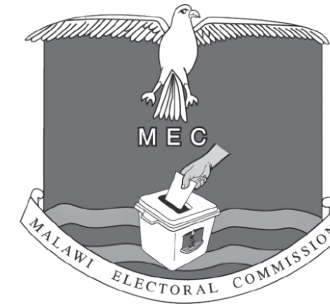




YOUR VOTE

YOUR RIGHT

YOUR CHOICE



MALAWI ELECTORAL COMMISSION

**ELECTORAL CODE OF CONDUCT FOR
POLITICAL PARTIES AND CANDIDATES
FOR THE 2019 TRIPARTITE ELECTIONS**

Malawi Electoral Commission

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MALAWI ELECTORAL COMMISSION

ELECTORAL CODE OF CONDUCT FOR
POLITICAL PARTIES AND CANDIDATES
FOR THE 2019 TRIPARTITE ELECTIONS

(Prescribed under Section 61(2) of the Parliamentary and Presidential Elections Act No. 31
of 1993 and under Section 45 of the Local Government Elections Act No. 24 of 1996

MALAWI ELECTORAL COMMISSION

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Message from the Chairperson

Holding of credible elections is a collective responsibility of all electoral stakeholders. To that effect the Malawi Electoral Commission has developed several codes of conduct guiding various stakeholders on how they can play their rightful role during electoral processes.

I am glad to present to the Electoral Code of Conduct for Political Parties and Candidates. The aim of this code of conduct is not to police them but to act as a guideline on how the candidates, political parties and their followers should conduct themselves in the run up to the 2019 elections. The code of conduct outlines expected behavior and also behavior that should be avoided in order to ensure smooth, peaceful and exciting Tripartite Elections.

It is the honest expectation of the Commission that political parties, candidates and their followers will adhere to this code of conduct. It will be meaningless to have a well-articulated document like this one ignored by them.

Assessment of credibility of elections does not look at what happens on the elections day but the entire process and against the existing legislations, subsidiary legislations and codes of conduct like this one. Therefore, Commission is very optimistic that political parties and contestants shall stick to the provision of this document. They shall concentrate on issue-based campaign; what they will do if elected or re-elected and not dwell on character assassination and name calling.

I urge leaders and everyone else to popularize this document among all and sundry. The contents therein are not for the benefit of political parties and candidates only but everyone involved in elections. We should all avoid use of language and pronunciations that easily incite violence, hatred, unrest and instill fear among members of the public. Elections time should be one of the most celebrated and enjoyed period in our democracy calendar.



Justice Dr Jane Ansah SC

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PREAMBLE

One crucial tenet of free, fair and transparent elections is the right to participate and campaign freely by all election contestants. All persons have the right to express their political convictions and views, within the limits of the law, without fear of intimidation or threats from anybody throughout the whole electoral process.

Freedom of campaigning also carries responsibilities, which include tolerance and encouragement of others to express their own independent views and opinion. In particular political parties and their members are responsible for ensuring that their internal processes facilitate the participation of under-represented people – notably women – to campaign and run for office and participate freely in all activities related to the electoral process.

- a) All Malawians have an allegiance to Malawi. The duty to bear allegiance to Malawi binds all Malawians. During election time, the observance of this duty comes into sharp focus.
- b) All registered political parties and other persons participating in the electoral process shall endeavor to promote a peaceful and enabling environment to enable free political campaigning and open debate to take place in all parts of Malawi during the election period.

Section One: Purpose

The purpose of this Code of Conduct is to promote conditions that are conducive to the conduct of free, fair, transparent elections; and a climate that includes tolerance for democratic debate, political activity. The code also promotes the respect for free expression of individual or group opinions, beliefs, equal political participation by all eligible voters throughout the electoral process.

Section Two: Promotion of the Code of Conduct

All contesting political parties, their members, supporters and all candidates and their supporters agree and shall promote, publicize the Code in their election campaigns and post a copy of this Code in a conspicuous place in every contesting political party and campaign office.

