



## **Preliminary Statement on the Electoral Process**

### **1.0. Introduction**

On 21<sup>st</sup> May 2019 Malawians undertook an important democratic assignment by holding their sixth general election after the transition in 1993 from a one-party constitutional framework to a multi-party democratic constitutional order. The election on 21<sup>st</sup> May provided Malawians with yet another opportunity to choose for themselves their representatives in Local Councils and in the National Assembly as well as the Head of Government and State of the Republic of Malawi.

The National Initiative for Civic Education (NICE) Public Trust is an active participant and observer of Malawi's democracy in general and the electoral process in particular, since 1999. This statement provides highlights of key observations and recommendations of the NICE Trust on the processes for the 2019 tripartite general elections.

### **2.0. Roles of NICE in the electoral process for the 2019 general elections**

In pursuance of its mandate as provided in the Articles of Association, NICE Trust participated in the processes for the 2019 general elections in various capacities. Firstly, as a civic education provider, NICE Trust mobilized Malawians to actively participate at each stage of the electoral process. We also provided and disseminated voter information relevant for each stage in the electoral process and mounted an issue-based civic education programme focusing on varied subjects or topics in governance, civic life and service delivery. As a local monitor of democratic development and elections, NICE deployed observers for all stages in the electoral process to promote rule of law and enhance inclusive, responsive and accountable electoral governance and management so that democracy is made much more meaningful to ordinary people. For polling, NICE Trust deployed 462 roving monitors and 5002 stationed monitors covering all polling stations across the country.

This statement and the comprehensive report that will be released subsequent to this statement is based on field level observations documented by volunteers and monitors.

### **3.0. Acknowledgements – A vote of gratitude to our partners**

NICE Trust has been able to carry out its mandate by drawing on the goodwill and collaboration of many individuals and organisations. NICE Trust, therefore, is grateful for the support it

received that helped to ensure its roles and contribution to the 2019 tripartite elections. The following require special mention:

- i. First and foremost NICE expresses appreciation to the European Union (EU) and the Government of the Republic of Malawi for financial and technical support throughout the electoral process. NICE takes this support as an indicator of the relentless willingness of the European Union and the Government of Malawi to enhance democracy in Malawi.
- ii. NICE Trust would like to express its appreciation to the Malawi Electoral Commission for accrediting NICE Trust to participate in the electoral processes. NICE would also like to express its gratitude to all the CSOs that played several and various complimentary roles in the electoral process for mutual collaboration, synergistic relations and moral support.
- iii. NICE Trust also acknowledges the contribution of all its roving and stationed monitors, especially from its volunteer structure, who travelled to distant and difficult locations and provided data on a daily basis on which basis the work of NICE Trust in the electoral process was executed.
- iv. NICE Trust's successful participation in the electoral process would not have been possible without the dedication and commitment of its technical staff from its secretariat, regional and district offices whose concerted efforts in executing the planned interventions ensured adherence to professional standards such as political neutrality and impartiality and the pursuit of efficiency in the delivery of services for civic empowerment.

#### **4.0. Overall Election Management**

The overall management of the electoral process through all its stages has been good. NICE would like to commend the Electoral Commission and the Government for the following key elements in the management of the electoral process:

- i. Provision of adequate funding for the elections by the Government. NICE finds this to be a demonstration of Government commitment to procedural democracy. It is extremely important and satisfying that progressively, reliance on donors to fund national elections is receding;
- ii. Timely appointment of the Electoral Commissioners by the President as mandated by the Constitution and the Electoral Commission Act which enabled the commissioners to take up their posts and start preparations for the 2019 tripartite elections in good time;
- iii. Proactive communication of information on any election matter to all stakeholders. NICE expects this to continue to the end of the electoral cycle;
- iv. Implementation of most of the administrative reforms as recommended in previous observation reports to enhance the credibility of the electoral process and election results while increasing the confidence of the public in the elections;

- v. Effective use of the National Elections Consultative Forum (NECOF) to engage with electoral stakeholders and enhance transparency and accountability while preventing and managing conflicts;
- vi. Successful implementation of Biometric Voter Registration (BVR) and accreditation of national and international observers for the electoral process;
- vii. Highly improved logistics management and execution of operational plans by the Electoral Commission;
- viii. NICE has observed increased responsiveness of the Commission demonstrated by its quick decisions and action on a number of issues that were presented to the Commission on the eve of polling and through the Election Day. NICE commends the Commission for this attitude and hopes that this spirit and approach will be sustained until the results of the elections are declared.

