NOV. 1 4 1994

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# THE INTERNATIONAL ASSOCIATION OF DEMOCRATIC LAWYERS LEGAL OBSERVER MISSION TO THE SOUTH AFRICAN ELECTIONS
## A JOINT PROJECT WITH THE NATIONAL ASSOCIATION OF DEMOCRATIC LAWYERS OF SOUTH AFRICA

MARCH - MAY 1994

FINAL REPORT

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JUNE, 1994

L'A.I.J.D est une Organisation Non Gouvernementale ayant le statut consultatif aupres du Conseil economique et social des Nations Unies et de l'UNESCO.

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## A SPECIAL INTRODUCTORY NOTE

The IADL International Legal Observer Missions to South Africa were made possible by the material support of donors from the United States who provided supplementary funds for delegates' land accommodations, local transportation, stipends for local coordinators in South Africa and the costs of duplication, transmission and dissemination of reports and telephone/telefax communications.

In addition, each delegate contributed to costs of food and personal expenses, costs of travel to South Africa and the precious time needed to participate. Their generous contributions must also be noted.

In addition to the many generous donations of time and money by individuals essential to the success of this project, particular note should be made of the unique support of:

THE FORD FOUNDATION

CAROL AND PING FERRY

THE NATIONAL LAWYERS GUILD FOUNDATION

STEVENS, HINDS & WHITE, P.C.

We also wish to acknowledge the special assistance of the staff of the Lawyers Committee for Civil Rights Under Law in the United States and the Independent Electoral Commission (IEC) in South Africa.

The delegates are also profoundly grateful for the courtesies and assistance extended them by colleagues in South Africa from the National Association of Democratic Lawyers (NADEL) who provided invaluable leadership and guidance as hosts, guides, and mentors during the delegates' services as observers at the election and especially the tireless assistance of Mrs. Nomazizi Ramaphosa of the NADEL main office in Johannesburg, past president Pius Langa, current president Selby Baqwa, Advocates Greg Nott and Mohammed Randera, of Johannesburg; Advocates Michelle Norton, Patti Smith, and Vincent Saldhana of Capetown; Advocates Asha Ramgobin and Zandile Hlongwane of Mafekeng and Advocate Julius Miya of Port Elizabeth, and other officers and members of NADEL.

This author is also particularly grateful for the efforts of Attorney Beth Lyons for coordinating the arrangements for these delegations.

Special thanks must also be extended to legal worker Paquetta Palmer of the National Lawyers Guild, Professor Adrien Wing of the National Conference of Black Lawyers and Attorney Carol Fine for their assistance with the arrangements.

Finally, I complete this report as President Nelson Mandela presides over the reconstruction of his homeland at the head of the Government of National Unity. I would like to take this opportunity to urge all the colleagues and comrades outside of

South Africa with whom we have worked for the past 30 years in the struggle against the vicious system of apartheid to consider this astonishing election as the most recent essential step towards democracy for this fledgling society and to consider how we can help in the next critical stage.

In his victory speech, President Mandela thanked the people of South Africa and their supporters throughout the world for their courage and tenacity in the struggle against apartheid. I urge you to continue that struggle for the New South Africa.

Eighty-one years after the passage of the 1913 Land Act by the minority government forbidding ownership by black South Africans of any land in their country outside of a few arid worthless parcels, the new South African Government faces formidable challeges, calling upon its people and the people of the world to support The Reconstruction and Development Programme of the ANC developed in consultation with its members and mass organizations.

The enormity of the task before the people of South Africa can only begin to be understood emotionally by considering the words of Solomon Tshekisho Platje, a founder of the African National Congress who describing the condition of black Africans in his book "Native Life in South Africa" commented on the impact of laws which excluded 90% of the people from South Africa's land, its resources

and its bounty.

"Awaking on Friday Morning, June 20, 1913, the South African Native Found himself, not actually a slave, but a pariah in the land of his birth."

Those of us who were fortunate enough to serve as observers to the election when women and men who had been cast as "pariahs" by the law, who, after 1960, had been resettled by the apartheid government against their will in barren non-arable scraps of earth, who stood patiently for hours in rain and sun to vote, will never forget this experience.

We urge all who participated in the anti-apartheid phase of the struggle to continue their support now and in the future as these heroic people reconstruct their and their children's future so that all may share in the bounty of their land.

Respectfully submitted,

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New York
June, 1994

## BACKGROUND TO THE INTERNATIONAL ASSOCIATION OF DEMOCRATIC LAWYERS (IADL) LEGAL OBSERVER MISSIONS TO THE SOUTH AFRICAN ELECTIONS.

Under the auspices of the International Association of Democratic Lawyers, groups totalling 65 lawyers, jurists and legal workers from Africa, Europe, the United States and the Caribbean travelled to South Africa for approximately two weeks each during late March to the beginning of May, 1994 to focus on the planning and implementation of this historic election and its adherence to the principles of the transitional constitution which provides the legal standard by which the conduct of the election of the new South African government can be determined to have been "free and fair"[1] and to serve as nonpartisan observers of the election.[2]

The itineraries of the delegations were planned and implemented in association with IADL's South African affiliate, the National Association of Democratic Lawyers (NADEL) whose members, until recently, risked disbarment, imprisonment and banning for their IADL affiliation. Delegates were assigned by NADEL to five major electoral regions in which they focussed on the pre-electoral processes, the political climate before and during the election,

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[1]All documents relevant to the South African electoral process referred to in this Report will be annexed as Appendices.

[2]It was determined, at the suggestion of NADEL that service as non-partisan observers under the IEC guidelines set forth later in this report would provide participants greater access to the electoral process. IADL members who preferred to serve as party observers on behalf of the ANC made their arrangements in consultation with the African National Congress.

the implementation of the voting regulations, problems arising from determinations of voter eligibility, voter intimidation and harassment, the freedom of political parties to campaign and the conduct of the election itself[3]. Finally at the conclusion of the balloting process, observers were required to make determinations as to whether the national and provincial elections were substantially "free and fair."

Teams of IADL observers were assigned by NADEL to the following five electoral regions and based in each region's major city.

The Northwest Province (formerly Bophuthatswana)
(Mafeking)

KwaZulu/Natal
(Durban)

Western Cape
(Capetown)

Eastern Cape
(Port Elizabeth)

PWV (Pretoria - Witwatersrand -Vereeniging)
(Johannesburg)

This final report includes each of these delegations individual observations of the electoral circumstances in the electoral regions to which they were assigned, in their own words, edited only to avoid repetition and to integrate individual reports

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[3] The NADEL Election Monitoring Handbook prepared by NADEL for the election was an invaluable aid to the IADL monitors and is attached as Appendix A.

into a coherent stylistic whole. The identity and place of origin of those participating in each delegation are provided in the appropriate sections.

All of the participants in the IADL delegations are distinguished in their homelands for anti-apartheid activism. Some had participated in the IADL Legal Observer Missions to the Nambian Elections in 1989 and other international fact-finding missions.

Most members of the delegations belong to IADL affiliate organizations in their respective countries. For example, those from the USA belong to the National Conference of Black Lawyers and the National Lawyers Guild. Those from the United Kingdom to the Haldane Society of Socialist Lawyers (joined by members of the Society of Black Lawyers). Still others belong to the Democratic Lawyers Association in each of the participant's homelands. In addition to anti-apartheid activism all these participants have histories of advocacy in their own societies in defense of social, economic and political justice, nationally and internationally.

## ABOUT THE INTERNATIONAL ASSOCIATION OF DEMOCRATIC LAWYERS (IADL)

The IADL was founded in 1946 in Paris at an international gathering of lawyers who had fought and survived the war against fascism. It was organized to promote the exchange of ideas and skills among lawyers and jurists dedicated to the principles of the United Nations Charter throughout the world.

Committed to the principle of equality among peoples, the right of all peoples to self-determination, the elimination of imperialism and colonialism and the peaceful settlement of international disputes, the IADL includes ever-increasing numbers of individual lawyers and affiliated lawyers' and jurists' associations in over ninety countries.

The IADL has consultative status with ECOSOC and UNESCO and is represented at the United Nations in New York, Vienna and Geneva. It is a member of the Congress of Non-Governmental Organizations (CONGO) of the United Nations.

In addition, IADL has long experience in organizing and coordinating international fact-finding, trial-observing and election-monitoring delegations of lawyers and jurists to such countries as Chile, Sudan, Guinea-Bissau, Zimbabwe (then Rhodesia), Turkey, Northern Ireland, Haiti, El Salvador, Nicaragua, and the occupied Palestinian territories. Reports of these delegations have been distributed world-wide through IADL affiliates and United Nations-connected activities.

Since the 1960's, the affiliates of the IADL in the United States, the National Conference of Black Lawyers and the National Lawyers Guild, have organized legal projects to assist voter registration efforts and have been active in the field of voter rights. In 1988, these affiliates sponsored a special project to

monitor the primary elections in the southern United States, a region with a long record of racially discriminatory laws designed to prevent or discourage African-American citizens from voting.

IADL drew on all these election monitoring experiences in planning the international legal missions to observe the implementation of United Nations Security Resolution 435 [UNSR 435 (1978)] in Namibia's electoral transition to independence in 1989 and during the Legal Observer Missions to the elections in South Africa held April 26-29, 1994.

ABOUT THE NATIONAL ASSOCIATION OF DEMOCRATIC LAWYERS (NADEL)

The National Association of Democratic Lawyers (NADEL) was formed on May 2, 1987, when a number of regional lawyers' organizations came together to form a single national association aimed at co-ordinating the activities of lawyers committed to a non-racial, non-sexist and democratic South Africa.

NADEL is committed to actively working towards achieving the transformation of the South African legal system and judiciary, and to a legal system firmly based on the rule of law to ensure the fullest protection and advancement of human rights in a non-racial, non-discriminatory and democratic, unitary South Africa.

NADEL, in addition to running a national and a Transvaal office, has set up a series of Community Legal Education offices in

Natal, the Eastern Cape and the Western Cape.

In Durban and Port Elizabeth, co-ordinating centers have been set up to oversee a series of satellite community legal education offices in Port Shepstone, Empangeni, Ladysmith, Port Alfred and Hanover.

Each satellite office is staffed by a trained paralegal officer and is geared to provide a number of services to local people, including:

- Providing professional back-up for cases which need the skills of trained lawyers.
- Providing legal education to ordinary people so that communities can develop an understanding of their rights in terms of the law.
- Training people in negotiating skills so that communities can handle conflicts without having to resort to violence.
- Developing a pool of practicing lawyers and advocates who are willing to take test cases from rural areas to court on a pro bono basis.
- Helping rural communities to prepare for their participation in a post-apartheid South Africa by increasing their self-reliance.

The Community Legal Education offices also run community

workshops on a wide variety of topics with the aim of empowering communities including intensive voter education initiatives.

They also conduct ongoing research in local communities, releasing periodical reports to local, regional, national and international media to make their findings accessible to the general public. These NADEL offices and members provided invaluable assistance to the IADL mission.

## BACKGROUND TO THE SOUTH AFRICAN ELECTION AND TERMS OF REFERENCE

The South African election which took place between April 26 to April 29th 1994 was the culmination of a long and complex multiparty negotiating process conducted between April and October 1993. For the first time in the country's history, all adult South Africans were declared eligible to exercise their democratic rights to vote and to select a "Government of National Unity" in the terms of the Interim Constitution (See Appendix B, South Africa: The Transition).

## THE INTERIM CONSTITUTION

The Interim Constitution was adopted on November 17, 1993 by the African National Congress (ANC), the South African government and other parties participating in the "Multi-Party Negotiating Process" which after many negotiation sessions began the end of the years of struggle against apartheid. The interim constitution which will serve as the New South Africa's legal framework, subject

to the interpretation of the new constitutional court, was enacted by the apartheid parliament on November 18, 1993 and signed into law by the outgoing President FW DeKlerk, as recently as January 24, 1994. The provisions of this interim constitution went into effect as millions of South Africans, at least 80% of whom had never voted before, lined up to vote in this first non-racial election. It established the terms of the election and is intended to establish the terms of governance by the newly elected Parliament in this "Government of National Unity" while it develops a permanent constitution by 1999 when the next election will take place. (See Appendix C for an analysis of this document prepared by the Lawyers Committee for Civil Rights Under Law)

Before the interim constitution could go into effect, it was amended twice, first in March and then, just before the elections in April 1994, by the Transitional Executive Council (TEC) established in December, 1993 to serve as the interim cabinet until the April 1994 election. The TEC included representatives from all political parties committed to the democratic process, including the ANC and the National party. It did not include the Right Wing Conservative Party or the Inkatha Freedom Party.

The fact (or, as some say, "miracle") that, by the election, almost every faction in South African politics ultimately participated in the election, including Inkatha, is attributed by many to these amendments which primarily are concerned with the

distribution of power. They focus on the allocation of authority to the provinces, abandoning the single-ballot provision, establishing a two-ballot process: one for the national assembly and one for the provincial legislatures. This provision enhanced the perceptions of dissenting groups that they could increase their influence in provincial governments. (This provision should also make the Provinces significant areas of future political struggle).

In addition, the amendments to the constitution increased the issues on which the Provinces are competent to legislate, thereby establishing a federal system of government, less powerful than that in the United States, but more powerful than before. The Province's taxing powers have also been modestly expanded including the power to tax gambling.

The most significant augmentation to the Provinces' powers, however, is the granting of the authority to develop their own constitutions. As initially adopted in 1993, the interim constitution controlled what the provincial constitutions could decide. The March 1994 amendments to the National Constitution now permit the Provinces to structure their legislative and executive branches independently of the national structure of governance.

The amended April 1994 constitution also permits Provincial constitutions "to provide for the institution, role, authority and status of a traditional monarch in the Province" anywhere and, in

particular "for the Zulu monarch in the case of KwaZulu/Natal". This provision suggests that a Province can decide to be a constitutional monarchy within South Africa.

Fundamental Constitutional Rights

The new fundamental rights embodied in the interim constitution are set forth in the thirty-three principles which were achieved in struggle among those participating in the Multiparty Negotiating Forum and adopted on July 2, 1993. (The thirty-fourth principle added later in one of the amendments discussed above, provides for the possibility of KwaZulu autonomy).

The first principle holds that

> "the Constitution of South Africa shall provide for the establishment of one sovereign state, a common South African citizenship and a democratic system of government committed to achieving equality between men and women and people of all races."

The third chapter of the constitution sets forth the fundamental rights of each person which are vested and justiciable in the new constitutional court. These rights include not only prohibitions against discrimination but also permit "measures designed to achieve adequate protection and advancement of persons or groups or categories of persons disadvantaged by unfair discrimination", Article 8, Equality. Other vested due process rights included in the third chapter are the presumptions of innocence before trial, the right "to remain silent during plea, proceedings or trial and not to testify during trial" and

limitations on pre-trial detention. The right to an education and to "an environment which is not detrimental to his or her health or well being" are also included.

The Constitutional Court is essential to the interpretation of the scope of the enumerated human and civil rights set forth in the New Constitution. The identity of these judges will, therefore, be of critical importance. The President of the court appointed by the President of South Africa will preside over ten other judges selected from a list prepared by the Judicial Service Commission which includes one Judge President, selected by sitting judges, the Minister of Justice, four legal Practitioners: two advocates and two solicitors, one Law Professor, four Senators, and four others (two of whom must be lawyers) appointed by the President.

There will also be a "Public Protector" to serve as a public advocate/ombudsman. In addition, an eleven person Human Rights Commission will be appointed by an all-party joint Standing Committee of Parliament, with the concurrence of 75% of Parliament, to promote and defend respect for and protection of human rights. Other established standing commissions concerned with fundamental rights include the Gender Commission and the Commission on the Restitution of Land Rights.

## THE TERMS OF THE ELECTION

The national election was conducted in terms of the principles

of the Interim Constitution as amended, which provides in relevant part that:

(a) All adult South Africans, 18 years of age or older, regardless of race, were eligible to exercise their democratic right to vote.

(b) Voters would elect a new parliament by proportional representation (see discussion below) presided over by the Government of National Unity which would serve for five years until 1999.

(c) By a separate ballot, at the same time, voters would also choose legislative assemblies for the nine provinces into which South Africa has been divided.

Northern Transvaal
Eastern Transvaal
PWV (Pretoria - Witwatersrand- Vereeniging)
North - West
Orange Free State
KwaZulu/Natal
Northern Cape
Eastern Cape
Western Cape

(d) The new parliament would consist of a 400 member national assembly and a 90 member Senate sitting as separate legislatures and, together, serving

as a Constituent Assembly charged with drafting the final constitution, if possible within two years.

(e) A constitutional court is to be created to ensure that the final constitution complies with the 33 democratic principles agreed to during the negotiating process when the interim constitution was drafted.

(f) The 400 member National assembly was elected on a system of proportional representation.[4] 200 seats were allocated so that each party's total number is proportional to the total number of votes it won in the national election. The remaining 200 seats were allocated proportional to the votes each party won in the provincial elections (see

[4]Proportional representation as applied to the South Africa election means that the total votes were counted and the seats in Parliament and the provincial legislature allocated on the basis of the proportion of votes each party achieved. Each party published lists of its candidates for the national and regional assemblies, ranked in order of priority. A party gained one member of parliament (MP) for every 1/2 percent of the total vote. In addition, the vote on a proportional basis counted to elect MPS to the National Assembly for the region applicable to the votes.

below for the discussion of the actual election results).

(g) The Senate consists of 90 members: 10 from each of the nine provinces regardless of its size. Senators were chosen by parties in proportion to the number of seats gained in the individual provincial assemblies.

(h) The National Assembly elected a President at its first session, Deputy Presidents to the President were designated by any party with one-fifth of the National Assembly seats. (If no party had won one-fifth of the seats, the two largest would have had the right to designate a Deputy President. (See discussion below for actual appointments to these positions)

(i) Each party with at least 20 seats in the National Assembly were entitled to proportional representation in the cabinet.

(j) Voters declared their support for a party and not individual candidates. Each party published a list of

candidates ranked in order of preference. Whether or not a specific candidate won a seat depended upon the support won by the party and the rank of the candidate on the list. (See for example Appendix D, the Electoral list of the African National Congress (ANC)).

## THE TRANSITIONAL PROCESS

The Negotiating Council, the institution created by the Multi Party Process to initiate the transition to a democratic form of government, announced in mid-1993 that a non-racial election for the interim government and constitutional assembly would be held on April 27, 1994. The Negotiation Council also established four new structures to replace the previous institutional structures which had permitted the minority government to maintain and institutionalize apartheid. These new structures were:

### The Transitional Executive Council (TEC)

The TEC was designed to level the political playing field for the first election. It was to serve as a check to the minority government and to intervene when there was a likely threat to a free and fair election.

The Independent Electoral Commission (IEC)

The IEC was responsible for administering and monitoring the election, and after the election for certifying whether the election was free and fair. The IEC Act also provided for the appointment of IEC monitors, registration of observers, and accreditation of international observers.

The Independent Media Commission (IMC)

The IMC was responsible for regulating the media to ensure equitable treatment of all political parties during the election campaign.

The Independent Broadcasting Authority (IBA)

The IBA was responsible for assigning broadcasting licenses and regulating broadcasting licensees. (See Appendix B, which includes The Multi-Party Negotiating Process).

The Negotiating Process also drafted an Electoral Act to guide the IEC in its functions of administering, monitoring, and certifying the election. The Electoral Act, along with the IEC Act was the primary law governing election procedures.

The Independent Electoral Commission (IEC)

Under apartheid, South African elections were administered by the minority government's Department of Home Affairs. Throughout the negotiating process, the ANC firmly rejected the proposal that

the same incumbent government which had maintained apartheid could be entrusted with the task of administering this election. Since any election results under the government's control would be suspect to a significant proportion of the population, the IEC was established to administer the election, to adjudicate disputes arising during the campaign period, the balloting period, and during the ballot counting period [See Appendix E INDEPENDENT ELECTION COMMISSION]. It was also required to pronounce judgement on whether or not the election was "free and fair".

To guide the conduct of the election consistent within the terms of the IEC Act [Independent Electoral Commission Act, 1993 (ACT No. 150 of 1993)], the IEC prepared a Handbook For Monitors (Appendix F) which sets forth these election procedures. IEC Monitors, selected from an exceedingly diverse array of South Africans, were responsible for the supervision of the conduct of the election, for investigation of complaints, for observations that the conduct of the electoral process was consistent with the electoral law and for documentation of any allegations and irregularities to be considered in the ultimate determination as to whether the election was "free and fair."

Both monitors and observers from a cross section of South Africans and international non-partisan observers were selected and trained to serve in the electoral process and were bound by the admonitions of the Electoral Code of Conduct which is summarized

below.

- Publicly condemn violence and intimidation.
- Do not engage in violence or intimidation.
- Do not allow weapons to be displayed at political activities.
- Do not publish or repeat defamatory allegations about political opponents.
- Cooperate with other political parties in scheduling political activities.
- Do not impede access to eligible voters by political opponents.
- Do not destroy or remove other political parties' campaign materials.
- Do not plagiarize other political parties' names or symbols.
- Do not bribe eligible voters in respect of the election campaign or voting.
- Do not abuse positions of power, influence, or privilege in respect of the election campaign or voting.

- Do not discriminate on the basis of race, sex, ethnicity, class, gender, or religion.
- Facilitate the equal participation of women.
- Accept the role of the IEC as established in the electoral legislation and implement its decisions and

directives.

- Participate in all meetings held by the IEC and facilitate communication with the IEC.
- Facilitate access to political activities by IEC officials.
- Cooperate with IEC investigations of alleged violations.
- Promote voter education and reassure voters of the secrecy of the ballot and the impartiality of the IEC.
- Accept the outcome of the election as declared by the IEC. (See Appendix I for sample IEC Voter Education Materials)

IEC Approved Observers

Because IADL was accredited by the IEC under the terms of the Electoral Act (Appendix G), subject to the Accreditation Procedures and Guidelines for Election Observers (Appendix H) which required, among other strictures that IADL observers be non-partisan in their attitudes when serving at the elections, those wishing to support a specific party were encouraged to contact the party headquarters of their choice and to volunteer as party observers.

## THE ELECTION RESULTS

According to figures announced by the IEC on May 6, 1994, the ANC won 62.65% of the 400 seats in the national parliament, which will also serve as the constituent assembly whose mandate is to

draft the new constitution. The National Party received 20.39% and Inkatha 10.54% of parliamentary seats. Together they will form the Government of National Unity.

These results give the ANC 252 seats, the National Party, 82 seats and Inkatha, 43 seats. In addition, the Freedom Front won 2.17% (9 seats), the Democratic Party 1.73% (7 seats), the PAC 1.25% (5 seats) and the African Christian Democratic Party 0.45% (2 seats).

The ANC also won control of seven of the nine provincial legislatures: Eastern Cape, Northern Cape, Northern Transvaal, Eastern Transvaal, Northwest, PWV (Pretoria - Witwatersrand - Vereeniging) and Orange Free State.

The National Party won control of the Western Cape Provincial Legislature with 53.25% of the vote. The ANC won 33.01% of the vote and the Democratic Party 6.64%.

The results in KwaZulu/Natal Province, however, were much more controversial as can be seen in the attached clippings from the South African Press, (Appendix J) and in the following Reports of the IADL Observer Team's (See also Appendix K for selected IADL Observer Voting and Incident reports and Appendix M, Selected IADL Election Violation Reports). InKatha was finally reported to have won 50.8% of the vote and ANC 32%, while both parties filed

election fraud claims. The ANC claimed that InKatha had set up illegal voting stations and had denied access in many places to ANC party observers, IEC monitors and international observers. (See Appendix L, for a sample ballot paper which did not include InKatha because of its late entry into the election. InKatha was to be added to this ballot by sticker at the election itself.)

A political resolution of these allegations among the ANC, InKatha and the IEC gave InKatha control of the Provincial Legislature with 41 seats, the ANC 29 seats, the National Party 9 seats, the Democratic Party 2 and the PAC 1. (See discussion below under Free and Fair Election)

On May 9, President Nelson Mandela was elected President of South Africa by the New Parliament. He appointed ANC's Thabo Mbeki to serve as Executive Vice President and F.W. DeKlerk as Second Vice President.

On May 19, President Mandela was inaugurated and the three parties that received the most votes (the ANC, the Nationalist Party, and the InKatha Freedom Party) formed the Government of National Unity which is to last until the next national election in April, 1999.

## POLITICAL VIOLENCE

By the end of April 1994, 20,436 had been killed in political

violence since September, 1984 according to the South African Institute of Race Relations. Of these, 1,439 were killed in the first four months of 1994.

In March 1994, preceeding the elections, 537 were killed. In the election month of April there were 404 such deaths, a decrease of 25% from the March total.

By May 17, KwaZulu/Natal experienced 433 murders since the declaration of a state of emergency in the province on March 31. On May 17, Azapo announced the suspension of the Black Consciousness Movement's Armed Campaign. On May 18 four IFP officials were killed.

As the election period drew to a close, the absence of high levels of violence was a major story. As reported in the May 2 edition of the "Star" newspaper, according to South African police officials, the election period was the "quietest in years". The story goes on to report that between April 30 and May 2nd fewer than 15 people were killed in either criminal or politically motivated violence and that no incidents of violence between rival political groups in KawaZulu/Natal had been reported during the weekend following the election. In addition, reported crimes dropped by as much as 50% in some regions.

Free and Fair Election

The South African Election was declared to have taken place "substantially freely and fairly" by the head of the Independent Electoral Commission (IEC), Mr. Justice Johann Kriegler, on May 6, 1994, notwithstanding the over-500 complaints that were registered with the IEC by various political parties and observers. (See, for example, selected complaints filed by some of the IADL observers attached as Appendices K and M)

Under the terms of the Electoral Act, political parties were allowed 48 hours immediately following the election within which to register complaints. Most complaints related to logistics and the distribution of ballot papers. The following complaints were reported in the "Star" and "Sunday Times" of Johannesburg.

- In the Northern Transvaal, the Democratic Party complained that one million ballot papers were missing and that, as a result, 160 polling stations failed to open, denying thousand of would-be voters the opportunity to exercise their democratic rights.
- In KwaZulu/Natal, parties complained that ballot papers and other voting materials were removed from voting stations by the InKatha Freedom Party (IFP) supporters and police officials of the former KwaZulu homeland who allegedly set up "pirate" voting stations.
- The IFP complained that the ANC engaged in intimidation

of voters. Its chief complaints, however, were that IEC officials failed to attach IFP stickers, created as a result of InKatha's late entry into the election process, to the ballot papers.

- National Party (NP) and Democratic Party (DP) officials expressed outrage at the "lax security" and "disorganization" at a counting station near Johannesburg.
- In Port Elizabeth, IEC officials were accused of tampering with ballot boxes containing 50,000 marked ballots. Police investigations revealed that the seals had been missing from 6 of the boxes.
- At a polling station in the Transkei, a Pan Africanist Congress (PAC) agent complained that the IEC presiding officer in charge of a station arrived "extremely drunk" and collapsed in a "drunken stupor" shortly after his arrival.

Despite these reported irregularities, as of May 2, the election was declared substantially free and fair by a number of international observer groups including the European Union, the United Nations, the Commonwealth, the Organization of African Unity, the International Confederation of Free Trade Unions and the official US government observer delegation, lead by Rev. Jesse Jackson and ultimately, by the IEC itself.

## THE INDEPENDENT ELECTION COMMISSION PRINCIPLES

The IEC cited twelve "principles" on which they relied and by which they determined whether the election was fair and free, although its report said that "perhaps that most important criterion was the extent to which the IEC's judgment coincides with that of their fellow South Africans and the international community and can be justified to them". The report also said that the election results would have to "reflect the will of the electorate" and that "the certification or otherwise of the election should depend to some extent on whether those charged with the decision believe that their decision will assist the search for democracy and stability."

These twelve principles cited and commented upon by the IEC in its closing report, follow:

### Principle 1: Freedom of Association, the Right to Form Political Parties and to Register for the Election as a Voter or candidate.

There were no restrictions on forming political parties, but parties wishing to compete in the national elections had to pay a R25000 deposit and a deposit of R5000 for each of the nine provinces whose elections they wished to contest. No applications for registering to participate in the poll were refused. Parties received funding via the state electoral fund if they demonstrated at least 2% of public support in a scientific opinion poll. Lesser amounts were awarded to parties unable to do this but able to

submit petitions containing at least 10,000 signatures. Sixteen parties received funding this way, while eight did not.

It is unclear as to how many potential voters did not have the required identity documents needed to vote, but the districts which reported a severe lack of required temporary voter cards for distribution were 42% in KwaZulu/Natal and 21% in the PWV.

Principle 2: Freedom of Expression for Voters, Parties, Candidates, and the Media.

The IEC said that there had been "no legal restriction which significantly curbed any party's right to campaign." According to the Independent Media Commission (IMC), coverage of parties received the following proportion of private and public air time during the campaign:

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| ANC: | 25% | of | actuality | and | 33% | of | news | broadcasts |
| NP/government: | 23% | " | " | " | 27% | " | " | " |
| IFP: | 16% | " | " | " | 23% | " | " | " |
| NP (alone): | 13% | " | " | " | 11% | " | " | " |
| DP: | 8% | " | " | " | 4% | " | " | " |
| FF: | 6% | " | " | " | 5% | " | " | " |

All other parties received less than 5% coverage. The IEC did not note whether coverage was critical or favorable.

Principle 3: Freedom of Assembly - The Right to Campaign and to Hold Political Rallies.

The IEC identified three degrees of "no-go" areas where supporters of the dominant party locally denied or obstructed the rights of political competitors. The IEC said that "the freedom to question and campaign was abridged in eight of the nine provinces and as many as 13 million voters may live in areas where the right to campaign was abridged." Sixty-two of the 165 "no-go" areas were, according to the IEC, completely dominated by one party only. These areas were dominated by the ANC (39%), IFP (27%), tribal authorities (15%), Afrikaner Weerstandsbeweging (AWB) (9%), FF (3%), Pan Africanist Congress of Azania (PAC), African Democratic Movement (2%), and the Azanian Peoples Organization and the NP (1% each).

The IEC observed, however, that not all of the 13 million inhabitants of "no-go" areas had been denied access to the views of a range of parties. The IEC further commented that "while the existence of "no-go" areas is a serious infringement of the right to political activity, our analysis suggests that the effect of entirely free campaigning on the election result would have been minimal".

Principle 4: Freedom to question and debate the political parties and to register complaints.

The IEC reported that "almost a third of voters in some provinces, and almost half in KwaZulu/Natal, fear that their

political choices will have threatening consequences." During the campaign 3,565 complaints were lodged with the IEC. The ANC was the party complained about in 18.5% of cases, the IFP in 8%, the NP in 5%, and the Department of Home Affairs in 2%. The IEC said that the complaints process had been accessible and frequently made use of by both voters and parties.

Principle 5: Freedom of Voters to Vote in Secret, Free From Violence and Coercion.

The IEC reported the following problems on the four voting days:

(a) 26th April

Monitors reported on 8,468 voting events, of which 52 were system failures, 17 disruptions, 29 obstructions, 37 outbreaks of violence, 8 coercion of voters, and two election stealing (the operation of pirate polling stations, stuffing or ballot boxes, taking over of polling stations, etc).

(b) 27th April

Altogether 7,400 voting stations were monitored, with complaints concerning 20 outbreaks of violence, 23 disruptions, 7 coercion of voters, four election stealing and 45 system failures.

(c) 28th April

Monitors reported on 4,110 voting stations

with complaints concerning 23 outbreaks of violence, 18 obstructions, five disruptions, four coercion of voters, 16 system failures, and one "election stealing".

(d) 29th April

Widespread irregularities and coercion were reported by the IEC in KwaZulu/Natal, including the stuffing of ballot boxes, voting by children, operation of illegal voting stations, and removal of IEC officials from some polling stations. Coercion was also reported in the PWV. The IEC said that because of coercion, some 20% fewer monitors were deployed in KwaZulu/Natal than planned.

Principle 7: An Independent Electoral Organization to Administer the Electoral Process With Sufficient Time and Resources to do So.

As mentioned earlier, the IEC was set up among other things, to administer the electoral process. The IEC Act was formulated on 27th October 1993, but the commission was appointed only in December, 1993, beginning its operations in January, 1994.

Evaluating its tasks, the IEC said that "the combination of all three functions [administering the election, adjudicating disputes, and judging the freeness of the process] may well have made a reduction in efficiency inevitable."

The PAC claimed that ANC supporters received favor in IEC appointments, while the NP claimed that the IEC cooperated with the ANC to the NP's disadvantage. The DP said it had "no faith in the willingness of the IEC to bring lawbreakers to book," while the "IFP described the IEC as the ANC's 'lapdogs'." Nevertheless, all participating in the election cooperated with the IEC and, generally made ample use of its complaints channels.

Principle 8: Guaranteed Rights and Protection Under the Constitution and Electoral Legislation and Regulations.

The IEC said that of the 3,558 complaints brought before it, one third were found to be without substance, 34% were resolved, 8% successfully mediated, and 5% referred elsewhere. Of the cases which resulted from the complaints, and in which IEC tribunals found against a party, 42% of these were found against the ANC and 14% against the NP. There were five judgements of coercive violence held against the ANC and one against the IFP.

Principle 9: Equitable treatment of the Electorate, Political Parties and Candidates by the Electoral Officials, the Government, Police and Judiciary.

The IEC said that there was no "significant evidence" of the government or the judiciary favoring particular political parties. A notable exception to this was partiality allegedly shown by the KwaZulu administration and the KwaZulu police in favor of the IFP. The PAC also alleged a bias by the Transkei homeland administration in favor of the ANC, as did the NP.

Principle 10: Equitable Opportunity for Voters to Receive Political and Voter Information.

Efforts at direct voter education reached relatively few South Africans, although radio and television advertisements reached between 63% and 82% of voters. Much of this advertising, however, had less to do with the mechanics of voting, and more to do with exhorting the population to go to the polls. Nevertheless, from a sample of 15 million national ballots cast, the IEC reported that only 1.07% had been spoilt. The IEC commented that this suggested that "most voters did not need voter education to accurately express their political preferences and that the concern about the inadequacy of voter education was largely misplaced."

Only in KwaZulu/Natal had voter education been hampered to any significant extent according to the IEC.

Principle 11: An Outcome Which Accurately Reflects the Ballots Cast by Eligible Voters Only.

The IEC said that there "were significant irregularities which appear to have materially affected the outcome of the election." How, they did not say. In KwaZulu/Natal, 140 ballot boxes with 185,115 ballot papers were disputed, constituting 4.1% of the area's 4.5 million voters. Most of these disputed ballots were marked in favor of the IFP. In all other areas, the number of disputed ballots was negligible.

Principle 12: An Election Process and Outcome that is accepted by all Voters and Parties as an Accurate Reflection of the Will of the Electorate.

Results were accepted by all parties in eight of the nine provinces with the exception of KwaZulu/Natal where the ANC initially sought redress through the courts for alleged balloting irregularities favoring the IFP.

The inauguration of President Mandela, as well as of his deputy Presidents Messrs. Thabo Mbeki and FW DeKlerk, marked the end of white minority rule in South Africa. In the case of the Western Cape, white rule had lasted 342 years. Addressing the IEC's final media briefing on May 19th, Mr. Justice Kriegler reiterated the IEC's view that the election had been an accurate reflection of the electorate's will. Notwithstanding, Judge Kriegler denied that party compromises had decided the result, saying "the results we announced were totally and wholly based on our own count through our backup system."

As can be seen in each of the IADL Observer Team Reports these mixed and sometimes contradictory findings of the IEC essentially are echoed in those of the IADL observers.

(formerly Bophuthatswana)
NORTHWEST PROVINCE IADL LEGAL OBSERVER TEAM REPORT
(Mafikeng)

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## INTRODUCTION

### Overview

The Nine IADL observers assigned to the former homeland of Bophuthatswana (or Bop), were based in Mafikeng from April 18 until April 30 and observed the elections in the new Northwest province both within and without the boundaries of the former homeland. This area included mainly Tswana-speaking blacks and Afrikaans-speaking whites. This was an area of particularly strong support for both the ANC and for the conservative Freedom Front as reflected in the reported voting results with each of those parties performing more strongly in the Northwest province than it did in the country as a whole. The area was also a stronghold for the right-wing Afrikaner Resistance Movement (AWB).

All election-related activities were affected by the uprising, in mid-March, which led to the ouster of the former homeland

dictator Lucas Mangope. Before the mid-March change in the Bophuthatswana government, Mangope refused to participate in the election, and electoral activities and campaigning were not allowed there. Certain parties, such as the ANC, were still banned. The late start, the recent change in government, and the threat of disruption from right-wing white groups such as the AWB were all significant parts of the election experience we observed.

The rural nature of the Northwest province also had a significant impact on the election experience. Remoteness limited access to voter identification cards, to voter education, and, in some ways, to campaigning and other electoral apparatus. Voters were at times up to 20 kilometers from a voting station. A number of rural voting stations were without electricity and telephone.

The political landscape of the Northwest province was particularly reflected in our observations on the voting days. We focussed a great deal of attention in areas which were conservative white strongholds. We observed extensively at locations where Tswana-speaking blacks voted in stations predominantly run by Afrikaans-speaking whites, with particular attention to the voter assistance process. Language barriers and atmospheric intimidation were significant problems in these areas.

While there were long lines, particularly on April 26 and 27, at many voting stations in our area, we believe that everyone in

line had an opportunity to vote. There were few lines on April 28. The voting was peaceful. There were some of the much-reported logistics problems in our area, with one station we visited opening as late as 4 pm on April 27 after ballot papers were delivered by helicopter. The logistical problems were compounded by lack of communications and the distances involved for many of the rural stations.

On the whole, however, we conclude that the voting was free and fair in the areas we observed. The late start, the rural character, and the atmospheric intimidation and refusal to follow procedures in certain areas were all problems to be sure. However, these problems were met with the courage, fortitude and resourcefulness of the people of South Africa. We believe that, in most cases, people had an opportunity to vote, and that they felt free to vote their choice.

Methodology

Our pre-election activities were aimed at understanding the infra-structure and social and political conditions surrounding the election. We met with political parties, media, police and military, and a voter education organization. We also spoke with people on the street, people attending election-related activities and waiting in line to vote, and people we met at social gatherings.

Our delegation also closely followed the work of the local IEC based in Mafikeng in the days prior to the voting. At the invitation of Ms. Felicia Roberts, the sub-regional director of the Northwest region IEC, we accompanied IEC officials and observed a range of IEC functions, including investigations, adjudications, mediations, monitoring and electoral administration. The IEC activities we observed went far beyond the logistical aspects of the Electoral Administration Division, and included remarkable efforts by mediation and investigation officials to eliminate or reduce conflicts, build consensus and set the stage for a peaceful election process.

During the three days of voting, members of our delegation visited 32 voting stations in teams together with Tswana-speaking local observers. We observed the set-up and procedures at each station we visited, and pointed out any violations we observed to the presiding officers and IEC monitors at the station. Observing polling officials providing assistance to voters was one of our major functions. We often focussed on locations we anticipated needed observers or where problems had been experienced. This led to our spending a significant portion of time in voting stations run mostly by white Afrikaners where voter assistance to Tswana-speaking blacks was often provided only in Afrikaans by white polling officials.

POLITICAL SITUATION IN BOPHUTHATSWANA

Bophuthatswana (BOP) was one of ten autonomous and semi-autonomous homelands created by the apartheid government in the 1970's as a way of separating blacks from whites and denying South African citizenship to blacks and of denying blacks any power or control over the land and wealth of South Africa. One of the results of the April election was the abolition of the homelands, reincorporating them into South Africa. The population is estimated at about 2 million, with another 2 million Tswana-speaking people estimated to live in nearby areas outside Bop's borders. It is an extremely rural area, consisting of seven non-contiguous blocks of land.

Since 1977, Bophuthatswana had been under the dictatorship of Lucas Mangope. While Mangope spent money on many showpiece items, such as developing the capital Mmabatho, including the building of a stadium, the convention center, and gambling casinos, there was little done to address rural poverty. There is high chronic unemployment and many areas are without adequate schools, electricity and running water. There was also considerable evidence of widespread corruption.

There was great political repression in Bophuthatswana. The ANC was still banned there in 1994, although it had been recognized in South Africa years earlier. There were political prisoners still in jail. While people technically were able to vote in

homeland elections, Bop was a dictatorship offering no real democratic opportunity to vote for any candidate other than Mangope.

Mangope opposed the April elections and the reincorporation of the homeland into South Africa. He maintained, as late as early March, that the elections would not take place in Bophuthatswana. He formed an alliance with the neo-Nazi Afrikaner Resistance Movement (AWB) which also opposed the elections. He did not allow political campaigning or other electoral activities. The vast majority of the people of Bophuthatswana welcomed the elections, wanted reincorporation, and wanted to vote.

Events came to a head in mid-March, sparked by several days of rebellion initiated by civil servant pension demands, fed by members of the police supporting the civil servants. In the face of widespread civil disobedience to force participation in the election, and Mangope's ouster appearing imminent, thousands of AWB members massed to prop up his regime. AWB members drove around the towns of Mafikeng and Mmabatho, randomly shooting, and killing, people. A widely-broadcast confrontation with local Bop security forces led to the killing of three AWB invaders. The AWB forces eventually retreated, obtaining safe escort out of the area from the South African Defense Forces. South African State President DeKlerk, with the approval of Nelson Mandela, sent in SADF forces to restore order. South Africa appointed a temporary administrator

to maintain government functions and to enable the elections to take place. The March 12 ouster of Mangope was widely supported by all the people we met.

Only after March 12 did election activities openly begin in Bophuthatswana. A sub- regional IEC office was set up in Mafikeng. Political prisoners were released. Political parties were permitted to campaign and voter education programs were initiated.

## OBSERVER ACTIVITIES

### Pre-Voting Observations

### Voter Education

A tremendous effort was made by independent non-partisan organizations to provide voter education and voter education materials. These efforts were aimed at getting people to vote, reinforcing that the vote was secret, and educating them on the mechanics of voting. Key voter education organizations included the Independent Forum for Electoral Education (IFEE), a broad group of church and other organizations including Matla Trust and Lawyers for Human Rights, Project Vote, and Vote Africa. Materials included illustrated handouts and pamphlets, and mobile voter education kits, many translated into various languages. The Voter Education Program of the IEC also created a widely-distributed sample ballot. (Attached as Appendix L)

Our delegation met with Swift Moletsane, regional director of

Lawyers for Human Rights. LHR was conducting voter education in the prisons and also at Matla Trust. Mr. Moletsane showed us an impressive schedule of voter education workshops covering seven local area prisons for a total of 76 sessions in 10 days. He indicated that there had been some modifications in the schedule, but it generally represented the effort made in prisons locally. LHR was distributing voter education materials, including English and Tswana versions of the voter education illustrated pamphlet "Our Time to Choose" and sample ballots. We also saw voter education materials of Vote Africa being distributed in the center of town; these materials included illustrated handouts (in English and Tswana) aimed at the logistics of the voting station. We often saw posters and T-shirts encouraging voting; the sample ballot was ubiquitous. There were frequent IEC and other independent TV and newspaper ads encouraging voter participation. Campaign ads and activities of political parties also included a voter education component, teaching supporters how to vote for the particular party, often using the sample ballot.

Voter education in rural areas and on farms was uneven. Everything in the former Bophuthatswana had a late start because before March 12, Mangope had barred election activity and was a "no-go" area for the IEC. Our impression was that not all remote areas received voter education in the short time between the change in government and the election. We also heard reports of spotty voter education on farms, including misinformation by farmers. For

example, there were reports that farmers were telling their workers to put an "X" next to the person they wanted to vote against, or to vote for the person on the bottom of the ballot (i.e. the National Party) or they would lose their jobs. Complaints had been referred to the IEC and the farmworkers union was involved with settlement discussions.