Section Three: Compliance with the Code and the Electoral Laws

All contesting political parties and candidates shall:

- (1) Instruct all their members, supporters and officials to abide by this code in full;
- (2) Take all reasonable steps to ensure that all their members, supporters and officials comply or abide by this Code in full;
- (3) The signing of this code affirms that they will abide by it.

Section Four: Rights of Parties and Candidates

All political parties and candidates shall publicly state that everyone has the right within the limits of the law to:

- (1) Freely participate in the electoral processes including expressing their political beliefs and opinions without fear or threat of recrimination and using public resources equitably;
- (2) Debate the political beliefs and opinions of others and offer alternatives to those beliefs and opinions; without any character assassination or defamatory insinuations;
- (3) Publish, distribute and post campaign materials and advertisements;
- (4) Erect banners, billboards, placards and posters;
- (5) Canvass support for a political party or candidates;
- (6) Recruit members to join a political party or to campaign for the political party or the candidates;
- (7) Hold political public meetings and rallies;
- (8) Travel and attend political public meetings and rallies; and
- (9) Ensure all candidates are able to safely campaign in an environment free from violence and intimidation, including gender-based discrimination.

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Section Five: Cooperation with District Commissioners/Chief Executive Officers and the Police

- (1) The contesting party or candidates shall inform the District Commissioner or Chief Executive Officer and the local Police authorities of the venue and time of any proposed meeting at least 24hrs before the meeting so as to enable the Police to make necessary arrangements for controlling traffic and maintaining peace and order and the police should ensure to avail themselves and provide security for the function.
- (2) The District Commissioner and/or the Chief Executive Officers shall ascertain in advance if there are any restrictive or prohibitory orders in force in the place proposed for the meeting. If such orders exist, they shall inform the political party or candidate so that they apply for exemption.
- (3) Organizers of a meeting shall seek the assistance of the Police on duty for dealing with persons disturbing a meeting or attempting to create disorder. Organizers themselves shall not take action against such persons.
- (4) All contesting parties or candidates shall denounce and report to the police acts of violence and cooperate with the law-enforcing agencies in handling of cases of violence including the recovery of weapons of violence and the arrest of persons in possession of weapons.

Section Six: Results of the Election

All political parties and candidates shall, on the day of nomination publicly declare by signing a declaration form as a commitment to accept the results of any election or challenge the results in court under the Electoral Law, Parliamentary and Presidential Elections Act, Local Government Elections Act and the Constitution, as may be amended.

Section Seven: Prohibited Conduct

No contesting political party or candidate or members of a political party shall do any of the following:

- 1) Use language act or behave in any way that may provoke or promote violence or
-

intimidate candidates, members of parties, representatives or supporters of political parties, candidates or voters during the whole electoral process;

- 2) Use language or act or behave in a manner that denigrates or is designed to intimidate candidates on the basis of their gender, disability or minority issues;
- 3) Deface or unlawfully remove or destroy the posters, placards, billboards, or any other election material of a political party or candidate;
- 4) Aid, abet, tolerate, or promote intimidation in any form. All parties and candidates shall, in their manuals and instructions to members and supporters reinforce this prohibition;
- 5) Desist from any kind of violence or intimidation, either physical or psychological to demonstrate political party strength or prove supremacy;
- 6) Give a gratuity to any person with the object of inducing him/her or any other person to exercise any electoral right (to stand or not to stand, to withdraw or not to withdraw from being a candidate, to vote or refrain from voting);
- 7) Accept either for himself or herself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right;
- 8) Publish false or defamatory allegations in connection with an election in respect of:
 - i. a party, its candidates, representatives or members, or
 - ii. a candidate or that candidate's representatives
- 9) Plagiarise the symbols, colours, acronyms or publications of other registered parties;
- 10) Discriminate on the grounds of race, ethnicity, sex, disability, class or religion in connection with an election or political activity unless such discrimination is legally justified to address proven inequalities such as those that adversely affect women in the electoral process;
- 11) Block access to voters for purposes of voter education, fundraising, collecting signatures, recruiting members or canvassing support for a party or candidate;

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- 12) Interfere in any manner with the independence or impartiality of the Electoral Commission and its staff;
- 13) Impersonate any other person;
- 14) Make intentional false statements;
- 15) Infringe on the secrecy of voting;
- 16) Abuse of public resources by incumbent for political party purposes;
- 17) Block booking of campaign venues.