## **5.0. Legal framework for Elections in Malawi**

Malawi's legal framework for the elections is an assemblage of Constitutional provisions and four statutes, namely, the Electoral Commission Act; Presidential and Parliamentary Elections Act; Local Government Elections Act, and the Political Parties Act. It provides for a majoritarian electoral system based on simple plurality for all elections. For Parliamentary and Local Government elections, it provides for single member electoral districts called constituencies and wards, respectively. Candidates can be sponsored by political parties or they can be independent.

### **5.1. Key observations of the legal framework in relation to the 2019 elections**

- i. All legal problems identified in previous elections that had to be addressed by amending the law remain in place as Parliament rejected electoral law reforms that were developed and proposed through a highly consultative process;
- ii. The Political Parties Act which came into force in December 2018 prohibits the distribution of handouts by political parties, candidates and their agents. However, the practice continued unabated during this election as the MEC could not enforce it on the basis that that enforcer of this statute is the Registrar of Political Parties whose office does not yet have an institutional framework for executing this mandate;
- iii. The electoral law does not adequately address the problem of electoral violence. Electoral violence is seen only as a criminal matter and therefore entirely left for Police action. MEC is not sufficiently mandated to respond and address electoral violence alongside the Police. Many stakeholders believe and would want a clear role for MEC to be spelled out because electoral violence is a special type of criminal behavior which has significant impact on the credibility, freeness and fairness of the electoral process.
- iv. The legal framework for elections indirectly but significantly promotes and encourages hate speech, defamation and character assassination among candidates, their supporters and agents as it grants a blanket privilege of immunity from criminal liability for anything

said or expressed about political opponents as part of the right to campaign. Section 59 of the Presidential and Parliamentary Elections Act is most explicit on this:

***“59. Every political party and every representative, member or supporter thereof shall enjoy complete and unhindered freedom of expression and information in the exercise of the right to campaign under this Act and no person shall, during or after the period of campaigning, be subjected to any criminal prosecution for any statement he made or any opinion he held or any campaign material he produced, published or possessed while campaigning in the election”.***

- v. The Electoral Commission rejected accredited service providers to serve as monitors as was the case in all previous elections and designated all of them as observers. We hold the view that this decision is unlawful. Section 84 of the said Act provides for monitoring of elections by local Non-Governmental Organisations while section 85 stipulates the functions of the monitors. Section 102 of the Parliamentary and Presidential Elections Act provides that there should be transparent, credible and fair elections by allowing neutral parties to observe and monitor the elections. In the context of tripartite elections, the two statutes operate concurrently. It is our view that monitoring of elections by the local Non-Governmental Organisations therefore covers the whole election. The provisions of the Local Government Elections Act should be read together with the provisions of the Constitution, the Parliamentary and Presidential Elections Act and the Electoral Commission Act.

## **5.2. Key recommendations on legal framework**

- i. Electoral law reforms should be revisited and renegotiated and ideally should be enacted before the third year of the next term of government;
- ii. Both the Political Parties Act and the Electoral Commission Act should be reviewed to create clear synergies between the Electoral Commission which regulates the electoral process and the Registrar of Political Parties which is mandated to sanction the use of handouts by political parties and candidates for purposes of electioneering;
- iii. Electoral laws should be reviewed to strengthen the provisions on electoral violence so that the vice is both a criminal and an electoral offence.
- iv. The Law Commission should review section 59 of the PPEA and make necessary recommendations to address hate speech, character assassinations and defamations while campaigning for elected offices.
- v. The Law Commission should review the electoral statutes and consolidate them and ensure that section 84 of the Local Government Act and section 102 of the Presidential and Elections Act are unambiguously clear on the role of NGOs and other stakeholders in so far as monitoring and observation of the elections are concerned.

## **6.0. Civic Education**

The mandate for civic and voter education is given to the Electoral Commission under section 8 (j) of the Electoral Commission Act and to the National Initiative of Civic Education Public Trust. Through a process of accreditation carried out by the Commission, Civil Society Organisations are delegated to provide civic and voter education on behalf of and in collaboration with the Electoral Commission.