Overall, voter education efforts were successful, although there should have been more. The enormous turnout of voters reflected successful efforts at persuading people to participate in the election. Insufficient voter education on the mechanics of voting was apparent in certain areas on the days of voting in the numbers of people needing assistance. At times the needed assistance was merely on-the-spot voter education, explaining to the voter what to do with the ballot. Increased non-partisan voter education efforts could have taken place in the lines on the voting days. On the spot voter education in the voter's native language would have eliminated many of the problems we observed.

Voter Identification Cards

The election was the first open to all people over the age of 18 who were citizens of South Africa. This included the people in the homelands created as "independent" under the apartheid system. Those wanting to vote needed some form of identification to prove their ages and that they were citizens. This could be one of several types of identification, e.g., a passbook, temporary voter

card. There were conflicts, at times, as to what type of identification would be accepted at the voting station. For example, at first the rule was that passports were not acceptable, but this was apparently modified, but applied inconsistently. The final decision was left to the discretion of the Presiding Officer, a problem in some white-run voting stations. In future elections, this issue should be addressed more clearly.

The Department of Home Affairs was responsible for issuing identification books or temporary voter identification cards. It could often take months to get an ID book, so the system was switched closer to the election in order to allow people to get temporary voter cards (TVC's) that could be used only for this election. These TVC's were retained by polling officials when people voted.

A great feature of this system was that people could get TVC's even on the day of the elections. This demonstrated a tremendous commitment to democracy and inclusion. In the United States advance voter registration practices often hinder broad voter participation. In South Africa some election officials were lamenting the failure to have a voter roll. However, an advance registration requirement can be a possible barrier to the opportunity to vote.

While traveling around we would observe long lines of people

waiting to get identification cards. The best situation for increased participation existed during election days whenever there was a voter identification card issuance station nearby a polling place. However, this was the exception rather than the rule, and future elections might do well to include such a station in close proximity to election stations. On April 28, some of the workers issuing TVC's initially refused to work because they were not being paid. Ms. Roberts of the IEC made an arrangement for them to be paid so that the issuance of TVC's could continue.

One difficulty expressed by various political parties and election groups was the failure of the Home Affairs office to get out into the countryside to get people identification cards. This may have been a worse problem in Bophuthatswana, as they got a late start on voter education and identification tasks. Some citizens showed up at voting stations without identification cards. See further discussion on the difficulties with identification faced by some farmworkers in the section entitled "Farms and Farmworkers."

IEC in Mafikeng

A sub-regional IEC office was set up in Mafikeng only after the mid-March change in government in Bophuthatswana. The regional office was located in Klerpsdorf. Considering the late start, the office accomplished a tremendous amount in a short period of time. It should be commended on the job it did. The IEC also did a

terrific job in responding to the logistical problems so that everyone could participate in the voting. The IEC was able to get the army to cooperate in the delivery of ballot papers by helicopter to remote locations where they were lacking.

The IEC had a number of divisions including electoral administration, monitoring, mediation, investigations, and operations. There was lack of communication and certain tensions between the monitoring and electoral administration sections. This led to critical information not being timely conveyed, and at times not being believed or acted upon, creating potentially dangerous situations. A single top leadership authority, rather than segregating top responsibility, might have alleviated these problems. While these kinds of problems inevitably arise it is important that everything be done to minimize their occurrence. There was uneven security at the IEC office, at times we just walked in (with our observer identification); at other times we were required to sign in and have bags searched.

Our delegation worked closely with IEC officials in Mafikeng. We reported serious problems directly to the IEC in Mafikeng, serving as additional eyes and ears of the IEC. The IEC officials were very responsive to, and appreciative of, the matters we brought to their attention.

PAC Investigation

On April 25, members of our delegation accompanied an IEC official during her investigation of a complaint filed by the Pan African Congress of Azania (PAC). The complaint alleged that the African National Congress interfered with and disrupted a PAC campaign event at Monaquene Tribal Hall. The investigator appeared to take a detailed statement concerning the incident. Then what happened?

Tribunal Hearing on Party Complaint

Almost all pre-voting election-related complaints to the IEC in Mafikeng were resolved by mediation. There were only two complaints which the National Party (NP) insisted on filing at the Electoral Tribunal.

A member of our delegation attended the first session of the local Electoral Tribunal held at the old Supreme Court at Mmabatho on April 25 with the NP alleging that the African National Congress and several party members had violated paragraph 4 of the Electoral Code of Conduct. The NP alleged that the ANC members had disrupted an election meeting of the NP by screaming out that State President F.W. DeKlerk is a member of the AWB, destroying political campaign materials of the NP and intimidating people who wanted to attend the meeting.

After lengthy debates between both parties and the presiding judge (an advocate from Pretoria), the judge eventually decided not

to follow the request of the claimant who sought a fine of R100.00, but only to formally warn members of the ANC. The costs of the proceeding were shared between both parties who accepted the decision. The second complaint was of similar content but was rejected by the Electoral Tribunal.

The fact that the parties involved accepted both decisions without further appeal showed a high degree of satisfaction with this resolution process, even in a major conflict. To our knowledge, no further cases were taken to the local Electoral Tribunal.

Mediation

Mediation was a very important and effective component of the election process. Members of our delegation observed mediation between two tribes and in the prison. We also attended a training/planning session for the mediators.

The tribal mediation involved one village in which two tribes resided on opposite sides. There had been ongoing conflicts between the two, which had escalated just prior to the election. The situation was inadvertently exacerbated by the placement of the voting station in the section of the village occupied by the dominant tribe. This nearly resulted in a battle between the tribes.

The IEC mediator resolved the conflict by adding a second voting station in the other section of the village. However, serious disputes regarding land use still posed a threat to a peaceful, free and fair election. Although the issues were not directly related to the election, they did affect the process. So, another mediation session was held. The session was quite contentious, and the land problem was not, and could not be, resolved in that forum. Nonetheless, the mediation was extremely effective because the parties did agree not to let their conflicts interfere with the election.

From the mediator training/planning session we attended, it appeared that the future role of mediation was unclear. This is unfortunate. The role mediation played in striving for a free and fair election was significant. Mediation should not only be used again in future elections, but its role should be expanded to involvement in all conflicts affecting the electoral process. Because different types of elections will be staggered, an election will often be either upcoming, currently occurring, or recently completed much of the time. There is an important role for conflict resolution through mediation in all of these circumstances. With continuous full-time mediators, conflicts can be addressed on an ongoing basis, before they become unresolvable or uncontrollable. Moreover, the mediators will be more experienced and better trained, and therefore, more effective. This will further strengthen the usefulness of the process.

The mediation we observed was extremely impressive. It is a mechanism that other countries, and especially the United States, could learn from and adapt to their individual circumstances.

Farms and Farmworkers

Our group was based in a rural area and there were many farms and farmworkers in the surrounding area. In many cases, farmworkers seemed to have limited access to voter education and party campaigning. According to the National Party candidate and leader in Zeerust, many conservative white farmers would not permit him to come speak to their workers. Others contacted him to come only after the ANC had reached their workers. Some farmers took their workers to the polling stations, which were 6 to 10 miles away, a situation we feared as potentially intimidating. We heard that some conservative farmers were not going to drive their workers to the polls. We also heard reports of workers being threatened with loss of jobs and homes. The ANC locally had requested that farmers give their workers extra time off so they could go to their home villages to vote.

Not all farmworkers succeeded in voting. An extremely troubling issue during the elections, and in South Africa, is the existence of "slaves" on some of the farms. These individuals have no proof that they exist. They and their parents before them were born on the farm as if owned by the white farmers. A number of "slaves" showed up at polling stations but could not vote because

they had no identification; they could not obtain voter cards because they could not verify their identities. The only person who could verify their identities would be the white farmer who could say when they were born and their name. This problem survives the elections and must be addressed.

A member of our group observed a National Party rally on a farm. It was held at the end of the work day, with an initial crowd of 25 swelling to over 50, including many women and children. The meeting was held in an amphitheater (made of bales of hay) in the farmworkers' housing area, next to the only electrical outlet. The NP candidate (a white Afrikaner who spoke entirely in fluent Tswana) showed an NP video (also in Tswana) and spoke at length. His talk included voter education on the logistics of voting using the sample ballot and assurances that they should not be afraid of the AWB.

We observed a large turnout of farmworkers who were able to vote despite the obstacles they particularly faced with rural access, lack of information, identification cards and potential intimidation. The areas where we observed farmworkers voting were often the white-run polling stations discussed earlier.

Security

Our delegation met with Col. Frank Short of the Bophuthatswana Police and some of our members attended several of the daily

regional joint operations security briefings. There were particular and unique aspects to the security situation in our region. Generally, the area was considered pretty stable and there were low intensity operations. The primary threat of violence was from the AWB and other white right-wing organizations. The area included AWB strongholds. There was concern about AWB attacks because of the events of mid-March, in which AWB members killed and injured others as they entered Mafikeng and Mmabatho, and three AWB members were killed. There were periodic SADF roadblocks on the road into the Mafikeng/Mmabatho area and in some parts of town near IEC headquarters.

There were multiple security forces to coordinate because our region included, but was not limited to, the former homeland of Bophuthatswana; its security forces had not yet been reincorporated. Within the borders of Bophuthatswana, the Bop police were to provide security for the voting days at each polling station with about 4,000 officers patrolling 390 polling stations. The Bophuthatswana Defense Forces were to be responsible for out-of-cordon control. In addition to the Bop police and army, South African Defense Forces were also patrolling in Bop, and had been since the mid-March reincorporation.

There were serious concerns expressed by Col. Short, about the integrity and reliability of the Bop police given its role in the unrest of mid-March and its members' support for the outstanding

demands of civil servants for payment of pensions. When we first arrived, there was the possibility of a civil servant strike over the still unresolved pension issue, and police support of joining of the strike. (On Saturday April 23, representatives from the temporary administrator's office apparently obtained agreement that there would not be an election-disrupting strike over the pension issue.) From both within and without the Bop police, we were given very little reason to have confidence in them. During the voting days, where we did observe Bop police at voting stations, they were extremely passive and unengaged. We never saw them search anyone, or even watch very closely.

On the voting and counting days we also observed a lack of interest by the SAP and the SADF in providing security. Some, in fact, may have had an intimidating effect on voters. In Zeerust, for example, some delegates witnessed SAP officers walking up and down the line of those waiting to vote with their rifles pointed at the crowd.

We spoke with an European Union police liaison to the IEC who, alone, had been monitoring and assisting with the security situation. He confirmed our impression that things were quite fragmented in our area, largely due to the multiple players and the lack of a single top command source.

One additional aspect of security was the role of the security

forces in the electoral administration itself, e.g. transporting and safeguarding voting materials. We did not observe all aspects of this, but one member of our group did observe the pre-election delivery of the region's ballot papers and other voting materials for safeguarding to the Second Special Battalion South African Defense Forces base in Zeerust. The materials were stored in a double-locked warehouse with the IEC's Electoral Administration Division representatives retaining one key and the military base officer retaining the other key. This degree of caution reflected the uncertainty within the IEC whether all levels within the military could be relied upon for such tasks, including resisting possible AWB efforts to sabotage the voting.

Prisons

Prior to the election, there was much confusion over the issue of prisoners voting. Because of the government's failure to decide the issue until the very last minute, misinformation and rumors were rampant concerning which, if any, prisoners would be allowed to vote.

Members of our delegation accompanied an IEC mediation team to the Rooingrund maximum security prison outside of Mafikeng during the week before the election. We met with four prisoners who presented their complaints and demands, and we spoke with prison authorities. The prisoners had been informed from various sources that all of them would be allowed to vote, so that their

expectations were raised beyond what eventually came to be. The authorities were concerned that if prisoners were not allowed to vote, there might be an uprising and violence, as had occurred following the fall of the Mangope regime. The mediation team explained to the prisoners and the authorities that no final decision had been made, and that it was possible that only a limited category of prisoners would be allowed to vote.

The mediation team also heard the prisoners' complaints regarding their conditions of confinement, including inappropriate segregation and isolation, inadequate food, lack of medical attention, and more. Although the complaints were not directly related to the election, the mediation team explained that these issues might increase the possibility for disturbances during the election process. The prison officials listened to the complaints, and responded that the complaints were either unfounded or were unavoidable consequences of the recent uprising.

We visited the prison again on the first day of the elections. At the last minute, the government decided to allow only a limited category of prisoners to vote, which amounted to roughly half of the Rooingrund population. There were no disturbances, and the voting process appeared to proceed smoothly.

Lawyers for Human Rights

Lawyers for Human Rights has offices in 18 regions around the

country. It provides hands on representation, mediation activities and has an effective Human Rights Education Project. Established in 1979, Lawyers for Human Rights is dedicated to upholding and strengthening human rights associated with the rule of law and the administration of justice. It uses the Universal Declaration of Human Rights as the basis for its concepts of fundamental liberties. The organization's projects include: human rights research; human rights education and promotion; monitoring of infringements; campaigns lobbying for the protection and enforcement of fundamental human rights; and legal and quasi-legal assistance through litigation to victims of human rights abuses.

The Lawyers for Human Rights Office in Mafikeng was very actively involved in voter education, taking sole responsibility for some area, such as prisons. (See further discussion in "Voter Education.") LHR also played an instrumental role in arranging a dispute mediation in a village with an IEC representative.

Lawyers for Human Rights played an important role during the election process. Its efforts at voter education filled some of the void left by an inadequate effort in other sectors. Also their actions were all aimed at creating an environment protective of human rights and assisting those who were persecuted. This organization contributed greatly to the democratic nature of the electoral process.

## Voting Observation

### Location of Voting Stations and Access Issues

The selection of sites for voting stations was an enormous and difficult task. Certainly, a great deal of effort was put into the process. Yet, some of the choices were perplexing. For example, a location which was clearly inadequate in size and facilities would be designated when, a short distance away, a more appropriate facility was available. It was not clear if these situations arose due to a failure to consult or for political considerations.

Here are the kinds of problems that arose:

1. Inadequate space;

2. Lack of facilities, e.g., toilets and water;

3. Too few voting stations, and particularly too few special voting stations on April 26, requiring voters to travel large distances and wait in long lines to vote;

4. Location in hostile environment, e.g., in the immediate vicinity of a "volkstaadt" sign, or with feuding tribes in a divided town, placing only one station in the dominant tribe's section of the town;

5. Party and political signs not removed from designated voting areas and presiding officer unwilling to remedy the situation;

6. Voting stations not accessible to persons with disabilities, particularly persons who use wheelchairs;

7. Material support was not always provided to voting stations, which were well-situated but lacked certain obtainable resources, e.g., electricity.

There were often attempts, some successful, to rectify some of these problems as they were encountered. However, often there was no effort to correct the situation. Moreover, many of these problems (selection, number, accessibility, material support) could be avoided by closer communication with communities and advocacy groups. Transportation should be provided to voters in those locations where, by necessity, there must be great distances between voters and voting stations. All voting stations and surrounding areas should be reviewed prior to the election to determine accessibility and to remove improper signs or displays.

It should be noted that many voting stations, particularly in certain villages, run by the villagers, were extremely well-organized and run with incredible sensitivity to the voters.

Special Voting Day: April 26

The first day of voting, April 26, was designated for certain voters only: elderly people, people with disabilities, pregnant women, police and military, prisoners, IEC employees. Only

selected voting stations were open, often located in hospitals or old age homes or prisons.

Because so few voting stations were open, there were often long lines. This undermined a primary goal of the special voting day, to make it easier and quicker for certain people to vote. In addition, there were often no special voting stations in remote areas, requiring voters to travel greater distances than on regular voting days. In several locations in our area, hundred of voters queued up at a location that had been incorrectly identified as a special voting station; busses were used to transport these voters to an open special voting station. Opening all stations on that day could have addressed these problems.

The special voting day was a tremendously moving experience, with many elderly voters putting in great effort and endurance to be able to do something they have waited their entire lives for -- to vote.

Voter Assistance

Under the Electoral Act, the Presiding Officer at the polling station could mark the ballot for a blind, disabled, or illiterate voter in need of assistance, in the presence of monitors or observers. It was unclear whether party agents could also witness assisted votes, as discussed further below. The voter could also bring his or her own assistant to mark the ballot, so long as the

assistant was over age 18. We observed a great number of assisted votes, sometimes for blind or disabled persons, but more often for people just needing some assistance with the voting process. Often the assistance needed was in the nature of voter education rather than actually marking the ballot. We observed a wide range of behavior and attitudes in the provision of such assistance, often reflecting the racial composition of the polling officials.

There was a certain tension between the voter assistance process and the much-touted secrecy of the ballot. Voters who needed assistance from the Presiding Officer in the marking of their ballots did not have a secret ballot; few voters seemed to bring their own assistant. We found that some polling stations just assumed voter assistance was needed when there was the slightest hesitation or delay by the voter. This occurred frequently when black voters were voting in white-run stations. Many times, the needed assistance was (or could have been) provided as a hands-on explanation of what to do, leaving the voter to actually mark his or her own ballot in secret. Other times, the voter really seemed unsure of how or where to put the "x" and in need of hands-on assistance. We observed that where the Presiding Officer and/or most polling officials were black, there was more voter education and not as much hands-on ballot marking perceived as needed or provided. When assistance was given in these situations, it was in Tswana and it appeared as a less intimidating situation. As discussed further in the sections entitled

"Atmospheric Intimidation/Language Barriers" and "Appointment of Voting Station Personnel," the assistance process was more intimidating in other voting stations.

Despite the situational intimidation in certain areas, our impression was that, in the vast majority of the assisted votes we observed in such areas, black voters did feel free to state their choice. For example, in many situations which appeared intimidating, we frequently observed a voter verbally indicating a vote for "Mandela."

One other issue that arose in the voter assistance process was the witnessing by voting party agents. There was some confusion of whether party agents could or could not witness such assistance; indeed, there is still disagreement within our delegation as to what the rule was. This issue appears to have been resolved differently at different locations. At several polling stations, party agents complained of being excluded from the witness process. At one polling station we visited on the last day of voting, the party agents (including four from one party) had been witnessing all assisted votes up until our visit. Because of the cramped space in the polling site and the large number of witnesses, all of the assisted votes (in an all-black Tswana speaking situation) took place in the open at a table.

Atmospheric Intimidation/Language Barriers

Our delegation observed a serious problem of intimidation at a number of the voting stations in the Northwest Province. The principal problem was in the overall atmosphere created within the voting stations, rather than overt acts of coercion.

A number of stations, especially in outlying areas, were staffed almost entirely by white people, some of whom were the farm owners and bosses of many of the black voters. As a result, these stations did not appear consistent with IEC's principles of secrecy and neutrality. This problem was particularly acute in Zeerust, Delareyville, and Geysdorp. We did not observe this problem in the stations run predominantly by black election workers.

In particular, we observed problems due to language barriers and lack of interpreters. At certain polling stations run by Afrikaners, there were few, if any, election officers or workers or monitors who spoke Tswana, and no interpreters present to assist the voters. For example, at the Ottoshoop polling station, all of the poll workers and IEC monitors were non-Tswana-speaking people. The Presiding Officer advised us that he believed there was no money to hire an interpreter. Often the poll workers spoke only in Afrikaans to the voters, many of whom seemed uncertain about the instructions they were given, and seemed somewhat intimidated by the poll workers. We believe this resulted in many incorrect and spoiled ballots, because many voters were not given instruction or

assistance in an understandable way.

In Ottoshoop, for part of the time, Tswana-speaking domestic observers from the National Election Observer Network (NEON) were able to interpret, and repeat the instructions given to the voters in a more polite and helpful manner than many of the poll workers. The assistance of the NEON observers made a difference in what would have been a much more oppressive, and perhaps intimidating situation to some voters.

In some instances, we observed outright hostility by white election workers toward black voters. We saw some black voters being grabbed and pushed inside the voting stations. Many black voters were treated in a demeaning and offensive manner by white election workers who believed that the voters were incapable of properly completing the ballots due to their illiteracy and lack of voting experience.

In certain voting stations, IEC regulations that are designed to ensure the neutral appearance of the voting stations were not followed. For example, in Geysdorp, the presiding officer and other election workers (who were the bosses of many of the voters) did not wear arm bands or anything else to identify them as IEC officials. See also discussion in "Political activity within vicinity of voting areas."

Appointment of Voting Station Personnel

Our delegation observed a number of problems in the appointment of voting station personnel, many of which are related to the problems discussed above concerning atmospheric intimidation.

Some voting stations were operated almost entirely by white workers. With a vast majority of black voters, we believe that a better racial balance would make for a less intimidating atmosphere, and it would facilitate the process by having Tswana-speaking personnel. In some locations, black Tswana-speaking monitors were able to assist voters and thus overcome some of the intimidation created by the white election officers. However, in some stations there were not enough local monitors, or they were not successful in standing up to hostile presiding officers.

In addition to the racial imbalance, some stations were run by farm owners, bosses, and whites with power and authority in the local communities. We believe that the appointment of these personnel was problematic. A possible solution for the future might be to require that election workers, at least in these areas, cannot be stationed within a certain radius of their home or work.

Political Activity Within Vicinity of Voting

Political activity was barred within 600 meters of voting areas. At the vast majority of the polling stations visited there

was no evidence of improper campaigning or display of campaign material during the three days of voting. The major exception was at Delareyville. Upon arriving on the morning of April 28, members of the IADL delegation found posters for the National Party and the Freedom Front well within 600 meters of the polling station. There was also a banner advocating a Volkstaadt hanging across the street, within 600 meters and within clear view of many who were queuing to vote. The delegation was informed that African National Congress material had also been improperly posted within the polling area. It had apparently been removed by ANC representatives at the direction of the Presiding Officer, Mr. Swanepole.

When the delegation first pointed out the improperly posted material to the Presiding Officer, he stated that the parties had gotten together and agreed that the 600 meter exclusion zone should extend less than 200 meters from the polling station, and therefore the material at issue was properly posted as it was within the redefined zone. After further prodding, the National Party representative agreed to have the offending material removed. While the NP material was removed, other material remained. The South African Police declined to intervene, stating that they had no authority to remove material.

At the other polling stations where improperly posted election material was observed it was promptly removed or covered when

brought to the attention of the Presiding Officer. On the afternoon of April 27, an ANC poster was observed on the perimeter fence at the polling station at the Leherutshe Civic Center, and promptly removed when brought to the attention of the Presiding Officer. On the morning of April 27, old-looking ANC stickers were on the wall in the voting station at Sefatlhane Primary School; they were promptly covered when brought to the attention of the Presiding Officer and remained covered the next day.

Outside the polling stations at the Lichtenberg City Hall, a sign board in support of Volkstaadt had been erected. When the delegation representatives arrived on April 28, this sign board was covered over with IEC banners. While the delegation was there, two unidentified persons removed the banners, revealing the sign. After discussions with one of the Presiding Officers and SAP Officer Scheffer, who stated that he was without authority to remove the sign board even at the direction of the Presiding Officer, the sign board was again covered with IEC banners and plastic bags. Officer Scheffer stated that anyone who removed the covering would be arrested. Members of the delegation were later told that after they left the polling station, the sign was later uncovered and no one was arrested.

Determination of Competency

Under the election rules, it was within the authority of the Presiding Officer to determine the competency of a potential voter.

Those determined to be incompetent were not allowed to vote. This was extremely problematic and troubling. While there were some guidelines, there was no objective standard and no course for immediately appealing the determination. Although some presiding officers were very cautious in making a determination of incompetency, and attempted to verify their assessment with family members, the process was totally arbitrary and susceptible to abuse. The Presiding Officers were not trained to determine competency. Even well-meaning Presiding Officers were mistaking neurological illness with physical manifestations for incompetence. Had someone not been present to point this out so that they sought further information from family members, these people would not have been permitted to vote.

Competency should not be determined at the voting station by a Presiding Officer. This decision should be made through the appropriate court proceeding. Absent a legal determination of incompetency, an otherwise eligible voter should be permitted to vote.

Availability of Voting Station Material and Communications

Most of the voting stations we visited had finally received adequate supplies of election materials and were operating. The item which most frequently ran out was ballot boxes; the likely volume and needed number apparently had been significantly underestimated. For the most part, alternatives were improvised,

ranging from large plastic garbage pails, cardboard boxes, and in some cases plastic bags. For the most part, the improvisations followed the goals of ballots being placed in sealed containers that would not be reopened. The biggest problem arising from the shortage of ballot boxes occurred when the improvisations compromised the security of previously cast ballots; this occurred in some cases where previously used ballot boxes were opened and reused, with the ballots removed and placed elsewhere.

Some voting stations in our area had started voting late on the 27 or 28 due to inadequate voting materials, generally ballots. On April 28 members of our delegation visited a number of stations that the IEC had identified as starting late on the 27th. One we visited had opened as late as 4 pm after ballots were delivered by helicopter. At each of these stations, we confirmed that voting had started eventually, had continued late until everyone in line had voted; some people did not remain in line but reportedly returned to vote on the 28th. These stations we visited were all operating normally on the third day. We were advised that one remote voting station in our area (which we did not visit) did not receive ballot papers until sometime during the third day of voting.

Voting stations often needed to be resupplied with materials such as invisible ink and batteries for the ultraviolet lights in stations without electricity. While Presiding Officers tried to

keep an eye on the upcoming needs, at times, voting was halted until supplies arrived. These problems were aggravated when there was inadequate opportunity for communication. Several of the polling stations visited by members of our delegation were unable to communicate with the IEC because they lacked telephones and radios. In some instances this meant they were unable to communicate supply needs. Members of our delegation assisted them by arranging for IEC personnel at polling stations with communications to contact IEC headquarters, or by directly passing the information on to the IEC lead monitor.

Inkatha Freedom Party Stickers

One problem observed at some polling stations was the absence of Inkatha Freedom Party stickers on the ballots for the Northwest Provincial legislature. This situation was encountered on the special voting day at Victoria Hospital, and on regular voting days at the Lekoloana Primary School, the Poosedemane Primary School and at one of the two polling stations in the Leherutshe Civic Center. In each instance this situation was corrected when brought to the attention of the Presiding Officer. Ultimately, because of the shortage of stickers in some areas, the IEC determined that ballots without Inkatha Freedom Party stickers would not be considered spoiled ballots.

Role of Press at Voting Stations

At the Civic Center in Mafikeng, a large voting station, South

African Broadcasting Corporation (SABC) and Bop TV had cameras and microphones in the actual voting area. In addition, there were cameramen and reporters generally filming individuals as they voted. This was a breach of the rules which only permitted the press to film the voting by candidates who consented to the filming.

The general filming of voters was a breach of security, and of the right to a secret ballot. A member of our delegation brought this to the attention of the Presiding Officer. The cameras and microphones were then ordered removed from the voting area which was a large auditorium. The barring of the press from filming the voting was enforced. On returning the following day, a member of our delegation observed cameras right outside the doors of the auditorium. The rules addressing the limits on the press in filming the voting needed to be clearer.

Counting

Five members of our delegation were able to observe the counting process. One delegate visited two counting stations in the Mafikeng area, and found that the procedures were generally followed. In these counting stations the efforts to resolve disputed ballots were also successful.

Four other delegates observed the counting at the Groot-Marico counting station and found a very different situation. There were

numerous serious violations of the IEC counting procedures including, mixing of ballot boxes, allowing a myriad of people to handle the ballots (including candidates and party agents), security violations, and harassment and intimidation of party agents. The correct procedures were explained to the counting officer by the monitors and observers, and later by IEC officials. Yet, the counting officer refused to follow correct procedures. This behavior was consistent with what we observed in areas where conservative and reactionary whites were running stations. It was clearly an issue of power and race; issues addressed in other sections of this report.

The counting procedures themselves were somewhat problematic. Although the intentions were good, they were cumbersome, and in some aspects, unrealistic for the circumstances, as is evidenced by the complete abandonment of reconciliation. Better training of counting officers would have been helpful.

Observer Activities Outside of Northwest Province

Before going to the former Bophuthatswana, some members of our delegation spent several days in Johannesburg. These are some of their activities:

Soweto

On Sunday, April 17, 1994, several delegation members spent the day in Soweto with Miles Budu, a prison rights activist, and

his friends David, Jemina, and their son Paul. While at David and Jemina's house, David told us about the voter education activities in Soweto. He said that voter education programs began in Soweto in August, 1993. At that time, due to the way papers are usually graded in schools, some people thought that one should put an X next to the party or parties one wanted to vote against, and a check next to the party for which one wanted to vote.

We were told that now people are better prepared to vote. At this stage, most of the local voter education is being done by the various political parties. The parties who canvassed Soweto were the ANC, the Democratic Party, and the IFP.

David, Jemina and Paul, who live in Pimville, drove us around the Pimville, Diepkloof, and Orlando areas of Soweto. We also spent some time just walking around certain areas and talking with people.

In Pimville, the ANC held a day long rally. The surrounding area was heavily guarded by police and we observed no problems between them and the people attending the rally. We also spent some time at the voter education program conducted by the Zion Church at the Orlando soccer stadium.

Another rally was held in Diepkloof by the ANC Women's League. While in Diepkloof we noticed that several of the houses

surrounding the men's hostel were either abandoned or physically damaged, and we were told that this is the result of several clashes between hostel dwellers and other township residents.

The Goldstone Commission

The Goldstone Commission was established by the former government as a commission of inquiry regarding the prevention of public violence and intimidation by a so-called "third force" composed of elements of the South African Police (SAP), the South African Defense Forces (SADF), the KwaZulu Police, the IFP, and others. In prior interim reports, the Goldstone Commission has presented evidence that it has discovered "a horrible network of criminal activity" by this third force and the unwillingness of the Commissioner of the SAP to agree to establish a carefully selected police investigation unit in Natal. In addition, the Commission has found that the SAP recruited the IFP leader in the Transvaal, Themba Khoza, as a police informer, and supplied him with arms for distribution to IFP supporters in hostels around Johannesburg.

On April 18, 1994, members of our delegation attended the Goldstone Commission's morning session of hearings regarding the IFP's march in downtown Johannesburg on March 28, 1994, and the subsequent shootings of marchers and innocent bystanders. The Commission was attempting to determine whether, in the days leading up to the march, the SAP and the SADF constituted a third force instigating violence by training and arming Zulu hostel dwellers in

the townships surrounding Johannesburg.

The testimony taken on April 18 came from the SAP and the SADF. They advised the Commission that there had been much criticism in the press about the way they handled the march. The ANC issued a press release that it had previously warned the police of the threat of violence and that the police did nothing. The IFP also advised the press that it had contacted the police and claimed that the ANC would "start something," and the police again did nothing. The SAP and the SADF therefore thought it was necessary to recount the events that occurred on the days leading up to the March 28 march and shootings.

In recounting the events, the SAP spokesman exhibited a defensive attitude. He admitted that the SAP had received calls from Themba Khoza of the IFP as well as from both Nelson Mandela and Winnie Mandela of the ANC regarding expected violence at hostels and the need for additional policing. He also admitted that the permit given to the IFP was for a rally, and not for a march though downtown Johannesburg. However, the SAP spokesman said that the IFP had marched in Johannesburg before without incident, and that there had been 436 gatherings in Johannesburg in the last two years without any violence. He further stated that the SAP had no prior knowledge of snipers.

The spokesman said the SAP was more concerned with what it

perceived to be a problem of township residents attacking men living in hostels. The SAP therefore decided to send forces to hostels that were Zulu strongholds and to patrol the streets of Kagiso.

The spokesman then recounted incidents where he said the SAP had problems controlling ANC members who got on trains and robbed people. However, he did not say how the police knew these robbers were members of the ANC or any other party.

At the end of the morning session, the SAP showed a videotape of the March 28 IFP march. Five hundred people marched past the ANC's headquarters at the Shell House with their traditional weapons. The SAP stated that there were no other kinds of weapons that were visible.

## CONCLUSION: FREE AND FAIR ASSESSMENT AND RECOMMENDATIONS

The BOP IADL observer team activities covered all three phases of the election in South Africa: the pre-voting preparations, the voting procedures and the final counting. Despite the relatively short period of time we spent in the area, we were able to gather a vast amount of information, impressions, and experiences, enabling us to arrive at a conclusion about what we observed.

Two inter-connected issues relating to both the access to voting and the voting process were voter education and

intimidation. The late start in Bophuthatswana, the rural area, and the strong conservative white presence in certain areas all affected these issues, and the access of some voters in remote areas to identification cards necessary for voting. As discussed, we identified remote rural sites and farms as sensitive areas where voter education was, for various reasons insufficient. In addition, we received information about attempted intimidation of farmworkers.

The impact of inadequate voter education on the voting process varied, often depending upon the voting station personnel and the presence of observers. At certain voting stations, the lack of voter education was compensated for by careful and dedicated voter assistance. At other stations, such as those run by whites in conservative areas, there were great problems with intimidation and with the voter assistance process. There was a hostile atmosphere in some white-run voting stations and there were some doubts about whether the voting situation was fair or not. These problems were alleviated somewhat when international or local observers were present to insist on proper procedures and observe the assistance process. Despite these problems, in all of the assisted votes we observed in such stations, white officers duly recorded the vote which the black voters indicated.

Looking to the widespread mobilization of voters and tremendous turnout we conclude that, in most cases, people had an

opportunity to come to the polling station, and that they felt free to vote. The large turnout of farmworkers showed us that the intimidation and lack of information did not necessarily hinder many black workers from coming to the voting station to cast their vote.

There were also logistical and organizational problems with the running of the election. Many of the problem issues discussed can be attributed to weaknesses in planning and organization. They must be considered in the context of this being the first such election in South Africa, the late start, the huge turnout, and the tremendous efforts of the IEC to solve the problems quickly so that everyone could get to vote. Recalling our experience with the IEC officials in Mafikeng, we are far from critical of them for inadequate preparation and assistance. On the contrary, we were impressed by the commitment of the people we met, the skill to improvise in the face of all the difficulties and problems they had to confront. According to IEC reports to the media during the election, 95% of the voting stations in the Northwest Province were running well.

Finally, the counting process was slow, tedious, cumbersome, and in certain locations problematic. Despite this, we would not disqualify the outcome.

There are a number of recommendations spread throughout this

report. Many are quite specific; others are more general. We highlight some below for future consideration. As these recommendations primarily address particular problems we observed, they are a supplement to, rather than a comprehensive statement of, any future election plan.

1. Better advance planning for distribution of ballot papers and other voting materials to remote areas;

2. More careful consideration in appointment of and placement of Presiding Officers, Counting Officers, and IEC officials;

3. More careful consideration on location, number and accessibility of voting stations;

4. Engage in very early voter education. Provide non-partisan on-the-spot voter education outside the voting station;

5. Establish more centers to issue voter identification cards, both by increasing mobile units to remote areas and increasing the siting of issuance centers near voting stations. Provide identification for every citizen, including workers on farms, not only for the election, but to document that they exist;

6. Continue the special voting day but operate more voting stations on that day to avoid the elderly or disabled having to travel great distances or to wait in long lines;

7. More clearly define role of party voting agents at the voting station and in the voter assistance process;

8. More clearly define the role of the press and their boundaries;

9. More clearly define what identification will be accepted at the voting station;

10. Provide better guidance and definition of competency to vote; determine

11. Clearer decisions on who is permitted to vote;

12. Better communication within the IEC and with community and advocacy groups.

13. Continue and increase role of mediation and investigation teams for dispute resolution.

We conclude that the IEC, despite some organizational

shortcomings and situational difficulties, worked hard to address all major problems and obstacles. In the vast majority of the voting stations we observed that voters were provided a fair opportunity to vote freely. We therefore conclude that the voting was, on the whole, "free and fair."

## KWAZULU/NATAL IADL LEGAL OBSERVER TEAM REPORT
(Durban)

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The KwaZulu/Natal team took part in one training session organized by the IEC, and received an in-depth briefing at a reception organized by NADEL, whose members' guidance during the course of the mission members of the immeasurably enhanced the team's ability to understand and participate in the electorial process.

### THE PRE-ELECTION PERIOD (APRIL 18-24)

The team covered a number of events and activities including student meetings in Durban, KwaMashu , Ntuzuma, Ndwedwe, Ulundi and Stanger. Many of the areas visited had been areas of tensions and conflict in the days and months before the election. These

activities included three voter education activities; inter-party debates and meetings; "Operation Access" projects; monitoring of sensitive areas; IEC Tribunal hearings; and at least eight political rallies of diverse parties; African National Congress (ANC), Inkatha Freedom Party (IFP), National Party (NP), Democratic Party (DP).

During the four days of the election itself (April 29 was the extra day allowed in KwaZulu), the team was mainly deployed with "roving monitors", who were senior IEC staff assigned to cover a wide area, checking on any difficulties and diffusing any troubled situations. This deployment was in Durban, KwaMashu, Inanda, Ndwedwe, Umlazi and Umbumbulu - mainly in townships and settled areas within 20 miles of Durban. One member travelled on an airplane and a helicopter being used to deliver ballot papers and materials. In addition, at the specific request of the IEC, the team observed the printing of 6 million extra ballot papers during the night of April 27-28.

## BACKGROUND TO THE ELECTION IN KWAZULU

This region has been the scene of particular and terrible conflict in the years and months preceding the election. In the Special Report of the Human Rights Commission, "Three Years of Destabilisation - a Record of Political Violence in South Africa from July 1990 to June 1993", deaths from political violence in Natal in these three years are reported as follows:

| 12 month period | Number of Deaths | Percentage of all deaths from Violence in South Africa |
|---|---|---|
| 1990 - 1991 | 1004 | 31% |
| 1991 - 1992 | 1004 | 33% |
| 1992 - 1993 | 1645 | 53% |

The Special Report analyzes the special problems of the KwaZulu/Natal region as follows:

> The Natal Region is different from the rest of the country in that the current wave of political violence cannot be said to have started in July 1990 in this region. In fact, the political conflict in Natal dates back to at least 1980 when resistance emerged to incorporation of townships within the homeland of KwaZulu and educational and other conflicts arose. The emergence of the UDF (United Democratic Front) in 1984, as a strong unifying political force with popular support throughout the country, including Natal, intensified the conflict. This popularity was perceived by elements within the KwaZulu homeland as a threat to their thusfar unchallenged control. A struggle for political allegiance ensued and developed into a conflict in which both aggressor and victim were Zulu-speaking; clearly a political conflict and not an ethnic conflict as some have attempted to portray.
>
> The Natal War, as it has come to be known, has since 1984 claimed the lives of around 4500 victims, including 3,653 during the three year period covered by the Report. The conflict in Natal has an unremitting character with deaths occurring month after month without a lull. Special Report of Human Rights Commission.

## PRE-ELECTORAL VIOLENCE

The causes of this violence were considered by the Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation (The Goldstone Commission) in various reports. We

note especially the Interim Report on Criminal Political Violence by Elements within the South African Police, The KwaZulu Police and the Inkatha Freedom Party (IFP), issued on March 18, 1994. The Report documented "a horrible network of criminal activity" within the South African Police (SAP) and KwaZulu Police (KZP). The allegations reported included "convincing evidence that elements in the KZP have been and are still involved in hit squad activities in Natal". The members of the IADL Observer Team received frequent reports that the KZP were a partisan force who could not be trusted to investigate political crimes or to protect communities against violence.

In addition, the refusal until April 19th of the IFP to take part in the election had shattering consequences for the region of KwaZulu/Natal. Vast districts became "no-go" areas for IEC workers and political party activists. It was generally understood that local IFP leaders had succeeded in intimidating the people of their communities to such an extent that there could have been no participation in the election. Savage attacks had been made on election workers who ventured into IFP-controlled areas. In fact, in Ndedwe, six voter education workers had been killed only a week before our arrival.

The members of the IADL mission were witness to the aftermath of this violence. In KwaMachu, we saw hundreds of homes which had been abandoned and dozens more which had been destroyed by fire.

Elsewhere, in the vicinity of a large hotel, and in another a squatter settlement, both were reported to be under IFP control. These were well-built houses abandoned during the past month. We visited centers where refugees from these houses were living. One family we interviewed was in the course of leaving the area for a safer place, because they felt threatened and without protection.

There seems no doubt that if the IFP had maintained its boycott of the electoral process, hundreds of thousands of voters would have been prevented through intimidation and violence from taking any part in the election.

On April 19th the agreement between the Government, the ANC and the IFP, through which the IFP was brought into the election was announced. In Natal/KwaZulu, this agreement transformed the electoral situation. Administratively, the late entry of the IFP imposed huge burdens on the officers of the IEC. Some of the last-minute mobilization of efforts which we observed are reported below. Among the ordinary people whom we met, who were until then excluded from the electoral process, the sense of joy and relief was universal.

Voter Education

The IEC Voter Education Department in the previous "no-go" areas, was faced with the task of achieving within one week of the election, activities which, in other areas, had taken several

months. We observed two different approaches.

Ulundi, seat of the KwaZulu legislative assembly and administration was the first site observed. The legislative assembly is housed in a remarkably splendid building and sits in a well-appointed chamber. The building and its gardens, together with the nearby Holiday Inn, stand out incongruously amid a cluster of townships of modest uniform houses.

A few IEC officials had recently arrived to set up the mechanisms of the electoral process. Their task was enormous, and their commitment to achieving it clear. They relied on the civil servants and teachers of the KwaZulu administration to conduct voter education and to be officials at the poll. On April 22, about 400 voter workers were assembled in the legislative chamber to receive instructions in carrying out voter education. These education efforts were due to start on the following three days before the beginning of the elections.

We then visited Ndwedwe, the scene of the murder of voter education workers in the previous week. Here, voter education by IEC teams had been going on for one day. The team which we followed had chosen to organize at the Ndwedwe court house, on a day when pensioners were gathered to collect pensions. They moved among the waiting lines, addressing small groups, showing them sample ballot papers, explaining the procedures for voting and the

secrecy of the process.

Those with whom we spoke were all determined to vote and delighted that the obstacle to voting had been removed. They were very sensitive to the secrecy of the process. A woman said that she would not even discuss her vote within the family, in case her child told a neighbor's child how she was intending to vote. Everyone we spoke to said that they were going to vote.

We went on to a Methodist school which was the venue for a Natal Methodists Women's Convention. Here the voter education team had an audience of about 500 women, and took the opportunity to give a full account of the voting system, and to distribute leaflets and sample ballot papers. The women showed great interest in the presentation and exceptional excitement at collecting their own copies of all of the voter education materials.

From what we could observe, the voter education project played an important part in the election preparations. The concerns expressed to us were not so much about the voting system, but more about problems of getting transport to the polling station, and about having the necessary identification documents.

IEC Pre-electoral Monitoring

Members of the team spent a morning with the "KwaMashu

Patrol", part of the network of IEC monitors whose task was to patrol sensitive areas and report incidents to the IEC. Some intimidation was still continuing in spite of the entry of the IFP into the election. We visited a Roman Catholic Church which was a refuge for people driven from their homes by threats and violence from the nearby community of Lindelani, an IFP-controlled area. Furniture, cookers and other equipment were stacked up under a large tarpaulin. The Church and priest's house were used for sleeping by about 100 refugees. On April 14 the day before our visit, attackers had been observed close to the Church. In fact, the priest was shot at when he shouted at them to go away. Since then, a South African Police (SAP) vehicle had been stationed by the Church, but residents were in great fear of further attack.

Operation Access

"Operation Access" was the project of the IEC intended to provide voters the opportunity to hear representatives of diverse political parties so that they might hear different views. We went to a factory meeting to which eight parties had committed to attend, but only three representatives appeared.

