMBER OF PARLIAMENT. NOW TO VOTE FOR YOUR PRESIDENT. SHOW THE OFFICIALS THE FINGER WITH THE INDELIBILE INK AND YOUR LEFT HAND.



10 DIP YOUR LEFT INDEX FINGER INTO THE INDELIBILE INK.




11 RECEIVE SYMBOLS OF THE CANDIDATES AND AN ENVELOPE.




PARLIAMENTARY AND PRESIDENTIAL ELECTIONS


1 STAND ON THE QUEUE. SHOW YOUR REGISTRATION CERTIFICATE TO THE OFFICIALS.




2 DIP YOUR INDEX FINGER INTO THE INDELIBILE INK.




3 RECEIVE SYMBOLS OF THE CANDIDATES AND AN ENVELOPE




4 GO INTO THE POLLING BOOTH




5 CHOOSE THE SYMBOL OF YOUR CANDIDATE AND PUT IT IN AN ENVELOPE. SEAL THE ENVELOPE




6 THROW THE REST INTO A DUST BIN




12 GO INTO THE SECOND POLLING BOOTH




13 CHOOSE THE SYMBOL OF YOUR PRESIDENTIAL CANDIDATE. PLACE IT IN AN ENVELOPE AND SEAL THE ENVELOPE




14 THROW THE REST IN A DUST BIN.




15 COME OUT



16 CAST YOUR VOTE.



17 THE NEXT VOTER CAN NOW TAKE HIS TURN.



ANNEX XIV

Electoral Commission Guidelines for Media Coverage

Malawi Electoral Commission

Procedures for media coverage of Parliamentary and Presidential elections

PURPOSE

These Procedures apply to electronic media (the Malawi Broadcasting Corporation in particular) and in specified instances to the Press. Their purpose is to ensure that full and fair coverage is given, without censorship, to the campaigns of all registered political Parties during the period of campaigning and up to the close of the poll in Parliamentary and Presidential elections.

The purpose of the procedures is also to ensure that the media provide the public with the necessary programme of civic education and information on every relevant aspect of the electoral process and on each citizen's electoral rights. Such support for the electoral system by publicly-owned media is at the heart of democracy.

The procedures are based upon the authority given to the Electoral Commission and the Parliamentary and Presidential Elections Act 1993.

Section 1 NEWS COVERAGE

Section 2 ELECTION EDUCATION AND INFORMATION PROGRAMME

Section 3 PARTY POLITICAL BROADCASTS (DIRECT/FREE ACCESS)

Section 4 OPINION POLLS

Section 5 MONITORING OF COVERAGE

Section 6 COMPLAINTS PROCEDURE

1 NEWS AND CURRENT AFFAIRS COVERAGE

1.1

Publicly-owned media (this currently refers exclusively to the Malawi Broadcasting Corporation) are required to provide fair and balanced reporting of the campaigns, policies, meetings, rallies and press conferences of all registered political Parties during the period of campaigning and thereafter to provide news of the electoral process up to the close of poll.

1.2

This duty also requires the broadcasters to devise, by arrangement with the Parties, a range of special election programmes - public debates, interviews with Party leaders and phone-in debates in which all registered political Parties are given equitable treatment and in which the same editorial balance and fair dealing apply as in news bulletins and news reports.

1.3

The debates will be organised in the following way:

The Election Commission and the Malawi Broadcasting Corporation will arrange a series of six debates with the registered political Parties; two in Mzuzu, two in Lilongwe and two in Blantyre with all eight Parties represented in one or other of the programmes in each City. Each debate will have a moderator, two journalists and four of the eight political parties. The party participants for each debate will be determined by a rotational method.

Dates are to be arranged.

The debates will be a ticketed event in each of the cities, and the venue will hold 200 people. Community organizations, Churches and Mosques will be given 100 tickets. The four political parties participating in the debate will each be given 25 tickets.