### **6.1. Key observations on civic education**

NICE has observed that CSO involvement in monitoring, mass mobilization and civic and voter education for the 2019 electoral process has been at its lowest level. While the Electoral Commission accredited a total of 117 organisations for these purposes, only a few of them were able to execute their roles with limited geographical coverage and without consistency. The main problem is that the CSO sector has faced severe resource constraints for purposes of civic education since suspension of the basket fund that had been created for this purpose.

### **6.2. Key recommendations on civic education**

- i. Stakeholders led by the Ministry of Civic Education, Culture and Community Development and the Electoral Commission should review the design and implementation of the civic and voter education basket fund and come up with a revised but sustainable financing model for civic and voter education;
- ii. The Ministry of Education, Science and Technology should increasingly integrate civic and voter education topics in the primary and secondary schools curricula to initiate our children to civic life;
- iii. Stakeholders and Civic and Voter Education (CVE) providers are encouraged to identify and use locally available resources and structures to effectively, efficiently and sustainably deliver civic and voter education services.

## **7.0. Registration**

NICE's role in monitoring the voter registration phase was to ensure that the process was conducted in accordance with the law, and more importantly, to effectively contribute towards credible, free and fair elections, thereby enhancing democracy and good governance.

### **7.1. Key observations on voter registration**

- i. Voter registration commenced on 26<sup>th</sup> June and ended on 9<sup>th</sup> November 2018. MEC created 567 new centres over and above the number for 2014 for the 2019 tripartite election registration. This eased access to registration centres for many people. Except for very few centres which experienced hiccups each centre was open for 14 days.
- ii. Biometric Voter Registration (BVR) was adopted and used for the first time. Previous elections used Optimal Mark Registration (OMR). The use of BVR and collaboration between MEC and the National Registration Bureau increased the efficiency of the

- registration process which lasted not more than one minute per person and led to a more credible voters roll than in previous elections;
- iii. Political party engagement in mass mobilization for registration was rather limited because of simultaneous activities such as primary elections and party conferences and conventions that were taking place during the same period as registration;
  - iv. Across the country, more women (56%) than men registered to vote and young people (18-35yrs) constituted 54% of registered voters for the 2019 elections.
  - v. Compared to 2014, fewer voters registered in many districts on account of several factors including the following: Unsatisfactory performance of elected officials; perception that people's votes do not matter because outcomes are pre-determined by electoral authorities; perception based on misinformation that they would be able to vote using the National ID only; the introduction of the National ID which removed the need to use a voters certificate as an identity document and therefore removed the incentive to register as voters; and culturally embedded procrastination leading to congestion at the registration centres on the last day thereby creating frustration for some potential voters who simply turned away without registering.
  - vi. Incidents of missing registration equipment such as the BVR kit that went missing while in transit to Mwanza and was found on a train in Mozambique and thefts of registration computers and genset in the North worsened fears and speculation of a grand scheme to rig the election at registration stage. MEC managed this incidents very poorly and the explanations provided and the manner and tone in which the explanations were given did not inspire confidence.

## **7.2. Key recommendations on registration of voters**

- i. Stakeholders need to create new narratives and identify new incentives to convince and attract people to register for voting when performance of elected officials is wanting and they are seen as self-serving rather than acting in the interest of the greatest good for the greatest numbers in our societies;
- ii. Stakeholders must engage in a search for a sustainable financing model for civic and voter education that will meaningfully enable CSO to remain engaged in the electoral cycle to support the cause of civic empowerment of the citizens;
- iii. MEC should consider introducing online registration for repeat voters who have their National IDs and Voter certificates from previous elections;
- iv. While MEC's communication and attitude towards stakeholder concerns improved a great deal along the way, it is important that the Commission improves its system on logistics management and investigative capacities in order to adequately respond to stakeholder concerns.

## **8.0. Verification of Voters Roll**

Voter verification is important as it gives an opportunity for registrants to verify their names and pictures in the voters roll; make transfers for those who would not want to vote at the centers they had registered; and guides the Electoral Commission on quantities of materials to be printed or procured for the election.