Investigations

The IEC had set up an investigatory body to hear complaints, as required by the electoral law, of electoral malpractice; to mediate disputes where possible; and to prosecute violators of electoral law before the special Election Tribunal. We attended

two sessions of this Tribunal. The Natal investigations team had successfully prosecuted one case in which the IFP had been found guilty of organizing the occupation of a stadium in Umlazi in order to make it impossible for the ANC to hold a planned rally. The IFP were fined 100,000 Rand ($30,000), and this finding and the penalty were upheld on appeal.

Members of the IADL observer team agreed that the existence of this Tribunal made significant contributions to the fairness of the election. The investigators and mediators intervened swiftly, and were able to take action, by summons to the tribunal if necessary, while the election campaign was proceeding. Even on the polling days, investigators were answering calls and issuing guidance on electoral law. On April 28th we accompanied an investigator who drove out from Durban to investigate an allegation that youths under 18 were being issued voter cards. Her action checked an abuse which could have escalated. The investigation and mediation machinery provided an important channel whereby grievances could be aired, examined, and often resolved.

Pre-electoral Rallies and Meetings

We attended numerous political gatherings, from mass rallies to local meetings. Large numbers participated. No instances of disruption or misbehavior were observed. Such meetings and rallies, as well as party posters on lamp-posts and hoardings, newspaper and TV advertisements, and televised inter-party debates,

were conducted as in any democratic election.

## PRE-ELECTION OBSERVATION CONCLUSIONS

During the final pre-election week we witnessed a free and lively election campaign conducted among the main parties. We also witnessed organs of the IEC making a major effort to furnish information to voters and to resolve complaints. The preceding atmosphere of violence and apprehension, which some of us could sense when we first arrived in South Africa, had given place to an atmosphere of peace and calm. This was temporarily shattered by the news of the bombs which caused loss of life in Johannesburg, Germiston and Pretoria on April 24-25, but fortunately these exercises in terrorism did not continue and appeared to cease entirely after arrests were made on April 27.

## THE ELECTION

### April 26 - Special Voting Day

As elsewhere, this first day was reserved for the elderly, the disabled and infirm, and for pregnant women, with mobile polling stations used to visit hospitals, retirement homes and prisons. This special arrangement saved hours of queuing for these voters and allowed them to vote without pressure. It was an imaginative and compassionate idea. The observers were moved to see the numbers of elderly and disabled who came to vote despite the tremendous impediments in getting there.

The day also served to test the polling station arrangements. Nearly all the stations visited on that day opened some hours after the scheduled opening. Chairs and benches were arranged for the waiting voters. Reasons for the late starts included lack of the ink used to mark voters' fingers; lack of the ultra-violet lamps used to show up the ink; lack of police security; lack of IEC monitors; lack of ballot boxes; lack of locks for the ballot boxes; and in some locations, the absence or shortage of the ballots and the special stickers which were to be added in order for the ballot to include the Inkatha candidates. Intervention of the roving monitors resolved some of these problems. By mid-day virtually all the polling stations visited were in operation. Great care was taken to assist the elderly through the various stages of the National and Provincial votes. All stations visited had a full complement of 24 voting officers.

April 27th - the First Regular Polling Day

The main observation, shared apparently by observers throughout South Africa, was the marvel of seeing thousands of South Africans waiting patiently to cast the first vote of their lives. In the areas which we covered, delays through shortages of material were the exception. In most polling stations, it was the numbers alone that caused the long hours of waiting. It was as if all South Africans had come out on this day, on this morning, and were resolved to wait all day if necessary to make their marks on the two ballots.

All were struck by the patience, the seriousness of purpose, the absence of complaint or disorder, which characterized the majority of the lines at most polling stations. Inside the voting area, the procedures were orderly and the voters passed through without pressure or coercion. Care was taken to ensure that all ballot papers had the Inkatha Freedom Party (IFP) stickers attached.

However, one observer in the rural area of Umbumbulu encountered shortages of materials causing major disruption to the poll. Out of 42 polling stations, 30 had some materials, though in many cases these ran out during the day. The remaining twelve never opened at all, due to the complete absence of different kinds of materials, including ink, lamps, booths, ballot papers, and stickers. IEC headquarters had been alerted throughout the morning by monitors by radio starting at 7:30 a.m. Assurances were given that a helicopter was to arrive with stocks of materials. But the helicopter never came. The presiding officers had to try and explain these problems to people who had been waiting in lines from 4 or 5 a.m. People became angry, accusing the IEC of not wanting them to vote, uttering threats towards IEC personnel. The police said that they could not assure protection of the polling station. So at around 1:30 p.m. the decision was taken to close down and send the voters away for the day. Later we were informed that some voting had been started in the evening, and that all supplies were available on the following day of voting.

At a polling station at Lindelani, in Inanda, the IFP stickers ran out at around 1:00 p.m. and the voting was suspended. The delay aggravated a situation which was already tense, owing to the presence of unofficial party representatives who were making various complaints against the presiding officer, who seemed under pressure and frightened. With the assistance of the IADL observers and two European Union observers, the situation was eased. The police were persuaded to station themselves near the voting area, instead of remaining at a distance. A party supporter was persuaded to stop distributing party stick-on badges to everyone in the line. One of us went to assist the presiding officer to find IFP stickers in other polling stations, while one of us stayed at the polling station. After an hour, stickers were obtained and polling resumed.

It is noteworthy that on neither of these occasions did any violence actually erupt. The situation was tense but a combination of self-restraint and sensible measures kept the situations under control. In the end, the voters voted.

By the late afternoon all polling stations we observed were quiet, with no more lines and small numbers of voters coming through. We observed presiding officers sealing the ballot boxes, and in some cases accompanying them with a police escort, to the magistrates' court where they were stored behind bars. There were traffic jams around the court, and groups of voting officers were

seen hauling boxes through the darkness to their destination. There appeared to be a lack of system, but as far as one could see all boxes were duly handed in.

The Presiding Officers, voting officers and monitors, as well as the South African voters performed admirably in each of their unique roles to bring about a smooth and orderly procession through the polling stations on this momentous day.

The Printing of New Ballots

On the afternoon of April 27 some of our team were called in from where they were by an urgent radio message. They were taken to witness the making of the photographic plates, and later, the actual printing, of six million new ballot papers - three million for the national poll and three million for the provincial. the printing took place at two printing works, whose staff worked through the night. By the morning of April 28, at least one million of each ballot were ready to be distributed to areas of shortage. The remaining two million were completed during the day, the last delivery to the IEC's warehouse being completed around 6:00 p.m. Members of the IADL team, and other international observers contacted by us, were present at both printing works throughout this process.

The shortage of ballot papers was a serious problem in many areas so that such a large print run was needed for KwaZulu/Natal

alone. Many more millions were also printed in Johannesburg. The reasons for the shortage according to the IEC included an under-estimation of the population in many parts of South Africa; people voting in places other than those expected; a mis-distribution between different areas, so that some were over-supplied and others fell short. Allegations were also made that large quantities of ballot papers had disappeared and could not be accounted for.

Members of the IADL observer team have no basis on which to comment on these explanations. We can say that once the shortages became apparent on April 27, the IEC moved swiftly to deal with it, and conducted the fresh printing in a proper way. Besides international observers and the IEC monitors, political parties were permitted to have representatives at the printing to ensure the protection of the integrity of the printing process.

April 28

On the second day of the general election, observers continued to accompany roving monitors to the same areas. In every case polling was very light. Some irregularities were observed which had the potential for causing offenses against the electoral law arising from the system used to issue Temporary voting Cards (TVCs) to people who did not possess a South African identity document.

The responsibility of issuing TVCs lay with the Home Affairs Department. The Department required the production of an affidavit

asserting that the affiant was a South African over 18 years old together with a birth certificate or a certificate of baptism to permit the affiant's age to be verified. In the days before the election it was reported that long lines were forming in the Department's offices, and that more flexible, locally based procedures would be put in place.

On April 28, one of the IADL team in Lindelani saw a crowd of people, many of them young children from an apparent age of ten upwards, obtaining affidavits for this purpose. A community leader informed him that he had arranged for ten buses to bring in people to obtain the necessary papers. It was observed that the young people were in possession of baptism certificates signed by the same minister. While they bore different dates, the young people said that they had been given them that same day. The IADL observer reported this matter to the investigations department, who in turn arranged for police to investigate.

In Umlazi on the same day, two of the IADL team witnessed 50-60 young people receiving TVCs from two young women who wore IEC tee shirts. The TVCs had no official stamp and no serial number. Many of the young people appeared to be under 18. The observers contacted IEC investigators who began an immediate on-the-spot investigation.

The IEC official responsible for deciding as to whether a

person desiring to vote was eligible to vote, was the presiding officer at each polling station. Different presiding officers informed us that they had turned away under-age youths, and had confiscated their TVCs. We were impressed by the integrity and good sense of the presiding officers, and think that, at least, those whom we met would have prevented obvious abuse of the system by children. But there was evidence of a potential for illegal voting, and it is likely that some young people under 18 years - we cannot say how many - took advantage of it to obtain a TVC and cast votes.

Counting the Ballots

The count commenced on Sunday, April 30 and continued through that weekend. Two facts soon became apparent from the media coverage, nationwide, the ANC was winning an overwhelming victory but that in KwaZulu/Natal there was evidence of substantial election "misconduct", "informal" voting stations, intimidatory activities at many of the polling places, ballots and ballot boxes with dubious pedigrees, and phantom counting stations.

As the week of May 2 proceeded, irregularities continued to surface, and an accurate count receded as a possibility. A re-run - overall or just in Natal would have been a logistical nightmare and politically undesirable. The IEC was unable to certify an accurate result, and had to yield its function to the contending parties.

Instead of a count in KwaZulu/Natal, there was a compromise. By week's end (May 7), the IEC announced the result agreed to by the parties for the 81 seats in the KwaZulu/Natal provincial legislature: Inkatha Freedom Party (IFP) 41, ANC 26, National Party 9, Other 5. The ANC at first reserved its right to challenge and adjust the result to the extent that misconduct could be demonstrated, but subsequently in early June withdrew its challenge in the interest of seeking harmony.

The Independent Electoral Commission (IEC).

It is this IADL observer team's view that the IEC was presented with insurmountable logistical problems by the IFP's late entry into the race, and by the IFP's violent attacks on campaigning or voter education in KwaZulu until less than one week before the vote. Moreover, the IEC was politically deadlocked, as a hybrid creature of the old regime and the emerging democratic forces. Since it was unable to control the political actors, it adopted a "see-no-evil" approach. Virtually the only investigation the IEC organized was of our IADL colleague, NADEL member Asha Ramgobin, for alleged leaks to the press of electoral misconduct. The team members observed Ms. Ramgobin's personal and professional integrity and her exemplary conduct as an investigator for the IEC.

Zulu Nationalism and the Inkatha Freedom Party

Although there undoubtedly exists in KwaZulu/Natal widespread support for the preservation of Zulu cultural and national

identity, the IFP historically has been an apartheid-supported entity. It remains allied with the most reactionary elements of the regime, and its claim to represent millions of Zulus via a compulsory hereditary monarchy appears to be a stratagem to avoid democratic governance.

A "Free and Fair" Election

By a free election we mean that every South African who wished to cast a vote was able to do so without being prevented by force or intimidation, or being put under any overt or covert pressure. The election was manifestly free in this respect. It is remarkable that in the four days of the election, and in spite of the forebodings caused by the previous history of violence, there were no instances reported of death or injury being caused in KwaZulu/Natal as a result of the election. The people voted in peace.

By a "fair election" we mean a process by which votes are recorded, safeguarded and counted without any tampering or partiality; a process which is fair as between different political parties, regions and classes of voters; a process in which the electoral laws are in accordance with democratic principles, and were duly observed. In this respect, while we noted various shortcomings and delays and areas of potential abuse, we also noted that the shortcomings and delays we observed were in the end rectified, and that there appeared to be an effective machinery for

the investigation of abuses.

## CONCLUSIONS

The overall results were reasonably consistent with regional demographics and pre-election polls and expectations. But in KwaZulu/Natal however, the vote and particularly the count seem to have been tainted to an extent that can never be determined. The impact on the lives of the people of the province remains to be seen. However, any established irregularities should not be used as a pretext to hinder the transition to a post-apartheid democratic South Africa.

While the success of the election was wholly due to the South African people, the presence of observers was important. At different stages IADL observers were able to suggest helpful measures to deal with difficult situations. The presence of observers was a form of reassurance to South Africans that the rules, at least when we were present, would be observed. The observers, for their part, were witnesses who had the opportunity to engrave on their hearts and minds and to communicate to the outside world what it was like to be present when history was made, when the evil of white minority rule was finally lifted from South Africa. It was a privilege to be present at the birth of the new South Africa whose growth will affect the world.

Finally, we would like to pay warm tribute to IADL and NADEL

who gave us this opportunity to participate in this historic event.

## WESTERN CAPE OBSERVER TEAM REPORT
(Capetown)

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### THE PRE-ELECTION PERIOD

Some of the Western Cape IADL observer team attended hearings of the electoral tribunals set up by the IEC to investigate violations of electoral law including that in which the notorious "picture book" printed and circulated in the Cape by the NP was condemned as racist and proscribed. Swersky, Myers and Bourne also attended appellate hearings in which the National Party (NP) advocate argued in Afrikaans and the ANC advocate argued in English. Briefs were quoted in the language in which they had been written.

The observers met with representatives of several parties.

Dullah Omar of the ANC (now Minister of Justice) spoke to us specifically about the interim constitution, the reasons for some of its provisions, the provisions that the ANC viewed as problematic and the ways in which the existence of the constitution will fundamentally change the operation of society.

The observers also met Elmarie Neilson of the Democratic Party (DP) at her party offices who spoke of the DP platform based on free market theory and the condemnation of policies, such as affirmative action, which interfered with that market. She also said that DP would support the ANC rather than the NP. (As the election turned out, they are in no position to support either). Their lack of voter support in the election was foreshadowed by a scheduled DP "impromptu meeting" in St. Georges Mall in downtown Capetown. A small band playing drums and simple wind instruments came through the mall with two DP candidates, one white, one so-called colored, and stopped in a square to attract a crowd. No crowd came. The few people who did stop to speak seemed friendly but not particularly enthusiastic. The IADL observers constituted the majority of the onlookers at any one time.

The PAC representatives with whom we met - a candidate, election manager and the publicity person - were not prepared for the interview. Although the publicity person had told us it would be a good way to publicize PAC views, that goal had apparently not been discussed with the others, one of whom attacked us as

representatives of the U.S. and Europe and accused us of keeping money from the PAC while giving liberally to others. We were also accused of distorting the PAC message in such a way as to claim that their slogan was "one farmer, one plane ticket." (He assured us that they had no policy of encouraging all whites to leave the country). The other basically assured us that they had great support among the majority of the people, especially in the townships and in the schools. None spoke in practical terms about the specific problems facing the country or a majority of its people.

Advocate Pienaar, the last South African administrator of Namibia before its election, represented the Nationalist Party at a meeting, after which he took the IADL observers to tea at Parliament. The discussion became somewhat heated, as his views resembled those likely to have been found among European colonialists in Africa in the 1880s.

NADEL staff called the offices of the political parties each day to learn where public meetings and rallies were scheduled. The ANC was the most forthcoming in these matters and the IADL observers attended several, including the Mandela Festival Rally at the Athlone Soccer Stadium at which we later were informed there were injuries among those pushing to get in.[5] Notwithstanding the

[5]We were sitting in an area near that set aside for the press and the only indication of the results of the stampede to get in was a call over the p.a. system for all doctors and nurses to go to

tranquil atmosphere at all of these ANC meetings which was festive and enthusiastic, Peace monitors, IEC and European Union monitors were always in evidence, but had little to do. Speakers were well-received. In the so-called Colored communities, speakers stressed that the history and program of the ANC ensured that it would represent ALL of the people of South Africa and would respect all religions, a message designed to meet the NP campaign of "schwartzgewaart" (the black threat) and "roissgewarton" (the red threat) (The Afrikaans spelling may not be trustworthy.) At several of the later meetings, religious leaders who endorsed the ANC spoke.

One IADL observer attended the last NP rally of the campaign held at the Good Hope Center. She described it as having more police security than she had seen elsewhere and with an atmosphere unlike that of the ANC rallies. So-called Colored people made up most of the audience and there was no dancing and singing before the program began as was common at ANC venues. Media were there in force, including TV, and she reported that it appeared to her that the staging of the rally was aimed at the broadcasts.

Another IADL observer went on a motorcade through Mitchell's Plain with two ANC candidates and a long convoy of supporters. Mitchell's Plain is a very large so-called Colored community. While the ANC organizer for the township said that they were

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the entrance.

reasonably received in areas that they couldn't safely go into a month before, it was clear that many of the neighborhood were strongly NP. Others seemed to be as strongly ANC. Loyalties were shown by flags and stickers on homes and by whether people cheered, and waved ANC flags as we went by, or whether they stared coldly, waved NP flags and made hostile remarks. Stops for brief speeches and canvassing were done in areas where it was believed that there were undecided voters.

We also observed several voter education workshops conducted by various national non-governmental organizations (NGOs) [Black Sash, the Street Law Project of UWC] at workplaces and a secretarial/computer school. All included mock voting sessions which were well-received. Employer representatives, who were all white, seemed anxious that their employees vote.

The observers also met with NGOs who conducted voter education workshops among prisoners (In fact, the warders requested that the voter educators return to teach them). They discussed issues of violence in the community, and with the Mediation Unit of the IEC.

It appeared that the entire country was intensely focused on the election and that tolerance for opposing political views was at an embryonic stage. For example, the students at UWC literally ran the DP candidate for Premier of the Western Cape off the campus twice without allowing him to speak. On the second occasion, he

escaped by having his car driven across a lawn, with students in hot pursuit on foot.

The IADL observers also accompanied the IEC's "Operation Access" project on a day of campaign presentations in the townships. A convoy of minivans (kombi's) carried IEC monitors, peace monitors, operation Access officials and representatives of several political parties to sports fields in the vicinity of Guguletu, Langa and Crossroads, areas which had been considered "no go" for campaigning. Arrangements had been made in conjunction with the National Association of Civic Organizations to allow presentations by representatives of various parties. Parties represented on this day included the African Christian Democratic Party (ACDP), Inkatha Freedom Party (IFP), Workers United to Rebuild the Third International and, at times, the PAC. The peace monitors got involved only in Langa, where a group of young men attempted to disrupt the presentation of the IFP by heckling and shouting. Although the crowds were rather sparse, it was considered a success as some people did come out and presentations were made by the various parties without serious incident. The presentation in Crossroads was particularly significant as several thousand people had been killed in that immediate area the year before and "warlords" had resisted any incursions in that community.

With this background, the atmosphere of peace, calm and

friendliness that prevailed during the election days was particularly striking.

The Election

The IADL observer itineraries during the elections were devised in consultation with NADEL, so that observers would be in both Black and so-called Colored townships. The limited availability of transport (one minivan) and drivers, and NADEL's decision that we should not travel to townships without an experienced guide made it impossible for us to get to Kayelitsha. The specific voting stations visited were determined jointly by NADEL and our driver/guides. The second day's itinerary was based on the desire to gain a perspective on the electorial process in the rural areas. NADEL staff decided that the most practicable way for us to experience this goal was to go to Stellenbosch in the morning and to work our way back into Capetown. Although a number of possible voting stations were identified, a great deal of flexibility was allotted as to the particular ones to be visited.

April 27, 1994

At about 6:30 a.m., eleven members of the IADL delegation arrived at a polling station in the Bokaap (literally "above the Cape") district of Capetown to see the preparation of the ballot boxes. Bokaap is one of the original districts populated by Malay workers and remains a working class area. There was a queue about 40 yards long of people waiting for the voting station to open.

The female presiding officer showed the empty ballot boxes to the monitors and observers and closed and sealed them using metal wires fastened with metal clamps, plastic self locking strip seals and "red tape" with wax seals. Each ballot was sealed in all three ways. This was the only station where we saw the red tape and wax seals put on before the boxes were used. The rest of the procedure was followed at each of the voting stations visited, each time a ballot box was full and another was prepared for use. Ballot boxes were not prepared for use before they were actually needed.

After this initial stop, we went to four different townships, two African (Guguletu and Langa) and two so-called Colored (Maneburg and Mitchell's Plain). In each township the seven IADL observers formed themselves into three groups, each going to a different voting stations for 2 to 2 1/2 hours.

At 7:40 a.m., we arrived in Guguletu, a black township. Group one went to the voting station at the Luzuko Higher Primary School. There was a line at least 200 yards long.

Two other voting stations were within easy walking distance, each of which had similar lines. The presiding officer (PO), David Tibini, told us that the line had been there when he arrived before 5:00 a.m.

The atmosphere was very friendly, very cooperative, and very

well organized. Whenever someone needed assistance or a ballot was spoiled, the PO called an observer over to watch as he and a monitor dealt with the situation.

During the two hours group one spent there, one prospective voter came with a Ciskei travel document, was told that it was not sufficient, and was directed where to get a temporary voter's card. Several spoiled ballots were replaced. The PO wrote on the back of each why the ballot was considered spoiled and signed his name. One of them involved a ballot which had no IFP sticker. The worker who had given out the ballot realized the defect before the voter had placed it in the ballot box and requested the voter to turn it in for a new one with the sticker although the voter had not complained.

One voter called the PO over to ask if she had marked the ballot correctly. The PO looked a little startled, saw that the cross was in a square in the column where crosses were to be put and said, "yes". After the voter had deposited her ballot, the PO told us that he had realized after a moment that the voter wanted to be sure that her ballot wasn't spoiled.

Group two went to the Gugeletu Civic Hall. Voting had not begun there because of the lack of equipment, particularly ultra violet lights. Virtually no voting took place during the entire time that the IADL observers were there. The observers made

contact several times by telephone with the IEC about the situation and completed an incident report which was given to NADEL. Notwithstanding, the queue was extremely long but good-natured.

When the kombi arrived at the Guguletu Civic Hall to pick up group two, a large bus also arrived to pick people up and take them to a voting station in Manenburg. People crowded in with good humor and no fighting. They packed themselves into the bus and went off in high spirits.

At 10:10 a.m. group one entered the voting station at the Langa Community Center. The voting was moving very slowly because the workers were having trouble tearing the ballots out of the books and were being exceptionally careful in folding them before giving them to the voters. While there, it began to rain. The queue outside was extremely long and there were only three voting booths for each ballot (national and provincial). At times, there were people with ballots waiting for an empty booth in which to mark them. At the suggestion of the IADL team leader, and with the concurrence of the PO, the IEC head monitor called on his cellular phone for more voting booths which were brought.

The IEC monitor at the ballot boxes was supposed to ensure that each ballot deposited had been folded in such a way that the back of the portion that was marked with the cross was covered by another flap of the ballot. She would check this by having the

voter show her both sides of the ballot. If the flaps were folded right over left rather than left over right, she would call another IEC monitor or the PO to have the voter correct it, doubling the amount of time it was taking for the ballots to be deposited as well as being counter-productive, since once the ballot was in the box, it didn't matter how it was folded.

The IADL team leader pointed out to the PO that there was no need for the monitor to check both sides of the folded ballot and that she need only check for the stamp. The PO instructed the monitor accordingly and the movement of the line speeded up appreciably.

This PO, a black woman, reported that her IEC team had worked on the special election day, April 26th, at the hospitals in Pinelands and had run into considerable trouble. ID books had been taken from patients by staff and patients wishing to vote were harassed. Despite these problems, they had stayed there until 9:00 p.m. and everyone who wanted to vote was finally able to do so.

In the afternoon, group one went to the Manenberg Secondary School. The operation there was efficiently run, with 6 booths each for the national and provincial ballots. The process was generally smooth and quickly completed, subject to glitches which caused momentary delays.

Party agents for the ANC, the NP and the Muslim Party were present at this polling place.

IADL observers witnessed several voters asking for help. They told the PO which party they wished to vote for and the PO showed them where it was on the ballot without comment.

After getting her ballot, one voter tried to find a friend to assist her with the vote. The PO advised here that that was not acceptable and that she should make her cross at whichever party she wished to vote for. The voter ignored the PO and tried to find the other woman that she was looking for. Finally she gave up and voted on her own. While the PO was dealing with this voter, another voter came to him for help and was actually standing behind the first voter as she was making her cross. The PO who immediately began to listen to the second voter, did not appear to notice the irregularity. Despite the proximity, however, the second voter could not see, and did not appear to try to see, for whom the first voter voted.

At 5:45 p.m. in the rain, group one entered the Rockland Civic Center in Mitchell's Plain. There were two separate voting stations set up on either side of a large hall ("A" and "B"). Both had opened late (after 8:40 a.m.) because they lacked equipment. When the IADL observers arrived, voting station A had just about filled three sets of ballot boxes and had no more. Voting station

B had few at the beginning but had gotten more. As the two PO's were unaware of their respective situations, the IADL observers provided the communication and station B gave Station A the ballot boxes which they needed.

Party agents from the ANC, NP, African Christian Democratic Party (ACDP), and the Islamic Party were at station A. The line there seemed to move a bit slowly, with a bit of a bottleneck where the ink was applied to the fingers. The PO, Trevor Adonis, said that a lot of illiterate voters had come through asking for assistance and asking who to vote for. He said that a lot of time was taken explaining to them that it was their choices, showing them how to mark the ballot, and giving them time to make a decision.

Party agents for the ANC, NP and ACDP were also at station B. The line there moved quite smoothly. The PO, Shamema Buziek, stated that 100 persons had voted in the first 30 minutes and that the pace had not appreciably slowed. Her IEC team had been the staff at this station for the special election day on Tuesday and she believed that the practice had helped. She said that few people had asked for assistance.

The policemen put filled ballot boxes from both stations into a side room to which only the 2 PO's and the police had the key.

The difference in the experiences of the two voting PO's was striking as they were operating in the same large hall and voters could choose to vote at whichever they liked.

At about 7:30 p.m., in what had become a driving rain, the entire IADL team returned to Capetown and went to the Good Hope Jr., Seminary in Vredehoek to see the closing of the ballot boxes, in a white neighborhood near the IADL observers accommodations. The PO Randall Titus, was a young NADEL lawyer whom we had met. There was a long queue and it appeared that everyone would not be able to vote that day. As many as possible were let into the building and the gate was closed at 8:00 p.m. It took another half hour for those within the building to vote even though the voting here went more quickly than any other voting station group one had visited. According to the PO about 4000 persons had voted by 6:30 p.m.

The IADL observer team, left, except for the leader of group one, who stayed to watch the closing and securing of the ballot boxes which took a great deal of time as all unused books of ballots, all unused single ballots and all empty ballot books had to be first counted in front of monitors and observers and placed in boxes secured with masking tape. Then the sliding openings of the 12 ballot boxes (6 national, 6 provincial) were sealed with wire padlock seals and with red tape and red wax seals. The IADL observer personally applied the red tape and red wax seals to two

ballot boxes, one national and one provincial.

The IEC had made provision for a plainclothes police escort for the ballot boxes (3 large policemen in an unmarked car) but not for the transportation of the boxes themselves. The PO, IEC monitors, observers and a party agent organized themselves in their own cars and carried the ballot boxes in a convoy to the counting station in Sea Point, unobtrusively escorted by the police. At the suggestion of the IADL observer, one IEC official and one observer went in each car. On arrival at the counting station the ballot boxes were taken upstairs by other IEC officials to a locked area.

Despite the weather and the problems that seemed most acute in Guguletu, the first day of voting ended with exceptional peacefulness and the good spirits that others have remarked upon, and most importantly, the eagerness of the majority population to vote.

April 28, 1994

After travelling for well over an hour, the IADL observers first visited a voting station in Vottenburg, a rural area of Stellenbosch. According to the PO there, voting had been heavy the day before. In the hour and a half that IADL observers were there, several groups of farm workers came in, transported by their employers, and all workers and employers voted. Overall, though, the pace was light.

An extremely old so-called Colored man came in, helped by his wife, who was herself elderly. The IEC officials helped to support him as he went through the process. As he could not read, they had his wife tell him, in Afrikaans and in front of the observers, that he was free to vote for whichever party he wanted. On the national ballot, he told the PO that he wanted to vote for DeKlerk and the PO marked his ballot accordingly. On the provincial ballot he clearly indicated with his finger that he wanted to vote for the Inkatha Freedom Party (IFP) and the PO marked his ballot.

The IADL observers also visited a black township (probably Kayamundi) outside of a rural town where the pace was desultory but the spirits high. Once again, it was reported by the IEC staff that voting had been heavy the day before.

The final stop was a voting station at what had been the white high school in another town. At that time, in the early afternoon, there were no voters.

Because of the distances involved and the fact that the IADL observers driver/guide had to be back in Capetown by mid-afternoon. It was not possible to make additional stops and the observers returned to the residence.

NADEL lawyers who were neither campaigning nor working for the IEC had organized a complaint center at an ANC election office some

distance from the observer's residence. Although the observers offered to assist, it was not possible for them to do so.

At each of the voting stations visited on this second day, it was reported that more people had already voted than the estimated total of the number of eligible voters in the area supporting assertions made before the election that the census of the non-white areas of the Western Cape which had been done from the air, had resulted in a serious undercount of the non-white population.

## EASTERN CAPE OBSERVER TEAM REPORT
(Port Elizabeth)

### Members of the IADL OBSERVER TEAM

Attorney Kimberly Bell, Oak Park, MI, US
Professor Kum-Kum Bhavnani, Santa Barbara, CA US
Attorney Tony Costello, Brussells, Belgium
Attorney Feinberg, Los Angles, CA US
Attorney Yvonne Floyd-Mayers, New York, NY US
Attorney Karen Kramer, Oakland, CA US
Solicitor Nilly Sarkar, London, GB
Attorney Troy Yancey, New York, NY USA

This delegation divided itself into three teams during the election; one stayed in Port Elizabeth and its vicinity and two teams were based in King William's Town area.

The IADL observers were given invaluable and extraordinary assistance in organizing the itinerary for them by Julius Miya of the Port Elizabeth branch of the National Association of Democratic Lawyers and Ms. Thami Sapula and Mr. Louis Mgaba Mbula of the King

William's Town Peace Committee who accompanied the observers during the election and provided invaluable background information and insight at the request of Edwin Van Hoorde of NADEL.

These IADL observers visited the following polling stations during the election, most of them in the Ciskei and Transkei where voting was extended for a third day until April 29.

Toise
Stutterheim
Queens Town Community Hall
Whittlesea/Tambo Locations
Konga Town Hall
Lessynton
Seymour Primary School
Alice town Hall
Buttersworth Old Apostolic Church, Bika Township
Bika Primary School
Tsomo/Zakhele JSS

<u>April 27 Observations</u>

- At Toise, IADL observers interviewed four farm workers who stated that they had had no problems voting on April 26.

- At Stutterheim, a queue of about 800 voters appeared to be moving steadily. On the road from Stutterheim to Queenstown we picked up a hitchhiker going to vote in Queenstown who stated that people living between these two towns had neither mass transportation nor convenient polling stations and had to hitch-hike to Stutterheim or Queenstown to vote.

- In Queenstown Community Hall, voting went smoothly although there were long queues of around 1800 people who had been waiting for up to four hours.

  A national party candidate introduced himself to us as a party agent inside this polling station. We asked the Presiding Officer if this was a common practice. He observed that there were no problems with this practice as long as the candidates did not canvass or campaign in the polling station and in fact, DP and ANC candidates had also served as party agents in this polling station.

- At Queenstown-Komani Station, there was a long orderly queue. The station had opened late. A woman with a new born baby at home was permitted to vote out of turn.

- Whittsea/Tambo had long queues of over 1,000 people who had been waiting since 6:00 a.m., some of whom were elderly persons who had been unable to vote on April 26. Over the objections of some of the youth, the deputy Presiding Officer announced that priorities would be given to the elderly. Because there was a staff shortage at this poll requiring one person to do the ink stamping and the verifying, additional voters arriving by bus were redirected to Lessynton.

- At Lessynton even though two other polling stations had been merged with it because of lack of electoral materials, the queue was moving well.

- At Seymour primary school, by 5:00 p.m. it was very quiet, organized but slow moving.

- At Alice Town Hall, by 6:30 p.m. the polling station had run out of all supplies.

Thursday, April 28

- At Butterworth/Nolita JSS, after approximately 500 voters had been transported to other polling stations because there were no ballot boxes on the previous day, 2,200 people had voted according to the Presiding Officer.

- At Konga/Town Hall the Presiding Officer advised us that she had requested electoral materials at 3:00 a.m. on Thursday and that they had been delivered. This station was very quiet with one queue and few black people in evidence. A South African passport was not accepted as a voter ID from one black woman although the IEC had announced that any ID with a photo on it was acceptable.

- At Butterworth/Old Apostolic Church, Bika by 12:50, no voting took place because of a lack of ballot papers,

ink, and IFP stickers. Approximately 150 people were transferred to Bika Township/Magistrate Court to vote; others to Bika/Primary School. The Presiding Officer reported that 400 old people had voted on Tuesday. This station was also the first in which we saw UN observers.

- At Bika/Primary School the Presiding Officer, Mrs. MuAmbo Sbangeni was very efficient. She informed us that 1900 people had voted on Wednesday. Voting for National and Regional candidates was conducted in separate rooms. When we arrived at 1:00 p.m. on Thursday, balloting had stopped because one half hour earlier, they had run out of ballot papers. New supplies arrived at 2:15 p.m. Despite the shortages, the absence of electricity or telephones in this station, it operated very efficiently.

- At Tsomo/Zakhele JSS, the station opened at 3:00 p.m. Since there was only one stamp, there were long delays in the voting. Although it had been announced by an IEC official on the radio that the signatures of IEC voting officers could replace stamps, if necessary, no one of the IEC officials present had been made aware of this change. The IADL observers suggested that the Presiding Officer contact the district IEC electoral office to confirm this information.

## CONCLUSION

In the areas of the Eastern Cape, the IADL observers visited, the elections were conducted in a free and fair manner, but were subject to considerable bureaucratic delays. Because of the extension of voting for an extra day in the Cisket and Transkei (where most of the stations we visited are located), these delays are unlikely to have had a significant influence on the outcome of the election in these areas.

We were impressed with the patience and dignity of people waiting to vote in line. One man said that he had been waiting for forty years to vote, so it did not matter if he waited another day. When people came out of the voting station, they expressed their feelings that they had done something important. Our general reception from the majority of the population was friendly, often with embarrassing expressions of gratitude to us for being there.

## PWV (Pretoria - Witwatersrand -Vereeniging) OBSERVER TEAM REPORT (Johannesburg)

### MEMBERS OF THE IADL OBSERVER TEAM

Barrister William Bowring, London, United Kingdom
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Attorney Ronald Roberts, New York, NY, US

Dr. Simona Wolesa, Brussells, Belgium

## INTRODUCTION

Some members of the team who were unable to remain in South Africa until the conclusion of the elections, attended other pre-electoral activities of significance including the taking of testimony by the Goldstone Commission on the events of March 18, 1994 when InKatha supporters were killed by gunfire outside Shell House, the ANC's national headquarters in Johannesburg. Police witnesses alleged that the Inkatha demonstrators were unarmed and peaceful and that ANC guards had fired upon them without provocation. Witnesses for the ANC asserted that the facts would prove that this was a premeditated and calculated attack on the ANC headquarters.

## IEC ORIENTATION

On Tuesday, April 19, some of the IADL observers participated in the IEC's orientation for more than one thousand international observers held at Witwatersrand University. Presentations were made by IEC Commissioner Gay McDougall, the US member of the IEC and Director of the South Africa project of the lawyers committee for civil rights under law. Other IEC speakers included Advocate Dikgang Moseneke, Security Chief Charles Nupen, Chief Monitoring Director Peter Harris, Director of Operations and Information Piroshaw Camauy and Dr. Ellen Kornegay, International Liaison officer.

The afternoon session included presentations by party representatives including the PAC, the Kiss Party, the Federal Party and the Soccer Party. Representatives of the ANC and the Nationalist Party were unable to attend.

On subsequent days, on April 21-22, visits were paid to observe solicitor Greg Nott, one of our NADEL guides who appeared in Johannesburg Magistrate's court at an inquest concerned with the murder of a security policeman's wife.

INSTITUTE FOR THE STUDY OF PUBLIC VIOLENCE

IADL observers also visited the Institute for the Study of Public Violence, a facility paid for by the Government of Norway,. open to the public, which has established an unique and extensive computer data base which contains all pertinent international human rights instruments, voluminous documentation concerning violence in South Africa including all the extant Goldstone reports. This facility provides free access to reliable information concerning the history of the crimes of apartheid and violence against the people of South Africa providing the new society an institutional and historical memory from which to learn and act.

Other pre-electoral visits included visits to the offices of the Legal Resources Center in Pretoria and the Sub-council of the Status of Women Legal Department of the Transitional Executive Council (TEC).

On Saturday, April 23, some of the observers attended the ANC rally at FNB Stadium in Johannesburg. This rally, the last before the election was attended by more than 80,000 and was addressed by Thabo Mbeki and Nelson Mandela.

On Sunday, April 24, IADL observers visited the site of the ANC car bombing which exploded just before 10:00 a.m. outside the ANC regional headquarters in central Johannesburg and killed an ANC official and ten others.

The aftermath of this violence cast doubt On the possibility of free and fair election among some of the international observers.

April 26, 1994 the Special Vote for the Disabled, the Elderly and some Prisoners.

The IADL observer team divided itself into two groups which primarily visited hospitals in and around Johannesburg.

Hilbrow Hospital

IADL observers arrived at this 3,500 bed hospital whose patients were primarily black shortly before 7:00 a.m. The specific voting station inside the hospital in Solomon Hall was not marked making it difficult for the observers and voters to find.

The station opened at 7:55 a.m. with a prayer. No mobile unit

was available and 80% of the bedridden patients had no identification. The IADL team reported these problems to the Presiding officer and the IEC monitor with no success. We also advised the management of the hospital and the IEC monitoring directorate of these impediments to voting and suggested that affidavits be prepared for these more than 500 patients who had no other credentials. Party agents present included representatives from the IFP, DP and the NP. Other international observers included those from the United Nations (UN) and the Organization of African Unity (OAU).

Chris Hani Hospital (Formerly Baragwanath)

This black hospital included about 2000 patients many of whom were bedridden and unable to vote because there was no mobile unit. The IADL observers again intervened and reported these impediments to voting to the IEC for resolution.

Baragwanath Hospital

Four voting stations were established at this hospital, two of which were in the maternity ward. Two stations opened at 7:30 a.m. each of which had a long queue of patients and medical staff. The first to vote were the voting personnel. At 5 minutes to 8:00 a.m a policeman with a security dog required the room to be cleared while he and the dog made a surveillance of the site. The IADL observers remained at the entrance to watch the ballot boxes which had not been sealed until an IEC monitor who arrived at 10:00 a.m.

advised the PO of the necessity to do so at the IADL observers request.

An IADL observer also observed the P.O.'s assistance of voters unable to place the X on the ballot papers independently. Photographers were requested to leave this voting station by the police which they reluctantly did.

April 27

The two IADL groups observed the electoral process on the first regular day of voting as follows:

Ivory Park Squatter Camp

There were two voting stations set up in one community hall. By 8:00 a.m. a long queue of about 1,000 disciplined and patient people were lined up to vote at these stations which had not opened because of the absence of voting materials and equipment. The IADL observers assisted in calming the waiting people, many of whom feared that they would be attacked by "rightwing" bombs. Another observer located the voting materials and the P.O. who finally opened the polls at a little after 10:00 a.m.

By 5:00 p.m. the polls closed until voting materials were replenished and then reopened until 10:00 p.m. so that everyone lined up could vote.

Ivory Park School

Late in the day; the IADL observers visited this poll which opened very late because of the lack of ultra-violet lamps. However, it remained open until 1:00 a.m. on April 28 so that all of the thousands on line could vote.

Fordsburg Primary School

This poll opened at 7:00 a.m. but in one hour, only a hundred people were able to vote and proceeded very slowly thereafter. There were two other international observers at this site.

Riverlea Secondary School

This voting station moved voters through much more quickly because more voting booths were available. However, the IADL observers had to inform the PO of the presence of party agents at the side of the voting booths offering assistance to voters in contravention of the IEC regulations. This IADL observer team also visited polls at Meldeke Shukokai Karate Club, St. Edna's School (Hillbrow), Christ Church (Hillbrow and Yeoville Recreation Center where long, patient queues of voters were able to vote with minimum difficulties.

April 28, 1994

On this second day of voting, the IADL observers observed as one team. In Soweto, many could not vote because they had not arranged their temporary identification cards in advance. In west

Orlando at Uncle Tom's Hall, hundreds were attempting to get temporary credentials, but the process was very slow because only one computer aided cameras was available. An IADL observer contacted the Home Office to request another such camera which when it arrived speeded the process considerably.

In addition, the IADL observer encouraged the use of affidavits in the absence of the documents required to obtain a temporary I.D. (birth registration, passport, hospital immunization records, primary or secondary school registration records, or work documents).

In contrast to the slow pace at Uncle Tom's Hall, in Kliptown, the Director of the Consumers Co-operative Union had been able to deliver 27,000 ID cards since April 26 because of greater efficiency and the availability of sufficient equipment including Polaroid cameras.

At both these sites, buses were available to take the people who obtained ID cards to the voting stations.

## CONCLUSION

Despite the difficulties experienced by bedridden voters and the delays in the deliveries of electoral materials and equipment, the conduct of the election seemed absent of intimidation and conducted primarily in a free and fair manner.

*APPENDICES TO*

*THE IADL*

*SOUTH AFRICAN*

*ELECTION*

*FINAL REPORT*

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# NADEL

National Association of Democratic Lawyers



# Election Monitoring Handbook

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# Introduction

***A message from Pius Langa, President of the National Association of Democratic Lawyers (NADEL)***

We are at a momentous time in our history. A non-racial election to ensure democracy in South Africa is something that we in NADEL have long worked to achieve. Our participation in these elections has a deeper meaning for us and a significance which goes beyond the technicalities of monitoring.

We have a stake in the realisation of a democracy in this country; a 'free and fair election' is a matter close to our hearts.

We have therefore endeavoured to ensure that our members are involved in this vast undertaking, at all levels. Indeed, our members are to be found in all structures of the Independent Electoral Commission, be it as monitors, investigators or tribunal adjudicators.



We hope our members will play a constructive and positive role in ensuring a

free and fair election so that democracy can be realised.

The entire South African community is however indebted to the sympathetic and selfless endeavours of members of the international community. Thousands of them will be assisting, in one capacity or another, to ensure our goal is achieved.

In this context, I take this opportunity to extend a warm welcome to members of the International Association of Democratic Lawyers (IADL), who will be working with NADEL, sharing their wide expertise in monitoring and observing the elections. We are proud of our long association with the IADL, knowing as we do the relentless fight they have waged for justice and democracy in many parts of the world. Indeed, their visit has given impetus to the compilation of this handbook, which we hope will assist you in your activities pertaining to the election.

We have prepared this handbook with a view to providing an overview of South Africa, its key political players and the nature of the election process.

Given the fluid nature of South African politics, it is impossible to produce a complete, accurate and up-to-date handbook. However, eve· · attempt has been made to ensure the accuracy of the material it contains.