The debate questions will be determined by the six journalist-panelists. The questions will differ for each debate, but each question will have equal weight and importance on a major issue facing Malawi.

Each party will be given 1'30" to respond to each question from the journalists. At the moderator's discretion, a party can be given 30 seconds to respond to a direct challenge by an opposing party.

The debate will not be edited for content unless there is a violation of the Code of Conduct by any of the participants. The approximate debate format will be:

Introduction	Moderator	3 Minutes	
Question 1	Journalist 1	1 Minute	
Answer 1	Four Parties	6 Minutes	
Question 2	Journalist 2	1 Minute	
Answer 2	Four Parties	6 Minutes	
Question 3	Journalist 1	1 Minute	
Answer 3	Four Parties	6 Minutes	
Question 4	Journalist 2	1 Minute	
Answer 4	Four Parties	6 Minutes	
Question 5	Journalist 1	1 Minute	
Answer 5	Four Parties	6 Minutes	
Closing	Four Parties	8 Minutes	
Closing	Moderator	1 Minute	TOTAL: 47 Minutes

Each programme will be given two transmissions at the weekend following each recording.

1.4

The editorial responsibility for the maintenance of balance and equitable coverage by the Malawi Broadcasting Corporation rests with the Head of News. In this respect he is responsible to the Electoral Commission. (See complaints procedure section 5 below).

1.5

Party Press Conferences will be reported on by MBC in their normal news programmes. The continuous recordings currently broadcast will be replaced by the range of special election programmes,

- a. Debates (see 1.3)
- b. Phone-ins
- c. a series of Meet Your Candidate face to face interviews in which Party leaders will be invited to explain their political philosophy and plans in a 30 minute conversation each.
- d. Party Political Broadcast (see 3.1 - 3.10 and Schedule).

1.6

MBC must scrutinize all material for broadcast during the period up to the close of poll to ensure that no Party uses general programmes (other than recognised direct access Party Political Broadcasts, specific election news coverage or special election programmes) to promote its electoral interests.

1.7

MBC staff, as public service broadcasters, may not broadcast their own political opinions. Any commentaries or assessments must be clearly identified as such and carefully balanced to avoid bias.

1.8

In this context, newspapers are also required to identify editorial comment to separate it from news.

2 ELECTION EDUCATION AND INFORMATION**2.1**

Publicly-owned media are required, through-out the election campaign and up to the close of poll, to provide education and information on the electoral process designed to ensure a maximum poll by a well-informed electorate.

2.2

This duty also requires newspapers to take positive steps to inform their readers about their electoral rights and to make a vigorous contribution to the public education programme.

2.3

Such informational and educational programmes and material, whether broadcast or published in a newspaper, may not contain any material intended to further the electoral prospects of any Party contesting the election.

2.4

The number, duration and frequency of such broadcasts may be negotiated between the production agencies and the MBC, always providing that the resulting service meets the goals envisaged by the Electoral Commission

3 PARTY POLITICAL BROADCASTS (DIRECT/FREE ACCESS)

3.1

The broadcasters are required to provide each registered political Party with a series of broadcast time-slots of an equal number, frequency, maximum duration and equitable time placement (see schedule below). At these times each political Party may broadcast pre-recorded programmes, in a language of their choice, free of MBC or any other outside editorial control (subject to the conditions and monitoring mechanisms set out in section 5 below).

3.2

The decisions about the duration, time placement and frequency of Party Political Broadcasts rests with the Electoral Commission. Time placements will include an equal variety of time-slots in the broadcasting day including prime time.

3.3

Such programmes must be recorded to professional standards. Equal free studio production and editing time will be provided each week at MBC for those Parties wishing to take advantage of it. The programmes will be recorded under the editorial control of the Party representatives delegated to produce the programme. Programmes may be made at professional studios outside MBC if any Party so wishes. This would be at the expense of that Party. MBC will reserve the right to assess the technical standard of any material recorded elsewhere and brought to the studio by the Party concerned. If any such material fails to meet the MBC's required technical standard it may not be included in the programme.