### **8.1. Key observations on verification of voters' roll**

- i. The exercise was poorly patronized, probably due to poor timing as it was carried out during the farming season; and the awareness and mobilization activities for the exercise started late.
- ii. MEC introduced voter verification using a USSD code on mobile phone networks by dialing \*2019# which made verification easier, time efficient and cost-effective;
- iii. The transfer window, tied to the verification exercise, came too early – five months before polling. As evidenced on the polling day, this has had the effect of disenfranchising voters who had to move places in the period between verification and polling in view of an administrative decision made by the Commission not to grant 'Authority to Transfer'. This will obviously contribute to an increased level of voter apathy.

### **8.2. Key recommendations on verification of voters roll**

- i. In view of low patronage due to agricultural seasonality and the ease and efficiency of using USSD code on mobile phones for verification, stakeholders must review the need for physically opening ALL centres for verification. To aid this review, the commission should release information and data on verification using the USSD code, showing geographical spread of the use of the code, numbers of voters that used it etc.;
- ii. MEC should consider de-linking the transfer window from the voter verification exercise and allow transfers up to two months before polling to avoid administrative disenfranchisement of registered voters and consider developing and executing an electronic system for processing and issuing 'Authority to Transfer'.
- iii. In addition to verification by mobile phone, MEC should consider introducing online verification.

## **9.0. Nomination of candidates**

Nomination of candidates for the presidency, parliamentary and Local Council seats were carried out from 4<sup>th</sup> to 8<sup>th</sup> February 2019 at various centres across the country.

### **9.1. Key observations on nomination of candidates**

- i. Most candidates fulfilled the requirements for nomination for their respective elections. Only a few did not and were disqualified as required by law. This means that information on eligibility criteria and completion of nomination forms was well disseminated and understood by aspirants.

- ii. The eligibility criteria includes ability to speak the English language well enough as to be able to effectively participate in the proceedings of the elected bodies. However, there is lack of clarity on the kind of evidence that is acceptable to prove this eligibility criterion.
- iii. The requirement of aspirants to pay non-refundable nomination fees determined by the MEC using opaque criteria or arbitrariness raised questions and ignited a discourse on how this requirement infringes on political rights of poor citizens to participate in elections as candidates; how it creates or reinforces economic classes, meshes them with politics and sustains political exclusion. Further questions were raised as to what MEC uses the money for, how it accounts for it and whether MEC should be allowed to be used as a revenue collector for government by turning itself into a market for trading rights of political participation in the electoral process. These are fundamental questions that remain unaddressed and will likely come up again with renewed vigour at the next general election if they remain unaddressed.
- iv. The number of nominations for women improved over those of 2014. However, the number of female candidates still lagged behind that of men with a significant margin as shown in the table below. This variance indicates that there is an uphill task to achieve gender parity in politics and political decision making structures.

**Table 1: Share of nominations for women**

<b>Election</b>	<b>Number of seats</b>	<b>Number of Female candidates</b>	<b>Number of male candidates</b>	<b>Proportion of female candidates</b>
Presidential	1	0	7	0
Parliamentary	193	295	1034	28.52%
Local Government	462	645	2064	31.25%

- v. While political parties started off with party primary elections to identify candidates for parliamentary and local government elections, none of them completed the process as primary elections often ended up in disputes and caused cracks in parties, with disgruntled aspirants defecting to new parties or going solo as Independent candidates. The abandonment of primary elections avoided intra-party conflicts but it undermined internal democracy. This shows that our political parties are yet to get institutionalized and most of them do not appear to have clear and agreed frameworks of rules and practices for identifying candidates for elections.



## **9.2. Key recommendations on nomination exercise**

- i. MEC and stakeholders should review the eligibility criterion on ability to speak the English language and make recommendations for either the kind of evidence that candidates must present to prove language proficiency or the need and relevance of a criterion that requires political representation in Malawi to be carried out in a foreign language;
- ii. At the post-election review conference in the aftermath of the 2019 elections, MEC should prepare and present a paper addressing the many questions the public have raised on the non-refundable nomination fees;
- iii. Programmes on women's political empowerment that seek to increase the numbers of women in elected decision making structures should particularly target candidate selection processes in political parties leading to nominations. The fewer the women are nominated, the more distant and elusive is the goal of gender parity in the National Assembly and Local Authorities in the context of the majoritarian electoral system that we run in the country.
- iv. Political party leaders should grow out of the tendency of thriving on the edges of chaotic internal arrangements by ensuring that predictable and clear rules are developed and enforced to promote internal democracy within the political parties.