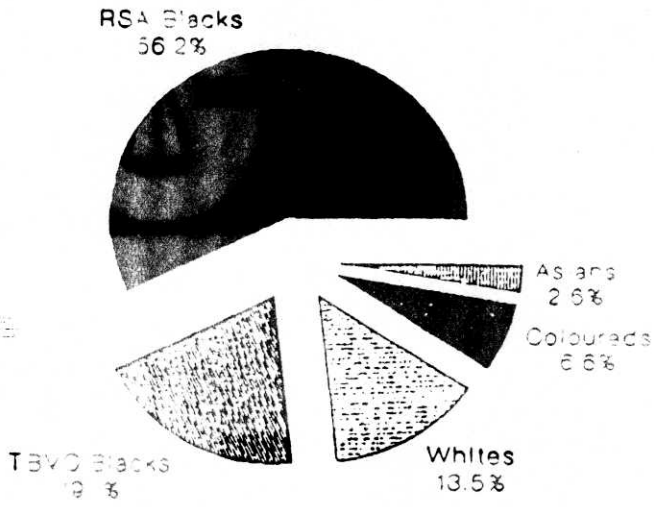
Racial classifications have been used in the handbook purely to illustrate the vast inequalities in South Africa's racially divided society.

We hope this handbook is of use, and wish you well — and look forward to working together with you in ensuring our objectives.

# Facts and figures about South Africa

Figures are taken from the official 1991 government census

## TOTAL POPULATION




Total population 37 028 000

## URBANISATION

- 90% of whites live in urban areas
- 85% of coloureds live in urban areas
- 85% of asians live in urban areas
- 55% of africans live in urban areas

## POPULATION DENSITY

- 3,3 per white household
- 5,1 per asian household
- 5,5 per coloured household
- 6,2 per african household

## LANGUAGE

- Just over 8-million people have Zulu as their first language
- Just less than 6-million people have Afrikaans as their first language
- 3,5-million people have North Sotho as their first language
- 3,5-million people have English as their first language
- 2,5-million people have Xhosa as their first language
- 2,25-million people have South Sotho as their first language
- 1,75-million people have Tswana as their first language
- 1,5-million people have Tsonga as their first language
- 2,25-million people have other languages as their first language

**RELIGION**

- Black independent churches have the highest number of ollowers (17% of the total population).
- 10% of South Africans are members of the Dutch Reformed Church.
- 8% of South Africans belong to the Roman Catholic Church.
- 6% of South Africans belong to the Methodist Church.
- 5% of South Africans belong to the Zion Christian Church.
- 1% of South Africans subscribe to Islam.
- 0,2% of South Africans subscribe to Judaism.

**EDUCATION**

- 10% of South Africans over 18 have received no formal education.
- 3,7% of South Africans have studied beyond high school.
- 32% of South Africans have only completed their primary school education.
- 33% of South Africans have completed their high school education.

**EMPLOYMENT**

Out of the total population of 31-million, 19-million are 'not economically active' and are not looking for work. Official figures put unemployment at 2-million, or 7% of the economically-active population. Unofficial figures put unemployment at around 40% of the economically-active population.

Of the11-million 'economically active':

- 22% work in community, social and personal services
- 12% work in the wholesale or retail trade
- 12% work in the manufacturing sector
- 10% work on the farms
- 7% work in mines or quarries
- 5% work in construction
- 5% work in transport or communications
- 5% work in finance

(23% did not specify the nature of their work).

Of those not 'economically active':

- 74% are african
- 13% are white
- 10% are coloured
- 3% are asians

# Political index

**AFRICAN NATIONAL CONGRESS (ANC)**

Launched as the South African Native National Congress in 1912, in reaction to the exclusion of black people from the political process at the formation of the Union of South Africa in 1910.

In 1923, the organisation was renamed the African National Congress. Its influence waned in the 1930s because of ineffectiveness and leadership disputes. But the ANC was revitalised during the Second World War, and started to play a major role from 1949, when the ANC Youth League was established. The Youth League brought new ideas and leadership into the ANC, including Nelson Mandela and Walter Sisulu.

The Youth League, and the entrenchment of formal apartheid under the National Party government — elected into power in a whites-only election in 1948 — gave new impetus to the ANC. From 1952 it led wave after wave of defiance campaign, and support grew.

In 1955, the ANC adopted the Freedom Charter expressing its commitment to the establishment of a South Africa free from exploitation.

In 1959, the ANC split after a walk-out by a group of Africanists led by Robert Sobukwe, who formed the Pan-Africanist Congress (PAC).

Both the ANC and the PAC stepped up their resistance to apartheid, and were banned by the apartheid government on April 8, 1960 — a few weeks after the Sharpeville massacre.

Twenty months later, on December 16, 1961, the ANC formed Umkhonto we Sizwe (MK), its military wing. At the same time, it started to establish missions abroad.

The senior leadership of the ANC was arrested soon afterwards and went on trial for treason in what became known as the Rivonia trial (after the name of the farm on which the ANC had its military HQ). Among those jailed for life were Mandela, Sisulu and Govan Mbeki.

The struggle continued in exile, however, under the leadership of Oliver Tambo. At the Morogoro conference in 1969, armed struggle was accepted as official ANC policy — and, for the next two decades, the ANC waged a guerilla war against the apartheid government.

Armed action was one of four 'pillars of struggle' used by the ANC to force the apartheid government to either capitulate or negotiate. These four pillars were:
- International mobilisations to isolate Pretoria.
- Mass mobilisation of the people within South Africa.
- Building an underground structure to make the country ungovernable.
- Increased guerilla activity.

Mounting international pressure, plus three major internal uprisings — in 1976, 1980/81 and from 1984 to 1990 — finally forced the apartheid government to act: In February 1990, it released the last of the Rivonia trialists and unbanned the ANC and several other banned organisations, including the SA Communist Party and the PAC.

Since then, the ANC has been involved in a series of multi-lateral and bi-lateral talks with the South African government and other political parties, with a view to the first democratic elections in April 1994.

*Political outlook*

The ANC is, in essence, a national liberation movement driven by a commitment to non-racialism, non-sexism, democracy and a unitary state.

Its political blueprint, the Freedom Charter, expresses the ANC's commitment to the redistribution of land and wealth. It also expresses a firm commitment to individual rights and equality.

The demands contained in the Freedom Charter have also been expanded upon in recent years at ANC conferences and policy workshops.

The ANC's bottom-line remains a commitment to equality and justice, including:
- The pursuit of a unitary, non-racial, democratic state.
- A system of general franchise, based on the principle of one person, one vote.
- A bill of rights.
- A mixed economy.
- A land reform programme.

*Structure*
- The ANC holds national conferences, at which it determines policy and elects its National Executive Committee (NEC) and key office-bearers.
- Nelson Mandela heads the ANC presidency, which includes a national chair-person (Thabo Mbeki), deputy president (Walter Sisulu), secretary general (Cyril

Ramaphosa), treasurer-general (Thomas Nkobi) and deputy secretary-general (Jacob Zuma). The president also has a 'president's committee' of seven NEC members.

- The next layer of decision-making is the national working committee — 26 members of the NEC who meet whenever necessary.
- The NEC itself is made up of 90 members — 50 elected by the national conference, the six members of the presidency, three additional members nominated by the president, and 32 ex-officio members. These members represent the ANC's two affiliate bodies — the ANC Youth League and the ANC Women's League — and its 14 regions.

*Election profile*

The ANC has registered as a participant in the April 1994 election. It will head a broad alliance, which includes the Congress of South African Trade Unions (COSATU) and the South African Communist Party (SACP).

**AFRIKANER WEERSTANDSBEWEGING (AWB)**

The AWB (Afrikaner Resistance Movement) was formed in 1973 by farmer Eugene Terreblanche — a former bodyguard of Prime Minister John Vorster — to oppose any government plans to soften apartheid policies.

The AWB only really took off in the 1980s, however, when its members started to organise public rallies and parades.

*Political outlook*

The organisation shows strong similarities to Hitler's Nazi movement: its members wear khaki uniforms, and its symbol of three sevens is similar to the Nazi swastika.

Apart from its own paramilitary appearance, the AWB also has its own private army, the Stormvalke (storm hawks) and claims to have established paramilitary units throughout South Africa.

Its main objective is armed resistance to achieve the establishment of a 'volkstaat' (white people's state). In this, the AWB acts as an umbrella organisation for a disparate range of ultra-rightwing white extremists, including the Boer Republican Army, the Wit Bevrydingslëer (White Liberation Army), Orde van die Dood (Order of Death), Wit Kommando (White Commando), Wêreld Apartheidsbeweging (World Apartheid Movement), Orde Boerevolk (Order of

the Boer People) and Boere Weerstandsbeweging (Boer Resistance Movement). There are an estimated 70 ultra rightwing groups active in South Africa, united in their opposition to political reform. These extremists are fragmented, and there are fewer of them than their leaders would have the public believe. But they are highly militarised, well-armed and fiercely opposed to political reform.

*Election profile*

The AWB remains fiercely opposed to the democratic process and has vowed to disrupt the April 1994 elections. It argues for the creation of a 'volkstaat'.

**AZANIAN PEOPLE'S ORGANISATION (Azapo)**

Formed in May 1978 to fill the vacuum left by the government banning of black consciousness movements in October 1977. The government acted quickly against Azapo, however, and the majority of its leaders werre arrested shortly after the launch.

The organisation was re-established at a second launch in September 1979, and teacher Curtis Nkondo was elected president. (Nkondo later joined the ANC-aligned United Democratic Front)

Since 1979, Azapo has continued to act as a home for black consciousness supporters, in particular black intellectuals and academics. It was restricted by the government in 1988, along with 17 other political organisations.

*Political outlook*

Azapo's broad aims, outlined at its launch in 1979, are:

- To create a political awareness among black workers and to mobilise them around black consciousness.
- To fight for an education system which will fulfil the demands of 'Azanians'.
- To propagate and interpret religion as a liberation philosophy relevant to the black struggle.
- To expose the injustices of the apartheid system.
- To fight for the unity of the oppressed in order to distribute the wealth and power among all the people of Africa.

Azapo's reference to Azania is derived from the PAC's Azanian People's Manifesto, drawn up in 1959 (for more detail, see the section on the PAC). The organisation, although not formally linked to the PAC, has closer ties to this organisation than it does to the ANC.

It's main areas of support are the Western Cape and the PWV. It also has strong links with several youth and student groups, including the Azanian Youth Organisation (Azayo) and Azanian Students' Movement (Azasm).

Key figures in Azapo are:
- President Itumuleng Mosala, professor of theology at the University of Cape Town.
- Deputy president Aubrey Mokoape, a former Robben Island prisoner.
- Publicity secretary Strini Moodley.

*Election profile*
Azapo refuses to take part in the April 1994 elections, which it has rejected as a sham. It is committed to 'educating' people about the folly of voting in this election.

**BLACK CONSCIOUSNESS MOVEMENT (BCM)**
Black consciousness (BC) was at its height in South Africa in the late 1970s, when Steve Biko headed the South African Students Organisation (SASO) and numerous BC organisations (such as the Black People's Convention) set up community projects in parts of South Africa.

Biko was killed while in police custody in 1977, and a range of BC organisations were banned on October 19 of that year.

Subsequently, the Black Conciousness Movement has been used as an umbrella term to describe the different groups (such as Azapo and the National Forum) which replaced the banned organisations.

From 1987 to 1990, the exiled Black Consciousness Movement of Azania (BCMA) fulfilled a co-ordinating role for BC organisations — one of its main objectives being greater unity between the ANC and the PAC.

*Political outlook*
Black consciousness can be described as an awareness among black people that their human identity hinges on the fact that they are black. It involves psychological liberation from the 'slave mentality' created by institutionalised racism and white society.



From an ideological perspective, BC is an eclectic philosophy. It reflects a

variety of conceptual constructs and guidelines borrowed from diverse sources — Marxism-Leninism, Pan-Africanism, nationalism, socialism and even welfare capitalism.

The BCMA — which has its own guerilla force, the Azanian National Liberation Army — recently stated its three non-negotiable demands as being:
- One person one vote
- Redistribution of wealth
- Redistribution of land.

*Election profile*
Same as Azapo.

**CONGRESS OF SOUTH AFRICAN TRADE UNIONS (COSATU)**
COSATU was formed on November 30, 1985, after four years of merger talks between the country's leading union federations. It currently has more than 1-million members, from across the political spectrum, and its major affiliates are:
- National Union of Metalworkers (250 000 members)
- National Union of Mineworkers (200 000)
- SA Clothing & Textile Workers Union
- SA Commercial, Catering & Allied Workers Union
- Chemical Workers Industrial Union.

Major personalities are:
- President: John Gomomo, a former motor assembly plant worker
- General secretary: Sam Shilowa, a former security guard

*Election profile*
COSATU will contest the election under the banner of the ANC. It has nominated 20 of its leading figures, including former general secretary Jay Naidoo, to be on the ANC's election list.

**CONSERVATIVE PARTY (CP)**
Largest of the white rightwing parties, the CP was formed in March 1982 when churchman Andries Treurnicht led a breakaway from the National Party. Treurnicht — dubbed Dr No by the media because of his resistance to change — clashed with then prime minister PW Bothas over small-scale changes to apartheid policy, such as allowing coloured schoolboys to play in an all-white

rugby tournament. Many NP supporters left with Treurnicht, including current CP leader Ferdie Hartzenberg, and the party achieved 33% support in an all-white referendum held in 1983 to test public opinion on a new constitution.

In 1989, the CP achieved 30% of votes in the all-white parliamentary election — most of its support coming from the Transvaal and the Orange Free State. During this election, the NP's traditional hold on rural and working class Afrikaners was broken.

The key figure in the CP is its leader, Dr Ferdie Hartzenberg.

*Political outlook*

- The CP does not accept the need for social and economic integration in South Africa. Its primary political philosophy can be described as 'self-determination'.
- If it were to come to power, the CP would revert to the situation concerning the position of whites pre-1983.
- The coloured and asian population will be accommodated in 'hartlande' (heartlands) or group areas where they will have limited political rights.
- Black people will have no political rights in 'white' areas. They will have limited rights in the 'homelands'.
- job reservation will be reintroduced for whites in white areas. Trade union rights for black people will be suspended.
- Separate amenities (ranging from bars to schools and hospitals) will be reintroduced.
- All sport and entertainment on Sundays will be banned.

The party remains committed to 'turning back the clock' and has consistently opposed the limited reforms introduced by the National Party. It has taken an increasingly hard line since multi-party negotiations started in 1992, and works in close consultation with parties to the right of itself (including the AWB).

*Election profile*

The CP is part of the Afrikaner Vryheidsfront (AVF) which is opposed to participation in the April 1994 election. It argues for the establishment of a 'volkstaat'.

**DEMOCRATIC PARTY**

Formed on April 8, 1989, the DP is a marriage between the Progressive Federal Party (PFP), the Independent Party and the National Democratic Movement. The party has never done well at the polls in all-white elections. It achieved 20%

of the white vote in the 1989 election. It has, however, played a role in the white parliament — opening up space for greater political activity.

Key personalities in the DP are:
- Zach de Beer, a wealthy businessman.
- Tony Leon, an attorney who is likely to replace De Beer as party head.

*Political outlook*
Essentially the home of wealthy white liberals, the DP is committed to 'engagement politics' — it says it will talk to anyone. Its policy programmes stress a commitment to:
- A common voters roll.
- Free political activity.
- Respect for religion and language differences.
- A bill of rights.
- An independent judiciary.
- A federal system of government.
- An economy based on private entrepreneurship and minimum state involvement in the economy.

*Election profile*
The DP has registered for the April 1994 elections.

**INKATHA FREEDOM PARTY (IFP)**
Inkatha was first formed in 1928 as a cultural movement, but disappeared soon afterwards.

Mangosuthu (Gatsha) Buthelezi revived the movement in 1975, renaming it Inkatha Yenkululeko Yesizwe. Since then, the party has used the KwaZulu legislative assembly (an apartheid creation) to build hegemony in parts of Natal province knows as KwaZulu. It now claims huge support from Zulu-speaking people inside the province and in the PWV region.

In 1978, Inkatha formed the South African Black Alliance (SABA) with several discredited political parties, including the Labour Party, the Inyandza National Movement and QwaQwa's tiny Dikwankwetla Party. SABA was disbanded in 1983 when the Labour Party decided to participate in the tri-cameral parliamentary system.

Inkatha had a fairly close relationship with the exiled leadership of the ANC in 1978/79, but this gradually deteriorated and by 1986 there was open antagonism between the two groups. This was partly because of political violence between Inkatha supporters and members of the United Democratic Front (UDF) in Natal, in which hundreds of people died.

In 1990, Inkatha was transformed from being ostensibly a cultural movement into a political organisation, and renamed the Inkatha Freedom Party. It now claims close on two-million members, including several thousand whites.

Its relationship with the ANC remains antagonistic. Its relationship with the SA government ranges from one of warmth to open hostility.

Key personalities are:
- IFP leader Mangosuthu Buthelezi
- National chairman Dr Frank Mdlalose

*Political outlook*
Inkatha's main aims are:
- To foster unity among the people of KwaZulu and South Africa, and to keep alive the traditions of its people.
- To promote and encourage the development of the people of KwaZulu.
- To ensure equal opportunities for all.
- To abolish segregation.
- To promote indigenous customs.
- To work for the eradication of all ofrms of colonialism, racialism, neo-colonialism and imperialism.

*Election profile*
After some indecision, the IFP has not formally registered for the April 1994 elections.

**NATIONAL PARTY**
South Africa's ruling party for the last 46 years, the NP was formed in January 1914 by General JBM Hertzog. Its main objective was to unite Afrikaners against British rule, and one of its objectives was the physical, social and political separation of South Africans into whites, africans, coloureds and asians.

The NP formed an election pact with the (white) Labour Party in 1924 to chal-

lenge the South African Party (SAP) under General Jan Smuts. This pact defeated Smuts at the polls, but split in 1934 into the United Party (under Hertzog) and the (Purified) NP under Dr DF Malan.

The NP formed part of a growing Afrikaner power group which included media interests (Nasionale Pers), the secret Broederbond sect, business interests (Sanlam and Volkskas) and cultural groups. This group organised Afrikaner interests in a coordinated and consolidated manner, making itself felt in every sphere of South African society.

In 1948, it gained a majority in the election and introduced a range of actions to entrench its power and policies:

- The Population Registration Act, which classified all South Africans according to race.
- The Prohibition of Mixed Marriages Act, which prevented marriages between people of different races.
- The Group Areas Act, which prevented people of different race groups from living in the same area.
- The Suppression of Communism Act, which prevented free political activity.

The NP also introduced influx control measures to keep africans out of certain areas, and abolished african property rights outside the homelands.

The great Afrikaner ideal was finally realised in 1961, when South Africa became an independent republic.

The next 30 years saw the further consolidation of 'grand apartheid', and brought about tremendous misery and suffering — including forced removals, mass detentions and killings, and the blanket erosion of human rights.

National Party policy started to change slightly in the mid-1970s, however, when PW Botha was elected prime minister (the post was later 'upgraded' to state president). While Botha developed his 'total national strategy' to try to contain political opponents, he also started to undertake 'reforms' aimed to remove the grievances which fired revolutionaries.

The early 80s was an important era of political restructuring: the NP's 'total strategy' — with its massive clampdowns on political opponents — increased international isolation. But at the same time, the 'reforms' angered hardline apartheid dogmatists within the party — and several of them left to form the

Conservative Party. Chief of these 'reforms' were:

- Legalising black trade unions.
- Allowing greater freedom of movement by black people.
- Introducing limited political rights for coloured and asian people, in the form of the tricameral parliament (separate houses of parliament for whites, coloured and asians, with the head of state having veto power over all three houses).

Neither the bulk of the South African population nor the international community bought these changes, however, and pressure on the NP increased.

Organised through groups like the United Democratic Front (UDF — now disbanded), popular resistance erupted throughout the country and the NP government introduced a state of emergency in July 1985 to try and contain the uprising.

A National Security Management System was put in place to suppress resistance while at the same time trying to 'broaden democracy'.

The system failed, however, and by 1989 Botha — physically beaten, having suffered a stroke — stepped down as NP chief (but stayed on as president).

The pressure from inside and outside South Africa was becoming too great for the NP. It could not contain the internal rebellion, and sanctions and other international pressures were taking their toll on the economy.

Botha was replaced by former lawyer Frederick Willem de Klerk, a realist who, in his first speech as party leader, committed himself to a totally new South Africa, free of racism and domination.

In August 1989, Botha resigned the presidency and was replaced by De Klerk who embarked on what was, for the NP, a vigorous programme of political reform.

The NP went to the polls a month later in the last whites-only election — the September 1989 poll, which the NP won with 48% of the votes (compared to 57% in 1981). Its closest rival was the Conservative Party, which took 31% of the votes.

The NP used the election result as motivation for proceeding with its 'reforms', and on February 2, 1990, De Klerk took a decision which dramatically changed

the nature of South African politics: he lifted political restrictions which had been in place (in a variety of forms) since 1960, unbanning the ANC, the PAC and the SA Communist Party.

ANC president Nelson Mandela was released six days later, and within weeks the NP and the ANC were engaged in a series of multi-party talks initiated by Mandela — discussions which eventually resulted in the current negotiated political settlement.

Key personalities in the NP are:
- President FW de Klerk, who has led the reform process.
- Roelf Meyer, chief constitutional architect and NP negotiator.
- Kobie Coetsee, who as minister of justice argued for the release of Mandela in the late 1980s.
- Dawie de Villiers, a former rugby player who is now a key NP figure in the Transitional Executive Council.

*Political outlook*

The NP, which in the past was responsible for designing and implementing the cruel and divisive apartheid policies, today expresses a commitment to:
- Equality before the law.
- Protection of minority rights.
- Freedom of movement and association.
- A free market economy.

The NP also recently decided to open its membership to people of all races.

*Election profile*

The NP will be contesting the April 194 elections.

**PAN-AFRICANIST CONGRESS (PAC)**

Robert Sobukwe formed the PAC in April 1959 after leading a breakaway from the ANC because of:
- Discontent with the role and influence of whites in the liberation movement.
- Unhappiness with the influence the SA Communist Party had onthe ANC.
- Objections to clauses in the Freedom Charter which it said would guarantee minority rights.



The PAC grew rapidly between 1959 and its banning in 1961, and at one stage its support exceeded that of the ANC. Its strongholds were the Wiwatersrand

area and the Western Cape. The PAC launched an anti-pass campaign in protest against government policy requiring black people to carry 'pass books' at all times. One of the biggest of these campaigns — a march in Sharpeville south of Johannesburg — resulted in the massacre of 69 people by local police on March 21, 1960.

The entire PAC leadership was arrested and both the PAC and the ANC were banned on April 8, 1960.

The PAC leadership was jailed, and the organisation went underground, moving its headquarters to Maseru in Lesotho. Its underground army, Poqo, staged several attacks on policemen during 1962 and 1963, but assistance from the Lesotho police enabled the South African authorities to crack down on Poqo before it could launch any widespread campaigns.

Nearly 2 000 Poqo soldiers were arrested and jailed, and by 1965 the PAC had ceased to be an important participant in South African politics.

The PAC gradually rebuilt external missions, reviving its army (now called the Azanian People's Liberation Army, APLA) and establishing close links with the People's Republic of China.

The next two decades were marked by intense in-fighting between different factions — a situation which only ended in 1985, when Johnson Mlambo was elected president and set about trying to restructure the movement.

In 1990, the PAC was unbanned and some of its leaders returned home. Former Robben Island prisoner Clarence Makwetu was appointed president soon afterwards, and the PAC has now established a formal presence in most parts of the country.

Although the PAC participated in some aspects of the multi-party negotiations process, APLA continued to stage armed activity inside South Africa until early 1994.

*Political outlook*

The PAC's approach has softened slightly since it entered political negotiations. Its economic policies include:

- A belief in state intervention in the economy to ensure the redistribution of wealth.

• Restrictions on ownership.

Politically, it has called for a constituent assembly and a united front to ensure the eradication of apartheid.

The PAC maintains that it is not anti-white. One of the most lucid explanations of its attitude towards whites came from Johnson Mlambo, who has explained that whites who accept the establishment of an 'Africanistr, socialist, democratic society' are welcome in a free 'Azania'. Whites are also able to join the PAC.

The PAC has close links with several fraternal organisations, including the National Council of Trade Unions (NACTU), the Pan-Africanist Students Organisation (PASO) and Azanian National Youth Unity (AZANYU).

Ket personalities in the PAC are:
• President Clarence Makwetu.
• Former leader Johnson Mlambo, who played a key role in keeping the PAC together during its exile years.
• General secretary Benny Alexander.

*Election profile*
Despite objections to the multi-party negotiations process, the PAC has decided to contest the April 1994 election.

**SOUTH AFRICAN COMMUNIST PARTY (SACP)**
Launched as the Communist Party of South Africa (CPSA) in 1921, the party changed to its present name in 1953 after it was banned under the Suppression of Communism Act.

Since then it has worked actively with the ANC, and several SACP members were among the ANC high command arrested in 1960.

Like the ANC, the SACP was forced into exile with the clampdown on political activity in the 1960s.

It continues to organise joint activities with the ANC, and has provided the ANC with some of its key intellectuals and military theorists - including Joe Slovo and Chris Hani (assassinated in 1993).

Unbanned in 1990, the SACP has spent the four years since then building branch and regional structures around the country. Its cadres continue to have a vital impact on ANC policy, strategy and tactics. The SACP claims a paid-up membership of over 60 000, mainly working class and youth.

*Political outlook*

The SACP's analysis of the South African situation is based on a belief that national liberation has to precede economic transformation.

The SACP favours a mixed economy in the short-term, but is committed to ending capitalist exploitation by building socialism.

Key personalities in the SACP are:

- National chairperson Joe Slovo (also a member of the ANC's national executive committee).
- COSATU officials Sam Shilowa and John Gomomo.
- Strategists Jeremy Cronin and Raymond Suttner (also members of the ANC NEC).

*Election profile*

The SACP will contest the election under the banner of the ANC.

# Political personality index

**Botha, Pik**
Minister of foreign affairs in the South African government. Close confidante of president FW de Klerk.

**Buthelezi, Mangosuthu (Gatsha)**
Chief minister of the KwaZulu homeland and president of Inkatha.

**Coetsee, Kobie**
Minister of defence in the South African government. Former minister of justice, who argued for the release of Rivonia trialists.

**De Beer, Zach**
Chairperson of the DP.

**De Klerk, Frederick Willem (FW)**
State president of South Africa. and head of the National Party. Practised as an attorney until he entered politics in 1972.

**Hartzenberg, Ferdie**
Chairperson of the rightwing Conservative Party.

**Jordan, Pallo**
Head of the ANC's Department of Information & Publicity.

**Makwetu, Clarence**
President of the PAC. Jailed on Robben Island from 1968 to 1976 for promoting the aims of the PAC.

**Mandela, Nelson Rolihlahla**
President of the ANC. Jailed on Robben Island from 1963 to 1990 for treason and sabotage.

**Mbeki, Thabo**
National chairperson of the ANC, replacing the late Oliver Tambo.

**Meyer, Roelf**
Minister of constitutional affairs in the South African government and a key government negotiator.

**Mlambo, Johnson Philip**
PAC vice-president and former head of APLA.

**Naidoo, Jay**
Former general secretary of COSATU, now on the ANC's national election list.

**Ngcukana, Cunningham**
General secretary of the National Council of Trade Unions, a union federation with links to the PAC.

**Ramaphosa, Cyril**
General secretary of the ANC and the movement's key negotiator. Former general secretary of the National Union of Mineworkers.

**Slovo, Joe**
Chairperson of the SACP and a key strategist within the ANC. Member of the ANC NEC.

**Terre'blanche, Eugene**
Head of the rightwing Afrikaner Weerstandsbeweging.

**Viljoen, Constand**
Former head of the SA Defence Force and a key figure in rightwing politics. Recently formed the Freedom Front.

# Key concepts in the transition

## THE TRANSITIONAL EXECUTIVE COUNCIL (TEC)

The TEC was set up in December 1993 as a result of almost two years of negotiations between the country's major political players. It has representatives from all political parties which have expressed a commitment to the democratisation process. These include the African National Congress and the National Party, but do not include the rightwing Conservative Party nor the Inkatha Freedom Party.

Between now and the April 1994 election, the TEC will function as an interim cabinet. Although the National Party government technically still governs South Africa, the TEC has the authority to restrain government power and impel it to act.

The TEC has seven sub-councils:

- Regional government
- Law and order
- Defence
- Finance
- Foreign affairs
- Status of women
- Intelligence.

## THE INDEPENDENT ELECTORAL COMMISSION (IEC)

Appointed by the state president to oversee and administer the elections, the IEC consists of four directorates:

- Electoral administration
- Election monitoring
- Electoral adjudication
- Electoral tribunal.

The IEC is headed by supreme court judge Johann Kriegler and includes several notable South Africans including SA Council of Churches general secretary Reverend Frank Chikane and Institute for Multi-Party Democracy head Dr Oscar Dhlomo.

## THE SPECIAL ELECTORAL COURT

The court straddles both the TEC and the IEC, consisting of three judges appointed by the Chief Justice, and two other people appointed by the TEC.

Its functions are:

- To act as an arbitrator between the government and the TEC if there are disputes about the TEC's competence.
- To act as a substitute lawmaker where the TEC is unable to obtain sufficient consensus.

**THE INDEPENDENT MEDIA COMMISSION (IMC)**

A temporary body appointed by the TEC to ensure fair media treatment for all political bodies during the election.

It has the power to order the broadcast of political items, to order the right of reply, or to order financial penalties. It can also suspend the right to broadcast.

**THE INDEPENDENT BROADCASTING AUTHORITY (IBA)**

This body will have a life beyond the election. Its responsibility is to regulate the broadcasting industry.

The seven members of the IBA are appointed by the state president, on the advice of the TEC. They will license broadcasters, regulate them, and develop policy.

**THE NATIONAL PEACEKEEPING FORCE (NPKF)**

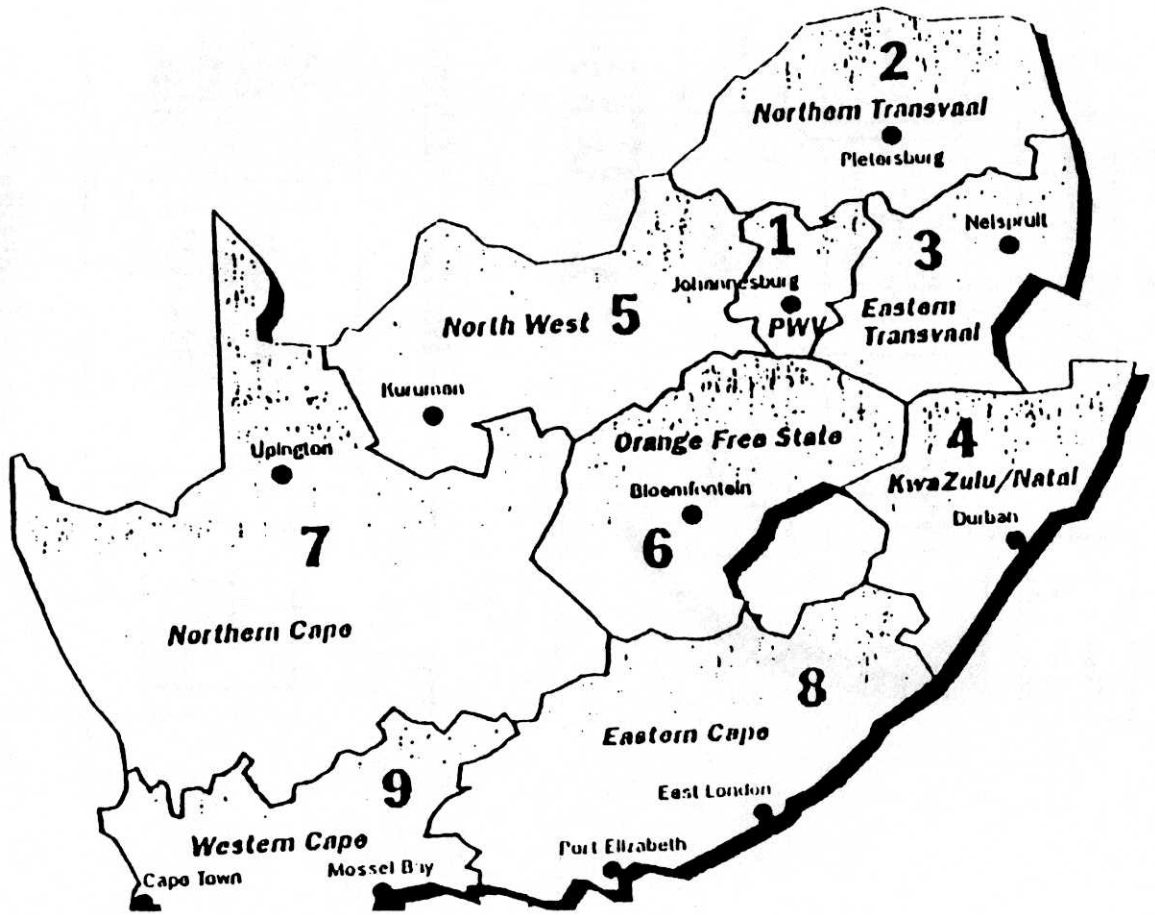
Falls under the control of the TEC sub-council on defence, and comprises troops from all the major South African and homeland armies.

The NPKF is charged with maintaining peace and stability during the elections. It has a total strength of 3 000 and has already been criticised as being both too small and poorly trained.

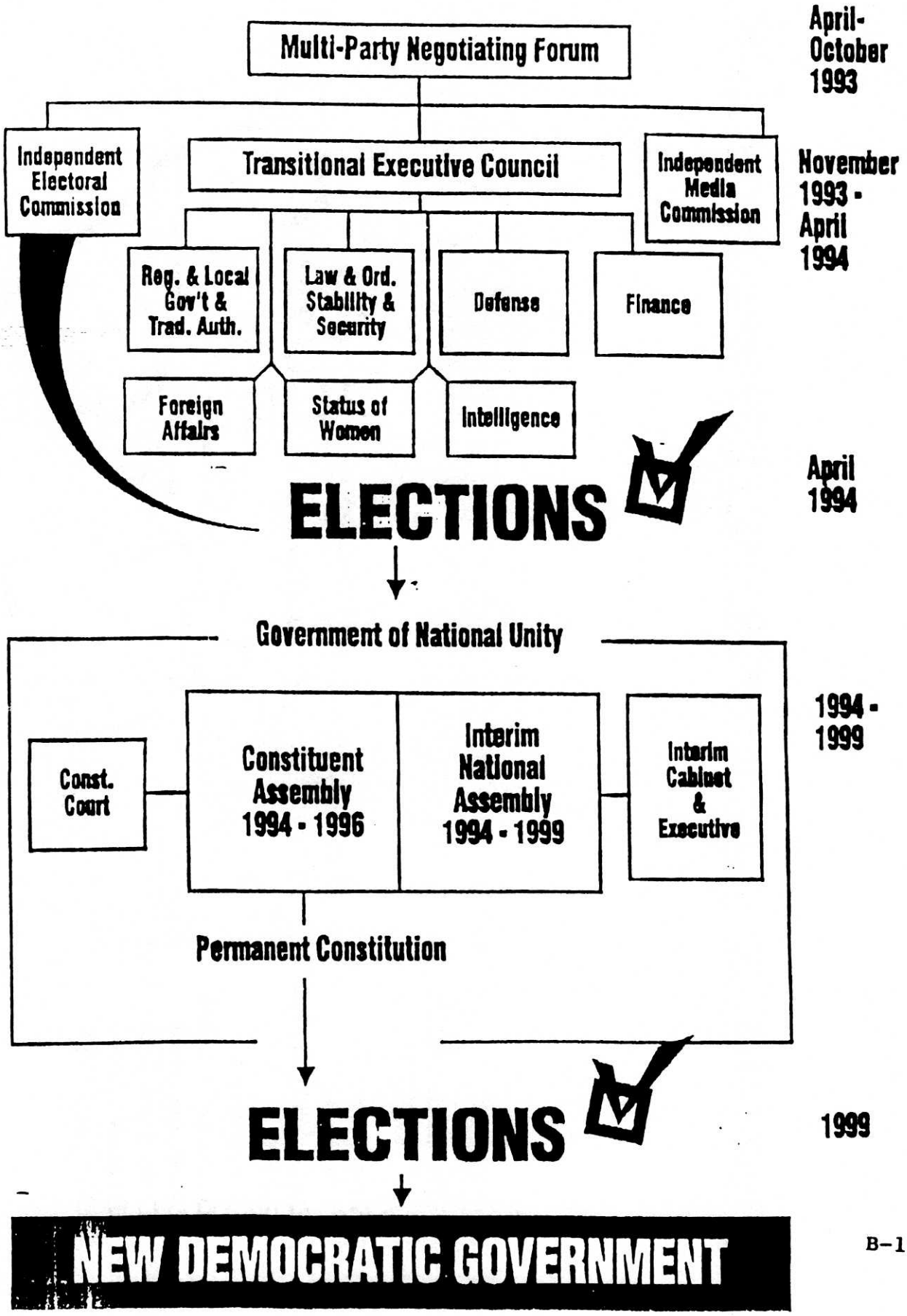
# 9. REGIONAL BOUNDARIES FOR THE PURPOSE OF THE ELECTION

*The nine proposed regions:*

- ☐ Northern Transvaal
- ☐ Eastern Transvaal
- ☐ PWV
- ☐ North-West
- ☐ Orange Free State
- ☐ kwaZulu/Natal
- ☐ Northern Cape
- ☐ Eastern Cape
- ☐ Western Cape



# South Africa: The Transition



SOUTHERN AFRICA PROJ

# SOUTH AFRICA:

# THE COUNTDOWN TO ELECTIONS

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SPECIAL EDITION
February 14, 199

## South African Constitution of 1993

By Stephen Ellmann

On November 17, 1993 the African National Congress ("ANC"), the South African government, and a range of other parties participating in the "Multi-Party Negotiating Process" declared their agreement on a new constitution for South Africa. A month later, after many details had been ironed out and after further, unsuccessful efforts had been made to win the concurrence of the white and black groups which have boycotted the multi-party negotiations, the South African Parliament formally approved a revised version of the text agreed upon in November -- and thereby essentially legislated itself out of existence. As of now, the constitution approved by Parliament is scheduled to come into effect by April 27, 1994, as voting in South Africa's first nonracial election takes place. Negotiations continue, however, and further changes may still be made, perhaps even after the election.

The constitution the negotiators have produced is by definition a product of compromise. It is long and legalistic -- 251 sections, followed by seven "Schedules," all set out in over 100 single-spaced pages of text. Its provisions reflect hard bargaining over power, as well as noble ideals of "national unity and reconciliation." As elaborate as it is, however, this document is <u>not</u> South Africa's final constitution: that will be written by a Constitutional Assembly according to procedures, and in compliance with substantive principles, embodied in this interi document.

Although this is therefore just transitional constitution, that fact scarcely lesser its importance, because these years of transition will be crucial to the successful birth of nonracial democracy in South Africa. The terms this interim constitution deserve attention both because they will usher in South Africa's firs government in which all races are at la represented, and because they will profoundly affect that government's character and policies. As a charter for the transitional years, the ne constitution, though by no means flawless, ha much to recommend it, for it both empowers the country's future leaders to initiate the kinds policies that can deal with the heritage apartheid and contains a variety of provisions meant to protect individual rights and to allay at least some potential dissenters' fears for their ow security in the new order.

To explain that assessment, this survey the interim constitution will look at seven of i fundamental elements:

(1) The establishment of Sou Africa's first nonracial Parliament, consisting of a 400-member National Assembly and 90-person Senate, based on the

country's first nonracial elections, to be held in April 1994;

(2) The structuring of an executive branch of government, in which the President will have substantial authority, although minority parties and groups will also have considerable voice;

(3) The creation of a new Constitutional Court to enforce the interim constitution and to insure that the final constitution complies with the Constitutional Principles agreed upon in the negotiating process;

(4) The designation of the National Assembly and Senate to serve, jointly, as the Constitutional Assembly, responsible for writing the final constitution, if possible within two years;

(5) The allocation of powers between the national and provincial levels of government, in terms that largely insure the effective functioning of the national government, while giving the provinces real, but decidedly constrained, authority;

(6) The guarantee of local government powers, and of local election procedures through which property-owners and whites are disproportionately represented -- an apparent effort to accommodate whites' desires to preserve their positions of privilege at the local level; and

(7) The adoption of a Chapter on Fundamental Rights, which will both guarantee a wide range of freedoms in ways consonant with liberal constitutional practices elsewhere and also empower the new government to take many steps to redress the injustices of apartheid.

(1) The election of the new Parliament: Surely one of the negotiators' greatest achievements is the enfranchisement of all South Africa's people, who will be able to take part in South Africa's first nonracial election in late April, 1994. That long-awaited election will lead to the seating of a new national Parliament, consisting of two houses. The larger, more powerful, and more directly representative of these two houses is the 400-member National Assembly, which will be chosen in this election on the basis of a complex system of proportional representation. This system will take into account parties' success in the separate vote tallies in the nine provinces into which South Africa will now be divided: 200 seats will be distributed based on the provincial results. The national results, however, will be more critical, because the remaining 200 seats are to be allocated so that each party's total number is proportional to its success in the national vote.

The second house, the Senate, will have 90 members -- 10 from each province, chosen by the parties holding seats in the provincial legislature (whose members will also be chosen in the April 1994 elections) in proportion to the number of seats they hold. Like the United States Senate, the South African Senate will give equal representation to small and large provinces and thus will over-weight the votes of those who live in the smaller provinces. Whether the senators will prove to be attentive to the special interests of the provinces, however, will depend largely on the extent to which the parties represented in the provincial legislatures actually focus on provincial concerns in their selections of senators. In dealing with "ordinary legislation," in any event, the South African Senate will not have the power enjoyed by its American counterpart -- namely to block the passage of legislation altogether by refusing to concur in it. In South Africa, ordinary legislation approved by one House and not by the other will become law if it is passed by a majority of the 490 members of the Assembly and Senate sitting together. Since 246 of the 400 members of the Assembly will be able to constitute such a majority, the Senate's blocking power is quite limited. In dealing with "finance bills," the Senate's power is even more restricted. Only when bills dealing with the boundaries and powers of the provinces are before Parliament will the Senate's role be greater; in these instances separate approval by the Senate and the Assembly will be required.

The election of the National Assembly in April 1994 will be the first time all of South Africa's people have been able to vote for a government of their choice. Three points about the choices which the South African system will offer deserve particular mention. The first is that South Africa's system of proportional representation, though more accurate in reflecting national popular sentiment than the United States' winner-take-all elections, does not provide for representation by district, as in the United States Congress. Nor will there be any way that a voter can cast a ballot for a particular candidate, except by voting for the list of candidates, designated by a political party, in which that candidate's name appears. Assembly candidates will actually win seats not based on the number of votes they receive but based on the success of their party, and on how high or low their party chose to put them on its list of candidates. The result, presumably, will be enhanced political party power, and diminished direct voter control of representatives. This effect is likely to be even sharper because it appears that members of Parliament expelled from their party automatically lose their seats, which are then filled by new legislators designated by the party in question.

The second point to be remembered is that, pursuant to a last-minute agreement between the ANC and the government, each voter in the April 1994 election will be permitted to cast only a single ballot, the results of which will determine the composition of both the National Assembly and the provincial legislatures. Defended as a step to avoid voter confusion, this feature risks unfairly diminishing support for parties with only regional popularity, if voters cast their single ballot primarily with a view to influencing the results of the national election. Not surprisingly, the negotiators' agreement on this system has been extremely controversial, and its use may still be under negotiation.