3.4

A member or members of the Electoral Commission will attend the recording of all those Party Political Broadcasts which are recorded at MBC to ensure that the producing Party has been given equal treatment and resources. The Commission member's role is to ensure that the programme to be broadcast conforms with these procedures and that there is no legal objection to its broadcast. If material or a complete programme submitted by a Party for transmission does not meet the technical standards, it will not be accepted for broadcast.

3.5

Such programmes may not exceed the agreed maximum duration. MBC is not permitted to broadcast any programme which exceeds the limit set. MBC must give the Party concerned the opportunity within the production period allocated to edit any such programme down to the maximum duration allowed. MBC may not take upon itself the decision to make any cut in a Party Political Broadcast for any

reason. Any such decision can only be made by the Party concerned or on the specific instruction of the Electoral Commission. The Commission will take no such decision unless it decides that the programme is in breach of either the Law or these procedures.

3.6

Such programmes, being free of editorial control or censorship, other than by the individual Parties making them, must nevertheless avoid incitement to public disorder, violence or war and meet the CODE OF CONDUCT. This restriction applies equally to broadcasting and newspapers.

3.7

PARTY POLITICAL BROADCASTS, set out in the schedule below, may be used at each Party's discretion as **PRESIDENTIAL CANDIDATE BROADCASTS**. Only in the case of independent Presidential Candidates being registered will there be an allocation of specific broadcast time for those independent Presidential candidates. That allocation will be decided by the Electoral Commission following the close of Presidential candidate nominations.

3.8

No Party is allowed to buy air-time on MBC during the period up to the close of poll.

3.9

Completed programmes ready for transmission must be handed over to MBC at the end of the scheduled production time in each case. No programme may be released until after its final transmission. If however a Party wishes to withdraw their programme in the course of a week, it may do so but will not be allowed to replace it until the following week's scheduled transmission.

Programmes made outside MBC must be handed in at MBC at the production time allotted to that Party so that the Electoral Commission representative on duty at that time can listen to it with the Party's representative to confirm that it falls within the Electoral Law. An MBC Engineer will be present to confirm that the programme meets the necessary technical standard.

3.10

No Party Political Broadcast, related to the Elections taking place on 17th May, may be transmitted after 6am on Sunday 15th May 1994.

Party Political Broadcasts must take account of the limitations on the use of OPINION POLLS set out in section 4.1 below.

SCHEDULE OF PARTY POLITICAL BROADCASTS

The number of such broadcasts available to each Party over an eight week will be 12.

These will be recorded at weekly production sessions and transmitted at the frequency set out below in the course of the following week.

Each Party will be offered the following in the eight-week period Sunday March 20 th 1994 - Saturday May 14th 1994

Week 1.	1 programme / 2 minutes / 5 times per day / 7 days per week
Week 2.	1 programme / 2 minutes / 5 times per day / 7 days per week
Week 3.	1 programme / 2 minutes / 5 times per day / 7 days per week
Week 4.	1 programme / 2 minutes / 5 times per day / 7 days per week
Week 5.	1 programme / 3 minutes / 3 times per day / 7 days per week 1 programme / 1 minute / 3 times per day / 7 days per week
Week 6.	1 programme / 3 minutes / 3 times per day / 7 days per week 1 programme / 1 minute / 3 times per day / 7 days per week
Week 7.	1 programme / 4 minutes / 2 times per day / 7 days per week 1 programme / 1 minute / 4 times per day / 7 days per week
Week 8.	1 programme / 4 minutes / 2 times per day / 7 days per week 1 programme / 1 minute / 4 times per day / 7 days per week
Totals	12 programmes per Party. Combined total of 26 minutes recorded material per Party. 10hours 16minutes transmission time per Party. 308 transmissions per Party.