## **10.0. Campaign**

The official campaign period started on the 20<sup>th</sup> of March and ended 48 hours before the commencement of polling which by law (section 67 (1) of the Constitution) is on the Tuesday of the third week of the month of May. It is a period of two months which for a majority of citizens constitutes the heart of the heart of the election.

### **10.1. Key observations on campaign**

- i. During this election as in previous elections, candidates and political parties began campaigning very vigorously way before the official campaign period, contravening the provisions of the electoral law. All political parties engaged in this practice to the extent that there was no difference between the official campaign period and the period before it in terms of political party activities for electioneering. NICE notes, however, that the unofficial period of campaign is unregulated by the Electoral Commission.
- ii. Although handouts for purposes of electioneering are banned under the Political Parties Act, handouts have pretty much been a characteristic feature of the 2019 elections. The law was not enforced at all mainly because of the absence of an institutional framework for collaboration between the Electoral Commission which regulates the electoral process and the Registrar of political parties which has mandate to enforce the Political Parties Act. Furthermore, the notion that materials are handouts when they are for private benefit and without election messages is permissive of handouts as candidates and

parties simply brand the materials with party colours even when the materials are exclusively for private benefit of the recipients.

- iii. The politics around notification of campaign rallies at public venues fueled the occurrence of inter-party electoral conflict. Public servants involved in approving venues for political rallies are confounded by executive interference and fear of political reprisals to act in favour of the ruling party. Consequently, opposition parties had to reschedule meetings at different venues simply on account of the ruling party indicating its intention to hold a rally at the same venue on the same day.
- iv. The youth cadres of political parties, often appropriated the political space and projected a sense of misguided entitlement that motivated them to act with impunity against other political parties, uprooting flags and removing any other campaign materials of rival parties. Police investigations have not been forthcoming or have been very slow;
- v. Traditional leaders in some parts of the country contributed to the infringement of political rights of citizens and political parties by refusing some political parties and candidates to hold political meetings in their areas of jurisdiction. This practice is against the letter and spirit of the electoral laws. It is, however, reinforced by the first-past-the-post electoral system which, in our context, encourages non accommodative politics by creating 'party strongholds' which become 'no-go zones' for political opponents and hotspots of electoral violence. Furthermore, traditional leaders are incentivized to be politically biased in favour of ruling parties because the Chiefs Act binds them to the Presidency of the country and by extension to the ruling party.
- vi. The campaign season was characterized to a good degree by hate speech, verbal abuse, defamatory statement and outright incidents of character assassination among candidates and their supporters. This practice goes on unabated because the electoral law condones it through section 59 of the Presidential and Parliamentary Elections Act by granting campaigners immunity against any criminal or civil liabilities arising from things uttered while on the campaign trail.

## **10.2. Key recommendations on campaign**

- i. The Political Parties Act should be supported with a proper institutional framework for its implementation and the MEC, the Registrar of Political Parties and the Anti-Corruption Bureau (ACB) should collaborate to define and implement a strategy of jointly implementing those provisions that are of shared or mutual interest such as the giving and receiving of handouts during the campaign period;
- ii. The Electoral Commission and the Malawi Police should collaborate and institute a strategy for anticipating and responding to electoral violence;
- iii. Electoral laws should be reviewed to provide penalties for individuals and political parties that are found of perpetrating acts of violence during elections;

- iv. Electoral Commission should consider converting all codes of conduct for various stakeholders including that of Traditional Leaders into regulations. This will help in properly sanctioning traditional leaders who create ‘no go zones’ of their areas for some political parties and candidates. The current codes of conduct have no enforceable sanctions and are dependent on the goodwill of stakeholders to adhere to them.
- v. The laws on political and campaign financing as provided in the Political Parties Act should be operationalized as soon as possible to manage and contain the influence of money in politics and governance.
- vi. Harmonization of electoral laws on campaign finance and the provision of the political parties act.