The third point to keep in mind is that this single ballot may well be the only ballot that South Africans cast for their national or provincial governments until 1999. Although a new national election is required if Parliament fails to agree on a new constitution, and new national or provincial elections are possible in certain other situations, it is entirely possible that the Parliament selected in 1994, the President chosen from that Parliament as well as the provincial legislatures elected in the same election and the provincial Premiers whom those legislatures appoint, will all hold office without facing a challenge at the polls until 1999. Presumably this system is meant to help insure that South Africa is governed by a stable government of national unity during the transitional period.

(2) The structuring of the executive branch of the national government: The structure of the executive branch is apparently meant both to enable the government to act effectively and to prevent any one party within it from exercising entirely unilateral power. To that end, the Constitution vests executive power in a single President (as does the United States): in all likelihood the first President -- to be elected by the National Assembly at its first sitting -- will be Nelson Mandela. At the same time, the Constitution checks the President's power in a number of ways. There will, for example, be certain important bodies substantially independent of the President, such as the Public Protector (ombudsperson) and Auditor-General. Moreover, the President will be joined by two or more Executive Deputy Presidents, since each party winning at least 1/5 (80) of the National Assembly seats will be entitled to designate a Deputy President (and even if only one party -- or none -- wins 80 or more seats, the two largest parties will each be entitled to designate a Deputy President). In addition, the President and Executive Deputy Presidents will sit with up to 27 Ministers in the Cabinet; though the President will make all Cabinet appointments, each party winning at least 20 seats in the National Assembly will be entitled to proportional representation in the Cabinet, and apparently even entitled to name those of its members who will get its Cabinet seats.

The provisions for minority party representation in the Executive Deputy President positions and in the Cabinet are certainly a departure from "winner-take-all" systems of government. But while the President is obliged to consult the Executive Deputy Presidents on a wide range of matters, they do not have a veto on the President's decisions. Similarly, another of the last-minute agreements between the Government

order they have served for many years. The interim constitution attempts to strike a balance between protecting their vested interests -- and thereby avoiding the alienation of people who could become very troublesome opponents -- and allowing the new government the freedom to begin reforming these institutions. Thus the new constitution provides that those now employed in public service jobs will continue in them after the new constitution goes into force, and also protects these officials' already-accrued pensions and their current retirement ages. But the constitution also allows efforts to make the public service more representative of South Africa's full population, and permits legislation and Presidential action which may alter many of the terms and conditions of employment of these officials and perhaps eliminate their jobs.

The interim constitution also regulates the police and the military. The importance of the distribution of armed force can hardly be overstated in any country, especially one as potentially subject to division and discord as the future South Africa. On this score, the interim constitution reflects at least three particularly significant decisions. First, it devolves a portion of police power from the national to the provincial level, though policing will remain a more centralized function in South Africa than it is in the United States. This step may reduce the danger to liberty that the centralized South African police have so often posed in the past, but by the same token it somewhat limits national authority. Second, the new constitution incorporates into the armed forces the members of formerly extra-legal military forces, such as the ANC's Umkhonto we Sizwe. Past enemies will now, hopefully, become fellow soldiers. Third, the new constitution appears to entitle Parliament to prohibit the establishment of competing military forces, such as the quasi-independent militia that Chief Buthelezi may have envisioned for the hypothetical state of "KwaZulu/Natal."

(3) The creation of a new Constitutional Court: The judicial branch of the government will consist of the present South African courts and judges (subject to reorganization), with the very important addition of a new Constitutional Court. This Court will have final responsibility for judging the constitutionality of actions of the interim government, and on this score alone its creation is a major step forward for South Africa, where with rare exceptions no other court has ever been able to hold a national statute unconstitutional. The Court will also have a special and potentially important role in the process of adopting a final constitution, for it will be responsible for determining whether the proposed final constitution complies with the Constitutional Principles which are made a part of the interim constitution. In light of both of these functions, the 11 men and women who will serve on this Court will have a very important role to play, and the process by which they will be selected will be correspondingly important. The debate over this process was sharp; ultimately the negotiators decided on a complex system which considerably circumscribes the state President's discretion in making these appointments.

(4) The establishment of the Constitutional Assembly: The National Assembly and the Senate together will also constitute the Constitutional Assembly. The Constitutional Assembly is charged with the task of writing a new constitution, but it will not have a completely free hand in the process. Instead, the new constitution will have to comply with the 33 Constitutional Principles agreed on in negotiations and incorporated as an attachment to this interim constitution. These principles broadly echo the more detailed provisions of the interim constitution itself, and thus provide a legal pressure coinciding with the potential impact of political momentum to make the final South African constitution quite similar to the interim one. Nonetheless there may be many, many elements of the final constitution which the Constitutional Assembly will need to shape and agree upon.

Accordingly, the interim constitution lays out in some detail the process and timetable for the adoption of the final constitution. Ideally, the Constitutional Assembly will approve a draft, by a two-thirds majority, within two years. Should the Constitutional Assembly fail to meet this schedule, the interim constitution provides a set of deadlock-breaking procedures. In one, the constitution will be adopted if it is approved by a simple majority of the Constitutional Assembly and then by 60 % of the voters in a referendum. Failing that, a new Parliament must be elected; it will have one year to approve a constitution, and can do so by just a 60 % majority. (In most circumstances, separate approval is also required from the Senate for provisions bearing on the provinces -- a protection of the nascent vision of South Africa as a federal state.) These

various procedures seem likely to accomplish a very desirable objective -- namely to produce a final constitution rather than leaving South Africa in a constitutional limbo of indefinite duration.

(5) The allocation of national and provincial powers (the federal system): Perhaps the most hotly debated issue of constitutional structure in South Africa has been the question of federalism. The African National Congress sought a strong central government, and initially seems to have had little fondness for federal models at all. On the other hand some of its antagonists, including the various parties now withholding their approval of the interim constitution, shaped images of federalism in which state rather than national sovereignty was most prominent -- if national sovereignty meaningfully existed at all. The result so far resembles modern American federalism in that it gives the provinces real, yet subordinate, functions. Negotiations on this subject may still be continuing, however, and it may well be that some additional authority could be ceded to the provinces without seriously jeopardizing national power, for despite various protections the authority of South Africa's provinces will probably be less than that of American states today.

Three features of the constitution illuminate the status of the provinces. First, although the provinces are entitled to adopt their own constitutions, the national interim constitution specifies many of the details of their internal governance, details from which the provinces are apparently not free to depart. Second, the provinces' legislative power is circumscribed. They are authorized to legislate on a wide range of subjects, but their power in these fields is not exclusive. Instead, it is made concurrent with an equivalent authority wielded by the national Parliament, and in the event of a conflict between provincial and national legislation, the national legislation will prevail in any of a wide range of cases. There will probably be many aspects of potential provincial legislation on which the national Parliament will choose not to exercise its override authority -- but still the power of the provinces is constrained. Third, the provinces are entitled to an "equitable share" of national revenue, including a percentage (to be fixed by Parliament) of income, value-added or sales tax revenues from within their borders, but their own power to impose taxes is extremely restricted.

(6) The special position of local government: While the relationship of provincial and national governments may seem somewhat familiar to an American observer, the constitutional treatment of local governments is much more startling. Our federal constitution is generally understood to leave the shape of local government primarily to the states. The interim South African constitution, in contrast, is careful to protect "the fundamental status, purpose and character of local government" from intrusion. It also guarantees local governments the authority to impose "property rates [taxes], levies, fees, taxes and tariffs" -- in short, a taxing power seemingly more ample than that accorded to the provinces!

Even more important than the powers the interim constitution secures for local governments, however, are the procedures it specifies for their election. Though the constitution directs that "local government[s] shall be elected democratically," these procedures certainly do not comply with the principle of "one person, one vote." Instead, they follow the rule that "[a] voter shall not have more than one vote per local government" (emphasis added). Each voter can vote in the town where she lives, and also in those other towns where she is liable for "property rates, rent, service charges or levies to that local government." This system seems to give those who enjoy economic privilege a political bonus as well.

In addition, a carefully worded section on transitional arrangements for local government appears to give special protection to whites and other non-Africans in local elections. Rather than provide for municipal elections solely on the basis of proportional representation -- the system specified for election of the national and provincial legislatures -- this section specifies that 60% of the members of local government will be elected from wards, and that half of these wards will be allocated to areas apparently defined so as to exclude any areas in which Africans lawfully resided prior to the recent end of de jure segregation in South Africa. Thus, although this section never declares its intention to allocate votes by race, or to overrepresent whites and other non-African groups, these appear to be its results. This departure from the principle of racial equality can only be understood as a pragmatic response to the anxieties of those people, particularly whites, with the power to impede the transition from apartheid to democracy.

(7) The Chapter on Fundamental Rights: Finally, the new constitution includes a Chapter on fundamental rights. The African National Congress at one point proposed the adoption of a Bill of Rights which would have mandated state provision of a wide range of socioeconomic rights, emphatically pressed for the adoption of vigorous affirmative action programs, and circumscribed rights of private discrimination and privileges of property ownership. Only a modest amount of this activist agenda survives in the fundamental rights chapter, but this chapter does confirm the authority of the government to press much of this agenda if it so chooses. In addition, and importantly, the interim constitution secures a wide range of human liberties against excessive state interference. Here let us briefly look at the provisions bearing on three important issues: equality, liberty, and property.

(a) *Equality*: The interim constitution protects all persons from being "unfairly discriminated against, directly or indirectly," on the grounds of "race, gender, sex, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture or language," and perhaps other bases as well. At the same time, it specifically provides that a broad range of affirmative action programs are not precluded by the guarantee of equality.

The prohibition on discrimination just cited, like most of the Chapter on fundamental rights, does not apply of its own force to the actions of private individuals. Since the constitution also protects the freedom of association and the right to participate in the cultural life of one's choice, it might have been feared that the new constitution actually entrenched a right of private discrimination -- as the government had at one point proposed that it should. (One transitional provision does appear to buy time for "community-managed or state-aided" discriminatory schools.) The result could have been a charter for the privatization of apartheid. But another section appears to forbid the creation of new private schools that discriminate on the basis of race, and an important further provision appears to authorize the government "to prohibit unfair discrimination" even by private individuals.

Another danger is that the rights guaranteed in the constitution may not apply fully to African customary law. The chapter on fundamental rights is only declared to bind the "legislative and executive organs of state," and it is not entirely clear that African traditional leaders exerting customary law authority would come within its scope. The intentions of the negotiators on this score are somewhat ambiguous, because a provision which might have insulated African customary law to some extent from constitutional scrutiny was deleted late in the negotiations, but another proposal which would have explicitly subjected unwritten customary law to the chapter on fundamental rights was also not adopted. This ambiguity may become a serious problem, because customary law unfortunately contains elements that are sexist and perhaps also undemocratic. (African traditional leaders are elsewhere given a modest amount of explicit constitutional power, as ex officio members of local government and as potential members of provincial and national bodies of traditional leaders with the power to comment on and delay the passage of legislation bearing on a wide range of matters of tradition. Negotiations reportedly are still continuing over additional constitutional protections sought for the Zulu kingdom.)

(b) *Liberty*: This constitution broadly, and properly, protects a range of human liberties against state intrusion -- liberties that are not novel but that have often been grossly disregarded in South Africa. These include rights of free speech and free press, free assembly, freedom of religion, freedom of movement, and freedoms of political life. Detention without trial is banned, and a variety of other rights are guaranteed to those arrested for or charged with crimes.

This is not to say that the list of rights guaranteed is all-inclusive. It is not. Perhaps the most striking omissions are embodied in the brief text of one section, which states that "[e]very person shall have the right to life." This provision appears to place in the hands of the Constitutional Court the difficult question of whether South Africa will allow the continued use of the death penalty, and the even more difficult question of whether it will constitutionally protect, permit or forbid abortions.

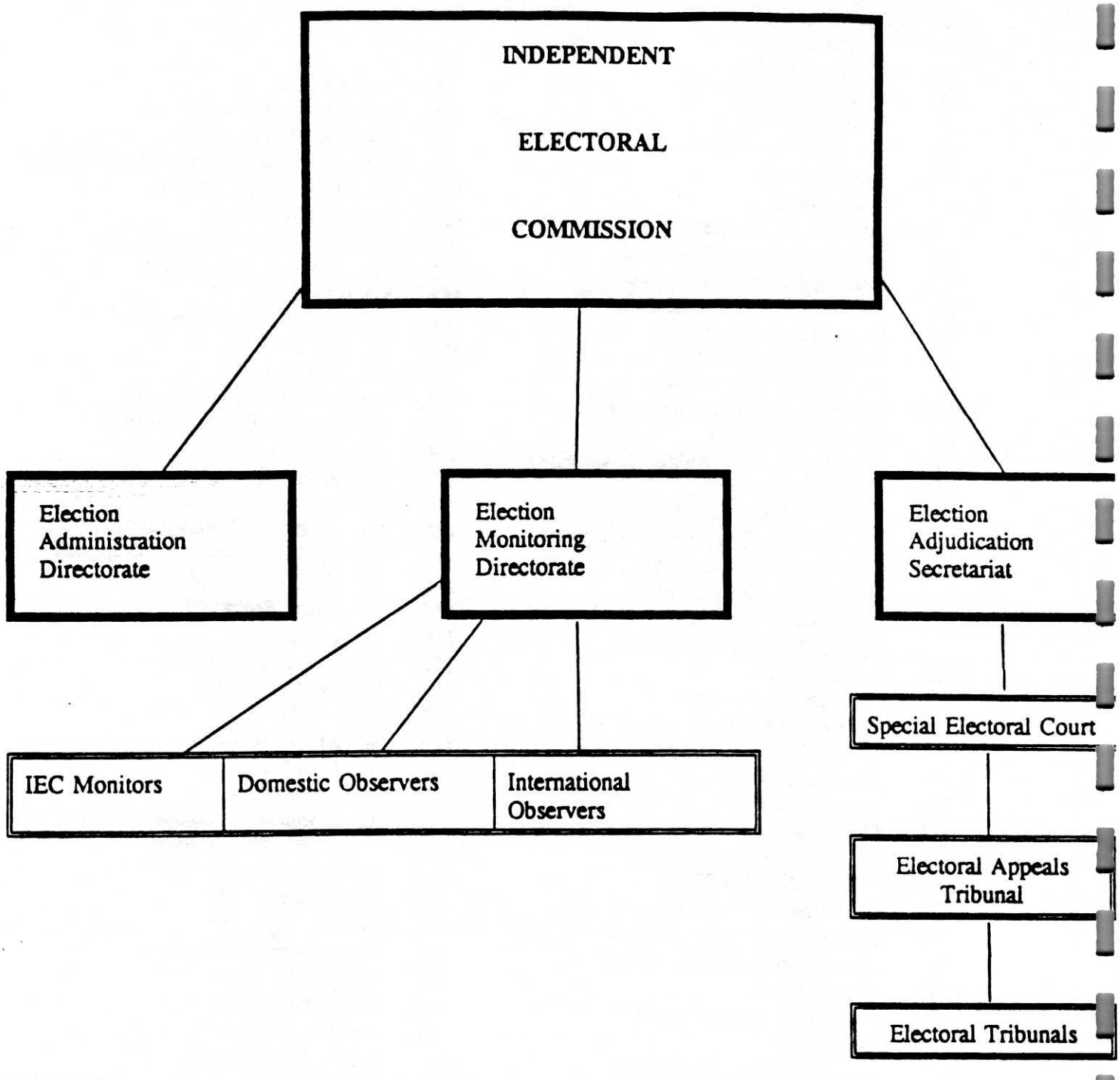
It is also important to note that the rights guaranteed are not absolute. I do not mean to say that they should be absolute; two centuries of American constitutional history help to demonstrate that even firmly worded provisions (such as our guarantee of

ANC National Election List for the National Assembly 15:03:94

1. Nelson R Mandela
2. Cyril M. Ramaphosa
3. Thabo Mbeki
4. Joe Slovo
5. Pallo Jordan
6. Jayaseelan Naidoo
7. Ahmed Kathrada
8. Ronald Kasrils
9. Sydney Mufamadi
10. Ms. Albertina Sisulu
11. Thozamile Botha
12. Stephen Tshwete
13. Bantubonke Holomisa
14. Jeffrey Radebe
15. Abdulah Omar
16. Sathyndranath Maharaj
17. Moses Mayekiso
18. Christopher Dlamini
19. Trevor Manuel
20. Zola Skweyiya
21. Ms. Gertrude Shope
22. Kader Asmal
23. Johannes Modise
24. Rev. Arnold Stofile
25. Mohammed Valli Moosa
26. Ms Stella Sigcau
27. Peter Mokaba
28. John Nkadimeng
29. Essop Pahad
30. Raymond Suttner
31. Ms. Winifred Mandela
32. Titus Mboweni
33. Ms. Thenjiwe Mthintso
34. Ms. Baleka Kgositsile
35. Bonginkosi Emmanuel Nzimande
36. Ms. Ruth Mompati
37. Aziz Pahad
38. Pennell Maduna
39. Billy Nair
40. Ms. Myakayaka Manzini
41. Phillip Dexter
42. Prince James Mahlangu
43. Fr.Smangaliso Mkhatshwa
44. Alfred Nzo
45. Alexander Erwin
46. Gregory Rockman
47. Ms. Gill Marcus
48. Jan van Eck
49. Ms. Thandi Modise
50. Shepard Mdladlana
51. Ms. Nkosazana Zuma
52. Ms. Nosiviwe Mapisa
53. Randell van den Heever
54. Ms. Frene Ginwala
55. Joseph Nhlanhla
56. Marcel Golding
57. Pravin Gordhan
58. Max Vuyisile Sisulu
59. Sakumzi Macozoma
60. Sithembiso Yengeni
61. Ms. Geraldine Fraser-Moleketi
62. Ms. Jennifer Schreiner
63. Reginald September
64. Patekile Holomisa
65. Thomas Nkobi
66. Ms. Brigitte Mabandla
67. David Dalling
68. Sister Zellie Nakie Ncube
69. Andrew Mlangeni
70. Ebrahim Ismail Ebrahim
71. Ms. Adelaide Tambo
72. Ms. Barbara Hogan
73. Sibusiso Bhengu
74. Rapulane Molekane
75. Kgabisi Mosunkunnu
76. Ms. Nozizwe Madlala
77. Nelson Ramodike
78. Jan Hendrik Momberg
79. Prince Mcwayizeni Israel
80. Ms. Dorothy Nyembe
81. Derek Hanekom
82. Mbulelo Goniwe
83. Ms. Melanie Verwoerd
84. Ms. Sankie Nkondo
85. Ms. Pregaluxmi Govender
86. Ms. Lydia Kompe
87. Ms. Ivy Cikizwa Gcina
88. Ms. Ela Gandhi
89. Ms. Joyce Mashamba
90. Ms. Phumzile Ngcuka
91. Ms. Ellen Khuzwayo
92. Ms. Zou Kota
93. Ms. Lindiwe Sisulu-Guma
94. Ms. Feroza Adam
95. Ms. Lindiwe Mabuza
96. Hermanus Gabriel Loots
97. Brian Bunting
98. Peter Hendrikse
99. Archiebold Gumede
100. Mnyamezeli Booi
101. Kgaogelo Lekgoro
102. Ms Elizabeth Dipou Peters

103. John Copelyn
104. Mangisi Zitha
105. Ms. Ntombi Shope
106. Mongane Wally Serote
107. Ismail Richards
108. Ms. Thokozile Msane
109. Samuel Moeti
110. Duma Nkosi
111. Ms. Jennifer Ferguson
112. Ndaweni Johannes Mahlangu
113. Mninwa Johannes Mahlangu
114. Ms. Phyllis Tinyiko Shilubane
115. Chief Samuel Nxumalo
116. **DISABLED REPS**
117. Ms. Nozuko Sylvia Pikoli
118. Sampson Phathakge Makweda
119. Nkosinathi Nhleko
120. Ms. Makhosazana Abigail Alicia Njobe
121. Selby Simeon Ripinga
122. Themba Mvali James Maseko
123. Ms. Lulama Mary-Theresa Xingwana
124. Luwellyn Tyrone Landers
125. William Andrew Hofmeyr
126. Khipusizi Josiah Jele
127. Mziwandile McPherson Piliso
128. Jackie Selebi
129. Stanislaus Sangweni
130. Henry Mutile Fazzie
131. Donald Mlindwa Gumede
132. Prince Madikizela
133. Lechesa Tsenoli
134. Gassan Solomon
135. Ratshivhanda Samson Ndou
136. **DISABLED REPS**
137. Ms. Elizabeth Abrahams
138. Ms. Bathabile Olive Dlamini
139. Bhekokwakhe Robert Mkhize
140. Moosa Moolla
141. Ms. Susan van der Merwe
142. Jerry Ndou
143. Ms. Jillian Nomancube Bam
144. Ms. Beatrix Henriette Hofmeyr
145. Reginald Olifant
146. Mthuthuzeli Mpehle
147. Ezra Mvuyisi Sigwela
148. Dirk du Toit
149. Maxwell Mlonyeni
150. Ms. F.S. Baloyi
151. Ms. Elizabeth Nomatshyina Langa
152. Desmond Lockey
153. Ms. Farida Mahomed
154. Edgar Mushwana
155. Lizo Nkonki **
156. Ms. Doris Ngobeni **
157. Ms. Maite Emily Mohale
158. Prof. Cornilius Tennyson Daniel Marivate
159. Ms. Nomsa Sanny Mtsweni
160. Vusimuzi Mavimbela
161. Ngconde Mathemba Bryce Balfour
162. Thamsanqa Dennis Mseleku
163. Sifiso Buthelezi **
164. Nathaniel Mashilo Masemola
165. Ms. Jean Benjamin
166. Dennis Bloem
167. Ms. Cynthia Moshoeshoe **
168. Ms. Dolly Xoliswa Mzayidume
169. Bhabha Mohammed **
170. Noel John Williams
171. Ms. Qedusizi Buthelezi **
172. Ms. Khorshed Ginwala-Rustomjee
173. Ms. Cynthia Nompumelelo Sekgobela
174. Ms. Mandisa Dona Marasha
175. Ms. Beauty Seoka **
176. Amos L. Lengisi
177. David Grant Ndawonde
178. Crispian Garth Olver
179. Stanley Mathabatha **
180. Mohambrey Moodley
181. Ms. Olga Chauke **
182. Ms. Linda Nzima
183. Ms. Florence Sikhakhane **
184. Ms. Happy Mamlili Blose
185. Mbongwa Sibusiso **
186. G. Mahlangu **
187. Godfrey Pitje **
188. Henry Dumisani Makhaye
189. Ms. Suzette Mafuna **
190. Ms. Rehana Adam
191. Mtwabo Ndube **
192. Jeffrey Brian Peires
193. Max Zulu **
194. E.N. Ginindza **
195. Mzolisi Mabude **
196. Seth Nthai **
197. Roy Anslie
198. Ntobeko Maqubela **
199. Vincent Diba **
200. Sam Kikine

# INDEPENDENT ELECTORAL COMMISSION



E2




*Independent Electoral Commission*

# HANDBOOK FOR MONITORS

# ELECTION MONITORING HANDBOOK

## KEY INFORMATION

THE ROLES AND POWERS OF MONITORS

WHAT TO REMEMBER ON VOTING DAY

REPORTING PROCESSES WHEN DEPLOYED

SAFETY TIPS FOR MONITORS

A CHECK LIST FOR POTENTIAL PROBLEMS

PROCESS IN DEALING WITH PROBLEMS

A CHECKLIST FOR VOTING STATION MONITORING

CODES OF CONDUCT
- Electoral Code
- Code For Monitors
- Code For Observers

CHECKLIST FOR VOTE COUNTING PROCEDURES

CHECKLIST FOR MONITORING CAMPAIGNS

## BACKGROUND TO THE ELECTION

THE TRANSITIONAL PROCESS

ELECTION OVERVIEW

## BASIC CONFLICT RESOLUTION SKILLS

## CRISIS INTERVENTION

## BASIC COMMUNICATION SKILLS

Listening skills
Paraphrasing
Dealing with Anger
Identifying and dealing with interests and positions
Reframing a conflict situation

## BASIC PROBLEM SOLVING

## SAMPLE REPORTING FORMS

## PREFACE

The purpose of this handbook is to provide a resource for monitors to use in the forthcoming elections.

Many people contributed to the production of the handbook, and we would like to thank the following organisations:

IDASA, IMMSA, CIS, ACCORD, UF, DCN, NADEL, COMSA, WVPS
NIM, LEAP, LHR, SACS, LCCRL. (See the outside cover)

The task team that developed the material also deserve special mention:

Alan Brews compiled the handbook and was assisted by our advisory committee consisting of:

Lisa Thornton, Joyce Siwane, Dren Nupen, Judy Thompson,
Tim Glanville, Karthi Govender, Craig Arendse,
Ilona Tip, P Tsukudu, A S Munshi and Pauline Thabethe.

This endeavour would not have been realised without the extensive guidance and leadership of the Director of the Monitoring Directorate, Peter Harris.

**DR N MAGAU**
**HEAD OF DEPARTMENT**
**MONITORING DIRECTORATE: TRAINING DIVISION**

## THE ROLES AND POWERS OF MONITORS

1.1 To observe and report to the Chief Director: Monitoring upon the electoral process, including political meetings, canvassing, advertising and other campaigns at such times and such places as the Chief Director: Monitoring stipulate and in accordance with his or her directives and instructions.

1.2 To investigate complaints concerning conduct prejudicial to free and fair elections or alleged infringements of the Electoral Code of Conduct, to seek to resolve the complaints directly as between the parties concerned and to report to the Chief Director: Monitoring thereon.

1.3 To intervene in disputes with a view to defusing existing or potential conflict, to mediate and, if possible, to resolve or prevent disputes that may arise by negotiation and mutual agreement.

1.4 To comply with the provisions of the electoral Act, Independent Electoral Commission Act, the regulations promulgated thereunder and the Code of Conduct for Monitors.

1.5 To comply and adhere to any lawful directive and instruction of the Chief Director: Monitoring.

1.6 To document in full all alleged irregularities observed and reported on by parties and observers and ensuring that such reports are lodged with the Chief Director: Monitoring.

1.7 To discharge theses duties in utmost good faith.

**PLEASE NOTE:**

**WITH REGARD TO VOTING FOR PERSONS DISABLED OR ILLITERATE: MONITORS ARE NOW REQUIRED TO WATCH THE PRESIDING OFFICER AS HE OR SHE MARKS THE BALLOT PAPER. TO ENSURE THAT THE PRESIDING OFFICER MARKS THE PARTY CHOSEN BY THE VOTER.**

## PREPARATION FOR VOTING DAY

Effective preparation can help you be a better observer. Below are some tips on what you should take with you on voting day. In addition, plan to show up at a voting station more than one hour before voting is scheduled to begin. And wear comfortable shoes and clothing.

### THINGS TO REMEMBER ON VOTING DAY/S

* Don't be late - Arrive an hour before the time!
* Introduce yourself to the Presiding Officer
* Wear your IEC identification
* Bring your Election Monitor Handbook.
* Bring a Notebook and pens.
* Map of the area with locations of Voting Stations marked.
* Something to eat and drink.
* Torch or candles, especially in rural areas.
* Small change for telephone calls.

### IMPORTANT THINGS TO KNOW:

* The Contact Number of Your Sub Provincial Operating Centre.
* The Name and Contact Number of your District Monitor.
* The Name and Contact Number of Your Lead Monitor.
* The Location of the Voting Station at which you are to be Deployed.

### IMPORTANT THINGS TO HAVE:

* Your IEC Identification and Accreditiation.
* The IEC Apparel you are required to wear.
* Incident Report Forms.

## REPORTING PROCEDURES FOR MONITORS

All **General Monitors** will report using the method outlined in point form below:

1. **ALL REPORTING FROM GENERAL MONITORS WILL BE BOTH VERBAL AND WRITTEN**

   - **firstly, using the telephone or another telecommunications method, and**
   - **secondly, filling in an Incident Report Form.**

   **NB: The Incident Report Form is the legal record of the incident! Please study carefully the list of codes that need to be used in filling in the Incident Report Form (Form M4 at the back of this handbook).**

   Where phones are not available or provided, telecommunications will provide radio communication facilities. Monitors will be briefed in the use of communications equipment with which they are not familiar.

2. All reports will be made to the Provincial Operating Centres (POCs) or the Sub Provincial Operating Centres (SPOCs). The nature and location of these centres is outlined below. **THE EXACT ADDRESSES AND TELEPHONE NUMBERS OF THE POCs AND SPOCs WILL BE COMMUNICATED TO MONITORS AT A BRIEFING BEFORE THE ELECTION.**

3. Monitors **MUST** make routine report at least three times daily:

   * When beginning deployment.
   * When ending deployment and
   * Once during the day.

   In addition monitors must phone in all **INCIDENT REPORTS** as well as filling in the **INCIDENT REPORT FORM.**

4. The operators at the POCs and SPOCs will ask the monitors questions using the format on the forms O1 and O3 included at the back of this handbook.

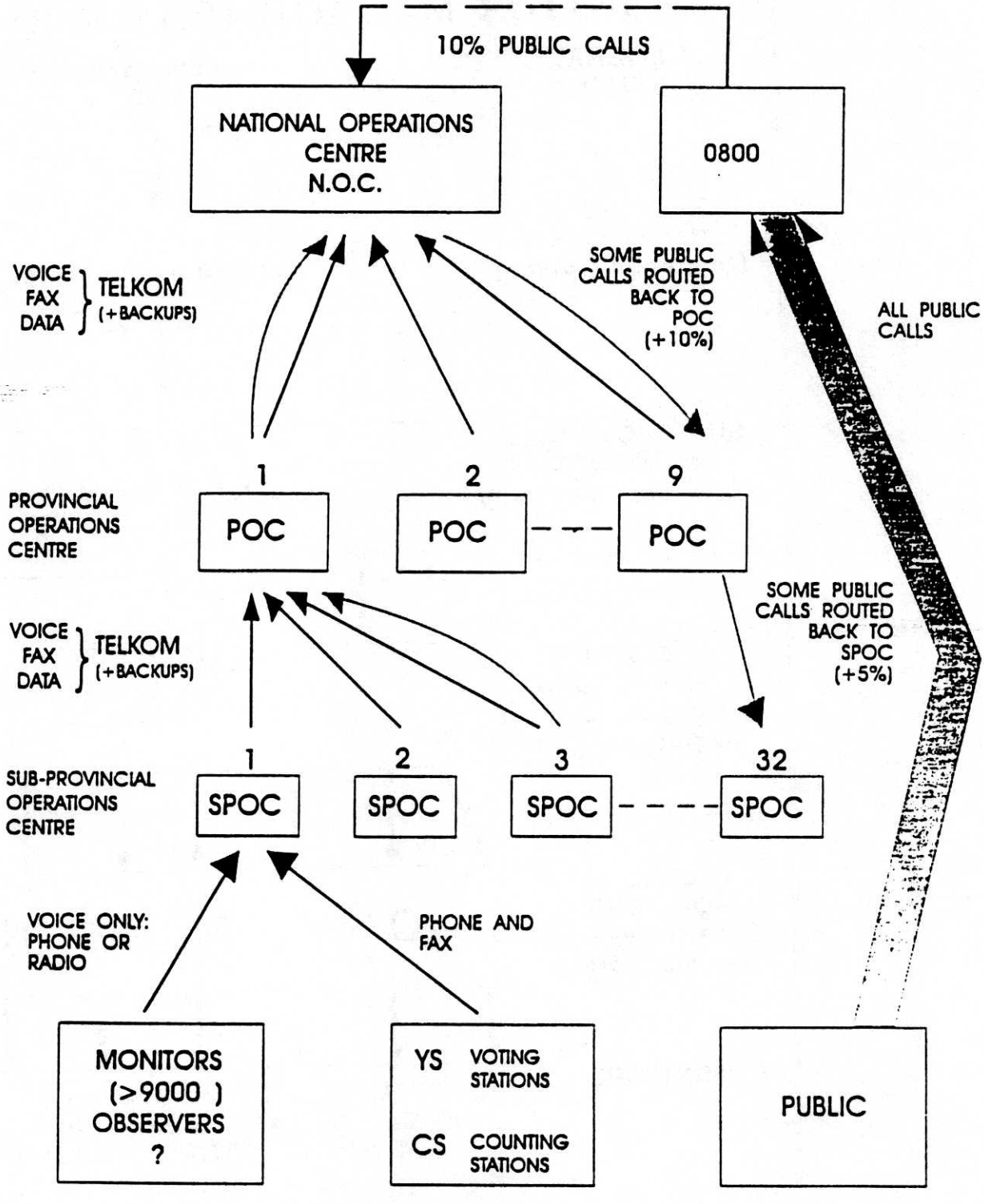
5. **SPECIALIST. LEAD AND DISTRICT MONITORS** will be required to complete particular forms on a weekly basis.

6. The forms that are relevant to monitors are included at the end of this handbook.

7. The diagram on the page 7 indicates how the NOCs POCs and SPOCs fit together.

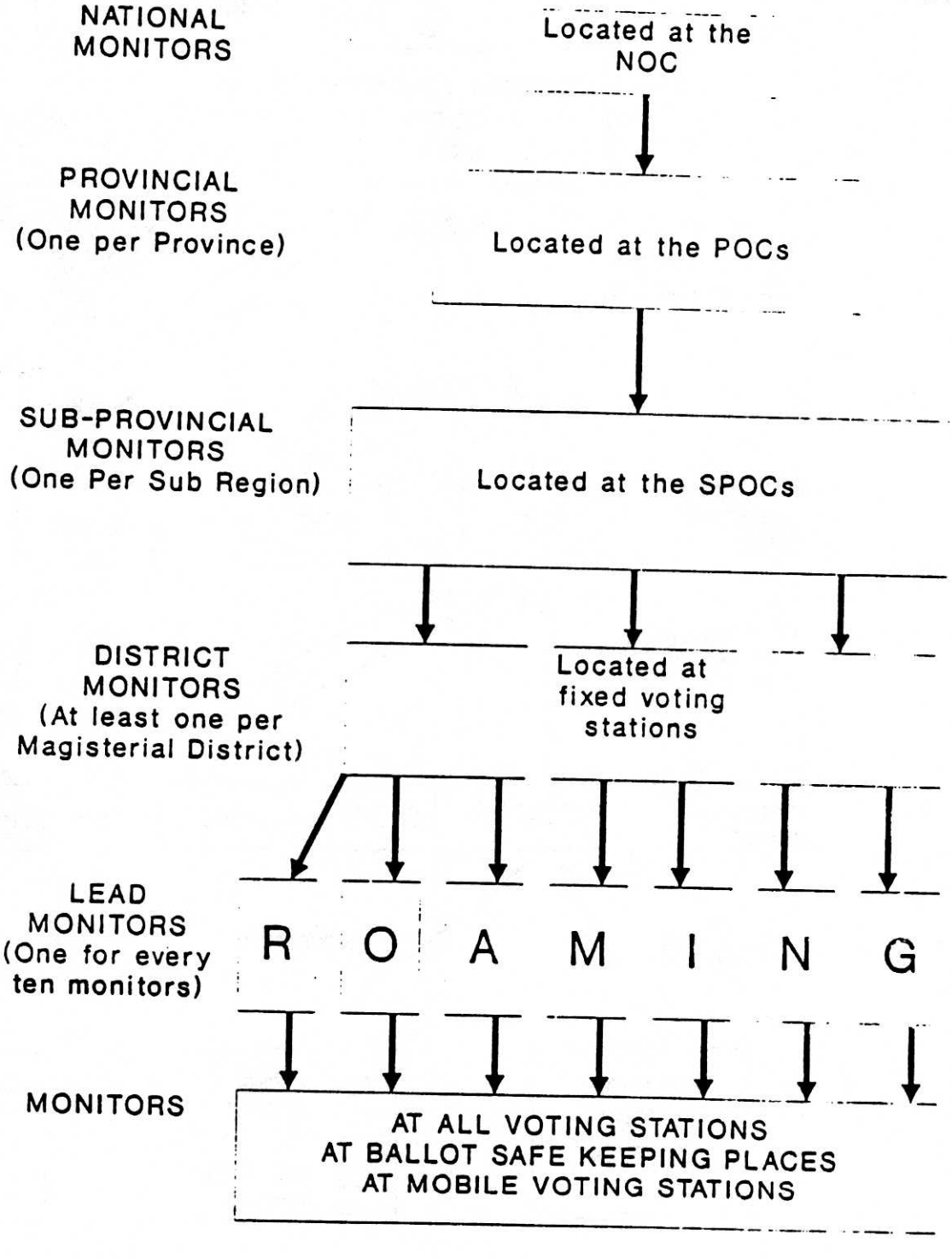
8. The diagram on page 8 summarises the management structures for monitors and their roles on voting days.

INSERT NOC POC SPOC DIAGRAM



INSERT MANAGEMENT STRUCTURE FOR MONITORS

# MONITOR MANAGEMENT STRUCTURE



## Safety Tips for Election Monitors

Difficult situations are likely to come up during the course of observing in your area. The rule of thumb is that if your safety is threatened, you should leave the site immediately. Your safety and your ability to provide credible reporting of incidents are of greater concern than maintaining a presence in a situation that has deteriorated beyond control. There may be occasions, however, when your presence may prove a moderating influence. Observers and monitors should keep the following tips in mind to lessen the possibility that they could become victims of violence.

* Pay attention to all that happens around you.
* Do not take sides in disputes.
* Do not carry weapons.
* Do not wear political insignia.
* Do not get emotional or overly excited.
* Do not get carried away, e.g. toyi-toying or singing with party members.
* Do not carry photographic or audio or video recording equipment.
* Do not be afraid to withdraw if a situation becomes untenable or unbearable.
* Do not expose yourself to unnecessary danger.
* Do not endanger the lives of others.
* Do not risk your life.

| STEPS YOU SHOULD TAKE TO DEAL WITH DIFFICULTIES |
| --- |
| 1. Try to resolve the issue with the voter or person involved |
| 2. Take the matter to the Presiding Officer |
| 3. If you are dissatisfied with the Presiding Officers response and the matter is serious then inform the Presiding Officer you are going to take the matter further. |
| 4. Consider whether the Provincial Monitoring Directorate should be contacted immediately. |
| 5. Prepare an incident report form. |

## VOTING DAY HELPLIST

| COMPLAINT | INFORM/GET HELP FROM |
|---|---|
| *** Problems at the voting station** | |
| Problems with Voting Officers<br>Problems with Party Voting Agents<br>Problems with supply of voting materials<br>Problems with security of ballot box<br>Problems with number of voters passing through | Presiding Officer |
| Problems with Presiding Officer | IEC Monitoring Directorate |
| Problems with IEC Monitors | Presiding Officer |
| *** Problems outside the voting station** | |
| Problems with the Peacekeeping Force<br>Problems with the SAP | Presiding Officer<br>IEC Monitoring Directorate<br>Peace monitors |
| Problems with voters getting to voting stations<br>Interference with transport<br>Cheating and bribery<br>Intimidation and violence | Presiding Officer<br>IEC Monitoring Directorate<br>Peacekeeping Force or SAP<br>Peace monitors |
| *** Disruptions at the voting station** | |
| Threatened attacks and bomb threats<br>Riots and violence<br>False rumours about dangers at the voting station | Presiding Officer<br>IEC Monitoring Directorate<br>Peacekeeping Force or SAP |
| *** Problems after voting** | |
| Problems with ballot boxes and other materials | Presiding Officer |
| Problems with the counting processes | Counting Officer |

## CODE OF CONDUCT FOR OBSERVERS

### THIS SECTION IS INCLUDED FOR INFORMATION PURPOSES

Code of Conduct for Electoral Observers in terms of section 24(1)(b) of the Independent Electoral Commission Act, 1993 (Act No. 150 of 1993)

### PRELIMINARY

1. This code shall be binding upon all Observers registered with the Commission.

2. The object of this code shall be to ensure that the activities of Observers are facilitated by the Commission, conducted with integrity, and contribute to public confidence in the electoral process.

### THE CODE

All registered Observers undertake that their observer activities throughout the election period shall be conducted in accordance with the following principles, viz:

(a) Observers shall maintain strict impartiality in the conduct of their duties, and shall at no time indicate or express any bias, or preference with reference to any registered party or nominated candidate.

(b) Observers shall when so requested immediately identify themselves to any interested person, and shall, during the conduct of their activities, at all times carry, wear or otherwise prominently display the prescribed identification badges or cards issued by the Commission to registered observers and their vehicles.

(c) Observers shall refrain from carrying, wearing and displaying any electoral material or nay other article of clothing , emblem, colours, badges or other item denoting support for or opposition to any party or candidate, or with reference to any of the issues in contention in the elections.

(d) Observers shall refrain from the carrying of displaying of arms during the conduc of their observer duties.

(e) Observers shall ensure that their conduct strictly conforms to the laws and regulations, including the Electoral code of Conduct pertaining to the elections, and they shall both acknowledge the overall authority, and abide by the decisions of the Commission, and its sub-structures, in relation to their conduct as Observers.

(f) Observers shall immediately comply with any direction issued by or under the authority of the Commission with reference to the elections including any request to leave or refrain from entering a particular area or venue, or to depart from a voting or counting station, or any specified area thereof.

(g) Observers shall take all reasonable steps to ensure that any material, information or reports which they receive and any event, occurrence, of statement of which they may be notified or which they may have directly experienced or observed, which indicate the possible commission of an offence of infringement of the Electoral Code of Conduct or of this Code, including allegations involving dishonesty, corruption, intimidation or violence, are brought to the attention of the Chief Director: Monitoring or the Commission's other designated representatives, in the first instance, and at the earliest possible opportunity. Save as provided herein, Observers shall refrain from intervening to address such commission or infringement.

(h) Observers shall refrain from giving direct or indirect assistance to any party in connection with the elections, and on polling day(s) they shall specially refrain from communicating with voters, with a view to influencing them how they vote, or attempting to establish how they have voted, or in any other manner interfering with the secrecy and orderly conduct of the voting and counting process.

(i) Observers shall whenever so requested by or on behalf of the Commission, attend special observer briefings, training workshops and other meetings convened in order to co-ordinate their activities, convey relevant information, impart skill, and with a view generally to promote the effective deployment of resources and the conduct of free and fair elections.

(j) Subject to the duty to report all relevant matters to the Commission and their respective Observer Organisations, all Observers shall maintain due secrecy with reference to any matters affecting voting and counting, in respect of which the disclosure of information would constitute an offence in terms of the Electoral Act.

## CODE OF CONDUCT FOR MONITORS

1. This Code shall be binding upon all monitors appointed by the Chief Director: Monitoring.

2. The object of this Code shall be to ensure that the activities of monitors are co-ordinated by the commission, conducted with integrity and contribute to public confidence in the electoral process.

3. All appointed monitors shall undertake that their activities throughout the election period shall be conducted in accordance with the following principles:

3.1 monitors shall maintain strict impartiality in the conduct of their duties and shall at no times indicate or express any bias or preference with reference to any registered party or nominated candidates;

3.2 monitors shall when so requested immediately identify themselves to any interested person and shall during the conduct of their activities at all times carry, wear of otherwise prominently display the prescribed identification badges or cards issued by the Commission to appointed monitors and their vehicles;

3.3 monitors shall refrain from carrying, wearing and displaying say electoral material or any article of clothing, emblem, colours, badges or other items denoting support for or opposition to any party or candidate or any of the issues in contention in the elections;

3.4 monitors shall refrain from carrying or displaying of arms during the conduct of their duties or while wearing the insignia issued by the Chief Director: Monitoring.