4 OPINION POLLS

4.1

The result of Opinion Polls must be used by all media with great care. The results should only be broadcast or published if there is reason to believe that they are statistically sound. In any case, all relevant information must be broadcast/ published including identification of the organisation that conducted the poll, the Party or other organisation that commissioned and paid for the Poll, the methodology, the sample size and location of the survey, its date and margin of error. This care must be exercised by Newspapers too.

4.2

Opinion Polls may not be published or broadcast after the period of campaigning i.e. during the 48 hours from that point until the close of poll.

5 MONITORING OF ELECTION COVERAGE

5.1

MBC must maintain full records of all news bulletins and recordings of all other programmes related to the election, including Party Political Broadcasts. They must institute a close and meticulous monitoring system to ensure balance throughout the campaign and up to the close of poll.

5.2

MBC must be prepared to provide the Electoral Commission at any reasonable time with all such records, information and recordings as the Commission may require to fulfil its monitoring role. Newspapers may be required to provide the possibility for the Commission to inspect back copies in the event of a complaint.

6 COMPLAINTS PROCEDURE

6.1

Any candidate or Party making a reasoned complaint of unfair treatment or coverage in the course of the election campaign, should send it in writing to the Commission. Any complainant asking the Head of News at MBC or the Editor of a newspaper to correct a mistake should send a copy to the Electoral Commission. These professional journalists, working to these procedures, will respond to those complaints appropriately, but will in any case report all such complaints to the Electoral Commission.

6.2

Where, in the case of either MBC or a newspaper, a right of reply is necessary, a retraction or the correction of a matter of significance, such a response will be placed in a position of equal prominence and given comparable space or time.

6.3

In the event of an unresolved dispute over a complaint of unfair media coverage, the Electoral Commission will be the final arbiter.



Justice Mrs Msosa, Chair

MALAWI ELECTORAL COMMISSION

8th MARCH 1994

ANNEX XV

Electoral Commission Code of Conduct for Political Parties



PARLIAMENTARY AND PRESIDENTIAL ELECTIONS

CODE OF CONDUCT

Political Parties and Independent Candidates :

- Must co-operate with the Electoral Commission.
- Should respect the rights of others and law enforcing agencies.
- Should use acceptable language.
- Should not disrupt other parties' or independent candidates' campaigns.
- Should not induce people to do things against their will.
- Should not bribe voters.
- Must not campaign in prohibited places like Police Stations, Military Units, public offices during working hours and schools during classes.

ANNEX XVI**Interim Report of the Electoral Commission of 17 April 1994**

April 17, 1994

ELECTORAL COMMISSION REPORT ON ELECTORAL LAW VIOLATIONS

The Electoral Commission has gathered evidence of several kinds of Electoral Law violations since voter registration began on March 12, 1994. The Commission has referred some of the cases to the Police for prosecution. The Commission reminds all citizens to behave in accordance with the Electoral Law and the campaign Code of Conduct.

MCP functionaries are responsible for a major Electoral Law violation - seizing or buying voter registration certificates -- according to evidence gathered by the Commission. Seizure and purchase of certificates has occurred in Thyolo. Additional reports of these practices have been received from Lilongwe, Mulanji, Chiradzulu, Machinga, Mangochi, Nkhota-kota, Ntcheu, Mchinji and Mzimba.

The main culprits in voter certificate snatching are chiefs, village headmen and MCP functionaries. In some cases, voters have been told to surrender their certificates and then to come to a central location on election day to retrieve them, so that everyone votes for the same candidate. In other cases, voter certificates have simply been taken without promise of return.

There has also been one incident reported of voter certificate buying in Rumphi for the sake of securing the election of the MNDP presidential candidate. An AFORD functionary in Nkhota-kota was apprehended while attempting to seize registration certificates. One of

the Commission's Registration officers was caught by party monitors passing on illegally completed registration certificates to her husband who is a known UDF supporter. This matter is in the hands of the police.