Section Eight: Duties and Responsibilities to ensure Freedom of Access

Political parties and candidates shall have the duty and responsibility to respect freedom of access to all potential voters on public or private property within the limits of the law so as to ensure that potential voters wishing to participate in political activities are free to do so.

Section Nine: Cooperation with the Malawi Electoral Commission

Every contesting political party and candidate shall recognize:

- (1) The authority of the Commission in the conduct of the elections;
- (2) The duty of the Commission to take measures to ensure that the elections are conducted under conditions of complete freedom and fairness pursuant to Section 8(m) of the Electoral Commission Act 1998;
- (3) The authority of the Commission to prescribe this Code of conduct and enforce its compliance in accordance with Section 61(2) of the Parliamentary and Presidential Elections Act 1993 and Section 45 of the Local government Elections Act 1996.

And in furtherance of the provisions of the Parliamentary and Presidential Elections Act of 1993 and the Local Government Elections Act 1996 and of this Code of Conduct, every

contesting political party and candidate shall:

- (1) Give effect to any lawful direction, instruction, or order of the Commission or an authorized member, employee or officer of the Commission;
- (2) Facilitate the access of members, employees and officers of the Commission and the Chief Elections Officer, to public meetings, demonstrations and rallies of that party or candidate;
- (3) Co-operate in any investigation of the Commission;
- (4) Take reasonable steps to ensure the safety of members, employees and officers of the Commission in the exercise of their power or performance of their duty and ensure that representatives of political parties and candidates attend meetings or other fora convened by the Commission.

Section Ten: Cooperation with the Media

Under media guidelines, every registered contesting party and every candidate and their agents:

- (a) Must recognize the role of the media before, during and after the elections by among other things acquainting themselves with the current Media Code of Conduct;
- (b) Shall not prevent access by members of the media to public political meetings, marches, demonstrations and rallies;
- (c) Must take all reasonable steps to ensure that the journalists are not subjected to harassment, intimidation, hazard, threat, ridicule or physical assault by any of their representatives or supporters with special regard being paid to female, youth and journalists with disability;
- (d) Political parties must give information related to elections within their domain. Where necessary, registered parties, candidates and their agents should have media contact persons.
- (e) Political parties are encouraged to ensure, where possible, equal access of men and

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women candidates to the media, and ensure negative gender stereotyping is not perpetuated through the media.

Section Eleven: Sanctions for Violation of this Code

All contesting political parties and candidates must recognize and agree that the Commission shall have the authority to enforce compliance of the provisions of this Code of Conduct.

Section Twelve: Resolution of Conflicts

If negotiations and conflict resolution; and use of Multiparty Liaison Committees fail to resolve a conflict (in reference to section Seven) the Commission shall, dependent on the gravity of offence:-

- (1) Issue warnings and directives;
- (2) Issue orders to cease and desist;
- (3) Order the disqualification of parties or candidates from the ballot;
- (4) Enforce penalties prescribed by the Electoral laws as amended. Provided that any contesting political party or candidate aggrieved by a disqualification or a penalty imposed by the Commission shall appeal for judicial review in the High Court within 7 days of the order or disqualification or fine as the case may be.



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Section Thirteen: Signatory of Candidates and Representative

We the signatories hereunder on behalf of political parties and candidates contesting Parliamentary and Presidential Elections, Local Government Elections and any other By-elections and who are engaged in political campaigns, rallies, meetings and other forms of activities in connection with the elections cited above declare that we hereby subscribe to this Code of Conduct and that we shall always abide by it.

CANDIDATE NAME _____

PARTY _____

(If not applicable, write independent)

SIGNATURE _____

MEC REPRESENTATIVE _____

DESIGNATION _____

SIGNATURE _____

Appendix

Electoral Offences

Political parties and candidates are reminded that the following electoral offences are punishable either by imprisonment and/or by fine.