3.5 monitors shall ensure that their conduct strictly conforms to the Electoral Act of 1993, the Independent Electoral Commission Act, the regulations promulgated thereunder, the Electoral Code of Conduct, the Code of Conduct for Monitors, the directives of the Chief Director: Monitoring and the lawful instructions of the Chief Director: Monitoring, any person acting on his or her behalf;

3.6 monitors acknowledge the overall authority and abide by the decisions of the Commission and its substructures in relation to their conduct as monitors;

3.7 monitors shall immediately comply with any direction issued by or under the authority of the Monitoring Directorate with reference to the elections including any request to leave or refrain from entering a particular area or venue, or to depart from a voting or counting station, or any specified area thereof;

3.8 monitors shall ensure that any material information or reports which they receive and any event, occurrence or statement of which they have been notified or which indicate the possible commission of an offence or infringement of the Electoral Code of Conduct or of this Code, including allegations involving dishonesty, corruption, intimidation or violence, are brought to the attention of the Chief /director: Monitoring or the Commission's other designated representatives;

3.9 monitors shall refrain from giving direct or indirect assistance to any party in connection with the elections, and on polling day(so they shall specifically refrain from communicating with voters, with a view to influencing them as to how they vote, or attempting to establish how they have voted, or in any other way interfering with the secrecy and orderly conduct of the voting and counting process.

3.10 monitors shall whenever so requested by or on behalf of the Commission attend special briefings, training workshops and other meetings convened in order to co-ordinate their activities, convey relevant information, impart skills, and with a view generally to promote the effective deployment of resources and the conduct of free and fair elections;

3.11 subject to the duty to report all relevant matters to the Commission, all monitors shall maintain due secrecy with reference to any matters affecting voting and counting, in respect of which the disclosure of information would constitute an offence in terms of the Electoral Act or the Independent Electoral Commission Act.

3.12 monitors shall be refrained from making any public statement in respect of any matter which has a bearing on the elections.

## THE ELECTION CONTEXT

### THE TRANSITIONAL PROCESS

• **The Multi-party Negotiating Process** - South Africa is in the midst of a transition to democratic form of government. Through a Multi-party Negotiating Process a transition process has been agreed.

• **The TEC, IEC, IMC, and IBA** - The next phase is the phase in which we find ourselves. The South African government is still operating, but there also are four new structures established by the Negotiating Process to insure that the playing field will be levelled for the election of an interim government: the Transitional Executive Council (TEC), the Independent Electoral Commission (IEC), the Independent Media Commissio (IMC), and the Independent Broadcasting Authority (IBA).

The TEC is designed to level the political playing field for the first election. It will serv as a check to the current government and intervene where there is a likely threat to a fre and fair election.

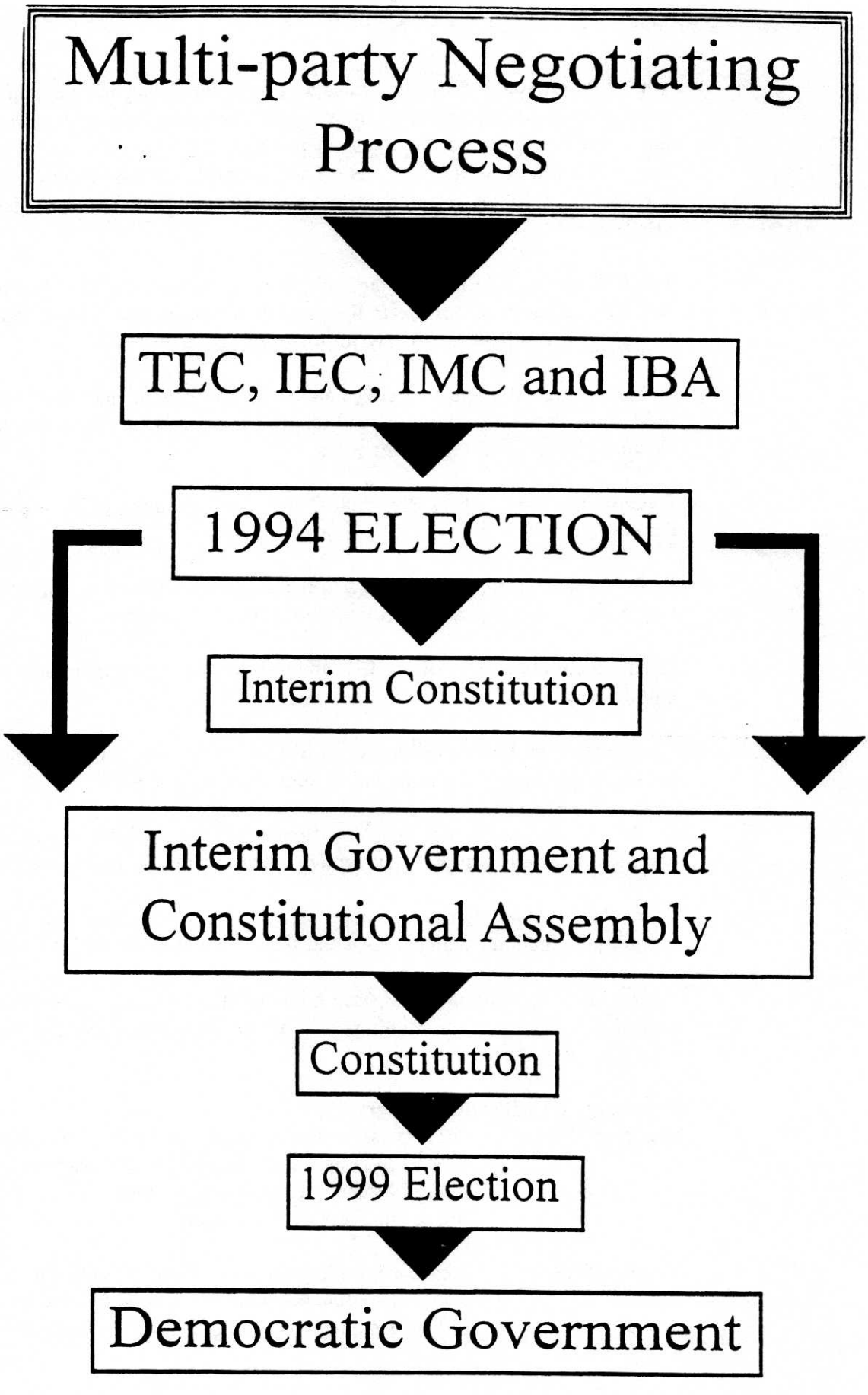
The IEC will be responsible for administering and monitoring the election, and after the election, certifying whether the election was free and fair. With respect to monitoring the election, the IEC Act provides for the appointment of IEC monitors, registration of observers, and calls for the accreditation by the TEC of international observers.

The IMC will be responsible for regulating the media to ensure equitable treatment of all political parties during the election campaign. The IBA will be responsible for assigning broadcasting licenses and regulating broadcasting licensees.

### ELECTION OVERVIEW

• **The election** - The Negotiating Council, the negotiating part of the Multi-party Process, announced in mid-1993 that an election for an interim government and constitutional assembly tentatively will be held on 27 April 1994 - the first election in which all races will be permitted to vote. The actual dates of the voting, however, will be announced by the Transitional Executive Council.

The Negotiating Process also drafted an Electoral Act to guide the IEC in its functions of administering, monitoring, and certifying the election. The Electoral Act, along with the IEC Act, is the main law that will govern the upcoming elections.


Multi-party Negotiating Process
TEC, IEC, IMC and IBA
1994 ELECTION
Interim Constitution
Interim Government and Constitutional Assembly
Constitution
1999 Election
Democratic Government



F17A

The Electoral Act provides for rules to govern observing the election It also contains rules to apply to, among other things, political parties, electoral officials, and procedures for voting and counting the votes. It provides for rights of political parties, and responsibilities of political parties. The Electoral Act also includes an Electoral Code of Conduct to be followed by all parties and a list of offenses and resultant penalties for such offenses.

The IEC also will be making regulations to supplement the IEC Act and the Electoral Act. These commissions are in the process of making regulations and as observers and monitors, you should try to stay informed of the regulations.

• **The election players** - In your handbook, you have a chart depicting the electoral officials in relation to monitors and observers and other election players, and a list of key election players describing their roles.

Election officials, such as Presiding Officers and counting officers will be administering the election.

Party Voting Agents are observers to the election on behalf of political parties and that they have certain rights not necessarily extended to observers.

Monitors are employees of the IEC and will be the enforcement arm of the IEC on the ground level.

Observers representing civil society will observe the election and report on any problems. They will go through training and be registered with the IEC.

In addition, there will be international observers that will representative of civil society and such observers also will go through training and will be registered with the IEC.

There also will be international observers that are representative of foreign governments or intergovernmental organizations and that such observers will be accredited by the TEC.

There also will continue to be peace monitors that will help to monitor the election campaign, but such peace monitors will not be seen at the voting station, unless they are registered with the IEC.

**Summary: Key Election Players**

Presiding Officer: These persons will be employed by the IEC and will be in charge of, and responsible for everything that happens inside and within a certain distance of the voting stations. There will be a Presiding Officer in every voting station.

Voting Officers: Like the Presiding Officers, these persons will be employed by the IEC. Their function will be to assist the Presiding Officers. There will be a number of Voting Officers in each voting station.

| | |
|---|---|
| Counting Officers: | Also like the Presiding Officers, these persons will be employed by the IEC and will be responsible for the counting of the votes at particular counting stations. |
| Enumerators: | Like the Counting Officers, these persons will be employed by the IEC. Their function will be to assist the Counting Officers. |
| Monitors: | These persons will be employed by or officially representative of the IEC. They will serve as the official monitors of the IEC. They will monitor the electoral process - including the election campaign, the voting, and the vote counting. |
| Party Voting Agents: | These persons will be representative of political parties. They will observe the election on behalf of their political parties and will have certain rights not extended to observers. |
| Observers: | These persons will be representative of domestic or international independent organizations, such as churches and NGOs. They will be registered with the IEC. They will observe the election and report to their sponsoring organizations, which will, in turn, report violations of the electoral laws to the IEC. |
| International Observers: | These persons will be representative of foreign governments or intergovernmental organizations such as the UN, and will be accredited by the TEC Subcouncil on Foreign Affairs. They will observe the election and report to their sponsoring organizations, which will, in turn, report violations of the electoral laws to the IEC. |
| Security Personnel: | These persons will be responsible for ensuring that events proceed in a peaceful manner. It is likely that they will comprise the National Peacekeeping Force established by the TEC. The South African Police also likely will be present at many situations. |

IEC
Party Election National Agents
Election Administration Directorate
Election Monitoring Directorate
Observers
Party Election Provincial Agents
Provincial Electoral Officers
Monitors
International Observers
Party Election District Agents
District Electoral Officers
Presiding Officer
Counting Officer
Party Voting Agents
Voting Officers
Enumerators

• **Why electoral legislation?** - The most important reason we have electoral legislation is to establish rules that will help insure that the election (including the election campaign) is free and fair. The election will be free and fair if (1) eligible voters have an opportunity to vote for whom they want without threat of reprisal; (2) every party contesting the election has the opportunity to canvass eligible votes for support; and (3) the votes are counted accurately, with integrity and according to agreed procedures.

The Independent Electoral Commission ultimately will determine whether the election was free and fair. However, individuals and organizations including parties and observers will have the opportunity to provide input to the IEC if they think the election was not free and fair.

**Summary: Key Electoral Legislation**

| | |
|---|---|
| Electoral Act: | The Electoral Act is the main law that will govern the upcoming elections. It also contains rules to apply to, among other things, political parties, electoral officials, observers, and procedures for voting and counting the votes. The Electoral Act also includes an Electoral Code of Conduct to be followed by all political parties. |
| IEC Act: | The IEC Act sets up the IEC, which is responsible for administering and monitoring the election, and after the election, certifying whether the election was free and fair. |
| TEC Act: | The TEC Act sets up the TEC, which is designed to level the political playing field for the first election. It will serve as a check to the current government and intervene where there is a likely threat to a free and fair election. |
| IMC Act: | The IMC Act sets up the IMC, which is responsible for regulating the media to ensure equitable treatment of all political parties during the election campaign. |
| IBA Act: | The IBA Act sets up the IBA, which will be responsible for assigning new broadcast licenses. |
| Interim Constitution: | The Interim Constitution contains information important to the election concerning voting and the proportional representation system of government to be elected in the upcoming election. |

• **After the election** - In addition to the electoral legislation already discussed, the Multi-party Negotiating Process also negotiated an Interim Constitution to take effect after the first election and continue in effect until the interim government adopts a Constitution.

The Interim Constitution contains fundamental rights, such as freedom of expression. In addition, it contains the blueprint for the interim government, including a legislature, an executive, and a judiciary. In addition, the Interim Constitution contains information important to the election concerning voting and the proportional representation system of government to be elected in the upcoming election.

The upcoming election is for an interim government. In addition to governing, the interim government will adopt a new Constitution. The interim government will exist from the time of the first election until the next election, to be held in April of 1999, after adoption of a new Constitution and in accordance with that Constitution.

**Summary of voting**

Prior to the start of voting the Presiding Officer and Voting Officers will appropriately set up the voting station. The Presiding Officer also must, in the presence of Party Voting Agents, and observers and monitors as permitted by the IEC, seal the empty ballot boxes.

Voting will be conducted in the following manner:

1. The election officials will examine the voter's eligibility document to insure that the person is the person identified, is eligible to vote (is a South African citizen or permanent resident and is at least 18 years old), and has not already voted.

2. The election officials will examine the person's right hand to insure that the person has not already voted.

3. The election officials will mark the voter's eligibility document and will mark the voter's right hand to show that the voter has voted.

4. The election officials will give the voter an officially marked National Assembly ballot paper.

5. The voter will take the ballot paper to the voting compartment where she or he will mark her or his choice and then fold the ballot paper.

6. The voter will take the ballot paper to the ballot box, show the election official the official mark (on the outside of the ballot paper), and place the ballot paper in the ballot box.

7. The election officials will give the voter an officially marked Provincial Legislature ballot paper.

8. The voter will take the ballot paper to the voting compartment where she or he will mark her or his choice and then fold the ballot paper.

9. The voter will take the ballot paper to the ballot box, show the election official the official mark (on the outside of the ballot paper), and place the ballot paper in the ballot box.

After the voting closes, the openings of the ballot boxes will be sealed and all ballot papers accounted for.

1100 metres
600 metres
no political activity
unauthorised persons excluded
100 metres
election centre
inner perimeter
controlled area

After the voting closes, the openings of the ballot boxes will be sealed and all ballot papers accounted for.

Generally, in addition to voters, you can expect to see the following people at voting stations:

(1) Independent Electoral Commission officials, including
  (a) a Presiding Officer,
  (b) Voting Officers, and
  (c) IEC Monitors,
(2) Party Voting Agents;
(3) observers, including
  (a) international governmental observers (accredited by the TEC),
  (b) local independent observers (registered with the IEC), and
  (c) international independent observers (registered with the IEC);
(4) interpreters and persons assisting blind and physically disabled voters;

In addition, the following persons may be present.

(1) security personnel (these may be the National Peacekeeping Force or the South African Police or both).

## MONITORING THE COUNTING OF VOTES

There are three stages of keeping track of the ballot papers and finally counting the votes: at the voting station, before delivery to the counting station, and at the counting station. These procedures are outlined below.

**Stage one: at the voting station**

At the end of each day of voting, after the voting station closes, the Presiding Officer must seal the following voting materials separately.

* All ballot boxes used in voting (The ballot boxes must remain unopened.)
* A packet of unused ballot papers
* A packet of spoilt ballot papers that have been cancelled by the Presiding Officer
* A packet of the counterfoils of the used and spoilt ballot papers

The Presiding Officer then must mark and deliver all sealed ballot boxes and packets to the District Electoral Officer with a statement indicating

* The total number of ballot papers issued to the voting station,
* The number of ballot papers issued to voters, and
* The number of ballot papers not issued to voters.

**Stage two: before delivery to the counting station**

After receiving the sealed ballot boxes and packets from the Presiding Officers, the District Electoral Officer shall place his or her seal on the ballot boxes and packets. Then, the District Electoral Officer must provide a statement to the Provincial Electoral Officer accounting for all ballot papers delivered to him or her. It is the responsibility of the District Electoral Officer to safe keep the ballot boxes and packets until delivery to the counting station.

**Stage three: at the counting station**

After delivery of the voting materials to the counting stations, there are distinct procedures that should be followed in order.

1. The Counting Officer must examine the seals of the ballot boxes and packets.

2. The Counting Officer must verify the Presiding Officers' statements by comparing the statements with the contents of the ballot boxes and packets; the numbers of ballot papers in the ballot boxes must match the numbers in the Presiding Officers statements. Simultaneously, the Counting Officer also must insure that all used ballot papers bear the official mark. Irregularities must be recorded and reported to the Chief Director of the Administration Directorate of the IEC.

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**Counting of the Votes**

3. The Counting Officer must make sure the ballot papers are sorted and counted with regard to votes for each political party.

   a. Ballot papers must not be counted and must be marked "rejected" if

      * More than one party is marked.
      * It is impossible to tell which party is voted for.
      * The ballot paper does not bear an official mark on the back, or
      * The Counting Officer has reasonable grounds to believe that the ballot paper was not officially issued.

   b. If the acceptance or rejection of a ballot paper is disputed by a party voting agent, the Counting Officer marks the ballot paper "disputed" and keeps such ballot papers separately.

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4. The Counting Officer must communicate the vote tally to the party voting agents and give the party voting agents an opportunity to object to the tally. If no objection is made, the party voting agents will be required to sign the tally. If an objection is made, the Counting Officer shall determine whether a recount is appropriate. An appeal can be lodged with the IEC. In addition, before the determination of the result, party voting agents can bring any irregularities to the attention of the Counting Officer. All allegations of irregularities by party voting agents and determinations by Counting Officers shall be reported to the Chief Director of the Administration Directorate.

5. Next, the Counting Officer shall enclose in separate packets and seal

- Counted ballot papers,
- Rejected ballot papers,
- Disputed accepted ballot papers, and
- Disputed rejected ballot papers.

6. The Counting Officer shall take the packets prepared after the counting of the votes, together with the packets previously prepared by the Presiding Officers (of unused ballot papers, of spoilt ballot papers that have been cancelled by the Presiding Officer, and of the counterfoils of the used and spoilt ballot papers) and deliver the sealed packets to the Chief Director of the Administration Directorate and shall inform the Chief Director of the number of votes recorded for each registered party. Thereafter, the Chief Director shall examine the seals of the Counting Officers to insure that they are intact.

# ELECTION CAMPAIGN MONITORING

## SUMMARY: ELECTORAL CODE OF CONDUCT AND RELATED LEGISLATION

**The Electoral Act includes in it an Electoral Code of Conduct applicable to all registered parties, and candidates, leaders, officers, members, and supporters of political parties. The Electoral Code of Conduct is a set of guidelines to be followed by political parties to help insure that the election is free and fair - that all eligible voters have an opportunity to vote for whom they want without threat of reprisal and every party contesting the election has the opportunity to canvass eligible voters for support. You job as an observer is to observe that the Electoral Code of Conduct is being followed.** The code places an affirmative duty on the political parties to support and engage in activities that are conducive to a free and fair election, including accepting the outcome of the election. The code also places a duty on the political parties to not engage in certain activities that would be detrimental to a free and fair election, including violence and intimidation. **The provisions of the code can be found in the summary above.**

Violations of the code will be prosecuted in accordance with the Electoral Act and penalties, including the cancellation of the party's registration for contesting the election, may be imposed.

If you believe the Electoral Code of Conduct has been violated or an offence committed, you should file an official allegation with the Monitoring Directorate of the IEC. The Chief Director of the Monitoring Directorate will determine whether the code has been violated or an offence has been committed, and if so, refer the matter for trial by the appropriate electoral tribunal. The Chief Director also may refer matters on his or her own accord.

**The Electoral Act also sets out criminal offenses applicable to <u>all persons</u>. The offenses include**

- **unduly influencing a voter or voters with respect to the election campaign voting,**
- **making or accepting bribes with respect to the election campaign or voting,**
- **impersonating an eligible voter or attempting to vote more than once,**
- **disclosing information about a voter's vote,**
- **interfering with or counterfeiting election materials,**

* **interfering with a political party's campaign,**

* **disobeying directions of the IEC or election officials, and**

* **printing or making false statements that disrupt the election.**

The Electoral Act also contains rules to apply to the publication of posters, pamphlets, and other such printed campaign materials and to advertisements, which if violated, constitute an offence.

The act makes it an offence to publish opinion polls within 21 days of the voting period.

The act also makes it an offence to hold political demonstrations and marches within the 48 hours prior to voting and during voting, and political meetings and rallies within the 12 hours before voting and during voting.

Penalties for offenses include fines and imprisonment in varying degrees depending on the severity of the offence.

**The Media and the Election**

In addition, the Independent Media Commission Act contains rules governing the media during the election campaign. The act prohibits party election broadcasts and political advertisements on television, and on radio **except** during the election period, which begins when the TEC announces the voting period. The media act also prohibits party election broadcasts and political advertisements later than 48 hours prior to the start of the voting.

In addition, the SABC must broadcast party election broadcasts, and other broadcasters if they choose to broadcast party election broadcasts, must do so equitably. All broadcasters must not discriminate for or against any political party in broadcasting political advertisements. All broadcasters also must treat political parties equitably when broadcasting news programmes by allowing the broadcast of conflicting views.

The media act also prohibits state-financed publications and state information services from issuing or publishing any advertisement or other material which is intended to advance the interests of any political party.

The media act permits political parties to lodge complaints with the Independent Media Commission. Therefore, if you think that a political party is being discriminated against or a broadcaster is violating the media act to the detriment to one or more political parties, you should notify the appropriate political party. The media commission will have the power to order a broadcast, order the payment of fines, prohibit a broadcast, or make any other appropriate order.

## Suggestions for Observing the Election Campaign

What occurs during the election campaign will have a major influence on whether the election will be free and fair. If parties are not allowed to campaign freely, if voters do not receive eligibility documents, if violence and intimidation characterize the campaign period, if voter education does not reach voters, and most significantly, if voters do not have the opportunity to vote for whom they want without the threat, either real or perceived, of reprisal, then the outcome of the election will be adversely affected. Below are some ideas of what observers can do during the election campaign to assist in insuring a free and fair election. Incident reporting forms, introduced in connection with the voting day discussion, can be utilized for observing the election campaign.

* Attend political events (meetings, rallies, marches, demonstrations, etc.).
    * Was access denied to a political party?
    * Was the conduct of security forces appropriate?
    * Was political intimidation present?
    * Was information disseminated accurate?
    * Was there violence?
    * Were women present?
* Attend voter education programmes.
    * Was information given accurate?
    * If advertised as non-partisan, was the program non-partisan?
    * Did voters learn how to vote?
    * Did voters learn about democracy?
* Read, watch, and listen to media (Newspapers, TV, radio, etc.).
    * Were defamatory allegations made?
    * Was broadcast news programming equitable to all political parties involved?
    * Did advertisements identify the source of the advertisement?
* Watch to see if political posters are being defaced or stolen.
* Informally canvass eligible voters.
    * Do voters have acceptable identity documents?
    * Do voters know how to vote and what they will be voting for?
    * Do voters feel threatened to vote, to not vote, or to vote for a particular party?
    * Are voters aware of no-go areas for certain political parties?
* Recruit volunteers for election observing and voter education.

## Campaign Monitoring Helplist

| COMPLAINT | INFORM/GET HELP FROM |
|---|---|
| *** Interference with voters' rights** | |
| Bribery of voters<br>Intimidation of voters<br>Threats to voters | IEC Monitoring Directorate |
| *** Prevention of access to voters or facilities** | |
| Campaigning not allowed in an area<br>Parties not allowed to use venues<br>Voter educators not allowed in an area | IEC Monitoring Directorate |
| *** Interference with party campaigns** | |
| Disruption of party events (rallys, meetings, etc.) | IEC Monitoring Directorate<br>Peacekeeping Force or SAP<br>Peace Monitors |
| Defacing or theft of posters<br>Disinformation about parties | IEC Monitoring Directorate |
| *** Violence** | |
| Attacks on party campaigners<br>Attacks on community members | IEC Monitoring Directorate<br>Peacekeeping Force or SAP<br>Peace monitors |
| Violence by Peacekeeping Force or SAP | IEC Monitoring Directorate<br>Peace monitors |

*CRISIS INTERVENTION*

- **Should you intervene?**
  - Consider your options carefully
  - Beware of your own biases
  - Beware of overreacting
  - Take a break
  - Be patient
  - Allow someone else to facilitate

- **What is your role in intervening?**
  - Check out your own perceptions with the group to solicit insight
  - Can deal with issue on content level (issue that is the subject of the disagreement) or process level ( way in which disagreeing parties are behaving).
  - Remain objective
  - Clarify
  - Summarize
  - Do not become party to the conflict
  - If you feel you are biased, ask someone else to facilitate
  - Allow parties to express their feelings, but don't get lost in them

## BASIC COMMUNICATION SKILLS

1. What makes communication difficult? Give examples from your own experience?
2. What makes communication easier? Give examples from your own experience?
3. What makes it difficult for people to communicate in conflict situations?
4. How would you suggest these difficulties can be overcome?

### SOME ISSUES IN COMMUNICATIONS:

#### EMPATHETIC LISTENING

Listening actively with understanding

#### PARAPHRASING

Listening and restating in your own words what another person has said.

#### COMMUNICATING OPENNESS AND ELICITING INFORMATION

Being open to hearing the perceptions and needs of others, even if you disagree with what they are saying.

#### REFRAMING

Shifting the focus from positions onto interests; encouraging flexibility; expressing something in a different way.

#### DEALING WITH THREATS AND ANGER

How to deal with anger and threats from the other side as well as your own anger in the most effective and appropriate way.



F 32 A

## EMPATHETIC LISTENING

### WHAT ARE THE BENEFITS OF EMPATHETIC LISTENING?

- You can hear what the other person's point of view actually is and can therefore deal more creatively with the problem.
- Allowing someone to talk may clarify their own thinking about the subject.
- It can reduce tension. It gives the other side a chance to get their problems or viewpoints off their chests, clearing the air of tension and hostility.
- Having given the time to listen to their side of the story, you can then claim equal time that the hear your side of the story.
- It encourages cooperation. When people feel you are really interested in them and their problems, thoughts and opinions they respect you and might cooperate with you more easily.
- It promotes communication. Often communication breaks down because neither party has learned to listen actively. Skilful listening has solved many communication problems.
- It develops an active mind. Real listening is "active". Listeners are continually trying to understand the feelings behind the words of the speaker, keeping the mind active and attentive.



F. 32 B

## HOW TO LISTEN EMPATHETICALLY

- Be alert and non-distracted.

- Be interested in the other person's needs. Listen with understanding. (This does not mean that you necessarily agree with what is being said).

- Some guidelines:
  - Be a sounding board
  - Be non-judgemental, non-criticising (there is time for this later).
  - Don't ask a lot of questions - Don't "grill"
  - Don't use stock phrases like: "It's not that bad"; "Skilful making a mountain into a molehill"
  - Don't get emotionally hooked. Don't get angry, upset or argumentative. Don't jump to conclusions, or make judgments at this stage.

- Indicate you are listening by:
  - Giving encouraging, non-committal acknowledgement ("Ya", "Mmm," "Uh Huh," "I see,")
  - Giving non-verbal acknowledgements that you are hearing eg. nodding
  - Inviting more ("Tell me more", or "I'd like to hear about it")

- **Ground Rules**
  - Don't interrupt
  - Don't change subject or move in a new direction
  - Don't rehearse what you are going to say in your own head
  - Don't interrogate
  - Don't teach
  - Don't give advice
  - Do: Reflect back to the sender what you observe and how you believe the speaker feels

## PARAPHRASING

**WHAT IS IT?**
"Paraphrasing" is re-stating in your own words what another person has said.

**WHY IS IT USEFUL?**
Paraphrasing lets the other person know you are trying to understand what they are saying. It facilitates good communication and helps to elicit more information.

**EXAMPLES:** "So the way you see it ...."
"You felt I was being unfair to you when ...."
"Let me make sure I'm understanding you. You're saying ...."

**HOW TO PARAPHRASE:**

- Keep the focus on the one you're paraphrasing. "So you felt ....," "You're saying ....", "You believe ...."
- Do not evaluate or judge
- Restate in your own words, don't simply parrot the speaker.
- Be brief and condensed
- Paraphrase either content, feeling, or both.
  e.g. Content: "Your wife locked you out of the house and you had to spend the night in the car."
  e.g. Feeling: "You're really feeling discouraged about things."
  e.g. Both: "So you had an argument with your wife, spent the night in the car and you feel hopeless about things getting any better."

## COMMUNICATING OPENNESS and ELICITING INFORMATION

### WHAT IS IT?

Communicating openness may be described as being open to hearing the perceptions and needs of others, even if you disagree with them.

### WHY IS IT USEFUL?

To avoid the situation where both parties are concerned only with their own positions. To elicit as much information as possible from both sides in order to make way for expanding rather than narrowing the options to resolve the problem.

### HOW TO DO IT?

- This can only be done through asking as many open questions as possible such as "What?", "When?" and "How?" questions.
- Don't assume you know exactly what the other side means.
- Do not make others defensive by abruptly disapproving or contradicting their statements.
- Resist the temptation to gain the upper hand by showing up weaknesses in the other person's point of view - instead, use open-ended, non-threatening questions that move the discussion forward.
- Non-threatening questions may bring out new information which enables you to better understand the other party's point of view and the reasons behind it. This allows you to build on an unacceptable position and create a mutually agreeable one.

### EXAMPLES:

"I'm not sure I understand your idea, tell me more ..."

"How would that work..."

"Spell that out further..."

"Tell me what you have in mind..."

"Give me a specific example..."

**REMEMBER. PEOPLE HARDLY EVER CHANGE THEIR MINDS BY BEING ASKED OR TOLD TO DO SO.**

## FOCUSING ON INTEREST

### Understanding Positions vs Interest

1 **Positions:** If people are in conflict they would naturally think and talk in positions. Positions are statements or demands framed as solutions. Example: "I am not moving! You cannot tell me what to do!"

2 **Interests:** Beneath all positions lies the interest of the parties Interests extend beyond positions and encompasses such things as needs, concerns, expectations and hopes.

3 **The role of the monitor/intervenor:** The function of the monitor/intervenor is to direct the focus away from positions and try to explore the interests. Focusing on the interest can help parties to move from competition to cooperation.

### Strategies for exploring Interests

* Reframe locked-in positions as interests (e.g. "I am not moving!" becomes "You don't perceive your presence to be a disturbance and therefore will not move.")

* Ask why a particular demand is being made, to draw out the underlying interest (e.g. "Help me understand why you view this as so important.")

* Point out similar interests (e.g. "As monitors you are both concerned with ...")

* Generate options (e.g. "What do you think can be done to solve this problem?")

## USES OF REFRAMING CONFLICT:

**Reframing a situation can help parties to:**

- move from positional bargaining to interest bargaining.
- keep parties flexible.
- remain emotionally stable in the face of potential conflict.

## HOW TO REFRAME A CONFLICT ISSUE

- change the wording in the message. The **adversarial** nature of a message can be **toned down by paraphrasing** without altering the essential meaning of the message.
- redefine something that is perceived as negative in positive terms (e.g. instead of seeing two parties as opposing each other, their positions can be reframed as demonstrating a great concern for their constituencies).
- use language that assumes that the issue can be resolved: "How can we...", "Once we have done this ...".
- make sure that the redefinition is concrete and addresses the real issues at hand.
- divide large overwhelming issues into smaller, simpler problems.
- frame issues as joint problems.

## DEALING WITH THREATS AND ANGER

- Individually, then in pairs, answer the following questions:

  What ways do you have of dealing with the following in the negotiating context.

  * your own anger?

  * the anger of others?

## DEALING WITH YOUR OWN ANGER

- Recognise the underlying cause of your anger. Try to identify the other emotions you are experiencing, such as fear or frustration.

- Acknowledge and accept your anger. Think about it. Do not deny its presence or refuse to deal with it. If you do, it may surface at the wrong time and be directed at the wrong people.

- Express your anger when it is necessary, safe and appropriate to do so. Delay expressing it when to do otherwise would make the problem worse or create a new one. Find safe outlets to vent your anger. It is not always necessary to express anger or respond to it; sometimes the feeling passes quickly.

- If you want to solve the problem which caused your anger, deal separately with your anger and with the problem. Avoid making important decisions when your anger controls you.

## DEALING WITH THE ANGER OF OTHERS

When confrontation occurs, consider doing the following:

- If you believe you have contributed to the cause of the anger, do not explain, apologise or respond until the other person has expressed their anger. Until that occurs, you probably will not be able to have a rational discussion.

- Try to determine whether the anger is directed at you personally. Many angry people had those feelings inside them before you came along. You might simply have been in the wrong place at the wrong time.

- Try using empathetic listening. For example, while the anger is being expressed, do not explain, interrupt, contradict, give reasons, make judgments or evaluate. Listen empathetically, by letting the other person know you are hearing what is being said and felt. Often the knowledge that there is a safe environment in which to vent feelings allows people to release pent-up emotion so that they can be engaged in a more adult manner later on.

- Adopt a calm style yourself. Avoid getting into an angry response.

- Acknowledge and affirm the other person's angry feelings. Remember, it is okay to be angry.

- Encourage the other person to talk about his/her anger until it is no longer controlling him/her - instead, he/she is in control of the anger.

## SOME SKILLS USEFUL IN SITUATIONS OF CONFRONTATION

### Posture of Puzzlement

***What it is:*** The "Posture of Puzzlement" is a way of confronting others tactfully and nonjudgementally by approaching them in an attitude of puzzlement or concern.

***Example A:*** "I am puzzled that you are telling people they must vote for your party. I thought it is agreed by all of us that party agents are only here to observe and not to engage in electioneering."
NOT - "You can't talk to people about how they are going to vote! I'm going to report you!

***Example B (intervening in an argument between two Party Agents):*** "I'm not clear about what is happening here. I'd appreciate if you could each clarify for me what you concerns are."
NOT - "Come now, let's talk sensibly with each other."

### More-of/Less-of Statement

***What it is:*** Rather than call names or make categorical statements, this is a more gentle way of confrontation by asking other people to do more of something or less of something.

***Example:*** "I'd like to request that you engage in less interaction with the voters and focus more on simply observing."
NOT - "Stop trying to influence people. You're cheating!"

### Impact Statements

***What it is:*** An impact statement is a way of confronting without attacking, by describing the impact of the objectionable behaviour of the person you are confronting on yourself or others.

***Example:*** (To Voting Official who is treating voters rudely) "Some voters appear to be feeling intimidated by the way you are treating them. (Impact on <u>others</u>) I'm worried this will cause complaints. (Impact on <u>self</u>) I'd like to suggest that you speak more slowly and quietly to people when they have questions. (More-of Statement)
NOT - "You're intimidating people. I demand that you stop!" (Avoid "you" statements, such as "You're a cheater!", "Your party is dishonest!", etc.)

## LANGUAGE AND MISPERCEPTIONS

Language reflects perception. Careful attention to language often provides mediators with clues about crucial misperceptions.

1 Unspecified noun or verb:

"Party agent A is always causing problems." restate as "What does he do that creates problems?" or "Can you give examples of the kind of problems he is creating?"

2 Speaking for others:

"Everybody around here thinks that Mr Jones from the Freedom Party is interfering with the voters" restate as "Could you share from your own experience any problems you have had with Mr Jones?"

## SECTION FOUR: BASIC PROBLEM SOLVING SKILLS

### PROBLEM SOLVING

### WHAT IS PROBLEM SOLVING

- A co-operative way of approaching conflict which allows parties to find a solution satisfactory to everyone
- Involves time
- Usually best acceptable solution to all parties concerned
- Use an open communication style
- Identify and discuss conflict resolution on a general level with group. ie some beforehand consciousness-raising
- All parties must recognise that they have a common or shared problem
- Make everyone aware that they are all part of the problem, therefore everyone should be involved in generating a solution
- Get participants to recognise common interests and common ground for cooperation
- Use open ended questions
- Establish open communication and expression of feelings
- Parties should trust and respect each other
- Problem-solving is made easier if parties chose this course of action
- Focus on problem, not people
- Paraphrase
- Neither party is "right" or "wrong"

**PROBLEM-SOLVING PROCESS**

*Step one*

**TESTING PERCEPTIONS BY BOTH PARTIES**

*Step 2*

**ANALYZE THE PROBLEM IN AS MUCH DETAIL AS POSSIBLE**

*Step 3*

**GENERATE POSSIBLE SOLUTIONS**

*Step 4*

**EVALUATION OF THE SOLUTIONS: APPLY PROBLEM-CENTRED APPROACH**

## A CONTINUUM OF PEACEKEEPING, PEACEMAKING, AND PEACE BUILDING PROCEDURES AND ROLES

| | | PEACEKEEPING | PEACE | | | | | PEACEBUILDING |
|---|---|---|---|---|---|---|---|---|
| COOPERATIVE DECISION MAKING | ADVOCACY ASSISTANCE | THIRD PARTY CONFLICT REGULATION | THIRD PARTY ASSISTANCE WITH NEGOTIATIONS OR COOPERATIVE PROBLEM | | | THIRD PARTY ADVICE | THIRD PARTY DECISION | CONCILIATION DEVELOPMENT, AND DECISION MAKING |
| Parties act Unassisted | Advocacy Assistance | Assistance to limit Violence or Destructive Conflict | Relationship Establishing and Building Assistance | Procedural Assistance | Substantive Assistance | Specific Non-Binding Advice | Binding Decision | Democratic Group Processes |
| • Informal Talk, Discussion<br>• Coordination<br>• Information Exchange Meetings<br>• Co-operative/ Collaborative Problem Solving<br>• Negotiations | • Friend, Associate<br>• Surrogate Speaker or Advocate<br>• Lawyer | • Monitoring<br>• Observing<br>• Non-violent Peace Keeping (Non-violent Peacekeepers)<br>• Policing (Police)<br>• Military Peacekeeping (Military Peacekeepers)<br>• Rumour Control Mechanisms | • Introductions (Introducers)<br>• Convening (Convenor)<br>• Message Carrying (Messenger)<br>• Counselling (Therapist/ Counsellor)<br>• Conciliation (Conciliator)<br>• Third Party Consultation (Relationship Consultant)<br>• Spiritual Advisor (Religious Leader) | • Coaching (Process Consultant)<br>• Training (Trainer/ Educator)<br>• Facilitation (Facilitator)<br>• Mediation (Mediator)<br>• Brokering (Broker)<br>• Middleman<br>• Ombudsman<br>• Chairperson | • Testimony (Witness)<br>• Expert Opinion (Expert)<br>• Data Collection<br>• Fact Finding (Fact Finder)<br>• Settlement Conference (Judge/ Magistrate/ Hearing Officer) | • Advice from respected Friend, Associate, Leader, or Elder (Advisor)<br>• Non-Binding Arbitration (Arbitrator)<br>• Council Meeting (Councillors) | • Binding Arbitration<br>• Private Courts<br>• Administrative Hearings<br>• Judicial Decision (Judge)<br>• Electoral Courts/ Tribunals | • Structured Facilitated Conciliation Meetings<br>• Negotiated Economic Development Forums<br>• Democratic decision making Procedures and Structures (Committees, Legislatures) |

Sequence ☐☐☐☐ Registration Number ☐☐☐☐☐☐☐☐☐☐☐☐☐
For Office use only

**Form M3.**

# Event Report

Independent Electoral Commission
Monitoring Division




*Please use this form to report any events that occur in your area. Use one form for each event. The forms should at first be faxed to* IEC Head Office: Analysis - (011) 333-9389, *until you are supplied with a provincial fax no. If you experience difficulty in faxing the document, please mail it to:* IEC Head Office: Analysis, 6'th Floor, Colosseum Building, 41 Kruis Street, Johannesburg 2001.

Name of Monitor or observer: _____
Date: _____

Report Number ☐☐☐☐☐

1. What Is the event you are monitoring: General ☐ Voting Station ☐ Counting Station ☐

2. Type of event (if general event):

| | |
|---|---|
| Public Meeting of a Political Party | ☐ |
| Demonstration | ☐ |
| March | ☐ |
| Party Canvassing | ☐ |
| Mass Rally | ☐ |
| Voter education | ☐ |
| Other | ☐ _____ |

3. Voting/counting station: _____
4. Date of event: _____
5. Place of event: _____
6. Time of event: _____

7. Who is the organizer of the event: _____

8. What is your estimate of the number of people present: _____

9. Name any VIP's present: _____

10. Name any security forces present: _____

11. Name any other political parties present: _____

☐☐☐☐☐ Code 3 or 4
☐☐ Code 2
☐☐ Code 5
☐☐ Code 6
☐☐ Code 7
☐☐ Code 2

12. What was the situation during the event:

| | |
|---|---|
| Calm and peaceful | ☐ |
| Tense but without incident | ☐ |
| Tense with non-violent incidents | ☐ |
| Tense with violent incidents | ☐ |
| Other | ☐ _____ |

If there were any incidents during the event, please fill in the incident-report numbers here and attach the incident report forms:

Report Number 1 ☐☐☐☐☐
Report Number 2 ☐☐☐☐☐
Report Number 3 ☐☐☐☐☐

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Sequence
For Office . se only

Registration Number

## Monitor planning for the Event

## Detailed description of the event

## Monitors overall evaluation of the event

Signature: _____ Date: _____

Sequence ☐☐☐☐ Registration Number ☐☐☐☐☐☐☐☐☐☐☐☐☐
For Office use only

**Form M4.**

# Incident Report

Monitoring Division

*Please use this form to report any incidents that occur in your area. Use one form for each incident. Please give a detailed description of the incident and fill in the code boxes at the end. The codes are given on pages 3 to 5. When returning or faxing this form, only pages 1 and 2 need be transmitted. The forms should at first be faxed to* IEC Head Office: Analysis - (011) 333-9389, *until you are supplied with a provincial fax no. If you experience difficulty in faxing the document, please mail it to:* IEC Head Office: Analysis, 6'th Floor, Colosseum Building, 41 Kruis Street, Johannesburg 2001.

Name of Monitor or observer: _____

Report Number ☐☐☐☐☐.

1. What is the event you are monitoring: General ☐ Voting Station ☐ Counting Station ☐
2. Type of event (if general event): _____
3. Voting/counting station: _____
4. Date of incident: _____
5. Place of incident: _____
6. Time of incident: _____

☐☐☐☐☐ Code 3 or 4

7. What is your estimate of the number of people present: _____ ☐☐ Code 5
8. Name any VIP's present: _____ ☐☐ Code 6
9. Name any security or peace forces present: _____ ☐☐ Code 7
10. Name any other political parties present: _____ ☐☐ Code 2

***If the incident was the subject of a formal complaint, provide the names of the complainant(s) and the respondent(s). If there is no formal complaint, proceed to the next page.***

Complainant(s): _____

Address: _____

_____

_____

_____

Tel: _____ Fax: _____

Respondent(s): _____

Address: _____

_____

_____

_____

Tel: _____ Fax: _____

If the incident was reported to the SAP: CR. number: _____ Station _____

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Sequence ☐☐☐☐
For Office use only

Registration Number ☐☐☐☐☐☐☐☐☐☐☐☐☐☐

## Detailed description of the incident

## Monitors impression of the incident

## Monitors overall conclusion about the incident

### Codes

Please fill in any codes from pages 3 to 5 that describe the incident. For each code, also indicate whether the indicated event was threatened or actually occurred.

| Code | Description | Threatened | Occurred |
|---|---|---|---|
| ☐☐☐ | | ☐ | ☐ |
| ☐☐☐ | | ☐ | ☐ |
| ☐☐☐ | | ☐ | ☐ |

Signature: _____ Date: _____

Sequence ☐☐☐☐ Registration Number ☐☐☐☐☐☐☐☐☐☐☐☐☐☐
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**Use the following codes to complete the code boxes on page 2**

DETAILED DESCRIPTION OF INCIDENT:

NOTE: Codes under A are to be used when coding incidents related to political meetings, voter education campaigns and political canvassing.
Codes under B are to be used for incidents occurring at voting stations.
Codes under C are to be used for incidents occurring at counting stations.

