



Centre for Multiparty Democracy

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Towards a Political Party Consensus on Free and Fair and Credible Elections

TERMS of REFERENCE

Introduction

The Centre for Multiparty Democracy - Malawi (CMD-M) is a membership organization comprising of political parties that have representation in the National Assembly. Its recently revised constitution opens membership to other political parties that have no parliamentary representation. Representation in the National Assembly is defined as getting parliamentary seats through General Elections and / or by - elections.

The CMD - M sets out to ensure the entrenchment of multiparty democracy in Malawi. Its mission is to “enhance inter - party programs of common interest for the promotion of political dialogue, stable multiparty democracy and social economic development of Malawi.”

Background

Malawians went to the polls on 21 May, 2019 to elect Councilors, Members of Parliament and the Republican President. Throughout the electoral process, a hot and contentious issue was regarding the possibility of vote rigging. All the leading political parties and presidential candidates made claims of vote rigging. The CMD through its training of party monitors and its engagement with political parties Secretaries General, emphasized on how political parties and candidates can safeguard the vote through vigilant poll watching.

On elections day, the polling was largely peaceful and orderly with no significant incidents. The same was the case during counting. However, problems started emerging during result transmission, when it transpired that some results sheets had alterations using a correction fluid. The Chairperson of the Electoral Commission admitted in one of her briefings that indeed, the correction fluid was used on some of the results sheets, and further said that the “problem” was not localized in one area, but from different parts across the country.

The Commission proceeded to tally the results and declared the election. However, following the announcement and declaration of official results, presidents of the MCP and UTM were not satisfied with the results and the results management process by MEC. They, therefore, petitioned the High Court (sitting as a constitutional court) asking for nullification of the presidential results. While the elections case was being handled through the court process, there were demonstrations led the Human Rights Defenders Coalition, asking for the resignation of the Chairperson of the Electoral Commission, for mishandling the elections. While the organizers of the demonstrations repeatedly labeled the demonstrations as peaceful, violence was widespread.

On the 3rd of February, 2020, the Court ordered that a fresh presidential election be held within a period of 150 days. The Court further said a person to be duly as President, one has to get a minimum of 50%+1 vote. The other directives were for parliament to operationalize the holding of elections, and to look at the competence of the MEC Commissioners. Following the ruling, Parliament convened and passed some electoral reform bills, but the State president withheld his assent. The Public Appointments Committee of Parliament also engaged the Electoral Commission and recommended to the President that the Commission is incompetent, and should be relieved of their duties.

The fresh elections were held on the 23rd of June, 2020. The Tonse Alliance led by MCP and UTM won the Presidency, and DPP was relegated into the opposition.

Towards a Political Party Consensus of Free, Fair and Credible Elections

An election is defined as a democratic method of institutional arrangement for arriving at political decision in which individuals acquire the power to decide by means of competitive struggle for the people's vote. Inherently therefore, an election entails that people have a right and/ or an ability to make a choice. Section 6 of the Malawi Constitution stipulates that the people of Malawi have a role to “produce” a government through an election.

It reads:

Save as otherwise provided in this Constitution, the authority to govern derives from the people of Malawi as expressed through universal and equal suffrage in elections held in accordance with this Constitution in a manner prescribed by an Act of Parliament.

Elections are therefore one of the most fundamental elements of a democratic society. However, an election can only truly serve a democratic function if it helps to translate the peoples wishes and desires, hence the need for free, fair and credible elections.

As a platform for dialogue for political parties CMD has been interested in the promotion of free, fair and credible elections. The proposed session therefore is one of the efforts towards that end.

Since the reintroduction of multiparty democracy in 1994, Malawi has had four Parliamentary and Presidential Elections and one Local Government Election. Parliamentary and Presidential Elections have been held every five years in 1994, 1999, 2004, 2009, 2014 and the last tripartite elections being in 2019, and a court sanctioned presidential elections in 2020.

All these elections have been observed by both local and international observers. After each election, observers point out some short comings and malpractices that range from unlevel playing field, poor electoral management, and unbecoming behavior of major players, just to mention a few. Thus, all the elections have generally been regarded as free, but grossly unfair. What is even more worrying is that almost the same problems and short comings have been repeated over and over again, which has led Rakner and Svasand to assert that electoral administration in Malawi has not improved since 1994.

Overall Goal

The overall goal of this assignment is to assist political parties reach a consensus on conditions for free, fair and credible elections in Malawi. It is expected that the consultant will study the elections observers reports, and distil issues that would form critical conditions for the holding of peaceful, free, fair and credible elections.

Expected Outcome

It is expected that at the end of the session, political parties, including the youth and women caucuses will reach a consensus on conditions for free, fair and credible

elections in Malawi. It is also expected that they will agree on reforms that ought to take place in order to achieve free, fair and credible elections.

Specific tasks will include:

- (a) Critical review of Malawi' s past elections especially the 2019 Tripartite Elections;
- (b) Consult with relevant stakeholders, i.e. MEC, MESN, Political parties for input;
- (c) Review regional election instruments, i.e. SADC Principles and Guidelines governing Democratic Elections, and the AU Charter on Elections, Democracy and Governance to distil relevant information;
- (d) Review the Observers Mission report to Malawi's General Elections (EU, AU EISA etc);
- (e) Investigate contextual factors that account for the challenges that are associated with elections in Malawi and suggest how these challenges can be dealt with.
- (f) Propose political / electoral reforms that may be necessary for the conditions for free and fair elections to work.
- (g) Facilitate working sessions for political party youth groups, women groups and the mainstream political parties to develop a consensus;
- (h) Finalize document and submit for adoption

Required Outputs

- (a) Inception report detailing the Consultants understanding of the assignment; work-plans; and methodology to be followed. This should be submitted to the Executive Director of CMD Malawi for discussion and approval;
- (b) Final report submitted after two weeks of feedback from CMD M Board.

Supervision and Reporting

The consultant will be under the direct supervision of the Executive Director to whom the final report will be presented.

Submission of the Technical and Financial Proposal

Interested consultants are expected to submit both technical and financial proposal to the Executive Director through email at cmdmalawi.general@gmail.com

Expressions of interest must be sent by e-mail to the same address as above by CoB on 8th of September, 2020. When submitting please put subject line: **Free and Fair**

Elections