- (1) A person who –
- (a) in relation to registration of voters –
 - i. obtains his/her registration by giving false information;
 - ii. gives information to obtain his/her registration or the registration of another person
 - iii. obtains registration in more than one registration area;
 - iv. registers another person knowing that that other person is not eligible for registration;
 - v. prevents the registration of another person knowing that that person is eligible for registration;
 - vi. having the authority to do so, does not delete a registration which he knows to be incorrect;
 - vii. falsifies a register;
 - viii. with fraudulent intent, modifies or substitutes a voters registration certificate;
 - ix. through violence, threat or fraudulent intent, prevents the registration of another person;
 - x. knowingly obstructs the detection of incorrect registration or the verification of voters rolls;

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(b) In relation to campaigning for the election-

- i. Prevents the holding or interrupts the proceedings of a meeting;
- ii. denies any candidate equal treatment with any other candidate based on sex or other status;
- iii. destroys, defaces, tears or in any manner causes to be totally or partially useless or illegible any campaign material displayed in any place or superimposes thereon any other material concealing the earlier material;
- iv. being entrusted, by virtue of his/her office or functions, with displaying or depositing any campaign material, fails to display or deposit such campaign material or misplaces, steals, removes or destroys such material,
- v. because another person attended or did not attend any campaign meeting, directly or indirectly, dismisses that other person from any employment or other gainful occupation or prevents or threatens to prevent that other person from obtaining any employment or other gainful occupation or from continuing in any gainful occupation or applies or threatens to apply any sanction whatsoever to that other person;

(c) In relation to voting-

- i. not being otherwise authorized to be present or not being a registered voter, knowingly presents himself at a polling station;
- ii. knowing that he/she is not eligible to vote, casts a vote at any polling station;
- iii. fraudulently uses the identity of another person in order to exercise the right to vote;
- iv. consciously allows the right to vote be exercised by a person who does not have the right to vote;
- v. votes more than once;
- vi. accompanying a visually impaired or other assisted persons to vote, fraudulently

- and faithfully expresses a vote not according to the wish of that person;
- vii. within a radius of one hundred metres of a polling station, reveals his or her vote or procures another person by force or deceit to reveal that other person's vote;
 - viii. uses or threatens violence or uses false information or other fraudulent means to coerce or induce another person to vote for or against a particular candidate or to abstain from voting;
 - ix. being a public officer, uses his office to coerce or induce another person to vote for or against a particular candidate or abstain from voting;
 - x. directly or indirectly, dismisses or threatens to dismiss another person from any employment or other gainful occupation or prevents or threatens to prevent another person from obtaining employment or other gainful occupation or from continuing in any gainful occupation or applies or threatens to apply any sanction whatsoever to another person in order to induce that other person to vote for, or because that other person voted or did not vote for a particular candidate or because that other person abstained from voting;
 - xi. being a presiding officer of a polling station fails to display a ballot box in accordance with the requirements of this Act;
 - xii. illicitly introduces ballot papers in a ballot box before, during or after the voting;
 - xiii. fraudulently takes possession or conceals a ballot box with uncounted ballot paper or removes an uncounted ballot paper from a ballot box;
 - xiv. being a polling station officer, purposely neglects his or her duty with a view to occasioning an irregularity;
 - xv. being a polling station officer, unjustifiably refuses to receive a complaint, or a response to a complaint about the proceedings at his or her polling station or to examine and seek to resolve such a complaint;
 - xvi. disturbs the regular functioning of a polling station;
 - xvii. refuses to leave a polling station after being asked to do so by a polling station officer;