A GENERAL INCIDENTS:

A1 Defacing posters advertising meeting or campaign
A2 Blockade of venue
A3 Occupation of venue
A4 Unofficial armed patrolling of venue
A5 Verbal threats at those arriving to attend
A6 Physical harassment of those arriving to attend
A7 Evidence of people being forced to attend
A8 Heckling of speakers
A9 Throwing objects at speakers
A10 Drowning out speakers with noise
A11 Verbal threats to speakers
A12 Physical harassment of speakers
A13 Physical attack of speakers
A14 Speakers threatening loss of jobs, pensions,, etc. if voters do not vote for them
A15 Speakers suggesting that the vote is not secret
A16 Speakers promising specific rewards in return for votes
A17 Verbal threats to journalists
A18 Physical harassment of journalists
A19 Physical attack of journalists
A20 Non-intervention by security forces
A21 Provocation to violence by security forces
A22 Harassment by security forces
A23 Outbreak of violent conflict
A24 Verbal harassment of observers
A25 Physical harassment of observers
A26 Physical attack of observers
A27 Verbal harassment of monitors
A28 Physical harassment of monitors
A29 Physical attack of monitors
A30 Evidence of partisanship of monitors
A31 Evidence of partisanship of observers

Denial of access to voters for voter education by:

A32 Political party
A33 Employer
A34 Government authority
A35 Traditional leaders
A36 Hostel committee
A37 Street committee
A38 Other

Denial of access to voters for political canvassing by:

A39 Political party
A40 Employer
A41 Government authority

A42 Traditional leaders
A43 Hostel committee
A44 Street committee
A45 Other
A46 Evidence of voters being forced to disclose how they intend to vote.
A47 Unlawful public confiscation of VRCs or IDs
A48 Unlawful public destruction of VRCs or Ids

B INCIDENTS AT VOTING STATIONS

B1 Demonstrations in the vicinity of the polling station
B2 Employers refusing to allow employees to travel to the polling station
B3 Roads to polling stations blocked
B4 Threats to voters travelling on foot
B5 Unofficial patrolling armed groups
B6 Car or bus hijackings
B7 Intimidation or violence on trains
B8 Inadequate security or police presence
B9 Voting station surrounded by crowds
B10 Fighting broken out around voting station
B11 Armed violence broken out around voting station
B12 Armed attacks launched on voting station
B13 Other

Behaviour of Election Officials

B14 Electoral officials influencing voters to vote a particular way
B15 Electoral officials unhelpful to those needing help
B16 Electoral officials tampering with election materials
B17 Other

Secrecy of the Ballot

B18 Voters required to display their marked ballots in public
B19 Party officials warning voters that they will know how they voted
B20 Other

Problems with vote casting

B21 Some people could not vote because they had no VRC or ID on them
B22 Some people could not vote because there was no one to help them
B23 Some people could not vote because they arrived too late
B24 Other

Problems with Election materials

B25 Evidence of voters voting more than once
B26 Evidence of ballot box stuffing
B27 Evidence of unauthorised removal of election material
B28 Evidence of damage to election material
B29 Evidence of unauthorised destruction of election material
B30 Evidence of unauthorised production of election material
B31 Ballot boxes were not properly sealed at the end of the day
B32 Not all official monitors and observers were present for the sealing of boxes
B33 No monitor or observer accompanied the ballot boxes to the District Electoral Officer
B34 No monitor or observer accompanied the ballot boxes to the Provincial Electoral Officer
B35 Other

Sequence ☐☐☐☐ Registration Number ☐☐☐☐☐☐☐☐☐☐☐☐☐☐
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C INCIDENTS AT COUNTING STATIONS

C1 No monitor accompanied the ballot boxes to the counting station
C2 No observer accompanied the ballot boxes to the counting station
C3 No party official accompanied the ballot boxes to the counting station
C4 Not all party officials were present for the counting of the ballots
C5 Not all monitors were present for the counting of the ballots
C6 Not all observers were present for the counting of the ballots
C7 Evidence of voters voting more than once
C8 Evidence of tampering with ballot boxes
C9 Evidence of removal of election materials from counting station
C10 Evidence of damage to election materials at the counting station
C11 Evidence of destruction of election material at the counting station
C12 Evidence of ballot box stuffing at the counting station
C13 The vote count was disputed by party officials
C14 The vote count was disputed by monitors
C15 The vote count was disputed by observers
C16 The recount of the vote was disputed by party officials
C17 The recount of the vote was disputed by monitors
C18 The recount of the vote was disputed by observers
C19 Ballot boxes were not property sealed after the final vote count
C20 Ballot boxes were not properly monitored en route to their final storage point
C21 The results as agreed in the counting station were not correctly reported upwards
C22 The results were rejected by the public waiting outside the counting station
C23 Fighting broken out outside the counting station
C24 Violence broken out outside the counting station
C25 The counting station is besieged by crowds
C26 There are armed attacks on the counting station
C27 Other

## INCIDENT REPORT CARD

**Form 03.**

**REF. NO** ☐☐☐☐☐☐☐☐☐☐☐☐

| | | | |
|---|---|---|---|
| MONITOR | ☐ | NAME: | TEL: |
| | ☐ | REG. NO.: | |
| PUBLIC | ☐ | NAME: | TEL.: |
| OTHER | ☐ | NAME: | TEL.: |

1. What is the event you are monitoring: General ☐ Voting Station ☐ Counting Station ☐
2. Type of event (if general event): _____
3. Voting/counting station: _____
4. Date of incident: _____
5. Place of incident: _____
6. Time of incident: _____

7. Who is the organizer of the event: _____ ☐
8. What is your estimate of the number of people present: _____ ☐
9. Name any VIP's present: _____ ☐
10. Name any security or peace forces present: _____ ☐
11. Name any other political parties present: _____ ☐
12. Detailed description of incident: _____
_____
_____
_____
_____ ☐
13. Party affected by incident: _____ ☐
14. How did you obtain this information ? Facts ☐ Hearsay ☐
_____
_____ ☐
15. Recommended action: _____
_____ ☐
16. What has been done by whom about this incident ? _____
_____ ☐

For office use only
Codes on form C1

☐ Code 3 or 4

☐ Code 2

☐ Code 5

☐ Code 6

☐ Code 7

☐ Code 2

☐ Code 8

Code 2.6 or

INFORMATION CLASSIFICATION:
A. Confirmed and accurate B. Accurate C. Unreliable/unconfirmed D. No classification

| ACTION RECOMMENDED: | ACTION TAKEN: |
|---|---|
| What: | What: |
| When: | When: |
| Who: | Who: |
| Where: | Where: |

APPROVED BY: _____ _____ Routing : Evaluation Coo Liaison

## ROUTINE REPORT CARD

**Form O1.**

**REF. NO** ☐☐☐☐☐☐☐☐☐☐☐☐

MONITOR ☐ NAME: TEL:
☐ REG. NO.:

For office use only
Codes on form C1

1. What is the event you are monitoring: General ☐ Voting Station ☐ Counting Station ☐

2. Type of event: _____

3. Place of event: _____

4. Voting/counting station: _____ ☐☐☐☐☐ Code 3 or 4

5. Who is the organizer of the event: _____ ☐

6. What is your estimate of the number of people present: _____ ☐ ☐☐ Code 5

7. Name any VIP's present: _____ ☐ ☐☐ Code 6

8. Name any security or peace forces present: _____ ☐ ☐☐ Code 7

9. Name any other political parties present: _____ ☐ ☐☐ Code 2

10. Present Situation: _____ ☐☐ Code 8

_____

_____

_____

_____

_____

_____

_____ ☐

*The materials in this handbook have been prepared by an IEC task team which is grateful to acknowledge the contributions of the following organisations:*

*Institute for a Democratic Alternative for SA (IDASA)*
*Independent Mediation Service of SA (IMSSA)*
*The Centre for Intergroup Studies*
*African Centre for the Constructive Resolution of Disputes (ACCORD)*
*The Urban Foundation*
*The Development Contact Network (DCN)*
*National Association of Democratic Lawyers (NADEL)*
*The Commonwealth Monitoring Mission*
*The Wits/Vaal Peace Secretariat*
*Network of Independent Monitors (NIM) represented by LEAP*
*IFEE represented by Lawyers for Human Rights (LHR)*
*SA Communication Service*
*Lawyers Committee for Civil Rights under Law*

F-54

Printed by: JET PRINTERS, TEL.: 331-2371/2/3

# *Independent Electoral Commission*

World Trade Centre, Kempton Park, South Africa
P.O. Box 1001, Isando, 1600
Telephone: (011) 928-1000 Fax: (011) 928-1058


REGISTRATION NUMBER | I | 0 | 0 | 1 | 1 |

## *ACCREDITATION FOR INTERNATIONAL OBSERVER ORGANISATIONS*

Whereas I am satisfied that the INTERNATIONAL ASSOCIATION OF DEMOCRATIC LAWYERS (name of organisation)

can assure its observers will abide by the Code of Conduct for Observers, the Electoral Act, the Independent Electoral Commission Act and Regulations promulgated thereunder;

and that the INTERNATIONAL ASSOCIATION OF DEMOCRATIC LAWYERS (name of organisation)

has undertaken that its observers receive training approved by the Commission and submit a signed indemnity document;

now therefore declare the INTERNATIONAL ASSOCIATION OF DEMOCRATIC LAWYERS (name of organisation)

to be an accredited International Observer Organisation.

.....
PETER HARRIS.
*CHIEF DIRECTOR: MONITORING*

7th 03 1994
*DATE*



Commissioners: Judge J.C. Kriegler (Chairperson), Adv E.D. Moseneke (Vice Chairperson), Rev F. Chikane, Dr O. Dhlomo, Dr J.H. Heyns, Ms R. Jeger, Ms D.N.M. Mokhobo, Adv C. Nupen, Dr H. Suzman, Mr B. van der Ross, Adv Z. Yacoob
International: Mr R. Gould (Canada), Professor W.J. Kamba (Zimbabwe).

# INDEPENDENT ELECTORAL COMMISSION

## MONITORING DIRECTORATE

P.O. BOX 1001, ISANDO, 1600, SOUTH AFRICA
TEL: (27-11)928 1092/3 FAX: (27-11) 397 1742


SOUTH AFRICAN ELECTIONS

# *Accreditation procedures and guidelines for Election Observers from non-governmental organisations based outside South Africa*

## *1. The Network of Observers and Monitors*

Members of the international community have been invited to act as observers in the forthcoming elections. Such observers will be members either of inter-governmental or of non-governmental organisations. This briefing document is aimed primarily at assisting non-governmental organisations (NGOs) based outside of South Africa.

There will be a number of different types of operators in the field providing information and assistance to ensure, as far as possible, that the elections are free and fair. Observers from international NGOs will be working alongside observers provided by inter-governmental organisations such as the United Nations and the Organisation for African Unity and networks of South African observers, provided by local organisations .

## *2. Distinction between Monitors and Observers*

There will also be about 9 000 election monitors employed by the Independent Electoral Commission (IEC), the official body charged by the Transitional Executive Council with the responsibility of running the elections process. These monitors will be trained to play a pro-active role in mediating between disputing parties and will be expected to report any misconduct or breaches of the Electoral Code of Conduct. Monitors will, in the main, be chosen from amongst persons living in South Africa with a detailed knowledge of the current political situation.

Observers, who may come from either inside or outside South Africa, will be expected to detect and report all activities which threaten the freeness and fairness of the process. They will refer problems which they detect to the IEC, but they will not involve themselves in mediation or dispute resolution.

## 3. *Responsibilities of Observer Organisation*

Organisations will be required to gain accreditation from the Monitoring Directorate of the IEC if they wish to send official observers. It must be stressed that individuals will not be able to register as observers unless they apply via an accredited organisation. In order to apply for accreditation, organisations will be required to complete form 'A' attached to this document. In particular, organisations will be required to ensure that:

* their observers agree to adhere to the Code of Conduct , marked 'C' in this document

* they sign an indemnity, marked 'B', indemnifying the IEC from any claims arising during their time in South Africa

* their application for accreditation is accompanied by a copy of the founding document or constitution of their organisation

* they commit themselves to co-operate with the Monitoring Directorate in relation to training, conduct and deployment of their observers, as in document 'A'

* their observers undergo a training and orientation process in order to prepare them for their monitoring function

## 4. *Assistance from the IEC*

With regard to training and orientation, the IEC has produced a training manual which should serve as a guideline. This manual will be supplied to organisations once applications for accreditation have been made. It is hoped that some organisations will be able to run training workshops with their observers before they leave for South Africa.

In addition, the IEC is planning to host an intensive orientation programme for international observers, to take place in South Africa about two weeks before the voting days (April 26, 27, 28) and it is expected that most foreign observers should have arrived by this time. Accredited organisations will be given further details about this workshop in the near future.

Foreign organisations are expected to take responsibility for the welfare of their observers, but the International Liaison Department of the IEC will be available to provide some assistance with the co ordination of logistical arrangements such as visa requirements. Contact Ellen Kornegay or Nana Magomola at (27-11) 928 1402 in this regard.

## 5. *Deployment*

While fully respecting the independence of observers and their freedom of movement, it is in the interests of free and fair elections that the observer teams be spread evenly throughout the length and breadth of the country. Foreign organisations are requested to indicate whether they have any preferences as to which area of the country they wish their observers to be deployed in. Clearly it would be preferable to deploy observers in areas where their organisation already has offices or other infrastructure and the Monitoring Directorate of the IEC will attempt to meet any such requests.

Unfortunately in some cases the objective of an evenly spread observers network may require observers to be sent to areas other than those for which they have expressed preferences. In such cases accredited organisations are expected to co-operate fully with the IEC. In general, teams of foreign observers will be twinned with domestic observers in order to minimise orientation and language problems.

Registered observers will be entitled to enter voting stations, counting stations and any political gathering. In order to avoid congestion, there is a general ruling that not more than three observers, domestic and foreign, may be in a voting station or counting station at the same time. It would be appreciated if observers could be informed of this at an early stage.

For identification purposes it is envisaged that all observers, regardless of which NGO mission they are attached to, will be provided with the same identification cards and apparel. It has been decided that it would not be appropriate for observers to wear the apparel of their own organisations. It is hoped that uniformity of appearance amongst observers will assist the IEC in ensuring that only officially registered observers are granted access to polling stations, thus reducing the possibility of access by imposters

Observers will be required to report conflict situations and infringements of the Electoral Code of Conduct, marked 'D', to the Monitoring Directorate of the IEC. They will not be empowered to mediate in disputes that arise as this function is reserved for the trained election monitors.

In the case of an observer breaching the Code of Conduct for observers, such an observer may be issued with a warning or her or his official registration may be cancelled. Such steps will be taken only after an observer has been afforded the right of a hearing. In addition, it is strongly requested that public statements about the election process be made only by accredited organisations and not by individual observers. Such statements should be made only after the IEC has publically declared whether or not the elections were free and fair.

## 6. *Information required for Accreditation*

Attached to this document are forms which must be completed by organisations intending to send observers. In order to be officially accredited as an observer organisation, the following information must be provided in form 'A':

- name of the organisation and date of establishment
- address and contact numbers
- constitution or founding document of the organisation
- names and addresses of primary representatives
- primary objects of organisation
- reasons why accreditation is being sought
- number and details of observers for whom registration is being sought
- name and contact number of person co-ordinating observers
- date of expected arrival in South Africa
- preferred area of deployment, if any
- indemnity form signed by authorised representative of organisation

## 7. *Criteria and Information required for Observers*

When choosing observers, organisations are urged to send mature and reliable persons who will be sure to display an attitude of impartiality when discharging their duties as observers. Observers may not work for the advancement or defeat of any particular party, but must work for the achievement of a free and fair electoral process.

In seeking the registration of observers, the information required in form 'A' must be provided for each applicant:

- Full name
- Residential address, telephone and fax numbers
- Passport number
- occupation, if any
- whether holder of drivers licence valid in South Africa
- signed affirmation of adherence to the code of conduct

## 8. *Process from here*

It is crucial that the Monitoring Directorate of the IEC receive this information so that applications can be processed. The latest date for the accreditation of organisations is March 29, but it is requested that the information be provided as soon as possible.

The Monitoring Directorate is headed by its Chief Director, Peter Harris. Please do not hesitate to contact the Directorate for any further details which your organisation requires. Contact Lucia Mtshali or Kenneth Creamer at telephone, (27-11) 928 1092/3, or fax, (27-11) 397 1742.

**Documentation:**

'A' - Application for Accreditation of organisations wishing to send Observers
'B' - Indemnity form
'C' - Code of Conduct for Electoral Observers
'D' - Electoral Code of Conduct from the Electoral Act
'E' - Regulations pertaining to Observers
'F' - Regulations pertaining to Monitors
'G' - Structure of Monitoring Directorate

NB : Documents 'A' and 'B' are to be completed and returned, along with a copy of the organisations constitution, to the Monitoring Directorate of the IEC.
Although it would be preferable to complete form 'A' and return it immediately, pgs 5 and 6, regarding details about individual observers, may be detached and returned if and when accreditation is granted.

## APPLICATION FORM FOR ACCREDITATION AS AN OBSERVER ORGANISATION

PART A INFORMATION REQUIRED BY THE IEC INTERNATIONAL LIAISON DIRECTORATE.

ORGANISATIONS NAME:

| PHYSICAL ADDRESS | BUSINESS ADDRESS (IF DIFFERENT) |
|---|---|
| TEL<br>FAX | TEL<br>FAX |

DELEGATION'S CONTACT PERSON IN SOUTH AFRICA

NAME:

| PHYSICAL ADDRESS | BUSINESS ADDRESS (IF DIFFERENT) |
|---|---|
| TEL<br>FAX | TEL<br>FAX |

ORGANISATIONAL PRESENCE IN SOUTH AFRICA YES /NO

NAME:

| PHYSICAL ADDRESS | POSTAL ADDRESS (IF DIFFERENT) |
|---|---|
| TEL<br>FAX | TEL<br>FAX |

| ORGANISATION'S ROLE IN THE SOUTH AFRICAN ELECTION / LIST RESOURCES THAT YOUR ORGANISATION MAY AVAIL TO THE IEC |
|---|
| |

.....

*PART B*

INFORMATION REQUIRED FOR ACCREDITATION OF ORGANISATION, FOR PURPOSES OF PROVIDING OBSERVERS.

| | | | |
|---|---|---|---|
| DATE OF ESTABLISHMENT OF ORGANISATION | DD | MM | YY |

NAMES & ADDRESSES OF EXECUTIVE PRIMARY REP. (EG CHIEF EXECUTIVE, SEC GENERAL).

| | | |
|---|---|---|
| | | |

PRIMARY OBJECTS / OBJECTIVES OF ORGANISATION

STATEMENT / REASON WHY NGO IS SUITABLE FOR ACCREDITATION.

PARTICULARS OF THE PERSON CO-ORDINATING OBSERVES

| NAME | ADDRESS | TEL |
|---|---|---|
| | | FAX. |

| NAMES OF OBSERVERS | DATE OF ARRIVAL-DEPARTURE (if outside SA) | PREFERRED AREA OF DEPLOYMENT (IE PROVINCE OR SUB PROVINCE IF ANY) |
|---|---|---|
| | | |

(Add additional pages if necessary)

**TOTAL NUMBER OF OBSERVERS:**

*PART C*

DETAILS REQUIRED FOR REGISTRATION OF INDIVIDUAL OBSERVER

(Complete one form for the each observer)

| SURNAME: | VALID DRIVERS LICENSE YES NO |
|---|---|
| NAME: | |
| RESIDENTIAL ADDRESS<br><br>TEL. | POSTAL ADDRESS (if different) |
| FAX | |

IDENTITY OR PASSPORT NUMBER, IF ANY.

_____

OCCUPATION, IF ANY

_____

DECLARATION I HEREBY DECLARE THAT THE INFORMATION FURNISHED IN THIS FORM IS TRUE AND CORRECT. AND FURTHERMORE DECLARE THAT I HAVE READ. UNDERSTOOD AND AGREE TO ADHERE TO THE CODE CONDUCT.

DD/MM/YY _____

SIGNATURE OF APPLICANT.

# Code of Conduct for Observers in terms of section 24(1)(b) of the Independent Electoral Commission Act, 1993 (Act No. 150 of 1993)

---

PRELIMINARY

1. This Code shall be binding upon all Observers registered with the Commission.

2. The object of this Code shall be to ensure that the activities of Observers are facilitated by the Commission, conducted with integrity, and contribute to public confidence in the electoral process.

THE CODE

All registered Observers undertake that their observer activities throughout the election period shall be conducted in accordance with the following principles, viz:

(a) Observers shall maintain strict impartiality in the conduct of their duties, and shall at no time indicate or express any bias, or preference with reference to any registered party or nominated candidate.

(b) Observers shall when so requested immediately identify themselves to any interested person, and shall, during the conduct of their activities, at all times carry, wear or otherwise prominently display the prescribed identification badges or cards issued by the Commission to registered observers and their vehicles.

(c) Observers shall refrain from carrying, wearing and displaying any electoral material or any article of clothing, emblem, colours, badges or other item denoting support for or opposition to any party or candidate, or with reference to any of the issues in contention in the elections.

(d) Observers shall refrain from the carrying or displaying of arms during the conduct of their observer duties or while wearing the insignia issued by the Chief Director: Monitoring.

(e) Observers shall ensure that their conduct strictly conforms to the laws and regulations, including the Electoral Code of Conduct pertaining to the elections, and they shall both acknowledge the overall authority, and abide by the decisions of the Commission, and its sub-structures, in relation to their conduct as Observers.

(f) Observers shall immediately comply with any direction issued by or under the authority of the Commission with reference to the elections including any request to leave or refrain from entering a particular area or venue, or to depart from a voting or counting station, or any specified area thereof.

(g) Observers shall take all reasonable steps to ensure that any material, information or reports which they receive and any event, occurrence, or statement of which they may be notified or which they may have directly experienced or observed, which indicate the possible commission of an offence or infringement of the Electoral Code of Conduct or of this Code, including allegations involving dishonesty, corruption, intimidation or violence, are brought to the attention of the Chief Director: Monitoring or the Commission's other designated representatives, in the first instance, and at the earliest possible opportunity save as provided herein, Observers shall refrain from intervening to address such commission or infringement.

(h) Observers shall refrain from giving direct or indirect assistance to any party in connection with the elections, and on polling day(s) they shall specially refrain from communicating with voters, with a view to influencing them how they vote, or attempting to establish how they have voted, or in any other manner interfering with the secrecy and orderly conduct of the voting and counting process.

(i) Observers shall whenever so requested by or on behalf of the Commission, attend special observers briefings, training workshops and other meetings convened in order to co-ordinate their activities, convey relevant information, impart skills, and with a view generally to promote the effective deployment of resources and the conduct of free and fair elections.

(j) Subject to the duty to report all relevant matters to the Commission and their respective Observer Organizations, all Observers shall maintain due secrecy with reference to any matters affecting voting and counting, in respect of which the disclosure of information would constitute an offence in terms of the Electoral Act.

(k) Observers shall be refrained from making any public statement in respect of any matter which has a bearing on the election.

## SCHEDULE 2

(Sections 69 and 70)

### ELECTORAL CODE OF CONDUCT

1. The object of this Code shall be to promote conditions conducive to the conduct of a free and fair election, and a climate of democratic tolerance, in which political activity may take place without fear or coercion, intimidation or reprisals.

2. All registered parties and other persons bound by this Code shall endeavour to promote its object in order to enable free political campaigning and open public debate to take place in all parts of the Republic throughout the election period.

3. Registered parties and candidates further commit themselves—

(a) to give wide publicity to this Code:

(b) to promote voter education campaigns:

(c) to condemn violence and intimidation:

(d) to instruct their candidates, office-bearers, members and supporters accordingly; and

(e) generally, to affirm the rights of all participants in the election

(i) to express divergent political opinions:

(ii) to debate and contest the policies and programmes of other parties:

(iii) to canvass freely for membership and support from voters:

(iv) to hold public meetings:

(v) to attend public meetings convened by others:

(vi) to distribute electoral literature and campaign materials:

(vii) to publish and distribute notices and advertisements:

(viii) to erect banners, placards and posters: and

(ix) to promote free electoral campaigns by all lawful means.

4. All those bound by this Code in terms of subsection 69(1)(b), shall throughout the election period give effect to the following undertakings and stipulations:

(a) To publicly and repeatedly condemn violence and intimidation, and to avoid the use of language or any kind of action which may lead to violence or intimidation, whether to demonstrate party strength, gain any kind of political advantage, or for any other reason:

(b) to refrain from any action involving violence or intimidation:

(c) to ensure that no arms or weapons of any kind are carried or displayed at political meetings or in the course of any march, demonstration or other event of a political nature:

(d) to refrain from publishing or repeating false, defamatory or inflammatory allegations concerning any person or party in connection with the election:

(e) to co-operate and liaise in good faith with other parties to avoid, in so far as possible, arrangements involving public meetings, demonstrations, rallies or marches taking place at the same time and venue as similar political events organized by other parties:

(f) to do nothing to impede the democratic right of any party, through its candidates, canvassers and representatives, to have reasonable access to voters for the purposes of conducting voter education, fund raising, canvassing membership and soliciting support:

(g) to avoid plagiarizing the symbols, colours or acronyms of other parties: and to discourage and, if possible, prevent the removal, disfigurement or destruction of political campaign materials of any party:

(h) to refrain from offering any inducement or reward to any person in consideration of such person either joining or not joining any party; attending or not attending any political event; voting or not voting (either at all, or in any particular manner); or accepting, refusing or withdrawing such person's nomination as a candidate in the election:

(i) to refrain from any attempt to abuse a position of power, privilege or influence, including parental, patriarchal or traditional authority, for political purposes, including any offer of reward or threat of penalty:

(j) to avoid any discrimination based on race, sex, ethnicity, class, gender or religion, in connection with the election and political activity:

(k) in relation to the role of women—

(i) to facilitate full participation by women in political activities on the basis of equality:

(ii) to ensure free access by women to all public political meetings, facilities and venues:

(iii) to respect the right of women to communicate freely with political parties and organizations: and

(iv) generally, to refrain from forcing women to adopt a particular political position or to engage in, or to refrain from engaging in, any political activity otherwise than in accordance with their free choice:

## CHAPTER 10

## OBSERVERS

Powers, duties and functions of Chief Director: Monitoring regarding observers

63. The Chief Director: Monitoring shall, with regard to observers, have the powers, duties and functions conferred or imposed upon him by section 24 of the Commission Act and these regulations.

Accreditation of organization intending to be represented by observers

64. (1) Only persons nominated by organizations accredited under this regulation may be registered as observers.

(2) Any organization intending to be represented by observers during the election period, shall apply to the Chief Director: Monitoring for accreditation in the manner provided for in these regulations.

(3) An application for accreditation shall be in writing and shall contain the following particulars of the organization:

(a) The name of the organization;
(b) the business address where the head office is situated including the telephone and facsimile numbers;
(c) the date of establishment;
(d) the names and addresses of its executive primary representative, e.g. chief executive officer, secretary general, etc.;
(e) the primary objects;
(f) a statement of the reasons why the organization is suitable for accreditation to observe the elections;
(g) the number and names of the observers it nominates to be registered;
(h) the name and contact information of the person directly responsible for co-ordinating the organization's observers; and
(i) ~~in~~ the case of an organization with it's headquarters outside the Republic of South Africa, the application must include the intended dates of the arrival and departure of the observers.

(4) The application for accreditation shall be accompanied by

(a) the founding document or constitution of the organization or a copy thereof; and

(b) an affirmation that the organization commits itself to co-operate with the Chief Director: Monitoring in relation to the training, conduct and deployment of its registered observers.

(5) Upon receipt of an application for accreditation, the Chief Director: Monitoring shall, if he or she is satisfied that the organization concerned is able to ensure that its observers will abide by the Code of Conduct for Observers published by the said Chief Director, the Electoral Act, the Commission Act and regulations promulgated thereunder, and that they have undertaken that their observers receive training approved by the Commission, accredit that organization and notify the organization in writing accordingly.

(6) The Chief Director: Monitoring shall keep a record of all organizations accredited in terms of this regulation and its registered observers.

(7) No application for accreditation shall be considered unless it is received by the Chief Director: Monitoring at least 30 days before the first day of the voting period of the election, subject to the discretion of the said Chief Director to dispense with that time limit.

Registration of observers

65. (1) Any person nominated by an organisation under regulation 64 to serve as an observer, who wishes to register as such, shall apply for registration to the Chief Director: Monitoring by submitting the following particulars:

(a) Full name;
(b) full residential address, telephone number or other means of contact;
(c) identity or passport number, if any;
(d) occupation, if any;
(e) a signed affirmation of commitment to the Code of Conduct for Observers published by the said Chief Director;
(f) two passport size photographs.

Functions and duties of observers

66. (1) Subject to the provisions of this regulation, an observer shall have the right to enter any voting or counting station or the premises where any political meeting is being held to observe the election or counting process or political meeting, as the case may be.

(2) Access to voting or counting stations by observers shall be limited to a total of three observers at any time per station, subject to the discretion of the presiding or counting officer to increase that limit with respect to a particular station.

(3) No observer in his or her capacity as such, shall be allowed access to a voting or counting station or premise where a political meeting is being held -

(a) unless he or she wears the identification apparel issued by the Chief Director: Monitoring; or

(b) if he or she carries, wears or in any manner displays any badge, card or other identification of any organization, body or party.

(4) An observer shall return to the Chief Director: Monitoring all identification apparel and any other equipment issued to him or her by the said Chief Director within two days after the election period.

(5) If the Chief Director: Monitoring is satisfied that an observer -

(a) has failed to comply with a lawful instruction, direction or order issued by or on behalf of the Commission, Chief Director or electoral officer; or

(b) is publicly biased in favour of a particular registered party; or

(c) has hindered or obstructed any electoral officer or voter; or

(d) has infringed the Code of Conduct for Observers published by the said Chief Director,

he or she may issue a warning to or cancel the registration of that observer after the observer has been afforded the right of a hearing.

(6) If an observer resigns or if his or her registration is cancelled, the Chief Director: Monitoring shall notify the provincial electoral officer concerned of the resignation or cancellation, as the case may be.

## CHAPTER 11

## MONITORS

Powers, duties and functions of Chief Director: Monitoring regarding monitors

67. (1) The Chief Director: Monitoring shall, with regard to monitors, have the powers, duties and functions conferred or imposed upon him by section 24 of the Commission Act and these regulations.

(2) The Chief Director: Monitoring may issue directives to regulate the conduct of monitors, to co-ordinate their activities and to specify their functions.

Appointment of monitors

68. (1) Any organization wishing to nominate any person to serve as a monitor during the election period, may do so not later than 30 days prior to the first day of the voting period in the form prescribed by the Chief Director: Monitoring, which shall contain the following particulars:

(a) full name, age, residential address, identity number, occupation and availability of own transport, if any, of the nominee;

(b) name and address of the nominator and a signed declaration by the nominator that the nominee is 18 years of age or older, imbiased and objective and any other attribute that may recommend that person;

(c) a signed declaration by the nominee that he or she undertakes to fulfil the functions of an monitor to the best of his or her ability and carry out the task in an imbiased and neutral manner;

(d) two passport size photographs of the nominee; and

(e) any other particulars which the said Chief Director may require.

(2) Any person wishing to serve as a monitor during the election period shall, not later than 30 days prior to the first day of the voting period, apply to the Chief Director: Monitoring for appointment as a monitor.

(3) The application referred to in subregulation (2) shall be in writing and shall contain -

(a) the applicant's full name, residential address, age, identity number, availability of own transport, if any, and his or her occupation, if any;

(b) a signed declaration by the applicant in which he or she undertakes to fulfil the functions of monitor to the best of his or her ability and to carry out the task in an impartial and neutral manner;

(c) two passport size photographs of the applicant; and

(d) any other particulars which the said Chief Director may require.

(4) Upon receipt of the nomination or application, the Chief Director: Monitoring may appoint the nominee or applicant as a monitor in respect of any area, or for such specific task as the Chief Director: Monitoring deems fit.

(5) The appointment of persons as monitors and the number of monitors to be appointed shall be in the sole discretion of the Chief Director: Monitoring.

(6) The Chief Director: Monitoring shall keep a record of all the monitors appointed under subregulation (4) and shall notify the provincial electoral officer of the province wherein the nominee or applicant is appointed to serve as a monitor, of such appointment in writing.

Functions and duties of monitors

69. (1) The duties of a monitor shall be -

(a) to observe and report to the Chief Director: Monitoring upon the electoral process, including political meetings, canvassing, advertising and other campaigns at such times and such places as the Chief Director: Monitoring may stipulate and in accordance with his or her directives and instructions;

(b) to investigate complaints concerning conduct prejudicial to free and fair elections or alleged infringements of the Electoral Code of Conduct and other matters provided for in the Electoral Act and the Commission Act, and to report to the said Chief Director thereon;

(c) to comply with the provisions of the Electoral Act, the Commission Act, these regulations and the Code of Conduct for Monitors contained in the terms and conditions of employment of monitors;

(d) to comply and adhere to any lawful directive or instruction by the said Chief Director; and

(e) to record in full all alleged irregularities observed by him or her or reported on by parties and observers and ensuring that such reports are lodged with the said Chief Director forthwith.

(2) Subject to the provisions of this regulation, a monitor shall have the right to enter any voting or counting station designated by the Chief Director: Monitoring, excluding any election centre, or the premises where any political meeting is being held, or any premises occupied for the purposes of the electoral process in respect of which he or she has received instructions from the Chief Director: Monitoring to enter for the purposes of performing monitoring functions.

(3) No monitor shall be allowed access to a voting or counting station or premises where a political meeting is being held -

(a) unless he or she wears the identification apparel issued by the Chief Director: Monitoring; or

(b) if he or she carries, wears or in any manner displays any badge, card or other identification of any organization, body or party.

(4) The Chief Director: Monitoring may cancel an appointment a monitor and a monitor may resign on 24 hours' written notice: Provided the such appointment may be cancelled summarily or the monitor may resign summarily on good cause.

(5) If a monitor resigns or if his or her appointment is cancelled, the Chief Director: Monitoring shall notify the provincial electoral officer concerned of the resignation or cancellation, as the case may be.

(6) The provisions of regulation 66(4) shall apply *mutatis mutandis* to a monitor.

## Don't forget:

**you should make only ONE mark next to the party YOU want to vote for!**



# DOCUMENTS YOU NEED FOR VOTING




INDEPENDENT ELECTORAL COMMISSION

*The Voter Education Programme of the Independent Electoral Commission is here to make sure you understand and know your voting rights*

## IF YOU HAVE ANY OF THESE DOCUMENTS ...




## YOU ARE READY TO VOTE

# When you vote, you must show voting officials ONE of these documents

(these are called "Voter Eligibility Documents"):

- An identity document (the old dark blue one or the new green one); *OR*
- A reference book (all three versions), *OR*
- An ID issued by Transkei, Venda, Bophutatswana, or Ciskei, *OR*
- An old green identity card (issued before 1972), *OR*
- A temporary identity certificate (issued when your ID was lost)

At foreign stations ONLY you can also vote with a valid South African Passport.

# OR you can get a Temporary Voter's Card.

**Temporary Voter Cards are issued ONLY to a person who does not have another voter's eligibility document.**




**Arrangements have already been made for voters' cards to be issued at permanent offices and through mobile units of the Department of Home Affairs.**

***To get an ID or Temporary Voter's Card, you will need to submit* your birth certificate**

***or any one of the following documents:***

- a baptismal certificate
- clinic or hospital cards from your childhood
- primary school records from your childhood
- a house permit that shows your name
- a letter from local or traditional authority

***OR you can bring a person who has an ID who knows you.***

MAIL & GUARDIAN

R3,00 (including VAT) ★ Southern Africa: R3,00, excl tax ★ Zimbabwe: Z$7,50, incl tax

Vol 10, No 18, May 6 to 12, 19

SOUTH AFRICA'S INTERNATIONAL NEWSPAPER THE WEEKLY MAIL and Guardia

# The votes horse-trade

## *Behind closed doors, deals to stem the bloodshed*

IN the face of claims of massive electoral fraud by Inkatha supporters in kwaZulu, the ANC is left with three options, all of them unpalatable:

- Insist that the election be declared unfair, and risk further bloodshed.
- Give Natal to Inkatha, and thus provide Mangosuthu Buthelezi with an even larger power base.
- Strike a deal that ignores the young process and gives neither party full power in Natal, leaving the balance in the hands of the NP.

Indications are that the ANC will lean towards the third choice.

Up to seven percent of the Natal votes are in contention, enough to mean the difference between victory and defeat for the ANC.

A confidential IEC report, supported by other reports from European monitors, indicates that ballot boxes were stuffed, IEC officials were forcibly removed from polling stations, "pirate" stations were set up and under-age youths allowed to vote. See PAGE 2



# ANC's choice: Bloodshed or Buthelezi

**An Inkatha victory in kwaZulu/Natal will spell trouble for the new government, but the alternative — bloodshed following the elections being declared invalid — will be worse, report. Farouk Chotia, Stephen Laufer, Chris McGreal and Paul Stober**

THE ANC finds itself on the horns of a dilemma as it battles to reconcile opposing positions within the organisation on how to respond to electoral fraud in kwaZulu/Natal.

Top ANC leaders, including Nelson Mandela, agreed a strategy midweek which would see the organisation press its allegations of fraud while being cautious "not to push the issue beyond a certain point" which could mean a declaration by the IEC that the election in kwaZulu/Natal had not been free and fair.

An ANC national executive meeting during the week, convened to discuss the national cabinet and other issues, touched on the kwaZulu/Natal crisis. There was general agreement that an Inkatha victory would potentially create major problems for the national government.

The prospect of the elections being declared invalid was possibly even worse, because of the bloodshed which was likely to follow. But NEC members were also mindful of the dangers of anger within ANC ranks in kwaZulu/Natal should the party be seen to relinquish the province without a fight.

One ANC official said the organisation had three options. "We can give Inkatha the whole thing, we can force the IEC to declare the ballot invalid, or we can seek an arrangement whereby Inkatha and the ANC each get a result in the 40s, with Inkatha slightly ahead and the Nats holding the balance of power."

Conceding the vote to Inkatha is fraught with dangers for the national political process, as it would give Chief Mangosuthu Buthelezi the power base the ANC was sure he would be denied when it offered wide-ranging concessions on the position of the Zulu king.

With his party in power, Buthelezi could claim the backing of South Africa's second most populous region for any policy battle he chooses with central government. He would also command an even larger police force than previously.

Similarly, the invalidation of the election is fraught with danger and the prospect of an upsurge in violence in the country.

Inkatha has at least 5 000 trained cadres.

In an effort to seek an adjudicated solution to the crisis, ANC secretary general Cyril Ramaphosa and kwaZulu/Natal leader Jacob Zuma met Independent Electoral Commission chairman Judge Johann Kriegler on Wednesday. Up to seven percent of the votes cast in region are understood to be in tention, even after agreement reached on Wednesday on the ity of about 500 000 votes cast greater Durban area.

The contentious ballots c mean the difference between v and defeat for the ANC, despite cations that Inkatha did better province than expected.

"Besides the fraudulent vote believe some undecided voters for Inkatha," said ANC electoral mission chairman Khetso Go He said that for many, a vo Inkatha was an anti-violence with people hoping that vi would satisfy Buthelezi and r him to parliamentary politics

With results due in from th stronghold of Southern Natal cials were hoping for a two- vote. Even if the result did n the ANC ahead, it could mean neck and neck with Inkatha, a cient basis for a negotiated ment.

But the ANC believes it has evidence of fraud, particularly areas of Northern Natal contro the kwaZulu authorities.

Their dossiers, submitted IEC, are backed by evidence ered internally by the comm and presented by European monitors.

# Behind the great ballot box shuffle

Weekly Mail Reporters

A CONFIDENTIAL Independent Electoral Commission report on voting in Northern Natal obtained by the *Weekly Mail & Guardian* and the reports by European Union monitors based in the area detail:

- The stuffing of ballot boxes with what appear to have been bogus votes (in some areas several ballot boxes contained exactly 2 000 votes for Inkatha, while the ANC vote was always in the low hundreds)
- The forced removal of IEC officials and ANC party agents from ballot stations in kwaZulu
- The removal of complete voting stations from their designated positions to areas under the control of Inkatha supporters (some of these will be declared valid because the removal was ordered by the presiding officer)
- The issuing of temporary voter cards to 13 and 14 year-olds by the kwaZulu authorities

The Northern Natal report identifies suspicious ballot boxes from all five counting stations in the sub-region. At Empangeni, the province's last counting station to report, it says the boxes were linked to at least 15 unregistered polling stations. At the Mtubatuba counting station investigators discovered 21 boxes packed with ballots neatly stacked in such a way as to preclude them having been cast through the narrow slot.

Earlier, charges were levelled that the "pirate stations" had been operated in Inkatha-controlled areas, again accounting for up to 500 000 votes. The ANC said some of these stations were installed in taxis.

The IEC announced mid-week that there had been no "pirate stations", but IEC officials in Durban said they had indeed existed and were not simply stations set up despite the failure to gazette them in time. Sources close to the IEC's monitoring operation said it was often impossible to determine whether ballot boxes had come from legitimate or "pirate" polling stations because the organisation's monitors had been "chased away."

It was possible entire voting stations, including boxes, invisible ink, and ultra-violet lights had been hijacked to areas under the control of Inkatha-aligned chiefs. "This is no longer a monitoring issue. It is now a question of deciding on a count," said one source.

As the Durban vote was agreed by the parties, several "pirate stations" in Northern Natal continued to be "in contention", said a commission official.

The decision to cut a deal at the Durban regional counting station was the result of a "realisation by all parties that it was in the national interest that this issue be resolved and that a final count go forward to Kruis Street," the headquarters of the IEC, said a commission official involved in Wednesday's Durban discussions.

Challenged on the legality of the horse-trading, IEC chairman Judge Johann Kriegler said: "Come now, come now, let's not get purist, let's not be overly squeamish. They are in a power game with one another and if they want to settle by withdrawing objections, that's fine. There is nothing wrong ethically or legally."

The manipulated election result, a reflection of what the major parties agree they should have achieved at the polls in some regions and not of their true strength, has cast a shadow on the IEC and the electoral process.

Leading party officials participated in the discussions leading to the Durban deal, including Pravin Gordhan and Bheki Cele for the ANC, Ziba Jiyane and Peter Miller for Inkatha, and Roger Burrows for the DP. Jiyane was reported to have emerged from the Durban Exhibition Centre counting station smiling and predicting an Inkatha victory.

In Johannesburg, Judge Kriegler said he doubted "whether the disputed votes will tip the balance. There are other horses in the race and they may hold the balance".