## 11.0. Role of media and social media

### 11.1. Key observations

- i. Media coverage of the electoral process has been robust especially by private and faith-based and community media houses. The state broadcaster persisted in its biased coverage in favour of the ruling party;
- ii. NICE observes that for the 2019 elections, the Malawi Communications Regulatory Authority did not track and publish coverage of political party election activities as has been done in previous elections;
- iii. Social media has been abused to spread fake news about the elections while simultaneously serving as an early warning sign and a very convenient way of quickly sharing important information that has injected a semblance of transparency and responsiveness of the authorities;
- iv. With social media, the cooling period of the campaign before polling has been violated. Electioneering has continued digitally through several devices well after the campaign period and even during polling;
- v. MEC abandoned designating any media house as an official broadcaster of election information. NICE would like to commend MEC for this decision which has levelled the ground for all media houses.

### 11.2. Key recommendations

- i. Stakeholders should find ways of reforming the state broadcaster and ensure that it becomes a true public broadcaster serving all Malawians not just a particular political community.

## 12.0. Polling

### 12.1. Key observations on polling

- i. Despite isolated incidents of scuffles and disputes, the Election Day proceeded in atmosphere that was largely peaceful and characterized by the observance and maintenance of law and order. NICE would like to express gratitude and commend security agencies, in particular, the Malawi Police, Defence Forces, Prison Services and Department of Immigration services for their vigilance and diligence in maintaining law and order and in responding to incidents of illegalities, irregularities and conducts that were likely to cause breach of peace on the election day;
- ii. It is commendable that a large proportion of polling stations opened on time. Only 2.5 percent of stations opened late due to various reasons. The main reasons for late opening included missing materials such as ink pads, seals for ballot boxes, log books and pens. This occurrence suggests that packaging of materials was in some cases not very well done and that polling staff did not take heed of the advice provided by the Commission to check the adequacy and accuracy of the election materials delivered to their polling stations; late set up of polling premises mainly because polling staff showed up late at the polling stations; deficiencies of polling materials especially ballot boxes with seals that did not have serial numbers. This also suggests challenges within the logistics and operational services of the MEC; and disagreements between polling staff and security personnel over security protocol and identification issues. This suggests that polling staff and security personnel were not briefed from the same script or one group was trying to act un-procedurally.
- iii. NICE commends MEC for an effective system through which registered voters who lost their voter certificates were allowed to cast their votes and for 'Authority to Transfer' granted to specified categories of voters.
- iv. It appears that a significant number of voters who registered to vote were turned back for various reasons but many cases appear to be due to lack of authority to transfer between polling stations;
- v. Candidates and party agents in a significant number of places continued to campaign and engage in electioneering activities on the polling day against the law. The Election Situation Room received reports, verified them and acted through the intervention desk.
- vi. Through the Election Situation Room, NICE observed that there were incidents of violation of the secrecy of the ballot. Cases included those of security personnel and party monitors sat too close to polling booths; assisted voters and many others that on their own volition took pictures of their completed ballots before casting them and posted the same on different social media platforms. At a few centres security personnel detained voters who took pictures of their ballot papers and confiscated phones until closure of polling.

## 12.2. Key recommendations on polling

- i. MEC should review and reconsider the imposing of administrative bans on transfers;
- ii. MEC should consider converting the code of conduct for political parties into statutory regulations to help enforce specific provisions of the electoral laws such as prohibition of electioneering on the polling day;
- iii. MEC should clarify the practical aspects of the principle of the secrecy of the ballot. In particular, whether voters violate the principle when they voluntarily reveal their choice especially by publishing images of their ballot papers on social media platforms.

## 13.0. Results management

### 13.1. Key observations on results management

- i. **Lighting:** In many polling stations, counting of votes was affected by inadequate or poor lighting. Only 14.29 per cent of stations reported having 'adequate lighting'. The lamps provided by MEC were not working for most polling stations. However, only 15.79 per cent of polling stations are reported to have transferred ballot boxes to another place for counting of votes on account of bad lighting. In some cases there were disputes about where to go for counting.
- ii. **Spoilt ballots:** During voting, new ballot papers were given to voters who made mistakes on their initial ballot papers. This was observed at 88.89 per cent of polling stations. Monitoring data shows that at polling stations equivalent to 22.22 per cent, voters kept spoilt ballot papers after being given new ones. This practice was un-procedural and it contributed to challenges for ballot reconciliation during counting of votes and violated a legal provision that requires such ballots to be retained by polling staff.
- iii. Transmission of results from polling centres to tally centres has been badly affected by inability of presiding officers to carry out correct reconciliation of polling materials especially ballot papers, and reconciliation of registered and actual voters at polling stations. While this problem shows that presiding officers did not receive adequate training on this aspect, there is anecdotal evidence that unscrupulous candidates and their agents have taken advantage of the situation to tamper with results of the elections and subvert the will of the people.
- iv. NICE also observed unethical and dishonest conduct of compromised presiding officers who were caught changing figures on results sheet and also transposing figures between candidates when reporting them to Constituency Returning Officers especially in some polling stations in Chikwawa and Nsanje.
- v. NICE has also observed that in trying to reconcile figures, some presiding officers have redistributed votes among candidates, in the process reducing votes for some while increasing votes for others. This practice does not only cheat the candidates, but it also