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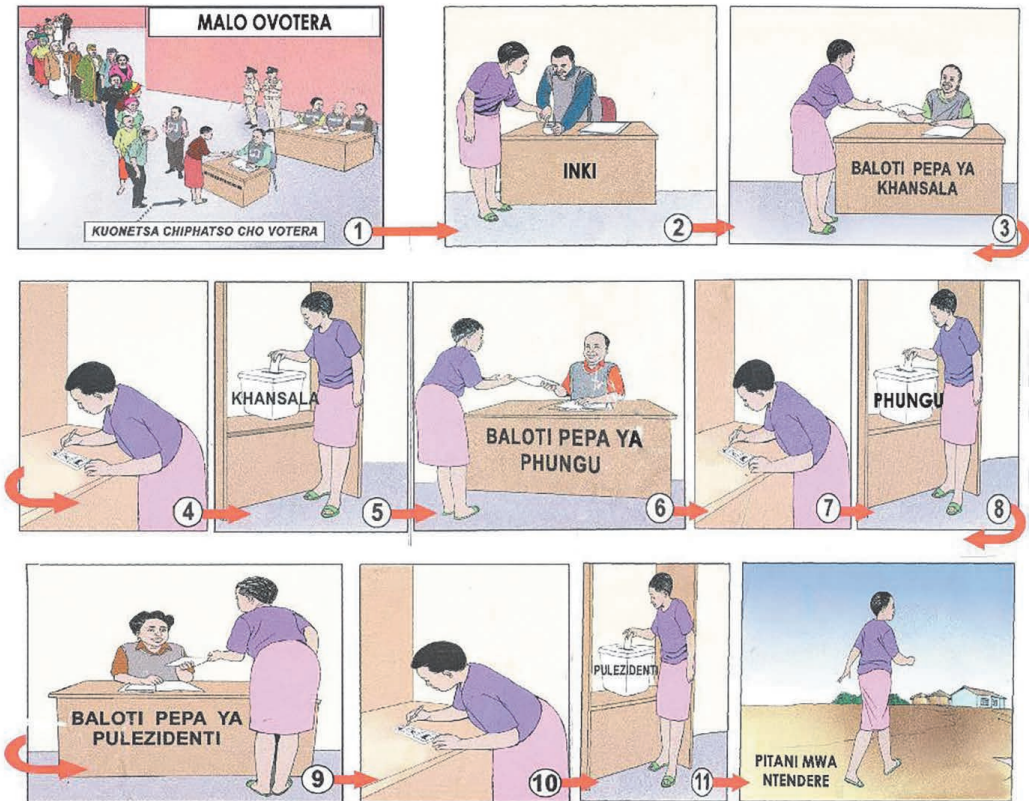
- xviii. being an officer-in-charge of police requested to assign police officers to keep order at a polling station, fails without justification to do so within a reasonable time;
 - xix. being a police officer assigned to keep order at a polling station willfully neglects his duties;
 - xx. forces family members to vote or not in a certain direction
- (d) uses or threatens to use any force or restraint to induce or compel another person to sign or refrain from signing any nomination paper;
 - (e) in any manner, fraudulently spoils, substitutes, conceals, destroys, amends or falsifies any document relating to the election;
 - (f) in bad faith, submits a complaint, or a response to a complaint or challenges or questions the decision thereon by a competent person or body; and
 - (g) without justification neglects to fulfill obligations imposed on him by or under electoral laws;
 - (h) induces the sale or surrender of a registration certificate;
 - (i) sales or surrenders or buys a registration certificate; shall be guilty of an offence.
- (2) Every election officer, candidate, election representative of a candidate or other person in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting at such station, and shall not communicate, except for some purpose authorized by law, to any person any information as to the name of any voter who has or has not applied for any ballot paper or voted at that station: and no such officer, candidate or representative or other person shall interfere with a voter after he has received a ballot paper and before he has placed a ballot paper in the box.
- (3) No person other than a person aiding a blind or an incapacitated voter in accordance with the Law, shall attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted.



MALAWI ELECTORAL COMMISSION

CHISANKHO CHA PATATU 21ST MAY 2019

.KHANSALA . PHUNGU . PULEZIDENTI
NDONDOMEKO YOVOTERA



Voti Yanu ndi Ufulu Wanu, Kusankha Kwanu, Zokhumba Zanu, Mphamvu Zanu!