News of the Durban deal emerged as Judge Kriegler was explaining a delay of more than 24 hours during which no results were released due to the "pollution" of a computer system used at IEC head office to collate and disseminate results. The computer had been doctored to add three to four percent to each incoming tally for certain parties, but had been detected. He refused to say which parties had been the intended beneficiaries of the computer manipulation.

(Capetown Edition) SUNDAY TIMES, May 8 1994 p-13

# Chinese maths and the deal that saved election

**MR JUSTICE Johann Kriegler put his arm round IEC commissioner Professor Walter Kamba and strode out of the auditorium at Gallagher Estate like a condemned man granted a last-minute reprieve.**

He had just announced the results of South Africa's first democratic election – a remarkable feat coming after a week in which the IEC's vote-counting machinery teetered on the brink of collapse.

Just hours earlier, in smoke-filled rooms round the country, South Africa's bitter political antagonists reached an incredible consensus. Rather than subject the IEC to critical scrutiny that could have destroyed the election, they cut a deal among themselves on which results would be accepted and which rejected.

In so doing they put the seal on South Africa's transition and released Judge Kriegler from a week of torment. Palpably relieved, he told a worldwide television audience: "We have concluded that we can certify each of the 10 elections concerned to have been substantially free and fair." It was the perfect outcome. Inkatha shaded Natal, the ANC did not get a two-thirds majority, but only just, and the NP got 20 percent of the vote.

But this dream ending could not conceal the most astonishing incompetence and confusion at IEC offices and counting stations throughout the country.

Counters failed to pitch up for work or arrived in double the numbers. Training for counters was often for less than two hours and as the process began to rapidly unwind, IEC officials were forced to call on bank clerks, auditors, churchmen and even organisations like the Rapportryers, an exclusively Afrikaner service organisation.

Ballot boxes arrived without sufficient documentation, some were tampered with, others contained neatly stacked ballot forms all marked in the name of one or other party.

Worse, at IEC headquarters in Kruis Street, Johannesburg, where all the results were co-ordinated, gremlins and crooks had been busy at work.

Some people working near fax machines added numbers to incoming results sheets. Fax forms claiming fictitious results streamed into the headquarters from fraudsters who had obtained the numbers of the IEC's dedicated lines.

And an enterprising hacker forced a way into the mainframe computer and generously bumped up the tallies of five of the smaller parties, possibly to detract from the ANC majority.

Investigators hope to establish who did what but it appears clear that few parties did not experience vote tampering – either to their benefit or disadvantage.

The experiences of the Expo counting station in Durban illustrated the problem. Last Saturday morning few of the teams of 50 counters gathered at 28 counting stations at the centre would have expected the controversy they were about to be embroiled in. As the morning wore on their eagerness to get to work had been worn down by inefficiency, labour disputes, lack of leadership and bad planning.

Three lots of counters had been hired for the same work due to a string of misunderstandings and the postponement of counting by a day.

Officials only finished sorting out these overstaffing difficulties just as a similarly overstaffed night shift was due to come in.

The counting start was, therefore, delayed until the next morning while officials sifted through the second shift.

When work began, officials found the ballot boxes in disarray. Few were accompanied by the correct papers and other material, and a number had obviously been opened.

In the absence of a formal reconciliation process, counting the ballots issued to each station against the ballots returned in the boxes, there was no way of proving that all the boxes used had found their way back to the counting stations.

By Wednesday all these and other contested boxes, some found to contain neatly stacked ballots, had been put on one side and IEC commissioner Charles Nupen flew in for a meeting to decide the fate of the disputed votes.

Then the incredible happened. The ANC delegation went into a caucus meeting followed by a meeting with Inkatha, and returned to drop all its objections to the questionable ballots.

But, even as the ANC agreed to live with Durban's tarnished ballots, a second controversy hit the province at the Empangeni counting station.

Local IEC officials compiled a list of reasons why the result from the area should not be considered free and fair. And two other IEC officials sent memos to the same effect, calling for the election to be declared "null and void in the interest of stability".

By Friday these and a broadside of complaints from Mahlabatini, Nkandla, Ndabayakhe and Nongoma appeared to have been quashed by political leaders, and the election was declared free and fair for the whole province.

Even as the Natal problems hit the headlines, two major PWV counting stations were plunged into crisis. At Nasrec, inside Johannesburg police had to step in to prevent party officials coming to blows over a car loaded with ballot papers.

The controversy, which raged for the whole of Saturday, was stemmed when the IEC acted by sending head office official Albert Mokoena to the scene to kick start the counting process.

Mr Mokoena had just begun to put the lid on the controversy when the IEC's election administration directorate sent its own crisis team to the scene. "The whole process was messed up again," Mr Mokoena said.

Pretoria counting station, after being informed by IEC headquarters that its tallies for 1,1-million votes had been received, was suddenly told by Kruis Street that the figures had been "misfiled". Counters had to go back to source and recheck.

Days later at the Kruis Street headquarters it emerged that regional counting problems had been compounded by interference with the IEC's central results computer and the dedicated fax machines on which results were to be sent in.

It was the last straw. The IEC stopped sending out results and called in Johannesburg auditors to sort out the numbers.

The computer system was replaced by verbal and manual verification and new computers were set up in the foyer outside monitoring head Peter Harris's office to do a proper tally.

On Thursday IEC commissioners met behind closed doors to adjudicate on major disputes. They discussed only written representations, a party official who followed the process said.

They decided to reject all ballots not stamped with polling station identifiers, and gave 250 000 ballots to Inkatha because they had no Inkatha stickers on them. But they also removed 250 000 ballots from Inkatha because they came from "pirate voting stations".

To the party official it was "Chinese mathematics" that produced an outcome no one would contest. At Gallagher Estate on Friday Judge Kriegler said it was not the IEC but political parties that had made deals.

"None of the deals or tentative deals had any effect on these results. These are the mathematical tallies," he said.

By RAY HARTLEY, EDYTH BULBRING, CARMEL RICKARD, MARLENE BURGER and CHRIS BARRON

## Poll not free and fair, say Kwazulu Natal commissioners

By CARMEL RICKARD

NOT all officials of the Independent Electoral Commission believed the election in Kwazulu Natal should be certified free and fair.

Two days before the official results were released, the Empangeni sub provincial office urged that the area's results be scrapped altogether.

In a confidential memo to the IEC headquarters, the officials representing the mediation, monitoring, analysis and electoral adjudication divisions said their impression of the elections in their sub-province was that they were neither free nor fair.

On Sunday two other officials sent separate memos to the same effect. One referred to "gross irregularities that have surfaced", and urged that the commission seriously consider declaring the elections "null and void in the interest of stability".

Another memorandum was attached to a report on irregularities found at various polling stations in the region. The report was compiled by a Durban advocate who had been requested by IEC commissioner Dikgang Moseneke to investigate the counting process in Empangeni.

On the basis of complaint forms, incident report forms and affidavits, the commissioner listed problems at seven counting stations. For example, at Sundumbili she discovered that a presiding officer had chased ANC party agents away, and that voting at a local high school had been allowed without identification.

At Nongoma she discovered that voting took place at the Bhekumuzi High School and the Ubumbano School, which were not on the official monitors' list.

Natal ANC officials have now begun to ask why the IEC in Durban took no action to halt the counting in these disputed areas.

They also could not understand why the IEC went ahead with declaring the Kwazulu Natal election "substantially free and fair" in the light of these serious irregularities recorded and reported by their own staff, and in the light of the recommendations made by their own staff at the scene.

J-3

## 5. VOTING STATION OBSERVATION FORM

Instructions for completing this form:

- Please be sure to fill in your ID# or name, the region and city, and date
- Complete one form for each voting station you observe
- For additional forms get the original from your Group Leader and make photocopies at the hotel

Margueritte Strickl..

ID#/Name 707250000012 Region/City Northwest Mafeking Date 4/26/94

| | | | | |
|---|---|---|---|---|
| Province: Northwest | | | | |
| District: Mafeking | | | | |
| Voting Station Number: 61558 | Bophelong Hospital | | | |
| Names of IEC Officials: Presiding Officer Terence Mokale | ID: | | ID: N/A | ID: N/A |
| Date and duration of visit 4/26/94 am 1 hr. 30 min 4/26/94 pm 1 hr. | Date (tick the relevant box) | | Time in (21 hour clock) | Time out (24 hour clock) |
| | 26 ✓ | 27 28 | 12:00 pm 3:35 | 1:30 pm 5:55 pm. |

| (Answer yes or no) | |
|---|---|
| 1. Within the vicinity of the voting station did you see: | |
| a. campaign materials? | yes |
| b. illegal political activity? | no |
| c. any form of interference with the free passage of voters? | no |
| 2. Were the voters checked for weapons before entering the voting station? | Not generally |
| 3. Were there only authorized people inside the voting station? | yes |
| 4. Were all official voting procedures being applied during your visit? | yes |
| 5. How many voters cast ballots during a 15 minute period? | 44 |
| 6. Was there a sufficient stock of election materials and supplies during your visit? | Yes |
| 7. Was the situation as reported by party voting agents/IEC monitors/ observers normal? | yes |
| If not, indicate the nature of the complaint received: | |
| a. intimidation | |

b. breach of secrecy

c. insufficient election equipment

d. obstruction of monitors/observers/ party agents

e. other:

8. Circle parties which were represented by a voting agent:

| | | | | | | |
|---|---|---|---|---|---|---|
| PAC | SOCCER | KISS | VF-FF | WRPP | WLP | XPP |
| AMP | ACDP | ADM | AMCP | ANC | DP | DPSA |
| FP | LUSAP | MF | NP | MP | IP | WI |
| NMCDP | GPR | WKF | SAWP | UPF | RP | others |

9. Were monitors/observers present from:

IEC N/A

NGOs " N/A

Other N/A

10. Which credentials were accepted in order to allow someone to vote? Old Pass Law Book. Temporary Voting ID/and ID Book, Pass-ports.

11. What was the process for ensuring there was no duplication of votes, e.g. spraying and checking of hands and/or ID documents All of these -

12. How did Mobile Voting Stations work? Did they keep to the announced schedule? Who traveled with the Stations? ?

13. Voting Station Number G1558 — Bophelong Hospital

**14. Please comment briefly on any negative replies to questions 1-7:**

2. Voters were primarily aged and/or infirm. There was a significant presence of ANC party workers, but monitors did not generally feel that it was necessary to check voters for weapons.

5. The 15 minute interval was taken between noon and 1 p.m.

* UNOFFICIAL *

Observer's name: Teanae Woods, Mayeeda Fuard,

Sponsoring Organization: NAIDEL / IADL

Date: 4.27.94 Time: 4:30 p.m.

Place: Mamelodi Section D Secondary Scho
(Province, District, town or city) Ingel

Event: IEC Monitor attempting to influence voter
(description of event or identity of voting or counting station)

Detailed factual description of incident (Which political parties, election officials, etc. were involved? How was the incident initiated? What action was taken and by whom?):

~~Observer heard~~ They spoke in Afrikaans

Voter stated to IEC Monitor that she didn't know whom to vote for. IEC monitor then went behind voting booth to assist. Observer (Teanae Woods) heard one monitor say to the other, "She has already said which party she wants to vote for," but second monitor (named Michael) would not vote the ballot. Then he asked her in Afrikaans, "Are you sure you want to vote for the ANC? Do you know what are the aims of the ANC?" The Observer objected call in the Presiding Officer (Fatima). The IEC Monitor (Michael) was asked what he said to the voter and he repeated the above statement. The voter was asked for whom she wished to vote and she said, "ANC." A report was phoned in to the IEC. The Observer (Woods) was told by the ANC Party Observer that there had been a previous complaint of intimidation of voters by the Presiding Office

## ELECTION OBSERVER INCIDENT REPORTING FORM

* UNOFFICIAL *

Observer's name: Jeanne Mirer, USA Paquetta Palmer, USA J-P Margin France

Sponsoring Organization: International Association of Democratic Lawyers (IADL)

Date: April 27, 1994 Time: 8:45 AM

Place: Guguletu Civic Center
(Province, District, town or city)

Event: Voting Station Observation
(description of event or identity of voting or counting station)

Detailed factual description of incident (Which political parties, election officials, etc. were involved? How was the incident initiated? What action was taken and by whom?): When we approached the polling station people were in a queue of about 500 meters. (Approximately 4000 people) and told us they Many of the people in the queue had been there since 2:00 am - 3:00 am. The Presiding officer, Betty Dzingha, explained that they were only slowly moving people in due to a supply shortage and because they were using up the supplies of the previous days voting. (They had no supplies left after about 45 minutes) (approx 30 min) Betty had been attempting to get supplies from the central supply station + had been unsuccessful as that depot was out of supplies. Her second in command (Presiding Officer) was trying se su + We noted that the ballot boxes had not been secured properly at that point This was quickly rectified. (9:15) in our presence we called NADEL, who reported the supplies problem to the IEC.

(over)

~~monitor~~ who translated for us with voters ~~Comm~~ who did not speak English.
There were no vendors providing food etc. to the people on the line. ~~The toilet situation was~~ There were no toilets available to voters in the extremely ~~also bad.~~ ~~People~~ said that persons in the houses long queu voters on the line near the Civic Center were letting them use their toilets. One store near the center was open and very crowded.
There were some clearly disabled + pregnant women + women with small children standing in the queue. They were not moved to the head of the queue. Betty explained they had tried to do that but had received objections from people who had started lining up at 2 or 3 in the morning. Some of the mothers said they had no food for the babies. It was raining and cold all morning. We asked people if they were prepared to stay. ~~All voters we spoke to~~ said yes. We explained the problem with the supplies ~~but~~ up to that time they did not know the reason for the delays. The people ~~There were delays for food~~ asked for extended hours
It was cold and wet on the line. 12:00
we came back about ~~4:00~~ am and at that time they had secured some but not many ballots. Betty said they were running out of IFP stickers. They had only one stamp pad to stamp the ballots. Things were still moving slowly.
Betty was ~~definitely~~ trying to keep things together but had major difficulties as a result of the supply problems, and seemed unfamiliar with the IEC supplies but only a few people (800) had voted. at 3:00pm
we called back on April 28. She reported adequate
She approximated 3,000 or so had voted on the 29th.

procedures sealing on ballot box

## ELECTION OBSERVER INCIDENT REPORTING FORM

Observer's name: P. Palmer, J-P Urçin USA UNOFFICIAL USA France J.M.

Sponsoring Organization: IAOL

Date: April 27/1994 Time: 4:00 pm

Place: Quinefontein Community Center (Manenb
(Province, District, town or city)

Event: Voting Observation
(description of event or identity of voting or counting station)

Detailed factual description of incident (Which political parties, election officials, etc. were involved? How was the incident initiated? What action was taken and by whom?):

- Opened at 7:20am.
- The station was moving well with adequate supplies. Queues were long but moving into the station well
- The ballot boxes that were full were not sealed -

P.O. - Burton Slabbert said he would seal them at the end of the day.

In response to questions concerning the queue and the decorum on the ground - P.O. Slabbert said - "I am a prosecutor in this area. People know me when I walked the line - they quiet down."

## ELECTION OBSERVER INCIDENT REPORTING FORM

Observer's name: P. Palmer, J-P Urgin J. Miner (USA UNOFFICIAL USA France)

Sponsoring Organization: IADL -

Date: April 27, 1994 Time: 5:23 pm

Place: Westridge Community Center (Mitchells Plain)
(Province, District, town or city)

Event: Voting Observation
(description of event or identity of voting or counting station)

Detailed factual description of incident (Which political parties, election officials, etc. were involved? How was the incident initiated? What action was taken and by whom?): This Center had 3 separate voting stations. (A, B & C). Station A (P.O. Mark) opened at 8:30 am, Station B (P.O Dawn) opened at 8:05 am & Station C (P.O. Franklin) opened at 7:15 am due to lack of supplies.

The queues had been long at all stations in the morning. By the time we arrived the queues were not that long. People were voting about one half hour after joining the line. Several buses from Crupleton and Kyalitsha had come to this center to vote. Translation services exis

The ballot boxes did not have bars to secure them - (they came without bars) bu they were secured with numbered tags.

- The Party agents at this center included NP, ANC, PAC, IFP, ACDP, AMP, + IP.

# 5. VOTING STATION OBSERVATION FORM

Instructions for completing this form:

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- Complete one form for each voting station you observe
- For additional forms get the original from your Group Leader and make photocopies at the hotel

ID#/Name Zeva Schurz Region/City Lichtenberg station 1 Date

| | | | | | |
|---|---|---|---|---|---|
| Province: | | | | | |
| District: | | | | | |
| Voting Station Number: | | | | | |
| Names of IEC Officials | | | | | |
| | ID: | | | ID : | ID : |
| Date and duration of visit<br>28 April 1994<br>1½ hours | Date (tick the relevant box) | | | Time in (24 hour clock) | Time out (24 hour clock) |
| | 26 | 27 | 28 | | |

| (Answer yes or no) |
|---|
| 1. Within the vicinity of the voting station did you see: |
| a. campaign materials? no |
| b. illegal political activity? no |
| c. any form of interference with the free passage of voters? no |
| 2. Were the voters checked for weapons before entering the voting station? |
| 3. Were there only authorized people inside the voting station? yes |
| 4. Were all official voting procedures being applied during your visit? |
| 5. How many voters cast ballots during a 15 minute period? |
| 6. Was there a sufficient stock of election materials and supplies during your visit? yes |
| 7. Was the situation as reported by party voting agents/IEC monitors/ observers normal? |
| If not, indicate the nature of the complaint received: |
| a. intimidation |

| |
|---|
| b. breach of secrecy |
| c. insufficient election equipment |
| d. obstruction of monitors/observers/ party agents |
| e. other: |

8. Circle parties which were represented by a voting agent:

| | | | | | | |
|---|---|---|---|---|---|---|
| PAC | SOCCER | KISS | VF-FF | WRPP | WLP | XPP |
| AMP | ACDP | ADM | AMCP | ANC | UP | DPSA |
| FP | LUSAP | MF | NP | MP | IP | WI |
| NMCDP | GPR | WKF | SAWP | UPF | RP | others |

9. Were monitors/observers present from:

IEC yes

NGOs yes

Other

10. Which credentials were accepted in order to allow someone to vote?

11. What was the process for ensuring there was no duplication of votes, e.g. spraying and checking of hands and/or ID documents all of these

12. How did Mobile Voting Stations work? Did they keep to the announced schedule? Who traveled with the Stations?
None

| | |
|---|---|
| 13. Voting Station Number | |

**14. Please comment briefly on any negative replies to questions 1-7:**

They were not letting more than one party agent be present for an assisted vote. There was a discussion and the rule in the Presiding Officer's Book was pointed out. When we left the situation had been corrected

## 5. VOTING STATION OBSERVATION FORM

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ID#/Name Sam Miller Region/City Mafikeng Date 4/27/94

| | | | |
|---|---|---|---|
| Province: Northwest | | | |
| District: Mafikeng | | | |
| Voting Station Number: Motswedi Primary School | | | |
| Names of IEC Officials | | | |
| | ID: | ID : | ID : |
| Date and duration of visit 27 April 1994 1 hour | Date (tick the relevant box) | Time in (24 hour clock) | Time out (24 hour clock) |
| | 26 \| (27) \| 28 | | |

| (Answer yes or no) | |
|---|---|
| 1. Within the vicinity of the voting station did you see: | |
| a. campaign materials? | No |
| b. illegal political activity? | No |
| c. any form of interference with the free passage of voters? | No |
| 2. Were the voters checked for weapons before entering the voting station? | No |
| 3. Were there only authorized people inside the voting station? | Yes |
| 4. Were all official voting procedures being applied during your visit? | No IFP sticker on provincial ballot |
| 5. How many voters cast ballots during a 15 minute period? | |
| 6. Was there a sufficient stock of election materials and supplies during your visit? | Yes, |
| 7. Was the situation as reported by party voting agents/IEC monitors/ observers normal? | |
| If not, indicate the nature of the complaint received: | |
| a. intimidation | |

| | |
|---|---|
| b. breach of secrecy | |
| c. insufficient election equipment | |
| d. obstruction of monitors/observers/ party agents | |
| e. other: | |

8. Circle parties which were represented by a voting agent:

| | | | | | | |
|---|---|---|---|---|---|---|
| PAC | SOCCER | KISS | VF-FF | WRPP | WLP | XPP |
| AMP | ACDP | ADM | AMCP | ANC | DP | DPSA |
| FP | LUSAP | MF | NP | MP | IP | WI |
| NMCDP | GPR | WKF | SAWP | UPF | RP | others |

9. Were monitors/observers present from:

| | |
|---|---|
| IEC | Yes |
| NGOs | Yes |
| Other | |

10. Which credentials were accepted in order to allow someone to vote?

11. What was the process for ensuring there was no duplication of votes, e.g. spraying and checking of hands and/or ID documents

12. How did Mobile Voting Stations work? Did they keep to the announced schedule? Who traveled with the Stations?

| | |
|---|---|
| 13. Voting Station Number | |

**14. Please comment briefly on any negative replies to questions 1-7:**

There was no electricity or generators available.

## 5. VOTING STATION OBSERVATION FORM

Instructions for completing this form:

- Please be sure to fill in your ID# or name, the region and city, and date
- Complete one form for each voting station you observe
- For additional forms get the original from your Group Leader and make photocopies at the hotel

ID#/Name IO 725 0001000011 Elizabeth Schott Region/City Marico / Ikageleng Date 4-2

| | | | |
|---|---|---|---|
| Province: | NW | | |
| District: | Sefatlhane Primary School | | |
| Voting Station Number: | G 0326 | | |
| Names of IEC Officials | | | |
| | ID: | ID : | ID : |
| Date and duration of visit | Date (tick the relevant box) | Time in (24 hour clock) | Time out (24 hour clock) |
| | 26 (27) 28 | 9:40 | 10:00 |
| | | 7:30 | - 7:45 |

| (Answer yes or no) | |
|---|---|
| 1. Within the vicinity of the voting station did you see: | |
| a. campaign materials? | yes - ANC stickers (old) on wall. Covered up on second visit |
| b. illegal political activity? | no |
| c. any form of interference with the free passage of voters? | no |
| 2. Were the voters checked for weapons before entering the voting station? | Usually |
| 3. Were there only authorized people inside the voting station? | yes |
| 4. Were all official voting procedures being applied during your visit? | yes |
| 5. How many voters cast ballots during a 15 minute period? | — |
| 6. Was there a sufficient stock of election materials and supplies during your visit? | yes |
| 7. Was the situation as reported by party voting agents/IEC monitors/ observers normal | yes |
| If not, indicate the nature of the complaint received: | |
| a. intimidation | no |

| | |
|---|---|
| b. breach of secrecy | no |
| c. insufficient election equipment | no |
| d. obstruction of monitors/observers/ party agents | no |
| e. other: | campaigning - ANC stickers on wall |

8. Circle parties which were represented by a voting agent:

| | | | | | | |
|---|---|---|---|---|---|---|
| PAC | SOCCER | KISS | VF-FF | WRPP | WLP | XPP |
| AMP | ACDP | ADM | AMCP | ANC | DP | DPSA |
| FP | LUSAP | MF | (NP) | MP | IP | WI |
| NMCDP | GPR | WKF | SAWP | UPF | RP | others |

9. Were monitors/observers present from:

IEC yes

NGOs no

Other

10. Which credentials were accepted in order to allow someone to vote?

—

11. What was the process for ensuring there was no duplication of votes, (e.g.) spraying and checking of hands and/or ID documents yes

12. How did Mobile Voting Stations work? Did they keep to the announced schedule? Who traveled with the Stations?

n/a

| | |
|---|---|
| 13. Voting Station Number | G 0326 |

**14. Please comment briefly on any negative replies to questions 1-7:**

The ANC stickers were old, ~~as~~ apparently from a previous time - NP party voting agent complained of them. I pointed them out to presiding officer who had them covered up; next day they were not visible.

## 5. VOTING STATION OBSERVATION FORM

Instructions for completing this form:

- Please be sure to fill in your ID# or name, the region and city, and date
- Complete one form for each voting station you observe
- For additional forms get the original from your Group Leader and make photocopies at the hotel

ID#/Name I 0725 00000011 Elizabeth Schatl Region/City D.Itsobetla/Ikgosseng Date 4-28

| | | | | | |
|---|---|---|---|---|---|
| Province: | NW | | | | |
| District: | D. Itsobetla / Ikgosseng | | | | |
| Voting Station Number: | Magistrates Office - 6 V5215 | | | | |
| Names of IEC Officials | J. J. Ikaneng | | | | |
| | ID: | | | ID : | ID : |
| Date and duration of visit | Date (tick the relevant box) | | | Time in (24 hour clock) | Time out (24 hour clock) |
| | 26 | 27 | (28) | noon | 12:50 |

| (Answer yes or no) |
|---|
| 1. Within the vicinity of the voting station did you see: |
| a. campaign materials? no |
| b. illegal political activity? no |
| c. any form of interference with the free passage of voters? yes - small spaces |
| 2. Were the voters checked for weapons before entering the voting station? ? |
| 3. Were there only authorized people inside the voting station? yes |
| 4. Were all official voting procedures being applied during your visit? no See comment - no |
| 5. How many voters cast ballots during a 15 minute period? lots - moved fast |
| 6. Was there a sufficient stock of election materials and supplies during your visit? yes |
| 7. Was the situation as reported by party voting agents/IEC monitors/ observers normal? yes |
| If not, indicate the nature of the complaint received: |
| a. intimidation no |

| | |
|---|---|
| b. breach of secrecy | yes |
| c. insufficient election equipment | no |
| d. obstruction of monitors/observers/ party agents | no |
| e. other: | |

8. Circle parties which were represented by a voting agent:

| | | | | | | |
|---|---|---|---|---|---|---|
| (PAC) | SOCCER | KISS | VF-FF | WRPP | WLP | XPP |
| AMP | ACDP | ADM | AMCP | (ANC) | DP | DPSA |
| FP | LUSAP | MF | (NP) | MP | IP | WI |
| NMCDP | GPR | WKF | SAWP | UPF | RP | others |

| |
|---|
| 9. Were monitors/observers present from: |
| IEC yes |
| NGOs yes |
| Other |
| 10. Which credentials were accepted in order to allow someone to vote? — |
| 11. What was the process for ensuring there was no duplication of votes, e.g. spraying and checking of hands and/or ID documents yes |
| 12. How did Mobile Voting Stations work? Did they keep to the announced schedule? Who traveled with the Stations? n/a |

| | |
|---|---|
| 13. Voting Station Number | V 5215 |

**14. Please comment briefly on any negative replies to questions 1-7:**

Small space required placement of one voting booth in a non-private place - not too secret.
People needing assistance were seated at table with deputy presiding officer in the presence of 6 party voting agents (4 from one party). We + other observers who arrived pointed out problem with this - party agents were then excluded from assistance process. (Other observers had pointed out some [illegible] to no avail).

## 5. VOTING STATION OBSERVATION FORM

Instructions for completing this form:

- Please be sure to fill in your ID# or name, the region and city, and date
- Complete one form for each voting station you observe
- For additional forms get the original from your Group Leader and make photocopies at the hotel

ID#/Name Marequita Stricklin 10725 0000000 12 Region/City Northwest Date 4/27/94

| | | | |
|---|---|---|---|
| Province: | Northwest | | |
| District: | | | |
| Voting Station Number: | Dikhudu Primary Sch. | | |
| Names of IEC Officials | | | |
| | ID: | ID : | ID : |
| Date and duration of visit | Date (tick the relevant box) | Time in (24 hour clock) | Time out (24 hour clock) |
| | 26 \| 27 \| 28 | | |

| (Answer yes or no) | |
|---|---|
| 1. Within the vicinity of the voting station did you see: | |
| a. campaign materials? | no |
| b. illegal political activity? | no |
| c. any form of interference with the free passage of voters? | no |
| 2. Were the voters checked for weapons before entering the voting station? | yes |
| 3. Were there only authorized people inside the voting station? | yes |
| 4. Were all official voting procedures being applied during your visit? | yes |
| 5. How many voters cast ballots during a 15 minute period? | N/A |
| 6. Was there a sufficient stock of election materials and supplies during your visit? | |
| 7. Was the situation as reported by party voting agents/IEC monitors/ observers normal? | |
| If not, indicate the nature of the complaint received: | |
| a. intimidation | |

b. breach of secrecy

c. insufficient election equipment

d. obstruction of monitors/observers/ party agents

e. other insufficient number of police officers

8. Circle parties which were represented by a voting agent.

| | | | | | | |
|---|---|---|---|---|---|---|
| PAC | SOCCER | KISS | VF-FF | WRPP | WLP | XPP |
| AMP | ACDP | ADM | AMCP | ANC | DP | DPSA |
| FP | LUSAP | MF | NP | MP | IP | WI |
| NMCDP | GPR | WKF | SAWP | UPF | RP | others |

9. Were monitors/observers present from:

IEC

NGOs

Other

10. Which credentials were accepted in order to allow someone to vote?

I.D cards, Temporary ID cards

11. What was the process for ensuring there was no duplication of votes, e.g. spraying and checking of hands and/or ID documents All of these

12. How did Mobile Voting Stations work? Did they keep to the announced schedule? Who traveled with the Stations?

N/A

| 13. Voting Station Number | Dikhudu Primary Sch. |
|---|---|

**14. Please comment briefly on any negative replies to questions 1-7:**

Voting started at 7 a.m. people waited approx. 6 hrs to vote. This is the last polling station before the Botswana ~~not~~ border. Bus ale coming to take some of these voters to stations that are less busy

# BALLOT PAPER

SAMPLE ONLY

| | | |
|---|---|---|
| PAN AFRICANIST CONGRESS OF AZANIA | PAC | |
| SPORTS ORGANISATION FOR COLLECTIVE CONTRIBUTIONS AND EQUAL RIGHTS | SOCCER | |
| THE KEEP IT STRAIGHT AND SIMPLE PARTY | KISS | |
| VRYHEIDSFRONT - FREEDOM FRONT | VF-FF | |
| WOMEN'S RIGHTS PEACE PARTY | WRPP | |
| WORKERS' LIST PARTY | WLP | |
| XIMOKO PROGRESSIVE PARTY | XPP | |
| AFRICA MUSLIM PARTY | AMP | |
| AFRICAN CHRISTIAN DEMOCRATIC PARTY | ACDP | |
| AFRICAN DEMOCRATIC MOVEMENT | ADM | |
| AFRICAN MODERATES CONGRESS PARTY | AMCP | |
| AFRICAN NATIONAL CONGRESS | ANC | |
| DEMOCRATIC PARTY - DEMOKRATIESE PARTY | DP | |
| DIKWANKWETLA PARTY OF SOUTH AFRICA | DPSA | |
| FEDERAL PARTY | FP | |
| LUSO - SOUTH AFRICAN PARTY | LUSAP | |
| MINORITY FRONT | MF | |
| NATIONAL PARTY - NASIONALE PARTY | NP | |

Presented by the Voter Education Programme of the Independent Electoral Commission.

# ELECTORAL VIOLATION REPORT

From: Ijeoma Omambala
Sam Miller
Zeva Schub
Marguerite Stricklin
(International Election Observers from the International Association of Democratic Lawyers with accreditation from the I.E.C.)

To: Felicia Roberts
Mike Mayer
(I.E.C., Mafikeng)

Date: May 2, 1994

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## I. Introduction

On April 30, 1994 we went to the ballot counting station in Groot-Marico in our role as I.E.C.-accredited international election observers. Shortly after our arrival, and repeatedly thereafter, we observed serious violations of the electoral code by the Counting Officer and most of her staff. We brought these violations to the attention of the Counting Officer and the I.E.C. monitors. After the violations continued, we notified the I.E.C. central office in Mafikeng.

We believe that the violations created a significant opportunity for manipulation which could not be corrected at a later time, thus placing in question the accuracy of all ballots counted at the station. Therefore, we wish to dispute the procedures employed at the Groot-Marico counting station, and we look forward to being of whatever further assistance we can in the resolution of this matter. The following is a summary of our observations concerning the most signifcant violations.

## II. Electoral Violations

### A. Failure to Reconcile on a Station-by-Station and Day-by-Day Basis

Prior to reconciliation, we were informed by the Counting Officer, Mrs. Scheepers, that during the three election days she had mixed ballots from various stations and various days into the same ballot boxes. However, with the exception of two cardboard boxes, each box was marked with only one station and one day.

Mrs. Scheepers later explained that when the Zeerust station ran out of metal ballot boxes, she took partially filled boxes from prior days and from other stations out of secure storage, broke the seals, used them for the voting in Zeerust and

elsewhere, and failed to make any notations on the boxes regarding the source or date of the new ballots. She also failed to record her actions in her presiding officer's statement. She attempted to justify her action by claiming that the party agents present at the voting stations had approved and observed the process. However, Mrs. Scheepers later stated that she re-opened the sealed boxes after being told by her I.E.C. superiors in Klerksdorp not to do so, and rather to use cardboard boxes instead.

We told Mrs. Scheepers and others that we understood that the damage done by mixing ballots into re-opened boxes would make it impossible to completely reconcile the entire lot of ballots in the counting station. However, we expressed our belief that during the reconciliation the ballots from each box should be counted separately. Especially since some boxes were not mixed. This at least would maintain, rather than further damage, whatever integrity the process had at that point. Mrs. Scheepers disregarded this advice. Consequently, multiple boxes were emptied at the same time and intermixed on the same table. The ballots were reconciled as a whole, with no attempt to reconcile any single box or group of boxes.

B. Failure to Follow Counting Procedures

The counting procedure employed by Mrs. Scheepers was grossly inconsistent with even the most basic guidelines of the electoral code. On each of two large tables with approximately 15-20 tellers per table, ballots were emptied and each teller sorted the ballots into piles according to party. Thus, approximately 30 to 40 tellers were sorting ballots at the same time. Different procedures were being followed at the two tables. " Spoiled ballots" were being separated out by all of the individual counters. Periodically only the "spoiled ballots" were held up by a teller for review by party agents, monitors, and observers. The tellers were insisting that there be an "agreement" by party agents that a ballot be deemed either spoiled or not spoiled. They were not permitting a party agent to designate a ballot as disputed and either accepted or rejected, until we informed the them of the procedure. The Counting Officer was not present during any of this time. Contrary to the correct procedure, all ballots were not displayed for review by all appropriate persons. After all ballots from all boxes were sorted (the ballots totalled close to 20,000, thereby violating the regulation that not more than 3,000 be handled at a time), some party agents, candidates, tellers, and monitors assembled in groups and skimmed through each pile, usually in a manner similar to shuffling a deck of cards. At times the National Party agent was handling the piles of ballots himself, at times only some of the party agents were present, frequently no monitors were present, and Mrs. Scheepers ordinarily was not even in the vicinity of the counting.

We objected that this procedure was entirely ad hoc, that it violated the electoral code, and that it was ripe for abuse. Mrs. Scheepers responded that the process of having a single person raising each ballot for viewing, as directed in the code, would take far too long, and she refused to do it. She stated

that her arms would ache if she had to hold up 20,000 individual ballot papers, as required by the proper procedure.

During the flawed counting process, Felicia Roberts from the I.E.C. office in Mafikeng, arrived. After consultation with Mrs. Scheepers, party agents, monitors, and observers, it was agreed that the counting process would start over according to code procedures, i.e. with only one person handling the ballots, showing them to the proper individuals one ballot at a time. Nonetheless, after Ms. Roberts left the station, Mrs. Scheepers allowed the old counting process to continue for hours. She and her supervisors were in fact in the process of filling out the count tabulation form, without there ever having been a count. We then contacted I.E.C. in Mafikeng.

C. Breach of Security

Throughout the day, individuals with no identification were allowed into and out of the voting station. At times the front door was locked, and at other times it was not. An individual was assigned to watch the front door from around noon until late afternoon, but it was unguarded all morning, evening, and throughout the night. We observed that white persons were allowed to pass freely with or without identification, whereas black persons were quickly asked for identification and ordered out if they had none. Whites who requested to sign the security agreement were permitted to do so, blacks were refused.

At approximately 23:00 the National Party agent entered the room where counting was conducted with a pistol attached to his calf. Mrs. Scheepers explained that the pistol had been checked in a secure location during the day and that he was on his way out. However, this did not explain why no effort had been made to see that, once armed, he did not re-enter the counting area.

D. Harassment and Intimidation of Party Agents

During the evening, we observed two South African Police agents, Officers Nell and Oldrati, take the ANC party agent and candidate, Michael Khaude, out of the counting station. We asked Officer Nell what the problem was, and he explained that Mrs. Scheepers had lodged a complaint that Mr. Khaude had engaged in "causing nonsense." In fact, we had observed no improper behavior by Mr. Khaude; he simply expressed his disagreement with the ad hoc counting process, and insisted that it be done correctly to both Ms. Roberts and Mrs. Scheepers. At the point Mr. Khaude was removed from the counting station he was simply inquiring of Mrs.Scheepers when she was going to begin the counting procedure directed by Ms. Roberts over three hours earlier.

Officer Nell said that he would not release Mr. Khaude until directed to do so by Mrs. Scheepers, which she never did. However, neither Officer Nell nor Mrs. Scheepers made any attempt to specify a single allegation against Mr. Khaude. It was our distinct impression that Mrs. Scheepers had no right to eject Mr. Khaude and that the intervention by the police constituted harassment and intimidation based on party affiliation and race. Mr. Khaude was eventually released when Mrs. Scheepers did not

come outside and an IEC official requested that he be allowed to return to the counting station.

We also observed Mrs. Scheepers yell at and point her finger in the face of another black ANC party agent. He asked her to refrain from speaking to him in such a derogatory manner, and she failed to apologize.

We understand that Mrs. Scheepers alleges that we conspired, or somehow were aligned with, the ANC in an attempt to disrupt the counting process. This is absolutely untrue. We acted at all times as neutral observers within the guidelines of the electoral act. We noted irregularities and brought them to the attention of the appropriate I.E.C. officials. Simply because the ANC took the correct position of disputing the ad hoc counting procedure, and simply because the individuals that we observed being harassed were ANC members, only means that we agreed with them on certain issues; it means nothing further, and we take offense to this allegation.

III. Conclusion

Due to the actions discussed above, we believe that serious violations of the electoral code were committed. These violations, especially in combination, created the precise situation that the regulations are intended to avoid, i.e. a large number of ballots being handled by many individuals in a chaotic atmosphere with no personal accountability, no consistent oversight, and no supervisorial control. The Counting Officer, Mrs. Scheepers deliberately deviated from correct counting procedures, even after specific directives from Ms. Roberts.

We also believe that underlying the inept operation of the station was an attitude of racism, intolerance, and hostility by Mrs. Scheepers and others. We do not make these claims lightly; they are based on careful observation and personal interaction with the individuals involved.

We are particularly concerned because, even if proper procedures (or those as close to proper as possible, given the re-opening of ballot boxes) were later implemented, the opportunity for mistake and abuse during the period in which the violations were committed was impossible to erase. Therefore, it is impossible to say with confidence whether the ultimate count accurately reflects the wishes actually expressed by the voters. Accordingly, we feel strongly that this matter should be disputed.

To: Felicia Roberts

From: Elizabeth Schott, International Observer IEC No. I072500000011

Re: Ballots at Zeerust on April 21

Date: April 22, 1994

I accompanied four IEC monitors to Zeerust, the base of the Second Special Battalion SADF on April 21, 1994. We arrived about 14:30 - 14: 45. We understood that we were monitoring the EAD receipt of the ballots. When we arrived at the gate, two other white cars were sitting there; all three were admitted and we went to the warehouse where the ballots were stored. We entered the warehouse together. It was my impression that we had entered the base and entered the warehouse simultaneously with the other IEC folks who were EAD, but I was not the first person in the warehouse.

There were 5 EAD persons there initially; later two others entered. They were the ones who were designated to spend the night.

My understanding from listening to other conversations and some questions was that the truck had arrived around noon. I have no information on whether any IEC people accompanied the truck. W got our information from Sgt. Thiele who had not been there at the time of the unloading. That v Lt. Schrader ; I do not believe we ever spoke to him. Sgt. Thiele said the truck was unloaded an at around 13:15; he said the truck was empty and I believe that he had been on the scene by then and had verified that. He then allowed the truck to go. My impression was that there had been no IEC people there for the interval until our arrival.

EAD primarily dealt with Sgt. Theile; there was much signing of each others documents, counting and inspecting of boxes, etc. by EAD and the monitors. According to my notes, there were 650 boxes of ballots (national and provincial) delivered. Of these, 16 boxes were damaged -- 3 national and 13 provincial. The damaged boxes numbers were written down by both EAD and IEC and Sgt. Theile separately signed this. The damaged boxes had been retaped and hand-written upon them was information about being damaged in transit, with date and initials. In addition to the boxes of ballots were assorted boxes, some of which were labelled aerosol spray, others labelled ballot box seals, and other items I did not write down. I did not notice any metal seals on the boxes of ballots, but I was not looking for them. The undamaged and damaged boxes were all sealed with packing tape and had labels with numbers and other information.

We initially left, probably before 16:00, and I believe EAD (apart from the two who were staying) left around when we did. When in Zeerust town, we radioed for further instruction before returning home and were told to return to base. When we did, we had a slight delay at the gate, but had not been away from the warehouse very long (probably less than 20 minutes). The EAD people had left, except the two who were staying. At some point, our monitors spoke with the two who were staying, and I saw the separate lock they were using. When we returned to the warehouse (about 16:), the building was still open and actively patrolled by a soldier inside. Later the building was locked with both locks. The plan was that one key was kept by Sgt. Thiele and the other by the EAD folks. I did not see the building being locked, and am not sure exactly when that happened. We saw that there were two locks on the warehouse. We saw the two IEC persons who were staying once or twice, and believe we saw them go into town. We do not know when they returned. We never saw them around the warehouse after it was locked.

We went back to the gate (from the warehouse) around 17:30 -17:45 to make phone calls (instructed to phone rather than radio HQ) and were there for some time, perhaps 20-30 minutes. We also drove to the gate again once during the evening to look for our replacements and make sure the guardhouse was informed, and then we left around 21:30 when we were instructed by HQ to go into Zeerust town to find our replacements and direct them back to the base. Other than this, we were parked outside the warehouse, with a view of two sides including the door with the locks, for the rest of the time. At times, we were outside of the car. Capt. Scott stopped by several times and chatted with us outside the car for about 30 minutes.

During the time we stayed by the warehouse, there were several activities. Soldiers patrolled some, but not all of the time around the warehouse. Also, some small patrols (about 12) seemed to be engaged in night training, marching on the road near us, several times. On one occasion, after dark, three or four soldiers entered the warehouse from a different door on the side and left carrying three boxes. They did not look like any of the boxes I had seen inside, and I am positive they were not ballot boxes. We later ascertained, casually, with Capt. Scott that the warehouse was divided. We had not previously checked that out from the inside. However, when I was inside the warehouse, I saw nothing besides the IEC delivery and empty shelves. The miscellaneous (non-ballot) IEC materials were along an edge which may have been the internal wall, or may have been rows of empty shelves, or both. I did not notice any doors beside the one through which we entered and the loading dock from inside the warehouse, but I did not have a sense of the outside of the warehouse at that time.

As the instruction to stay came only after we were there, we were not prepared to spend the night. The arrival of replacements took a long time and there was alot of radio contact inquiring about them. We had been told they would arrive "any moment" from around 19:00 hours. In fact, they had not left Mafikeng until much later, and then apparently got lost, heading toward a BDF base. We detected this when we asked their location on one occasion, and they were going off the wrong way. At that time, we had to tell them which base to go to, a fact that we had previously tried to keep off the radio.