Political parties have the right to keep a record of their members. This right does not legitimise the seizure or purchase of voter certificates. Such actions are clearly breaches of the law and will not be tolerated. The Commission issued a previous statement condemning these practices, and warns that those involved in it are subject to prosecution.

Campaign violence, intimidation and other major Electoral Law violations, have been noted in several Districts. "Tit-for-tat" campaign meeting disruptions -- resulting in a number of injuries -- have occurred between UDF and MCP in Nsanje, Chikwawa, Lilongwe, Kasungu, Mchinji and Nkhota-kota. The MCP has used Nyau to intimidate people to join campaign rallies or to disturb meetings by other parties. UDF functionaries have organized singing party slogans and throwing stones at opponents' meetings.

The Electoral Commission have received ample evidence of intimidation of village officials by MCP. Chief Kalolo in Lilongwe was visited by MCP functionaries to order her to stop allowing opposition meetings in her area. Chief Tengani in Nsanje has threatened his village headmen with deposition if they do not comply with MCP demands. Similar complaints have been received concerning the village headman Juma in Salima and a chief in Dedza.

The Electoral Commission will continue to gather evidence of any violations of the Electoral Law, to publicize such violations and to refer them for prosecution.

ANNEX XVII**Interim Report of JIOG of 18 April 1994****11am MONDAY 18 APRIL 1994**

**UNITED NATIONS ELECTORAL ASSISTANCE SECRETARIAT
UNDP
PO BOX 30135
LILONGWE 3
MALAWI**

Tel: (265) 783 500 Fax: (265) 783 637
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The Joint International Observer Group (JIOG) which is monitoring the electoral process in Malawi, publishes its Interim Report, based on reports from thirty observers, from eleven different countries, who between them visited 31% of the Registration Centres - 763 of the 2451 centres - and investigated every complaint drawn to their attention.

The Joint International Observer Group reports as follows:

The final total of Malawian citizens registered to vote is roughly equivalent to the actual number of separate registrations for last year's referendum, taking into account the 18 to 21 year olds, and, at almost 80% of the projected maximum, is a respectable figure.

There were a number of flaws in the registration process and administration, including a lack of plastic envelopes and of transfer certificates at a number of centres, but these did not detract significantly from the efficiency of the administrative process.

The unexpected initial reluctance to register on the part of the majority of citizens, coupled with the extremely slow start of the civic education programme, jeopardised the whole process, which was only rescued by the two week extension.

The JIOG believes that the prohibition by the Inspector-General on police officers registering contravenes the electoral law and that ways should still be found for those officers to register and vote who wish to do so. The JIOG is also concerned that the initial ban on military personnel registering inhibited them from registering in numbers even when the ban was lifted.

The JIOG has noted particularly the efforts of the Electoral Commission to deal with the many problems connected with the early stages of the electoral process and it commends the Mrs Justice Msoa and the Commissioners for their forthright stand on the issue of the registration of members of the

/cont

security forces. The JIOG also commends the admirable public statements of the Commission on the issues of violence and intimidation. It notes, however, that instances of coercion and inducement are still being reported to Observers and asks that the Commission considers what further action is now required.

All the reports from the Observers have been carefully logged, their investigations into complaints and allegations have been analysed, and their findings passed on to the appropriate authorities for action. The JIOG is entirely independent and non-partisan, as is UNEAS itself, and it has looked at all the Observers' reports and investigations impartially. It will deal with and report incidents involving all parties. It notes that there are reported and confirmed instances of actions by a number of parties contrary to the Electoral Commission's Code of Conduct.

There are a number of disturbing and substantiated reports of intimidation and of actual violence, including beatings, stoning of vehicles, attempts to disrupt meetings, and to close businesses. Observers' reports, these have, for instance, been carried out by supporters of MCP in Kasungu and by UDF supporters at a meeting in Nkhoskhota of the MCP Vice Presidential candidate. Other reported cases are currently being investigated.