subverts the sovereignty of voters and yield electoral outcomes that are not credible and fair.

- vi. NICE has also observed that in some places in Nsanje, a Presiding Officer has been found with election materials such as ballot boxes with ballots cast for one candidate but not from any polling streams of the station.
- vii. NICE takes the view that the problems on results managements directly relate to the eleventh hour recruitment of teachers to serve as polling staff after trainings of other polling staffs had been done already. The teachers were at best only briefed. NICE also takes the view that some teachers were likely to be vulnerable and manipulated by some party agents in order to serve their partisan interest.

### **13.2. Key recommendations on results management**

- i. MEC should investigate thoroughly and establish why Presiding Officers were unable to do basic arithmetic processes to reconcile election materials especially ballots; and to accurately complete result forms;
- ii. MEC should investigate and disclose the extent and geographical spread of the cases of fraud and alteration of figures on result sheets and explain to stakeholders the role of election result auditors that it recruited and deployed to all tally centres.
- iii. Political parties should seriously invest in the development of a pool of party monitors. The credibility and integrity of the electoral process and its outcomes tomorrow is dependent on the vigilance, diligence and integrity of political party monitors. The monitors enforce transparency in the electoral process, participate in the counting of results, sign for results and keep copies of certified results at their level and ensure that tallying is correctly done and that results at the National Tally Centre are consistent with results at Constituency and District Tally Centres.
- iv. The malpractices demonstrated by some presiding officers in some centres in changing results underscores, the need that presiding officers should be accompanied by at least two monitors from different parties to deliver results to the Constituency Returning Officer.

## **14. Responsiveness to Incidences**

The Election Situation Room received incident reports from multiple sources and verified them. Incidents received fall into the following categories:

- i. Inadequate or missing election materials;
- ii. Identification of voters and their rights to vote;
- iii. Electioneering by candidates or agents of political parties and candidates near or at polling stations while polling was under way;
- iv. Ballot paper irregularities including missing details of candidates;

- v. Irregularities in voting procedures and counting of votes;
- vi. Shortages of polling staffs in some polling stations;
- vii. Transfer of ballot boxes for counting votes at locations other than the polling station, mostly due to lighting problems;
- viii. Delayed transmission of results from some polling stations to constituency tally centres due to administrative or logistical issues.
- ix. Attempted fraud through alteration of results and other election records by presiding officers.

Through the Intervention Desk, NICE has supported investigation of these incidents and some cases also their resolution. On results, NICE has been receiving, verifying and collating figures from our monitors at polling stations and tally centres and will use these to verify and validate the results that will be announced by the Electoral Commission.

#### **14.0. Conclusion**

In conclusion, it is our view that the 2019 tripartite election has been held in a peaceful environment. Until issues around results are resolved and the results are announced, it is not possible for NICE to pronounce a position on the freeness and fairness of the election. A position on this will be taken and communicated in a comprehensive report that will be issued in subsequent weeks.

As MEC is finalizing the tallying of results for determination, we appeal to all Malawians to remain peaceful, orderly and calm. We also appeal to MEC to swiftly deal with complaints before it as the country is eagerly waiting for the official determination of the result.

NICE would like to thank our thank our partners that for the last few days have manned our intervention desk of the Election Situation Room and worked diligently to respond to incidents as they occurred. Special mention is for the Malawi Police Service, Electoral Commission, Malawi Human Rights Commission and Centre for Multiparty Democracy.

We also would like to thank relevant authorities in the districts and polling stations who heeded advice from the Intervention Desk and acted swiftly to respond to incidences. We also thank all our monitors and volunteers across the country for their efforts and commitment to deepening and broadening the reach of democracy.

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