The Observers' main criticism is reserved for those who have apparently tried to manipulate the registration process for party benefit. International Observers have found evidence of intimidation, bribery and the misuse of official positions, such as that of Government Minister, Member of Parliament, Chief and Village Headman.

Although intimidation, violent action and financial inducements were not confined to any one political party, the evidence from the Observers is that it has come more often from supporters of the Malawi Congress Party. If a party misuses funds, or its access to goods in kind, to gain support illegally, it is a serious offence, under Section 115 of the electoral law which deals, among other things, with attempts to coerce or induce an elector to change his or her voting intention.

Reports from International Observers also provide evidence that a Government Minister has on occasion misused his or her office, for instance, induced students to participate in pro-MCP activities, and to interfere with the registration process. There is also evidence that a MP

and his family in the Northern Region originally registered at two separate centres. It is also apparent that Ministers have not always clearly differentiated between their official Government duties and their political role and have used the civil service apparatus, including the presence of DCs, when campaigning in support of their candidature, or that of a colleague.

We note that the Commission has already expressed its concern on some aspects of the involvement in the electoral process of the traditional authorities. Chiefs and Village Headmen rightly have considerable respect and influence by virtue of their position. To maintain that traditional respect and influence in a multi-party political system requires that they do not use, nor threaten to use, their powers in order to secure support for a party which would presumably contravene Section 115 (c) clauses (ix) and (x) of the electoral law. Observers have reported cases where meetings for one or other party have been effectively blocked by traditional authorities. Also, in a number of cases Registration Certificates have been confiscated by Chiefs or Village Headmen. These certificates must all be returned to their owners.

There are also confirmed reports of Nyau dancers performing at places and at times when their presence is seen as support for the MCP, particularly when they are remunerated by MCP supporters. The JIOG acknowledges that this is a delicate matter in which a careful line must be drawn between genuine involvement in the campaigning process to the benefit of the whole community, and political use to inhibit support and activity for one party or another. A country's culture is, of course, important, which is why it must not be misused and cheapened by being made partisan.

The JIOG is also concerned that the last minute availability of nomination papers caused difficulties for some parties and some candidates. We note, however, that the Electoral Commission was aware of the problem and made appropriate provision for those it believed were genuinely disadvantaged. There was some Observer concern about the content and administration of the English test for prospective candidates and whether it was a satisfactory means of ensuring compliance with the electoral law.

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The JIOG is relieved that the agreed amendments to the electoral law have now been made, even if somewhat belatedly, thus regularising a situation that could have embarrassed the Electoral Commission which requested them in January.

This may appear to be an unhappy catalogue but it must be put into perspective. Though inevitably attention is rightly drawn to the specific problems encountered, the majority of the country has got on quietly with registration and the majority of party meetings have taken place in attentive, enthusiastic and peaceful conditions. No area of Malawi - North, Central or South - can be a "no go" area for any party, whatever another party's apparent dominance in that area. All must be able to campaign freely in every district.

Observers noted also that the civic education programme is now involving a number of key NGOs in a co-ordinated campaign. It is vital that every means be used to reach voters in the rural areas in their own languages with highly practical instruction on the voting process which will be followed on polling day.

There is every prospect that the elections on 17 May will reflect the free choice of the Malawian people but the JIOG stresses the importance of bringing to an end all those practices by which parties seek to obtain an unfair advantage and which could undermine the electoral process.

The Joint International Observer Group wishes to thank the Electoral Commission, all the officials, the parties and the Malawian people who have demonstrated the traditional warm, friendly and generous Malawian welcome to visitors. All the Observers have enjoyed - and are enjoying - the privilege of participating in these vitally important elections. The Joint International Observer Group will continue to monitor the election campaign and is preparing to deploy a substantial team of observers before, during and after polling day.

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